

Section 75w Modification of
Concept Approval MP 06_0085

Rainbow Beach Estate

Lot 1 DP 1193553 (part of former Lot 1232 DP 1142133),
Lots 1, 2, 3 and 4 DP 1150758 and Lot 5 DP 25886,
Ocean Drive, Lake Cathie

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Attachment 01 – The relevant deposited plans - DP 1193553, DP 1150758 and DP 25886

Attachment 02 – Concept Plan Approval, 1 March, 2012, including the approved plans - Plans I & II

Attachment 03 – Correspondence from Council, 21 December, 2015

Attachment 04 – Correspondence from Office of Environment and Heritage, 7 April, 2016

Attachment 05 – Site Analysis Plan - current site status

Attachment 06 – Addendum Ecological Assessment – Rainbow Beach Concept Plan – Proposed Modification of Consent Conditions (AEA), Naturecall Environmental, April 2015

Attachment 07 – Eastern Creek Geotechnical Assessment, Regional Geotechnical Solutions Pty Ltd, 1 December, 2015

Attachment 08 – Correspondence from NatureCall Environmental, 14 December, 2015

Attachment 09 – The Eastern Creek Environmental Management Principles Plan, Revision E

Attachment 10 – The Lot 5 Environmental Management Principles Plan, Revision C

Attachment 11 – Proposed Modified Concept Plan, Revision A

Section 1

Introduction

1.1 Introduction

On behalf of St Vincent's Foundation Pty Ltd, we hereby submit an application pursuant to Section 75W of the Environmental Planning & Assessment Act, 1979 (the Act), to modify the Terms of Approval of the Concept Plan in respect of land at Ocean Drive, Lake Cathie, within the Port Macquarie-Hastings Local Government Area. Concept Approval MP 06_0085 provides for the delineation of future land uses within a 177.4 ha site shown edged in red below.



Since issue of the Concept Approval, detailed investigations and specialist studies have been undertaken to inform the preparation of a Development Application for residential subdivision of the site under Part 4 of the Environmental Planning and Assessment Act, 1979.

The purpose of this submission is to modify Concept Approval MP 06_0085 to ensure consistency with the future Development Application and to provide certainty with respect to the management of any environmental impact.

In summary the modifications sought are in relation to the following:

1. A modification to the following Concept Plan development areas;
 - a. Eastern Creek;
 - b. The Lot 5 development area and environmental lands; and
 - c. The Southern school site.

(note: the proposed changes to the development areas also relate to specific conditions included in the Terms of Approval for the Concept Plan);

2. A modification to the following Terms of Approval set out in Schedule 2, Part B – Modifications to Concept Plan pursuant to Section 75O(4) of the Act:
 - a. Condition B2 (buffer to Swamp Oak Endangered Ecological Community within Eastern Creek);
 - b. Condition B3 (buffer to Littoral Rainforest on Lot 5);
 - c. Condition B6 (development area within Lot 5); and
3. A modification to the following Terms of Approval set out in Schedule 2, Part C – Further environmental assessment requirements:
 - a. Condition C1(23) (requires the preparation of a Vegetation Management Plan for the Crown Land reserve R754444).

Section 2 of this submission discusses the environmental assessments carried out to support the proposed modifications to the Concept Approval.

Modifications to the Terms of Approval issued with the Concept Approval are addressed in Section 3.

1.2 The Site

Concept Approval MP 06_0085 was issued with respect to Lot 1232 DP 1142133, Lots 1, 2, 3 and 4 DP 1150758 and Lot 5 DP 25886, Ocean Drive, Bonny Hills.

The Lake Cathie Primary School (DA 2013/358 and DA 2013/491) has now been established on the northern school site in accordance with the Concept Approval, resulting in the subdivision of Lot 1232 DP 1142133 to create Lots 1 and 2 in DP 1193553. Lot 2 DP 1193553 is now owned by the Department of Education and Communities and Lot 1 DP 1193553 remains in the ownership of St Vincent's Foundation Pty Ltd.

Accordingly the site now comprises Lots 1 DP 1193553, Lots 1, 2, 3 and 4 DP 1150758 and Lot 5 DP 25886.

Copies of DP 1193553, DP 1150758 and DP 25886 are enclosed as Attachment 01.

1.3 Major Project Approvals

1.3.1 Concept Approval MP 06_0085

On 1 March 2012, the Minister for Planning and Infrastructure granted Concept Approval MP 06_0085 pursuant to Part 3A of the Environmental Planning and Assessment Act 1979, as set out below -

The concept plan approval for the delineation of future land uses within the 177.4ha site as follows:

- *The limits of the residential subdivision;*
- *The location of the three adopted intersections with Ocean Drive and the location of an additional intersection with Ocean Drive currently under investigation by Port Macquarie Hastings Council;*
- *The extent of the future school sites;*
- *The general location of the Greater Lake Cathie Bonny Hills Village Centre;*
- *The delineation of the development area of Lot 5 DP 25886; and*
- *The delineation of the central corridor.*

The Concept Approval was issued subject to conditions, a statement of commitments and modification requirements. A copy of the Concept Approval, which includes Plans I and II, is enclosed as Attachment 02.

1.3.2 Stage 1 Project Approval MP 07_0001

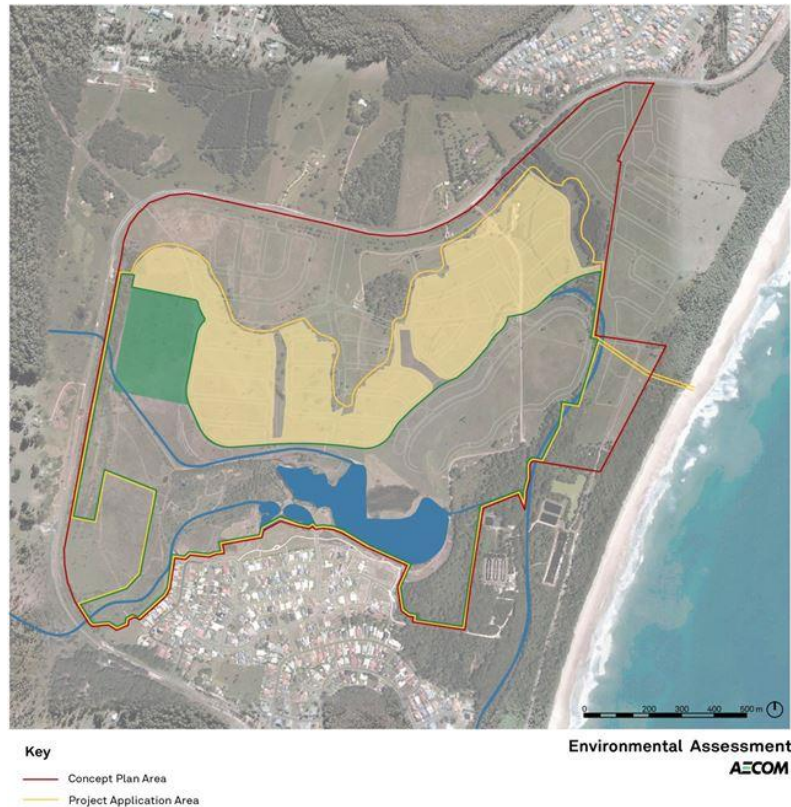
The Stage 1 Project Approval was issued simultaneously with the Concept Approval.

The Project Approval provides for the following:

Stage 1 works including:

- *Construction of a 75.2 ha central corridor creating eight recreation/environmental precincts which include environmental restoration works, landscaping, sporting fields, children's play areas, link bridges and walkways, cycleway, picnic areas and establishment of 14.1 ha constructed wetland system;*
- *Excavation of 415,800 cubic metres of soil from the eastern portion of the site;*
- *Establishment works for the district sporting fields;*
- *Placement of fill won from wetland excavation for filling of low-lying areas to reclaim for future development; and*
- *A formalised access way on Crown land to allow access to Rainbow Beach.*

The Project Approval relates to a large part of the Concept Approval area. The extent of both areas is illustrated on the figure below:



(Source: AECOM)

1.4 Consultation

The following consultation has been undertaken during the preparation of this submission.

1.4.1 Department of Planning & Environment

A meeting was held with the Department of Planning & Environment (Kate McDonald) 7 September 2015. At the meeting it was recommended that consultation take place with both the NSW Office of Environment & Heritage and Port Macquarie Hastings Council prior to lodging the modification application. This consultation has now taken place and is described below.

1.4.2 Port Macquarie-Hastings Council

Consultation comprising correspondence and meetings has also been undertaken with Port Macquarie Hastings Council (Council) during the preparation of this submission.

By correspondence dated 21 December 2015, the Director, Development and Environment Services, has confirmed that a review of the documents with respect to the proposed modifications has been undertaken and that the Council supports the proposed modifications to the Concept Plan development areas and related conditions. The response from PMHC is included at Attachment 03.

1.4.3 NSW Office of Environment & Heritage

Consultation comprising correspondence and an on-site meeting has been undertaken with officers of the NSW Office of Environment & Heritage (OEH).

By correspondence dated 7 April 2016, the Senior Team Leader Planning, North East Region, has confirmed that a review of the documents with respect to the proposed modifications has been undertaken. In general, the Department supports the proposed modifications to the Concept Plan development areas and related conditions. The response from the OEH is included at Attachment 04.

1.5 Statutory framework

Part 3A of the EP&A Act was repealed on 1 October 2011. Concept Approval MP 06_0085 was approved 1 March, 2012, under the transitional provisions pursuant Schedule 6A of the EP&A Act (DGRs were issued prior 1 October 2011). By virtue of the transitional provisions the Concept Approval can be modified.

This application to modify MP 06_0085 is made to the Minister of Planning and Infrastructure pursuant Section 75W of the EP&A Act.

1.6 Current Site Status

There has been extensive environmental investigation, planning assessment and on-ground regeneration and rehabilitation work undertaken with respect to the land over many years. The Site Analysis plan at Attachment 05 illustrates the extent of environmental works that have been undertaken, including:

- A regeneration and rehabilitation program within the central corridor has been established and is being implemented (as per the Stage 1 Project Approval). This work has seen extensive weeding carried out and has included the planting of approximately 100,000 plants, including 10,000 koala food trees. This work has also extended to weeding and rehabilitation of parts of the adjoining Crown Reserve (R754444);

- As part of the Part 3A process, St Vincent's Foundation Pty Ltd entered into a Voluntary Planning Agreement (VPA) with Council. The VPA is known as the Rainbow Beach Central Corridor Planning Agreement and provides for the establishment, management and dedication of the district sporting fields, Community Park and the central corridor;
- On 4 December 2013, Council issued development consent DA 2013/358 for a *"Two (2) Lot Torrens Title Subdivision Including Construction Of Future Public Road and Earthworks for Future School"* with respect to Lot 1232 DP 1142133 and Lots 1, 2, 3 and 4 of DP 1150758 (i.e. the northern school site).

In addition to approving a two lot subdivision of the land, the application also approved the importation of fill material for the purposes of filling the northern school site.

- On 23 January 2014, the Northern Joint Regional Planning Panel issued development consent DA 2013/491 for an *"Educational Establishment – Lake Cathie Primary School"* on part of Lot 1232 DP 1142133, being the northern school site.

The Department of Education and Communities (DEC) has acquired the northern school site and construction of the Lake Cathie Primary School has been completed.

- The detail design and documentation of the Public Road (to be known as Wallum Drive) has been prepared in accordance with DA 2013/358. Council's assessment of the required construction approval application is well advanced and is nearing completion;
- The detail design and documentation of the central corridor works has been prepared by Cardno in accordance with Stage 1 Project Approval MP 07_0001, being the site excavation and fill operation, the establishment of the major stormwater management facilities required for the development, the filling of the district sporting fields as well as the establishment of landscaping works such as children's play areas, link bridges and walkways, cycleway and picnic areas.

Council's assessment of the required construction approval application is well advanced and is nearing completion;

- DA 2014/751 has been approved to provide for the placement of temporary stockpiles of fill on the land to assist with bringing forward the construction of the district sporting fields;

- An Addendum Ecological Assessment (see Attachment 06) has been undertaken with respect to the following;
 - the Swamp Oak Endangered Ecological Community in the north-eastern portion of the land (noted on Plan I and referred to in Condition B2 of the Concept Approval) (known as the Eastern Creek area);
 - the buffer required between the Crown Reserve R754444 and the residential area on Lot 5 DP 25886 (noted on Plan II and referred to in Condition B3 of the Concept Approval); and
 - the Common Planigale and Eastern Chestnut Mouse habitat (noted on Plans I & II and referred to at Conditions B5 and B6 of the Concept Approval).
- Regional Geotechnical Solutions Pty Ltd has undertaken an assessment of the soil profiles within the Swamp Oak Endangered Ecological Community in the north-eastern portion of the land (the Eastern Creek area) (see Attachment 07);
- NatureCall has reviewed the RGS soil assessment and has provided further comment with respect to the extent Swamp Oak Endangered Ecological Community in the Eastern Creek (see Attachment 08);
- The preparation of a development application for the subdivision of the land (village centre and urban areas) to provide for areas of open space and environmental management lands, the Rainbow Beach Village Centre and approximately 1,000 new dwellings is well advanced.

The work outlined above has provided a greater level of detail with respect to the development of the land. The proposed modifications have been informed by this work together with the consultation carried out with The Department of Planning & Environment, OEH and Council.

Section 2

Environmental Assessment

In summary the proposed modifications relate to the following:

1. A modification to the following Concept Plan areas;
 - a. Eastern Creek;
 - b. The Lot 5 development area and environmental lands;
 - c. The Southern school site.

(note: the proposed changes to the development areas also relate to specific conditions included in the Terms of Approval for the Concept Plan);

2. A modification to the following Terms of Approval set out in Schedule 2, Part B – Modifications to Concept Plan pursuant to Section 75O(4) of the Act:
 - a. Condition B2 (buffer to Swamp Oak Endangered Ecological Community);
 - b. Condition B3 (buffer to Littoral Rainforest); and
 - c. Condition B6 (development area within Lot 5).
3. A modification to the following Terms of Approval set out in Schedule 2, Part C – Further environmental assessment requirements:
 - a. Condition C1(23) (requires the preparation of a Vegetation Management Plan for the Crown Land reserve R754444).

This section discusses the environmental assessments and consultation carried out to support the proposed modifications to the Concept Approval.

Modifications to the Terms of Approval issued with the Concept Approval are addressed in Section 3.

2.1 Proposed modification to the Concept Plan areas

This section should be read in conjunction with the Proposed Modified Concept Plan at Attachment 11.

2.1.1 Eastern Creek

Background

The Eastern Creek area is identified on the image below:



This submission seeks a modification to the mapping of the extent of Swamp Oak Forest EEC and the resultant 25m buffer location. Conditions B2 and B7 of the Concept Approval are relevant to the consideration of this proposed modification.

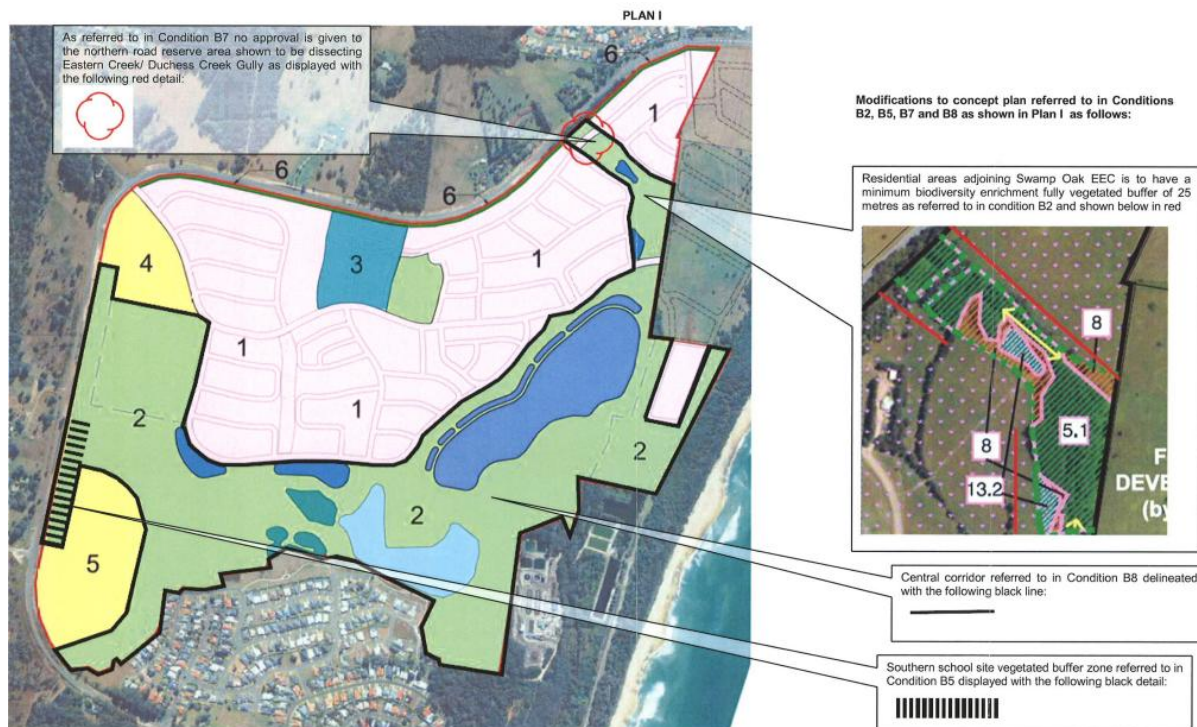
Condition B2 provides for the following:

All residential areas (as identified in the concept plan) adjacent to the identified Swamp Oak Endangered Ecological Community in the north-eastern portion of the subject site are required to have a minimum biodiversity enrichment/fully vegetated buffer of 25 metres as shown in Schedule 3 (refer Plan I (our words)). Note: road reserves and APZs must not be included as part of these buffers areas. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 8-10 of the Environmental Land Use Management Plan.

Condition B7 provides for the following:

No approval is given to carry out any works including filling or clearing any of the vegetation along the Eastern Creek/Duchess Gully including the northern road reserve area shown to be dissecting this area on Plan I.

An extract of Plan I from the Concept Approval (see Attachment 02) is provided below:



(Source: Department of Planning Environmental Assessment February 2012)

The following notes on Plan I apply to the Eastern Creek:

- As referred to in Condition B7 no approval is given to the northern road reserve area shown to be dissecting Eastern Creek/Duchess Gully; and
- Residential areas adjoining Swamp Oak EEC is to have a minimum biodiversity enrichment fully vegetated buffer of 25 metres as referred to in condition B2.

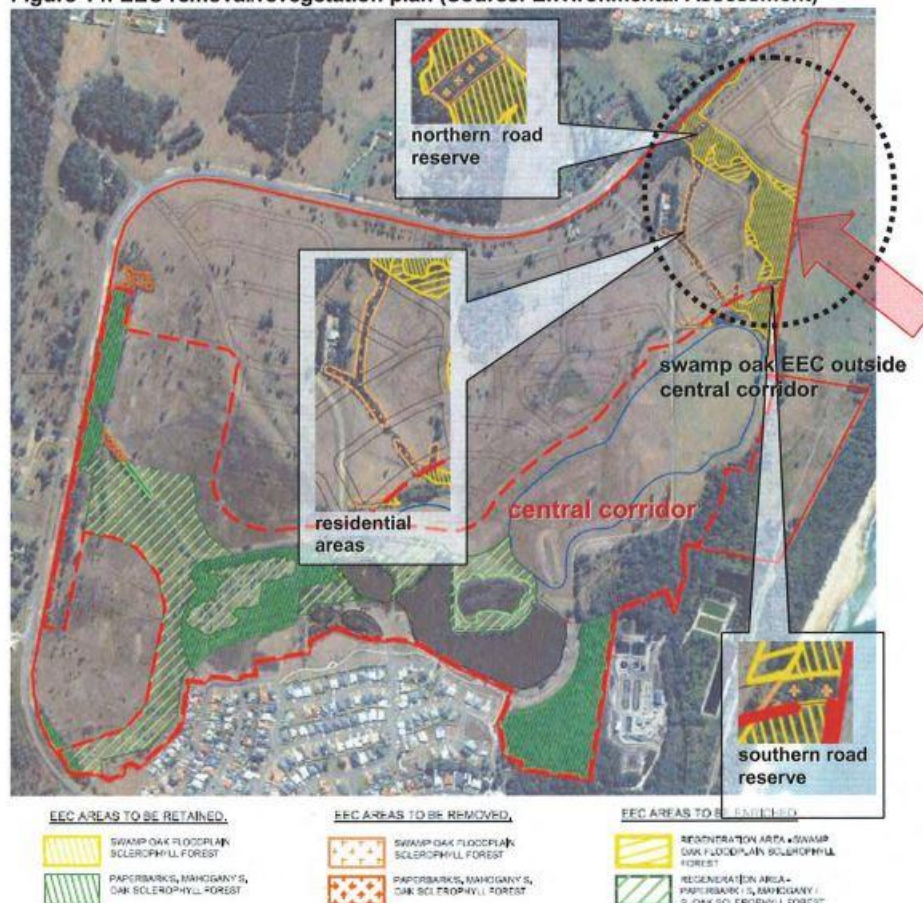
For the purposes of the Environmental Assessment that accompanied the Concept Plan submission, existing mapping prepared by Biolink Ecological Consultants for the Area 14 Urban Growth Strategy and for Council's Comprehensive Koala Plan of Management was utilised. Biolink mapped all of the Swamp Oak Swamp Forest in the area known as the 'Eastern Creek' as *Swamp Oak Floodplain Forest on Coastal Wetland Endangered Ecological Community* (SOFF EEC).

The Director General's Environmental Assessment Report for MP 06_0085 supported the following outcomes with respect to this area, including:

- Removal of some of the vegetation to provide for the development area and southern road link;
- Deletion of the proposed northern road link across the eastern creek area; and
- The provision of a 25 metre wide buffer from the vegetation as illustrated in Plan I from the Concept Approval.

An extract from the report is provided below.

Figure 14: EEC removal/revegetation plan (Source: Environmental Assessment)



(Source: Department of Planning Environmental Assessment February 2012)

Environmental Assessment & Consultation

Defining the extent of the SOFF EEC in the Eastern Creek area has included detailed site specific environmental investigations as well as consultation with Council and OEH.

NatureCall initially undertook a review of the SOFF EEC as mapped by Biolink. The review forms part of the Addendum Ecological Assessment enclosed as Attachment 06. The review includes consideration of:

- Recent legal precedents; and
- Significant new soil landscape data.

A summary of this review is provided below (see Section 3 of the AEA):

- Preston and Adam (2004a, 2004b) provide a comprehensive review of how to assess a vegetation community for qualification as an EEC.
- The papers by Preston and Adams (2004a, 2004b) were published before the gazettal of the Coastal Floodplain EECs Final Determinations, hence they do not specifically evaluate the key descriptors in these Final Determinations, of which there is still some debate and doubt (ECANSW 2008a).
- Subsequent challenges in the NSW Land and Environment Court have led to a number of relevant precedents that provide a reasonably high degree of clarity in interpreting the key descriptors.
- The key outcome in these relevant legal precedents in determining when a site meets the 'location' criteria for the Coastal Floodplain EECs is that the assemblage must occur on alluvial soils. Therefore, it must occur on a topographical landform formed by fluvial processes and consist of soils derived from alluvial processes.
- Therefore based on Preston and Adams (2004a, 2004b) and legal precedents (*Gales Holdings Pty Limited v Tweed Shire Council* [2008] NSWLEC 209, *Motorplex (Australia) Pty Limited v Port Stephens Council* [2007] NSWLEC 74), the Swamp Oak EEC should be limited to areas of the soil landscape mapped as being of alluvial geomorphological origins, where the upper limit of the floodplain is defined by the 1:100 ARI.
- Accordingly, the combination of soil landscape, vegetation and the 1:100 ARI define the Coastal Floodplain EEC.

Following consultation with Council regarding the findings of the NatureCall review, it was determined that a site specific soil profile assessment should be carried out to identify the extent of the alluvial soil profile and thereby assist with defining the extent of the SOFF EEC in this location.

Regional Geotechnical Solutions Pty Ltd was commissioned to carry out the required soil profile assessment in consultation with NatureCall. The area the subject of the review is shown on the extract below:



(Source: RGS 2015)

The purpose of the assessment was to assess the origin of the soils that are present in the upper soil profile, i.e.; to determine the presence of alluvial or colluvial soils. A copy of this assessment is included as Attachment 07.

The fieldwork for this assessment included:

- Observation of the site and surrounding features relevant to the geotechnical conditions; and
- The excavation of ten test pits along three nominated transect lines.

The investigations determined a variable soil profile (summarised at Table 1 (page 4)) and concluded the following (page 6):

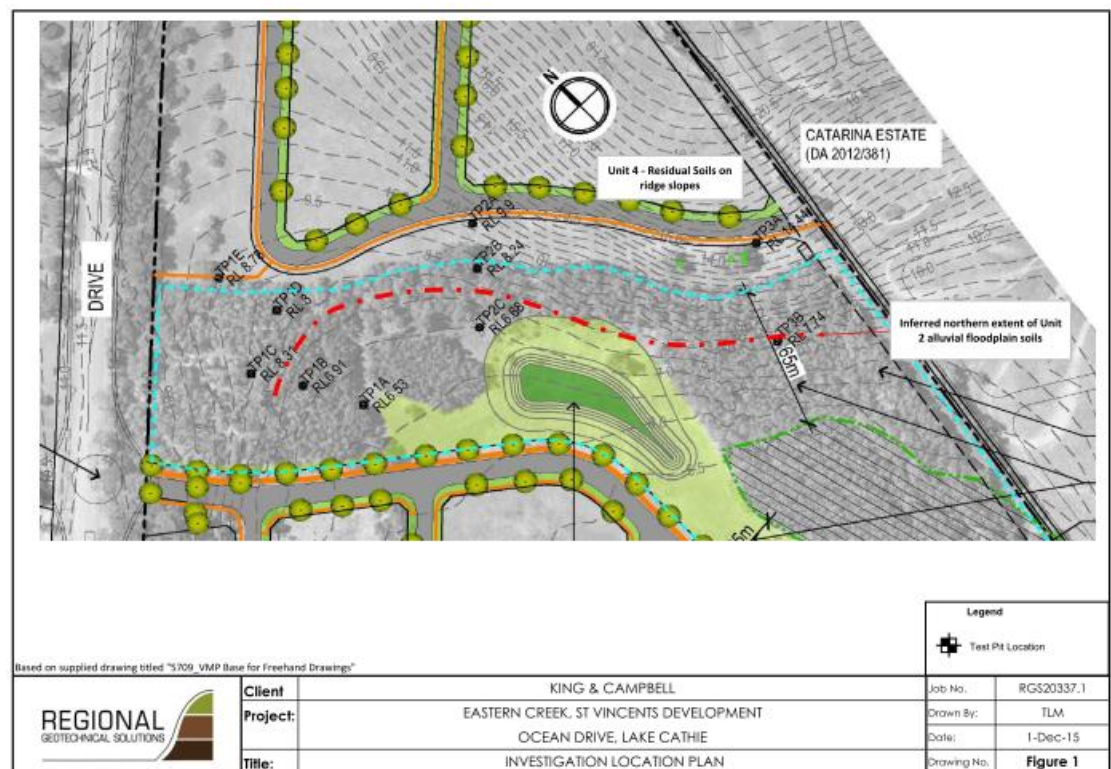
- Unit 2 - Alluvial floodplain deposits encountered at the toe of the slope below approximately RL 7.75m and characterised by an organic rich topsoil horizon overlying mottled clay soils with a shallow water table. The presence of alluvial soils is consistent with the location of the subject area on an alluvial floodplain.

- Unit 3 – Transferral soils comprising a mixture of clays, silts, sands and gravels that were poorly sorted and are considered to comprise colluvial and, or, residual soils that have been reworked by alluvial processes and are situated in an indistinct drainage line;
- Unit 4 – Residual clay soils present on the residual slopes.

The soil profile assessment work was also supported by detailed survey to locate and level the test pit locations. A copy of the Soil Profile Assessment is enclosed as Attachment 07.

The report concludes that the extent of the alluvial floodplain soils occurs at the toe of the slope in the Eastern Creek area at approximately RL 7.75m. Figure 1 of the report shows the extent of the alluvial soils in this location.

An extract of Figure 1 from the RGS is provided below:



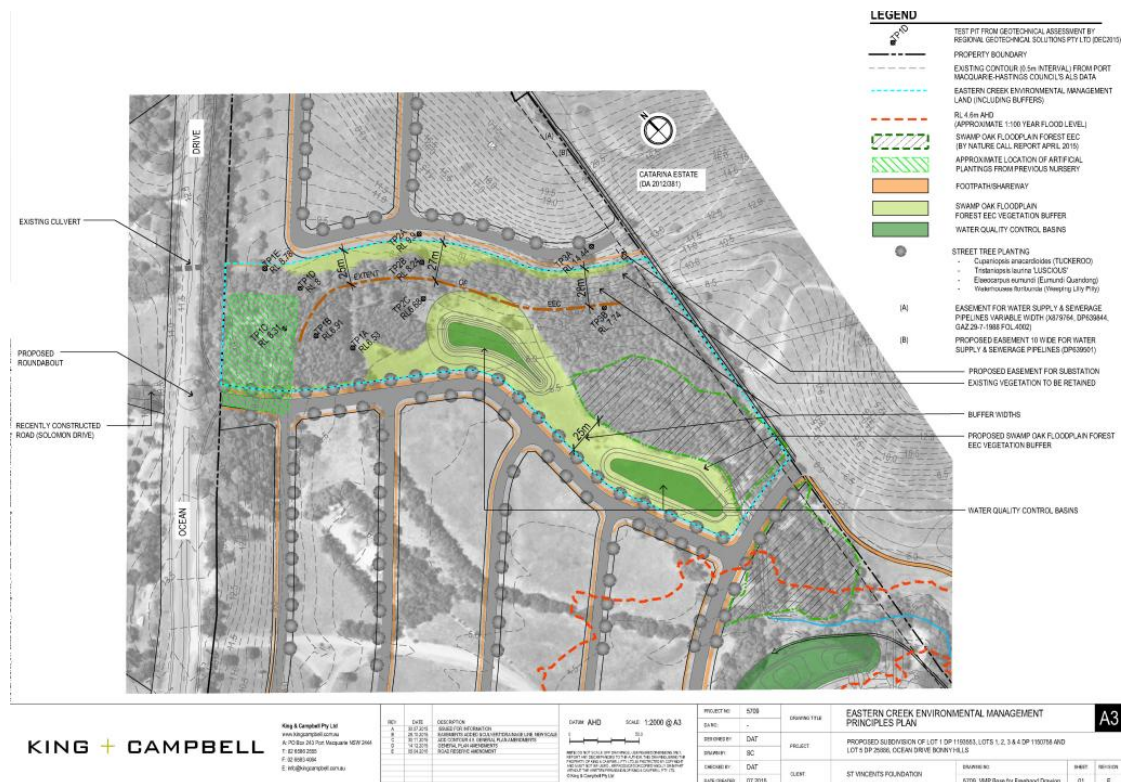
The findings from this assessment have been reviewed by NatureCall, having regard to legal precedents and case law. By correspondence dated 14 December 2015, NatureCall has confirmed the following (see Attachment 08):

In terms of the Final Determination and legal precedents, the topographic formation considered to be associated with a coastal floodplain has to be derived from fluvial processes which is in turn evidenced by a soil profile of alluvial soils (Gales Holdings Pty Limited v Tweed Shire Council [2008] NSWLEC 209). The upper limit of the alluvial soil profile has been indicated by the geotechnical specialist in Figure 1 of RGS (2015). This upper limit of the alluvial soil landscape can thus be considered to be consistent with the upper extent of the EEC – Swamp Oak Floodplain Forest on Coastal Floodplains.

Following the completion of the abovementioned environmental assessments, further consultation was undertaken with Council and OEH to confirm the extent of the SOFF EEC in this location.

Proposed Environmental Management

In consideration of the above environmental assessments and following consultation with OEH and Council, the Eastern Creek Environmental Management Principles Plan has been prepared. The plan is included as Attachment 09 to this submission and an extract of the plan is provided below.



The plan illustrates the agreed extent of the SOFF EEC in this location. The minimum biodiversity enrichment/fully vegetated buffer of 25 metres required by Condition B2 is then provided from this extent.

Correspondence from Council and OEH supporting the outcomes of this investigation are enclosed at Attachment 03 and Attachment 04 respectively.

The extent of the Eastern Creek environmental land has been illustrated on the Proposed Modified Concept Plan at Attachment 11.

To ensure that the Concept Approval is consistent with the Eastern Creek Environmental Management Principles Plan, it is proposed to amend the terms of Condition B2 of the approval. The proposed amendments to Condition B2 are addressed in Section 3.1.1 of this submission.

2.1.2 Lot 5 DP 25886

General Background

Lot 5 is identified on the image below:



This submission seeks a modification to the interface between the Open Space, Drainage and Wildlife Corridor land and the Residential land in this area. Conditions B3 and B6 of the Concept Approval are relevant to the consideration of this proposed modification.

Condition B3 provides for the following:

The cleared pasture area on Lot 5 DP 25886 situated between the residential area of the concept plan and the Crown land reserve to the east identified as R754444 is required to have a minimum biodiversity enrichment/fully vegetated buffer of 50 metres as shown on the amended Principles Plan at Plan II. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 17-18 of the Environmental Land Use Management Plan.

Condition B6 provides for the following:

The concept plan and principles plan provided with the PPR is to be amended to make provision for the identified Eastern Chestnut Mouse habitat on Lot 5 DP 25886 as recorded in Appendix 6 of the Environmental Assessment. This area is to be collectively fenced off, revegetated by way of Coastal Sands Forest Regeneration (as per the Environmental Land Use Management Plan) and the total area regenerated and managed appropriately for these species is perpetuity to maximise the potential viability of this small population. This excluded area must be fenced off and incorporated into the central corridor as shown in the amended Principles Plan in Plan II."

An extract of Plan II from the Concept Approval is provided below:



The following notes on Plan II apply to Lot 5:

- Delineated Development Area (DDA) of Lot 5 DP 25886 is to be amended as referred in Condition B6 as shown; and
- Residential area is required to have a minimum biodiversity enrichment/fully vegetated buffer of 50 metres as referred in Condition B3 as shown here.

Background - Condition B3

As part of the Preferred Project Report for MP 06_0085 dated May 2011, a biodiversity enrichment/fully vegetated area tapering from 51 metres wide to 26 metres wide was proposed. The buffer is shown as Zone 3 on Plan II.

The Department of Planning's Environmental Assessment Report for MP 06_0085 / 07_0001 of February 2012 noted that a minimum 50m wide biodiversity enrichment/fully vegetated area is proposed in order to provide a consistent approach with that adopted for MP 07_0010. MP 07_0010 relates to Lot 1 DP 374315 & Lot 4 DP 615261 which adjoin the subject land to the north. The adjoining land is from now on referred to as the MP 07_0010 land.

Accordingly, a review of the process used to determine the buffer on the MP 07_0010 land has been carried out and is discussed below.

MP 07_0010

Page 22 of the Department of Planning's Environmental Assessment Report for MP 07_0010 noted that the biodiversity enrichment/fully vegetated area is approximately 47 metres wide.

Following a review of the documentation submitted with respect to MP 07_0010, we note that the following fundamental design principles recommended by Parker and Brennan were adopted to determine the width and design of the biodiversity enrichment/fully vegetated area:

- That a minimum vegetated strip adjacent to the existing edge of vegetation of 10 metres wide would be suitable to protect the littoral rainforest from potential edge effects. However, due to the uneven edge of the existing littoral rainforest, which extends up to approximately 40 metres on to the land, Parker & Brennan recommended that the biodiversity enrichment/fully vegetated area be widened in places to be up to 40 metres to provide an even (or straight) edge of vegetation and hence improving the shape of the littoral rainforest, decreasing the edge-to-area ratio. This is illustrated on Attachment 10;

- That the biodiversity enrichment/fully vegetated area be fenced to restrict access by humans and domestic animals, while allowing macropods to move in and out of the rainforest;
- That a row of spiky planting is provided along the base of the fence to further dissuade access; and
- That a public roadway is provided to define the public space between private lands and the rainforest, preventing the encroachment of residents' yards and the disposal of rubbish.

In addition to the above design recommendations, Parker & Brennan recommended that a vegetated east-west corridor be developed to link the littoral rainforest to the riparian habitat within Duchess Creek.

An additional 7 metres was added to the biodiversity enrichment/fully vegetated area in accordance with correspondence from Council to the Department of Planning 22 December, 2010, where it was noted that *"The vegetated buffer for the littoral rainforest should be established up to the footpath / road edge with the removal of any slashed grassed areas."*

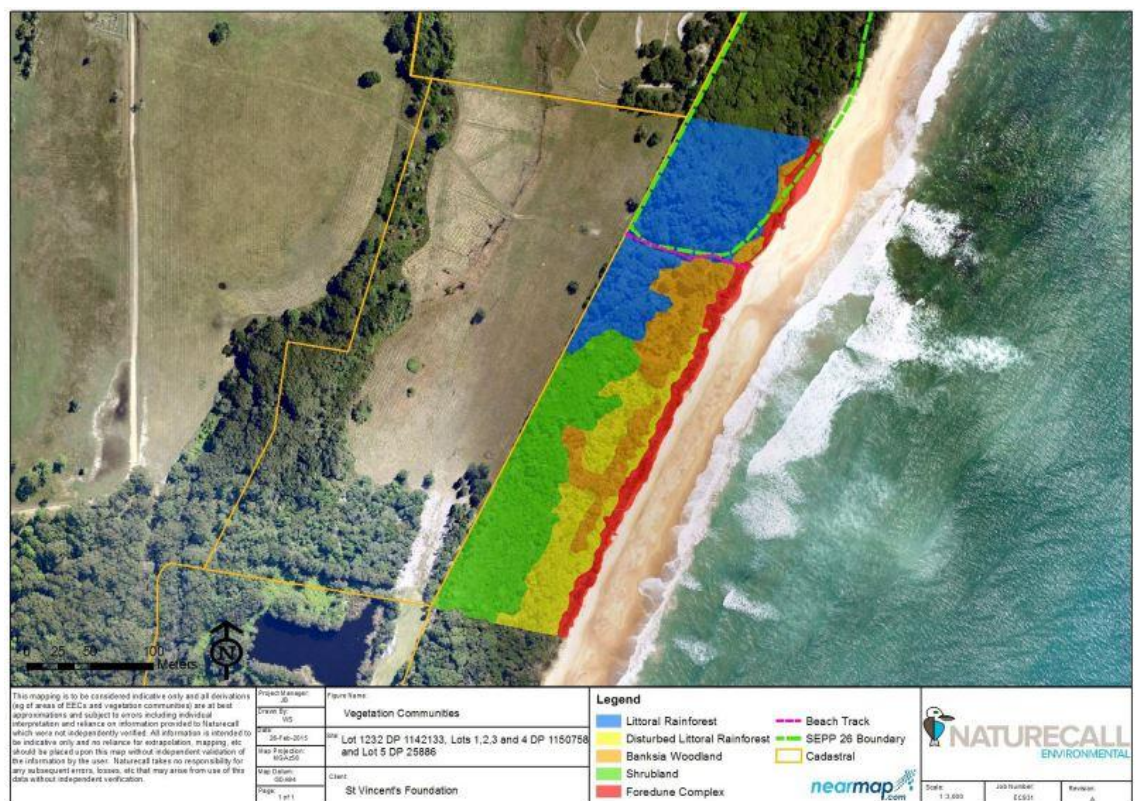
The following is noted with respect to the subject site and the conditions associated with the adjoining lands to the north:

- SEPP 26 Littoral Rainforest No.116 adjoins the northern extent of the eastern boundary of the subject land for a distance of approximately 95m and does not extend on to the subject lands. Conversely SEPP 26 Littoral Rainforest No.116 adjoins the entire length of the eastern boundary of the MP 07_0010 land and in some instances encroaches onto the private lands;
- Littoral rainforest vegetation (i.e.; not mapped as SEPP 26) is not present on the subject land. Conversely, existing littoral rainforest vegetation is mapped within the MP 07_0010 land;
- The subject land has been zoned residential for some time and the provisions of SEPP 26 are therefore not applicable. Conversely, consideration of the MP 07_0010 land with respect to the biodiversity enrichment/fully vegetated area was undertaken when the lands were zoned Rural 1(a1) and accordingly, the provisions of SEPP 26 were applicable;
- The existing edge of SEPP 26 Littoral Rainforest No.116 adjacent to the subject land is uniform and has been described by NatureCall as being relatively intact and closed. Conversely, the edge of the existing littoral rainforest vegetation on the MP 07_0010 land is uneven and decreasing the edge-to-area ratio through smoothing this edge was a paramount consideration.

As outlined above, the conditions that were relevant to the determination of the biodiversity enrichment/fully vegetated area on the MP 07_0010 land differ to the conditions on the subject land. Importantly, littoral rainforest vegetation does not extend onto the subject land and the edge of the existing SEPP 26 Littoral Rainforest No.116 on the adjoining Crown land reserve is of a uniform (smooth) nature.

Environmental Assessment & Consultation - Condition B3

As part of the AEA, NatureCall undertook detailed mapping of the vegetation communities contained in the Crown Land reserve adjacent to Lot 5 DP 25886 (R754444), as shown on the plan extract below (Figure 8, page 73):



(Source: NatureCall 2015)

The following four communities are identified, as shown on the extract above:

- Littoral Rainforest (blue);
- Disturbed Littoral Rainforest (yellow);
- Shrub land (green); and
- Banksia Woodland (orange).

NatureCall has reviewed and made an assessment of the performance of both the initial tapered biodiversity enrichment/fully vegetated proposal and the 50 metre wide requirement of the Concept Approval against the indirect threats to the adjacent littoral rainforest vegetation. Additionally, NatureCall has compared the following functions that are expected to be performed by a biodiversity enrichment/fully vegetated area, including:

- Wildlife corridor effectiveness;
- Interior habitat and edge effects; and
- Carrying capacity.

NatureCall concluded that the ecological benefits of the 50 metre wide area are not likely to be significantly greater than the proposed tapered area.

In addition, Council has issued a Construction Certificate approval for a sewer rising main through Lot 5, from its northern boundary with the MP 07_0010 land, to the existing Sewer Treatment Plant to the south. This rising main will be contained within an easement, the eastern edge of which is intended to coincide with the proposed buffer.

The review of the buffer design principles adopted in MP 07_0010; the findings of the NatureCall assessment; and the sewer rising main location have formed part of the consultation undertaken with Council and OEH with respect to this matter.

Proposed Environmental Management – Condition B3

The Lot 5 Environmental Management Principles Plan has been prepared in response to the abovementioned environmental assessment and consultation with Council and OEH. The plan is enclosed as Attachment 10.

The plan illustrates the proposed buffer on the subject land in context with the buffer on the MP 07_0010 land, as well as the proposed development layout and other proposed areas of habitat rehabilitation and regeneration work.

The proposed buffer incorporates the following features:

- Where the buffer is adjacent to the mapped SEPP 26 boundary within the adjoining Crown Reserve, a biodiversity enrichment/fully vegetated area of between 63 metres and 45 metres is proposed (this is for a length of approximately 95 metres);

- Where the buffer is adjacent to littoral rainforest vegetation within the adjoining Crown land reserve but outside of the mapped SEPP 26 boundary, a biodiversity enrichment/fully vegetated area of between 45 metres and 35 metres is proposed (this is for a length of approximately 130 metres);
- The western edge of the proposed biodiversity enrichment/fully vegetated area is uniform in nature which will mimic the existing uniform edge;
- The full length of the biodiversity enrichment/fully vegetated area is to be fenced with a black PVC coated chain mesh fence (similar to Council requirements on the adjoining land) to restrict access by humans and domestic pets;
- Spikey planting (such as *Lomandra katrinus*) is to be provided along the base of the fence to further dissuade access;
- A concrete footpath is proposed directly adjacent to the planting at the base of the fence (note that there is no turf proposed between the fence and the footpath); and
- The remainder of the buffer will comprise the road carriageway, western verge area and building setback.

It is submitted that the proposed biodiversity enrichment/fully vegetated area is both consistent with the fundamental design principles adopted in MP 07_0010 and satisfies the objective of SEPP 26, to preserve areas of littoral rainforest in their natural state.

The Lot 5 Environmental Management Principles Plan at Attachment 10 also provides for an enhanced east-west habitat link, as initially recommended by Parker & Brennan and supported by NatureCall.

The proposed biodiversity enrichment/fully vegetated buffer is also supported by Council and OEH as indicated in correspondence enclosed at Attachment 03 and Attachment 04 respectively.

The extent of the proposed buffer is illustrated on the Proposed Modified Concept Plan at Attachment 11.

To ensure that the Concept Approval is consistent with the Lot 5 Environmental Management Principles Plan, it is proposed to amend the terms of Condition B3 of the approval. The proposed amendments to Condition B3 are addressed in Section 3.1.2 of this submission.

Background - Condition B6

The Environmental Assessment which accompanied Concept Plan application MP 06_0085 in 2010 proposed that the whole of Lot 5 DP 25886 would be used for tourist purposes.

The Ecological Survey which accompanied the application (Darkheart 2009) identified two locations where the Eastern Chestnut Mouse (ECM) species were recorded in a 2003 survey, these being:

- In native grassland east of Duchess Gully (Lot 5 DP 25886); and
- In a narrow drain in the southwest corner of the land (adjacent to the southern school site).

As part of the assessment of the Concept Plan application, it was identified that part of the southern section of Lot 5 DP 25886 should be used for habitat purposes.

In the Preferred Project Report for the Concept Plan application, the applicant changed the proposed use of Lot 5 DP 25886 from tourist to residential. The Preferred Project Report adjusted the development footprint to provide for residential lots on the northern section of Lot 5 DP 25886 only, with lots being limited to that area of Lot 5 already zoned R1 Residential.

Condition B6 of the Concept Approval made a further adjustment to this area to reduce the extent of residential development. The approved area is illustrated as the Delineated Development Area on Plan II of the Concept Approval.

Environmental Assessment & Consultation – Condition B6

Since the Concept Approval was issued, NatureCall has undertaken further detailed site investigations with respect to the Eastern Chestnut Mouse.

The Addendum Ecological Assessment (AEA) that accompanies this submission (Attachment 06) includes a review of the ECM population and its habitat with the following specific objective in relation to Lot 5:

Presence/absence of ECM on Lot 5.

The AEA included extensive additional survey. No ECM were detected within Lot 5 during the survey. The AEA provides the following summary in relation to this issue (page 135-136):

The trapping results combined with a habitat review of adjacent refugia are considered to strongly indicate that the ECM has been effectively displaced from the both the previous known habitat (the grassland on Lot 5) and the habitats adjacent.

The latter result is highly significant, as for the species to recolonise the area suggested by Concept Approval Condition B6 to be managed for the species, a viable population capable of expansion must be present in the adjacent habitats to provide a source population. However, the 2012 survey results and habitat evaluation (and comparison to optimum habitat in the southwest regeneration area) provide clear evidence that the habitats adjacent to the former known habitat on Lot 5 are not suitable short or long term refugia. Consequently, it appears the small population previously detected on Lot 5 in 2003 has become locally extinct.

The likelihood of the ECM re-colonising this area from the known habitat in the southwest of the property is considered to be at best remote given:

- The only known source population is >1km away. None are known to occur in other habitats in the northern half of the coastal strip and appear unlikely to occur south (aerial photographs suggest unsuitable habitat based on survey results).*
- While a wildlife corridor is being established linking this known and evidently growing population in the southwest, to the former habitat on Lot 5, there is no certainty that the species is likely or capable of progressively migrating to Lot 5, or will be incentivised to do so.*
- A sufficient number of individuals would have to disperse to the nominated habitat area on Lot 5 to establish a viable population. This would require both a very effective corridor for this groundcover dependant species, and sufficient source habitat to support a population large enough to generate a significant number of emigrants. Such a population has limited potential to eventuate due to the limited extent of potential habitat in the corridor (and hence carrying capacity), and the corridor's effectiveness for this species is constrained by habitat bottlenecks and lack of uniform habitat suitability throughout the corridor for this species.*
- The area nominated to be regenerated and managed on Lot 5 under Concept Approval Condition B6 is only about 1.5ha. As the adjacent habitats have been demonstrated to be unsuitable and this area is only distantly connected to high quality habitat, the likelihood of a genetically viable population establishing and being maintained in perpetuity, is extremely remote due to the limited carrying capacity and hence sustainable population size that this 1.5ha could support (in addition to its relative isolation from other known habitat and hence genetic exchange constraints).*

Consequently, Concept Approval Condition B6 appears likely to have little if any significant benefit to the ECM.

For this reason and to achieve a greater ecological outcome overall, as detailed in Section 8.2, it is recommended that the Condition be amended to allow regeneration of this area into fully structured Coastal Sands Blackbutt forest to enhance connectivity and carrying capacity for a broader range of species.

Having regard to the AEA and the latest survey results, it is submitted that the Designated Development Area (DDA) requirements of condition B6 will not afford an improved environmental outcome for the ECM in this location. In particular, the recent targeted survey for this species, as set out in the AEA, has confirmed that the small population of ECM that was last recorded in 2003 is likely to have become extinct and that the previously small population recorded adjacent the southern school site has increased significantly.

Accordingly, the proposed increase in buffer area adjacent the southern school site (see Section 2.1.3) and the recommended regeneration of the southern habitat link (Parker and Brennan), will achieve the desired environmental outcomes for the ECM and ensure the long term viability of the recorded population at a location where the species is known to occur and to be expanding.

The findings of the Addendum Ecological Assessment (AEA) have formed part of the consultation with OEH and Council. Further adjustments to the Delineated Development Area on Lot 5 have been made to reflect this consultation.

Proposed Environmental Management – Condition B6

The Lot 5 Environmental Management Principles Plan has been prepared in response to the findings of the AEA and consultation with OEH and Council. The plan is enclosed as Attachment 10.

The plan illustrates that it is proposed to limit the residential development footprint to the existing R1 Residential zone with the remainder of the land south of this location to form an enhanced habitat corridor.

The proposed interface is supported by Council and OEH as indicated in the correspondence enclosed at Attachment 03 and Attachment 04 respectively.

The above outcome is illustrated on the Proposed Modified Concept Plan at Attachment 11.

To ensure that the Concept Approval is consistent with the Lot 5 Environmental Management Principles Plan, it is proposed to amend the terms of Condition B6 of the approval. The proposed amendments to Condition B6 are addressed in Section 3.1.3 of this submission.

2.1.3 Southern School Site

Background

The southern school site is identified on the image below:



As noted in Section 2.1.2 above, the ecological assessment that accompanied the Environmental Assessment for MP 06_0085 (Darkheart 2009) identified two locations where the Eastern Chestnut Mouse (ECM) species were recorded in the 2003 survey, these being:

- In native grassland east of Duchess Gully (Lot 5 DP 25886); and
- In a narrow drain in the southwest corner of the land (adjacent to the southern school site).

Condition B5 of the Concept Approval required that a modification be made to the southern school site to provide for a minimum 30m wide buffer to the western drain and regeneration area (see Plan I in Attachment 02 and Attachment 05).

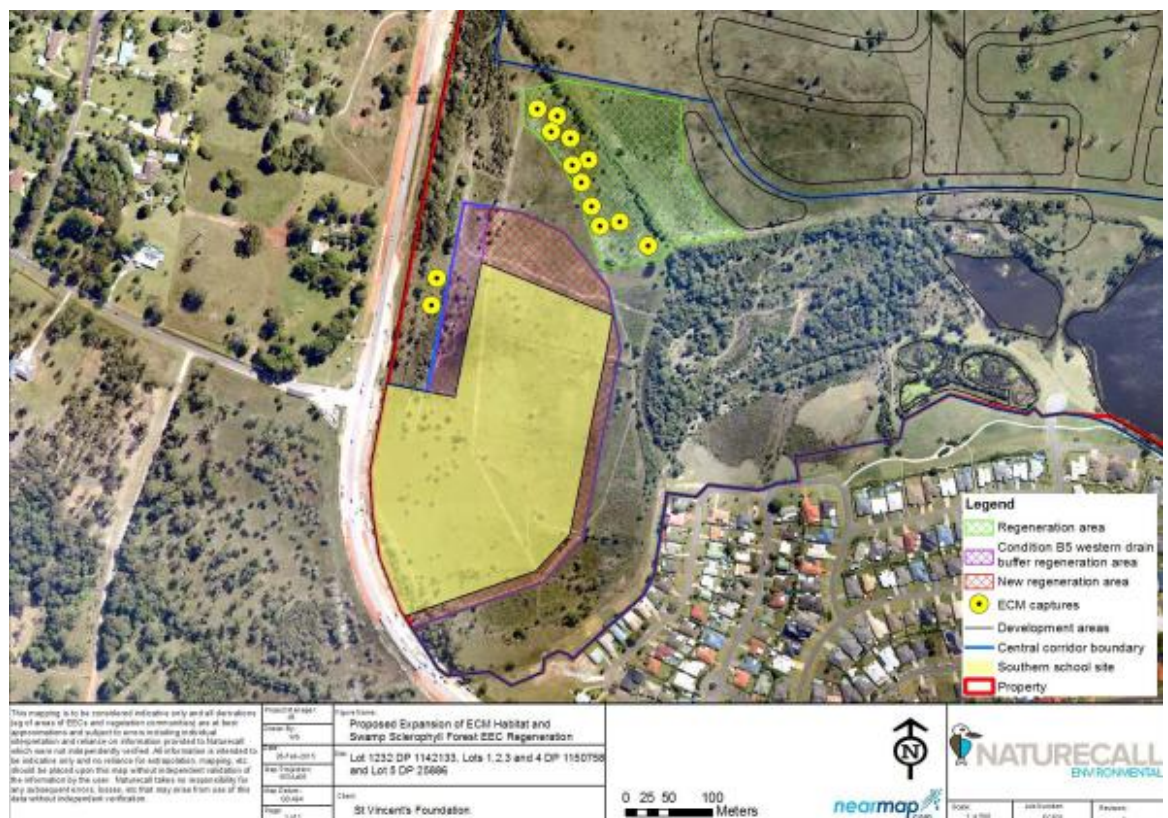
Condition B5 is as follows:

The identified Common Planigale and Eastern Chestnut Mouse habitat area (the entire drain and a fully vegetated buffer zone of at least 30m to the east as recorded in Appendix 6 of the Environmental Assessment) west of the southern school site is excluded from any filling, clearing etc. This area is to be collectively fenced off, revegetated with southwest dry sclerophyll/swamp forests (as per the Environmental Land Use Management Plan), and the total area regenerated and managed appropriately for these species to maximise the potential viability of these small populations. These excluded areas must be fenced off and incorporated into the central corridor as shown in Plan I.

Environmental Assessment & Consultation

The Addendum Ecological Assessment (AEA) at Attachment 06 includes additional survey with respect to the ECM and includes a review of the habitat value provided by this 30m buffer.

Specifically in relation to the habitat adjacent the southern school site, the AEA confirms an increase in ECM population at this location. The image below illustrates the location and number of ECM captures adjacent the southern school site:



(Source: NatureCall 2015, Figure 18)

Based on this latest survey data, the AEA recommends increasing the habitat extent adjacent the southern school site by approximately 2.5 hectares, through reducing the land area for the school to 7.2ha. This will ensure that additional ECM habitat is provided at a location where the species is known to occur.

In summary, the AEA notes the following:

- That Condition B5 (30m buffer on western edge) only adds an additional 0.7ha to the current 2.5ha available habitat at the Western Hill regeneration area.
- That the habitat retention currently recommended in the Concept Approval is not likely to be sufficient to maintain the long term viability of this population due to genetic constraints, risk of catastrophic extinction and vulnerability to ecological processes.
- That measures to further enhance population size at this location and enhance dispersal are required to increase the viability of the ECM population on the property.
- That the regeneration areas adjacent the southern school site offers ideal habitat for the ECM, which have been found to be more significant at this time than in 2003.
- That an increase in habitat at this location will significantly enhance the functional effectiveness of the corridor, enhance the ECM population size and viability and centralise the management of the ECM species to a single distinct area.

The AEA concludes that the additional land area for ECM habitat is desirable for biodiversity conservation to (p.147):

- Increase functional connectivity;
- Buffer edge effects from the school interface; and,
- Increase carrying capacity and hence net population size, and in turn increase the likelihood of long term viability of species with small home ranges ie Wallum Froglet, Common Planigale and ECM.

The AEA also confirms that through optimising the ECM population size, long term population viability is achieved, which is consistent with the objects of the TSCA 1995.

In conclusion, it is submitted that the proposed reduction in southern school site land area will allow an improved environmental outcome for the ECM, at a location where the species is known to occur and to be expanding.

The proposed adjustments to the southern school site have formed part of the consultation undertaken with Council and OEH.

Proposed Environmental Management

As illustrated on Attachment 05, the southern school site provides for the additional buffer required by Condition B5 as well as providing a 100m wide buffer to the adjacent residential development.

The proposed treatment of the southern school site and adjacent area is supported by Council and OEH as indicated in the correspondence enclosed at Attachment 03 and Attachment 04 respectively.

The modified southern school site is also shown in the Proposed Modified Master Plan at Attachment 11.

2.2 Proposed modification to Condition C1(23)

Background

Condition C1(23) of the Concept Approval requires the preparation of a vegetation management plan with respect to the Crown land reserve to the east of Lot 5 DP 25586.

Condition C1(23) is as follows:

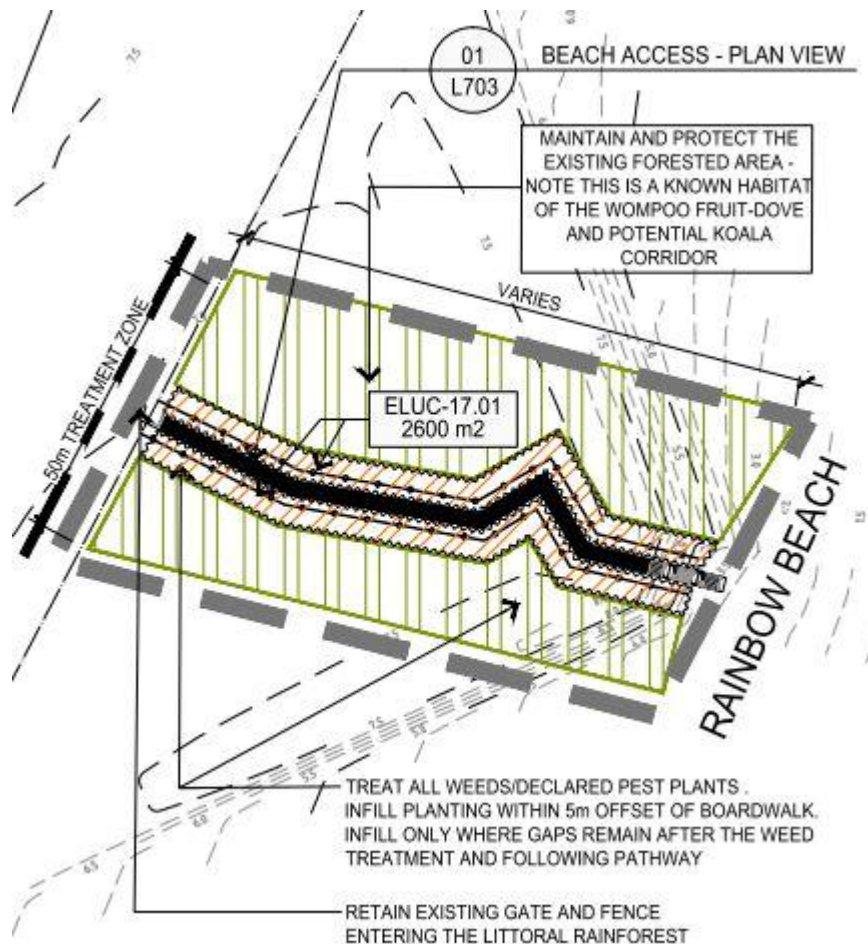
Prior to lodgement of any development application for residential subdivision, the proponent must prepare and implement a vegetation management plan for the Crown land reserve to the east identified as R754444 to the satisfaction of Council. The plan must demonstrate:

- a) the establishment of a 'vegetated regeneration area';*
- b) removal of all weed species and retention of all native vegetation within the vegetated regeneration area';*
- c) replanting of endemic rainforest species within vegetated regeneration area;*
- d) erection of temporary fencing;*
- e) erection of fencing enclosing regeneration area."*

Crown land reserve R754444 extends well beyond the interface with the subject land and it is proposed to amend this condition to more accurately reflect the required extent of the vegetation management plan.

Environmental Assessment and Consultation

A plan illustrating the proposed management of the Crown land reserve R754444 has been prepared and lodged with Council as part of the construction approval application process for the central corridor works under Project Approval MP 07_0001. An extract from the plan is shown below.



NatureCall has also undertaken a detailed review of the proposed beach access, including:

- Vegetation communities and weed mapping;
- Consideration of threats associated with formalising the beach access; and
- Proposed ameliorative measures relating to track design and fencing, barrier planting, edge treatment and regeneration and litter control, lighting and signage.

The review found that severe weed infestations adjacent to the track have been removed by works undertaken by Landcare and a bush regenerator funded by St Vincent's Foundation Pty Ltd. NatureCall has identified that the areas immediately adjacent to the track are the most vulnerable to the re-invasion of weeds and hence require more intense treatment. The forest beyond the area immediately next to the track is reported to be in very good condition with the remainder of the reserve receiving ongoing management by Landcare. On this basis, NatureCall notes that a vegetation management area of 25 metres either side of the proposed track is sufficient for the purposes of condition C1(23) of the concept approval.

The proposal to limit the extent of the vegetation management plan with respect to Crown land reserve R754444 has formed part of the consultation carried out with Council and OEH.

Proposed Environmental Management

It is proposed to modify Condition C1(23) of the Concept Approval to limit the extent of the Crown land reserve Vegetation Management Plan to 25m either side of the beach access and a 10m wide strip of the Crown Reserve along its western interface with the development site.

The proposed limits to the vegetation management plan are supported by Council and OEH as indicated in the correspondence enclosed at Attachment 03 and Attachment 04 respectively.

To ensure that the Concept Approval is consistent with the proposed extent of the vegetation management plan, it is proposed to amend the terms of Condition C1(23) of the approval. The proposed amendments to Condition C1(23) are addressed in Section 3.2.1 of this submission.

Section 3

Proposed Modifications to the Terms of Approval

3.1 Proposed modification to the Terms of Approval set out in Schedule 2, Part B – Modifications to Concept Plan pursuant to Section 75O(4) of the Act

3.1.1 Condition B2

Terms of Approval Issued by the Minister	Proposed modification
<p>B2 Swamp Oak Endangered Ecological Community biodiversity buffer</p> <p><i>All residential areas (as identified in the concept plan) adjacent to the identified Swamp Oak Endangered Ecological Community in the north-eastern portion of the subject site are required to have a minimum biodiversity enrichment/fully vegetated buffer of 25 metres as shown in Schedule 3. Note: road reserves and APZs must not be included as part of these buffers areas. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 8-10 of the Environmental Land Use Management Plan.</i></p>	<p>This issue has been fully discussed at Section 2.1.1.</p> <p>It is proposed to amend this condition to refer to the Eastern Creek Environmental Management Plan which identifies the extent of the 25 metre buffer from the Swamp Oak Endangered Ecological Community.</p> <p><u>Amendment to condition sought:</u></p> <p>B2 Swamp Oak Endangered Ecological Community biodiversity buffer</p> <p><i>All residential areas (as identified in the concept plan) adjacent to the identified Swamp Oak Endangered Ecological Community in the north-eastern portion of the subject site are required to have a minimum biodiversity enrichment/fully vegetated buffer of 25 metres as shown in Schedule 3, as shown on the Eastern Creek Environmental Management Principles Plan (revision E). Note: road reserves and APZs must not be included as part of these buffers areas. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 8-10 of the Environmental Land Use Management Plan.</i></p>

3.1.2 Condition B3

Terms of Approval Issued by the Minister	Proposed modification
<p>B3 Revegetation of cleared pasture area on Lot 5 DP 25886</p> <p><i>The cleared pasture area on Lot 5 DP 25886 situated between the residential area of the concept plan and the Crown land reserve to the east identified as R754444 is required to have a minimum biodiversity enrichment/fully vegetated buffer of 50 metres as shown on the amended Principles Plan at Plan II. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 17-18 of the Environmental Land Use Management Plan.</i></p>	<p>This issue has been fully discussed at Section 2.1.2.</p> <p>It is proposed to amend this condition to refer to the Lot 5 Environmental Management Principles Plan which identifies the proposed buffer.</p> <p><u>Amendment to condition sought</u></p> <p>B3 Revegetation of cleared pasture area on Lot 5 DP 25886</p> <p><i>The cleared pasture area on Lot 5 DP 25886 situated between the residential area of the concept plan and the Crown land reserve to the east identified as R754444 is required to have a minimum biodiversity enrichment/fully vegetated buffer of 50 metres as shown on the amended Principles Plan at Plan II Lot 5 Environmental Management Principles Plan (Revision C). The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 17-18 of the Environmental Land Use Management Plan.</i></p>

3.1.3 Condition B6

Terms of Approval Issued by the Minister	Proposed modification
<p>B6 Expanded habitat area within Lot 5, DP 25886</p> <p><i>The concept plan and principles plan provided with the PPR is to be amended to make provision for the identified Eastern Chestnut Mouse habitat on Lot 5 DP 25886 as recorded in Appendix 6 of the Environmental Assessment. This area is to be collectively fenced off, revegetated by way of Coastal Sands Forest Regeneration (as per the Environmental Land Use Management Plan) and the total area regenerated and managed appropriately for these species in perpetuity to maximize the potential viability of this small population. This excluded area must be fenced off and incorporated into the central corridor as shown in the amended Principles Plan in Plan II.</i></p>	<p>This issue has been fully discussed at Section 2.1.2.</p> <p>It is proposed to amend this condition to reflect the outcomes of the Environmental Assessment and consultation discussed at Section 2.1.2 and to refer to the Lot 5 Environmental Management Principles Plan.</p> <p><u>Amendment to condition sought:</u></p> <p>B6 Expanded habitat area within Lot 5, DP 25886</p> <p>The concept plan and principles plan provided with the PPR is to be amended to make provision for the identified Eastern Chestnut Mouse habitat on Lot 5 DP 25886 as recorded in Appendix 6 of the Environmental Assessment. This area is to be collectively fenced off, revegetated by way of Coastal Sands Forest Regeneration (as per the Environmental Land Use Management Plan) and the total area regenerated and managed appropriately for these species in perpetuity to maximize the potential viability of this small population. This excluded area must be fenced off and incorporated into the central corridor as shown in the amended Principles Plan in Plan II.</p> <p><i>The environmental management land area on Lot 5 DP 25886 is to be provided in accordance with the Lot 5 Environmental Management Principles Plan (Revision C). This area is to be collectively fenced off, revegetated by way of Coastal Sands Forest Regeneration (as per the Environmental Land Use Management Plan) and the total area regenerated and managed appropriately for these species in perpetuity to maximize the potential viability of this small population. This excluded area must be fenced off and incorporated into the central corridor as shown in the amended Principles Plan in Plan II.</i></p>

3.2 Proposed modification to the Terms of Approval set out in Schedule 2, Part C – Further environmental assessment requirements

3.2.1 Condition C1 (23)

Terms of Approval Issued by the Minister	Proposed modification
<p>C1 (23) Vegetation management plan for Crown Reserve R754444</p> <p><i>Prior to lodgement of any development application for residential subdivision, the proponent must prepare and implement a vegetation management plan for the Crown land reserve to the east identified as R754444 to the satisfaction of Council. The plan must demonstrate:</i></p> <ul style="list-style-type: none"> a) <i>the establishment of a 'vegetated regeneration area';</i> b) <i>removal of all weed species and retention of all native vegetation within the vegetated regeneration area';</i> c) <i>replanting of endemic rainforest species within vegetated regeneration area';</i> d) <i>erection of temporary fencing;</i> e) <i>erection of fencing enclosing regeneration area.</i> 	<p>This issue has been fully discussed at Section 2.2.</p> <p>It is proposed to amend this condition to reflect the outcomes of the Environmental Assessment and consultation discussed at Section 2.2.</p> <p><u>Amendment to condition sought:</u></p> <p>C1 (23) Vegetation management plan for Crown Reserve R754444</p> <p><i>Prior to lodgement of any development application for residential subdivision, the proponent must prepare and implement a vegetation management plan for an area of the Crown land reserve to the east identified as R754444 to the satisfaction of Council. The plan is to cover a distance of 25 metres either side of the proposed walkway to the beach and a 10m wide strip of the Crown land reserve along its western interface with Lot 5. The plan must demonstrate:</i></p> <ul style="list-style-type: none"> a) <i>the establishment of a 'vegetated regeneration area';</i> b) <i>removal of all weed species and retention</i> c) <i>of all native vegetation within the vegetated regeneration area';</i> d) <i>replanting of endemic rainforest species within vegetated regeneration area';</i> e) <i>erection of temporary fencing;</i> f) <i>erection of fencing enclosing regeneration area.</i>

Section 4

Conclusion

This application seeks the modification of a select number of conditions placed on the Concept Approval for the Rainbow Beach Concept Plan (MP_06_0085) at Lake Cathie.

The modifications have been supported by an Addendum Ecological Assessment and separate correspondence from NatureCall and a Geotechnical Assessment undertaken by Regional Geotechnical Solutions.

Additionally, the proposed modifications are supported by the NSW Office of Environment and Heritage and Port Macquarie-Hastings Council.

The proposed modifications will ensure that the habitat for key vegetation (Swamp Oak EEC) will be maintained and that the habitat for key fauna species (planigale and the Eastern Chestnut Mouse) will be substantially improved and protected for future generations.

Amended plans reflecting the minor changes to selected concept plan areas (principally the reduced size of the southern school site, increased size of the central corridor adjacent to the southern school site, and revised buffers to the swamp oak) are submitted with this application and are consistent with the proposed modifications.