



NSW GOVERNMENT
Department of Planning

**MAJOR PROJECT ASSESSMENT:
CONCEPT PLAN FOR A 792 LOT
RESIDENTIAL SUBDIVISION AT
BEVIAN ROAD, ROSEDALE
*Proposed by Marsim (trading as Nature
Coast Developments Pty Ltd)***

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

August 2008



© Crown copyright 2008
August 2008
NSW Department of Planning
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document

EXECUTIVE SUMMARY

This is a report on a Concept Plan application by Marsim (trading as Nature Coast Developments Pty Ltd) to carry out a residential subdivision with a yield of 792 lots on land at Bevia Road, Rosedale ("the proposal"). This report is provided to the Minister for the purposes of determining the concept plan pursuant to Section 75O(2)(a) of the Act.

The Director-General as delegate for the Minister declared the subdivision proposal a Major Project under Part 3A of the Act on 5 January 2006, being subdivision of residentially zoned land into more than 25 lots in a coastal zone. The proposal therefore achieves the criteria in Schedule 2 Clause 1(1)(i) of the Major Projects SEPP.

Concept approval is sought for community title subdivision for residential development and ancillary commercial and community facilities. The proposal includes six (6) Ecological Protection lots, one (1) Community lot and thirteen (13) Neighbourhood Precincts (which will yield 792 residential lots).

The estimated project cost of the development is \$41.5 million. The proposal is estimated to create 80 full time equivalent construction jobs and 25 full time equivalent operational jobs.

During the exhibition period, the Department received a total of 8 submissions from public authorities and 32 submissions from the public. Key issues considered in the Department's assessment included:

- Location of access roads, in particular the suitability of the proposed location of both the northern and southern access roads;
- Creation of an appropriate buffer to the Tomakin Sewage Treatment Plant (STP);
- Impacts on water quality and in particular on the Bevia Wetland (SEPP 14 Wetland) and Saltwater Creek (ICOLL);
- Traffic and safety;
- Ability of existing infrastructure in the area to accommodate additional demand generated by the proposed development;
- Lot sizes / density of development;
- Adequacy of wildlife corridors and the need to create a viable connection between the Mogo State Forest and the freshwater wetland; and
- Visual impacts.

The Department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the Proponent's Statement of Commitments and the Department's recommended conditions of approval, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region. All statutory requirements have been met.

The Department recommends that the project be approved, subject to modifications.

CONTENTS

EXECUTIVE SUMMARY	3
1. BACKGROUND.....	7
1.1 THE SITE.....	7
1.1.1 Site context and location	7
1.1.2 Existing site features	7
1.1.3 Surrounding development	10
1.2 SITE HISTORY	12
1.2.1 Strategic Planning Background	12
1.2.2 Previous applications	13
2. THE PROPOSED DEVELOPMENT	17
2.1 Project Description	17
2.2 Project Chronology	21
2.3 Project Amendments	21
3. STATUTORY CONTEXT	22
3.1 Major Project Declaration.....	22
3.2 Permissibility	22
3.2.1 Urban Expansion Zone.....	22
3.2.2 Rural 1(c) Zone	22
3.2.3 Environment Protection Zone.....	23
3.3 Exhibition and Notification.....	23
3.4 Minister's Power To Approve	24
3.5 Objects of the Environmental Planning And Assessment Act 1979	25
3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES	25
3.7 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)	27
3.7.1 Application of EPIs to Part 3A Projects	27
3.7.2 State Environmental Planning Policy (Major Projects) 2005	27
3.7.3 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71).....	27
3.7.4 State Environmental Planning Policy No. 14 – Coastal Wetlands.....	28
3.7.5 State Environmental Planning Policy No. 11 – Traffic Generating Developments (SEPP 11).....	28
3.7.6 State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44).....	28
3.7.7 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).....	28
3.7.8 Lower South Coast Regional Environmental Plan No. 1 (LSCREP 1)	28
3.7.9 Lower South Coast Regional Environmental Plan No. 2 (LSCREP 2)	29
3.7.10 Eurobodalla Rural Local Environmental Plan 1987 (LEP).....	29
3.8 OTHER PLANS AND POLICIES.....	29
3.8.1 South Coast Regional Strategy	29
3.8.2 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines.....	29
3.8.4 Development Control Plan No. 160 Rosedale Urban Expansion Zone (DCP 160)	29
3.8.5 Development Control Plan No. 156 Rural Subdivision (DCP 156)	30
4. CONSULTATION AND ISSUES RAISED	31
4.1 PUBLIC EXHIBITION DETAILS.....	31
4.2 SUBMISSIONS FROM THE PUBLIC.....	31
4.2.1 Summary of issues raised in public submissions	31
4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES.....	32
4.3.1 Eurobodalla Shire Council.....	32
4.3.2 NSW Rural Fire Service (RFS).....	33
4.3.3 NSW Roads and Traffic Authority (RTA)	34
4.3.4 Department of Primary Industries (DPI)	34
4.3.5 Department of Water and Energy (DWE).....	34
4.3.6 Department of Education and Training.....	34
4.3.7 Department of Environment and Climate Change (DECC)	34
4.3.8 Department of Lands.....	35
4.3.9 Nature Conservation Council	35
5. ASSESSMENT OF ENVIRONMENTAL IMPACTS.....	36

5.1 SUBDIVISION, LOT SIZES AND URBAN DESIGN	36
5.1.1 Minimum Lot Sizes	36
5.1.2 Density of Development	37
5.1.3 Urban Design	37
5.1.4 Subdivision	37
5.1.5 Staging	38
5.1.6 Titling Arrangements	38
5.2 VISUAL IMPACT	39
5.2.1 Views from the Site	39
5.2.2 Views of the Site	39
5.2.3 Conclusion	42
5.3 SOCIAL AND COMMUNITY	43
5.3.1 Range of Housing Types	43
5.3.2 Social and Economic Context	43
5.3.3 Economic Analysis	43
5.4 ENVIRONMENTAL PROTECTION	44
5.4.1 Threatened Flora and Fauna	44
5.4.1 Ecological Corridors	45
5.5 RIPARIAN MANAGEMENT	46
5.5.1 Watercourses	46
5.5.2 Saltwater Creek	48
5.5.3 Bevia Wetland	48
5.5.4 Summary	48
5.6 WATER CYCLE MANAGEMENT	48
5.6.1 NSW Coastal Policy	48
5.6.2 Wetland Management Policy	49
5.6.3 Estuary Management Policy	49
5.6.4 NSW State Rivers and Estuary Policy	49
5.6.5 Water Quality	50
5.6.6 Sediment and Erosion Management	50
5.7 TRAFFIC AND ACCESS	50
5.7.1 Southern Access Road	50
5.7.2 Northern Access Road	51
5.8 BUSHFIRE	52
5.9 FLOODING	53
5.10 CLIMATE CHANGE	53
5.11 HERITAGE	54
5.11.1 European Heritage	54
5.11.2 Aboriginal Heritage	54
5.11.3 Relocation of the Southern Access Road	55
5.12 Location of Future residential development in the vicinity of Tomakin sewage treatment plant ..	56
5.13 SOIL AND CONTAMINATION	56
5.13.1 Contamination	56
5.13.2 Acid Sulphate Soils	57
5.14 STATEMENT OF COMMITMENTS	57
5.15 INFRASTRUCTURE PROVISION	57
5.15.1 Infrastructure Capacity	57
5.15.2 Community Facilities and Services	58
5.16 SECTION 94 CONTRIBUTIONS	58
6. CONCLUSION	59
RECOMMENDATION	60
APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	61
APPENDIX B. COMPLIANCE WITH EPIs INCLUDING STATE ENVIRONMENTAL PLANNING POLICIES THAT SUBSTANTIALLY GOVERN THE CARRYING OUT OF A PROJECT	63
APPENDIX C	88
COMPLIANCE WITH DCPS AND OTHER PLANS AND POLICIES	88

APPENDIX D: SUMMARY OF SUBMISSIONS	114
APPENDIX E: ENVIRONMENTAL ASSESSMENT	120
APPENDIX F: RESPONSE TO SUBMISSIONS AND STATEMENT OF COMMITMENTS.....	121

1. BACKGROUND

1.1 THE SITE

1.1.1 Site context and location

The site comprises 10 existing parcels, described as Lots 11, 29, part 32, 72, 102, 118, 119 and part 213 in DP 755902; Lot 2 DP 627034 and Lot 2 DP 623340). It is located on Bevia Road at Rosedale within the local government area of Eurobodalla and is owned by Marsim, trading as Nature Coast Developments Pty Ltd.

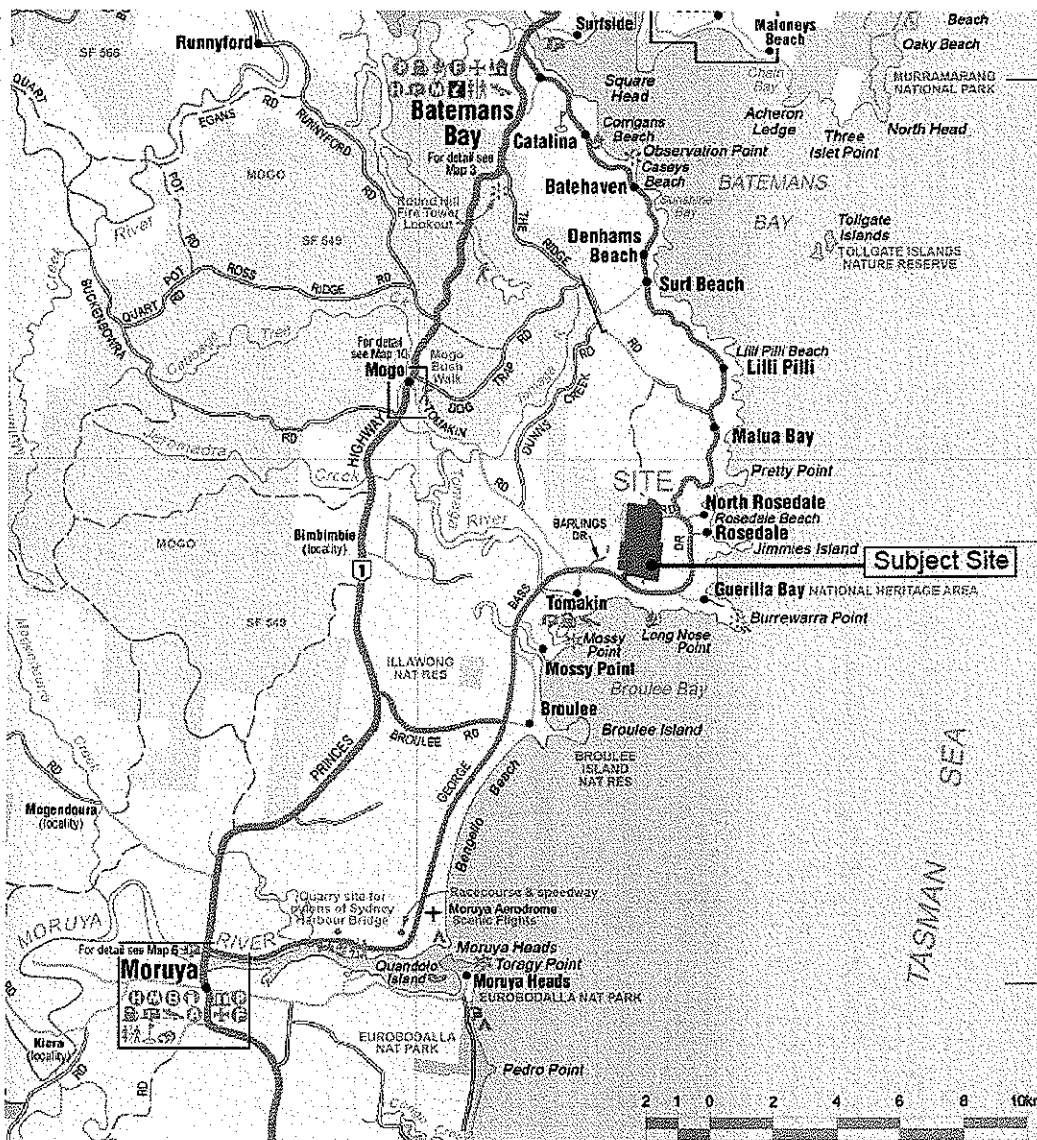


Figure 1 – Site location

(Source: Environmental Assessment Report - Bevia Road Concept Plan)

1.1.2 Existing site features

The site has an area of approximately 174 hectares. The majority of the land has been cleared and was used for many years as a dairy farm (grazing purposes) however the northern and eastern fringes of the site contain areas of open Spotted Gum forests. Lands adjoining the site are heavily vegetated and the Bevia Wetland is located in south western corner of the property. An aerial photograph is provided at Figure 2. Figures 3-5 depict key locations on the subject site.

Scattered trees dot the former pastures whilst the gully and creek lines which traverse the site are lightly vegetated. A strong ridgeline runs east - west across the site with a prominent knoll situated roughly in the centre of the site. A number of farm dams are in evidence. A former cheese factory, an existing dwelling and buildings associated with a former nursery use are the only existing buildings on the site. Other farm structures including the milking sheds and cattle yards are also in evidence.

Vehicular access is currently achieved via unsealed connections to George Bass Drive from Bevia Road at the southern end of the site (along the western edge of the Wetland) and in the north eastern corner, traversing an adjoining property known as the Rosedale Farm site which is also the subject of a major project application (MP06_0038).

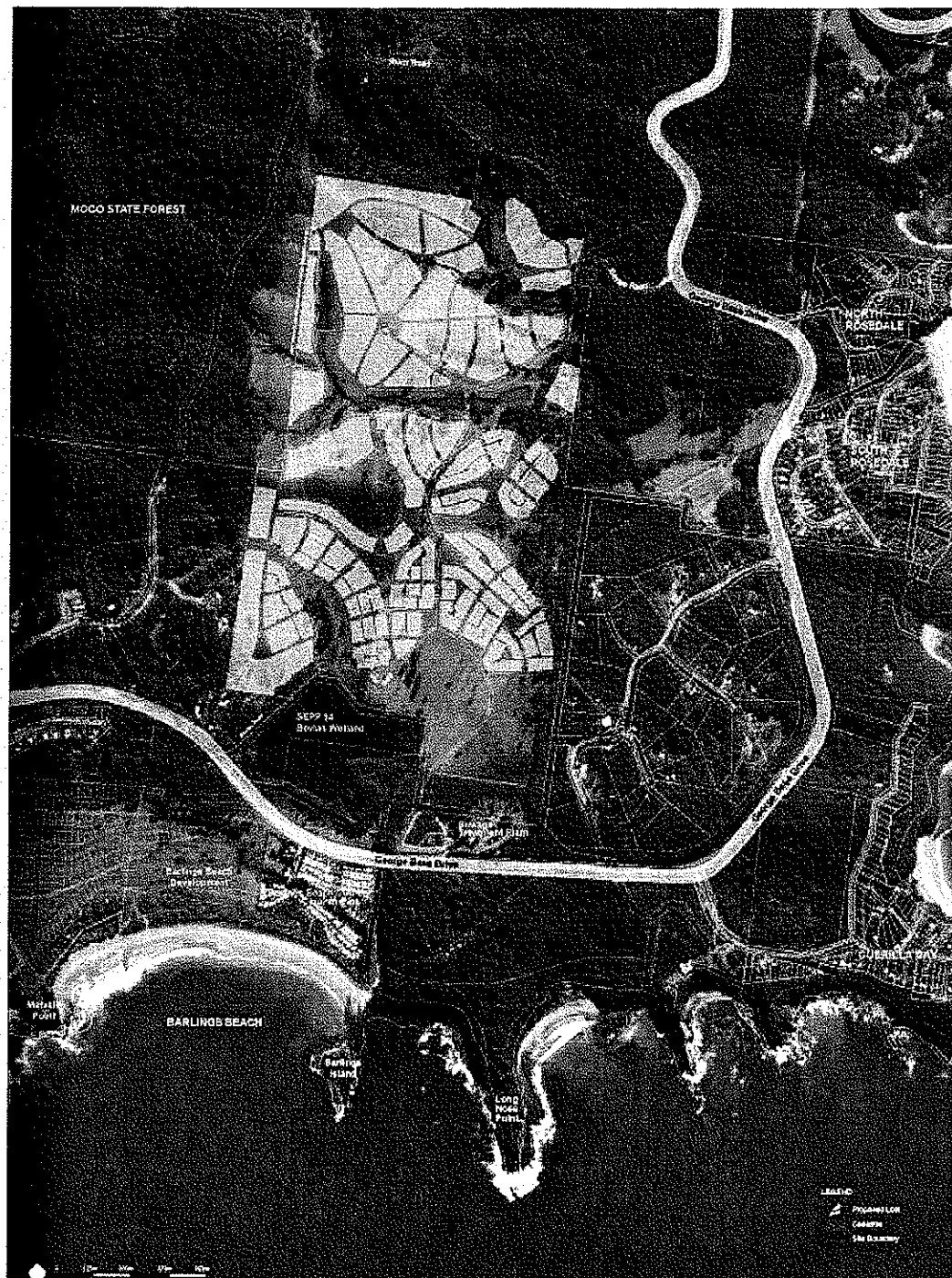


Figure 2 – Aerial Photograph and Site Context (concept plan overlaid)
(Source: Environmental Assessment Report Bevia Road Concept Plan)



Figure 3 – View of existing farm dam in the northern part of the site.



Figure 4 – View to the Bevia Wetland at the southern end of the site



Figure 5 – View from the northern portion of the site, towards the ocean

1.1.3 Surrounding development

Development in the vicinity of the site is described as follows:

- to the north and north west of the site is more heavily vegetated land which is zoned 1(a) Rural (Environmental Constraints and Agricultural);
- further to the north west of the site is the Mogo State Forest;
- the northern half of the site, on its eastern boundary is adjoined by the property known as Rosedale Farm (also the subject of an application for a 141 lot residential subdivision MP06_0038);
- large lot subdivision on land zoned Rural 1c Small Holdings adjoins the southern half of the site on both its eastern and western boundaries;
- land to the south on the opposite side of George Bass Drive comprises a mixture of development including the Barlings Beach Caravan Park, Burrawang Coastal Club and the recently approved Barlings Beach Development, a residential subdivision comprising some 140 lots; and
- Council's Sewage Treatment Plant is located between the southern property boundary and George Bass Drive at the south eastern corner of the subject site.

1.1.4 Zoning

The current zoning of the land under the provisions of the Eurobodalla Rural LEP 1987 is as follows (and shown on Figure 6):

- Zone No. 10 (Urban Expansion Zone);
- Zone No. 1(c) (Rural Small Holdings Zone); and
- Zone No. 7(a) (Environment Protection (Wetlands) Zone).

The majority of the site is zoned Urban Expansion, which permits a wide range of land uses with consent, including agriculture, residential, commercial and community buildings. Subdivision is also permissible with consent.

A relatively small area (approximately 7.23ha) in the south western corner of the site is zoned 1(c), upon which it is proposed to create some 26 residential lots ranging in size from 558sqm to 3,665sqm. A further 18 lots are located partly on land zoned Urban Expansion and partly on land zoned 1(c). Dwelling houses and subdivision of land are permissible with consent.

The area at the southern end of the site, including the Bevia Wetland is zoned 7(a). No development is proposed in this part of the site.

(Source: Environmental Assessment Report - Bevia Road Concept Plan)

1.2 SITE HISTORY

1.2.1 Strategic Planning Background

In 1987 the Department published the Lower South Coast Strategy which identified the subject site as "Committed Urban Land", being land zoned for urban purposes such as residential and commercial development, and areas zoned for urban expansion. Eurobodalla Shire Council subsequently prepared the Eurobodalla Rural LEP 1987 (gazetted 11 December 1987) which formally rezoned the majority of the subject site for Urban Expansion.

In November 1989, Council adopted a DCP for the Rosedale Urban Expansion Area (which includes the subject site), known as DCP 160 – Rosedale Urban Expansion Zone. The current proposal does depart to some extent from some of the provisions of DCP 160, however it is considered to be generally in accordance with the objectives and strategies of the plan (refer detailed assessment at Appendix C).

As a precursor to the release of the South Coast Regional Strategy (2006), the Minister for Planning commissioned an Expert Panel to review the development potential for Sensitive Urban Lands on the South Coast. The findings of Panel (October 2006) confirmed that the subject site is suitable for residential development, as follows:

Table 1 Findings of the Expert Panel

Terms of Reference	Assessment & Recommendation
1a. Suitability of site	<p>Western Portion – the Rosedale site is considered mostly suitable for urban development in view of the past land clearing and farming activities. Detailed site planning should place a high priority on protection of riparian zones and SEPP 14 wetlands through best practice stormwater management, and early revegetation of riparian areas for ecological and visual benefits.</p> <p>North Eastern Portion – (Note this is outside the subject site) limited development could occur in the north-eastern portion of the site, outside the habitat corridor identified there, provided there is early revegetation of generous corridors adjacent to previously cleared areas along creeks and other riparian areas. Limited clearing of forest could be permitted provided early riparian revegetation and restoration occurs.</p> <p>Detailed site planning should place a high priority on protection of riparian zones and SEPP 14 wetlands, through best practice stormwater management, and early revegetation of riparian areas for ecological and visual benefits.</p>
1b. Scale and type of land release	<p>Residential development should aim to achieve a range of housing types to meet demographic change, with a higher overall yield than traditionally achieved in adjoining areas, to make better use of land resources and utility services.</p> <p>Site planning should ensure visual separation between Barlings Beach and Rosedale, and along George Bass Drive between Tomakin and Rosedale North, in line with Council's objectives under the Eurobodalla Urban Settlement Strategy.</p>
2. Priority and timing	<p>Development should be staged according to market conditions.</p> <p>Discussions should be held with the landowners about</p>

Terms of Reference	Assessment & Recommendation
	a planning agreement that guarantees the revegetation of the riparian corridors as a high priority.
3. Alternate land uses	Environmental conservation zoning using the new Zone E2 Environmental Conservation under the LEP template should be considered for riparian corridors, wetlands and areas containing Ecologically Endangered Communities (EECs).

As demonstrated above, the site has been investigated by both the Department and the Council for its suitability to accommodate urban development and has been subsequently zoned for such purpose.

Council has prepared a comprehensive draft LEP in accordance with the standard template and has referred it to the Department with a request for a section 65 certificate. The bulk of the site is proposed to be zoned R2 Low Density Residential and the Wetlands will be zoned E2 Environmental Conservation.

An Environmentally Sensitive Areas Map which highlights Riparian Corridors, Wetlands and EECs on the land will also be applied to this site. Council advises that specific local provisions will apply to enact this map.

1.2.2 Previous applications

A Masterplan Application was submitted to the Department in December 2002 (MP 4-12-2002) which sought approval for the subdivision of the site into 445 residential lots with 850 dwellings. The application was refused on the following grounds:

Poor integration with the Strategic Context - It was considered that the size of the development proposed as part of the previous application should not occur outside of a clear strategic framework, such as a settlement strategy.

Response in Current Application

Since the assessment of the previous application (2005), the Minister for Planning commissioned an Independent Panel to review the South Coast Sensitive Urban Lands which found the subject site to be suitable for residential development. In addition the South Coast Regional Strategy (2006) has been released, which confirms the site as being suitable for urban development and indeed, identifies it as a site which will contribute to achieving the target of up to 45,600 new dwellings in the region by 2031.

In December 2006 Council released the Eurobodalla Settlement Strategy which acknowledges and adopts the findings of the Panel in relation to this site (as detailed above). An assessment of the current proposal against the principles and objectives of the Strategy is included at **Appendix C** and demonstrates that the current proposal is appropriate in terms of its strategic context.

The current proposal differs markedly from the previous Masterplan application in terms of its:

- integration with the surrounding area by virtue of the provision of a northern and southern access road, with a strong internal spine road providing connections throughout the development – the Masterplan was limited to one point of access, with no connection to surrounding areas;
- connectivity throughout the site and beyond its boundaries through the creation of a network of open space / habitat corridors; and
- pedestrian connections

Non-compliance with Coastal Design Guidelines - The previous scheme fell short of the principles set out in the Guidelines, specifically in relation to the fact that new settlements are to be determined through the process of a settlement strategy (refer above); provision should be made for a range of open space areas ranging from playing fields to parks and walking connections; settlements should be easily navigable and logical in terms of access; and edge streets fronting reserves to define the boundary of the settlement and also providing asset protection zones for bushfire protection.

Response in Current Application

The current proposal is the result of a more comprehensive analysis of the constraints imposed on future development and as a consequence the proposal includes a network of open space across the site that is accessible to residents and is integrated with a pedestrian and cycle network.

Asset Protection Zones have been incorporated in accordance with the findings of the Bushfire Protection Assessment and have been found to be generally satisfactory by the Rural Fire Service.

The Concept Plan has been assessed against the provisions of the Coastal Design Guidelines and has found to be generally consistent. Refer Appendix C.

Poor Structure and Urban Design – Development outlined in the previous scheme was virtually continuous across the entire site which was contrary to both the objectives of the Urban Expansion Zone and the provisions of Council's DCP, which shows significant areas where no development should occur, such as through the centre of the site.

Response in Current Application

The current concept responds to the physical constraints imposed on the site by topography, drainage and existing stands of vegetation. As a consequence, the development is proposed to occur in 3 "zones" – the northern part of the site, where the allotments are larger (between 750 and 8,550sqm) and broadly reflect a rural / residential character; the central area where lot sizes range between 450 and 1,750sqm; and the southern part of the site (which also makes provision for some retail / commercial floor space) where development is more "suburban" in character.

The three development "zones" are separated by significant areas of open space, riparian zones provided along drainage lines and conservation areas which will be implemented to provide vegetated habitat corridors. The highest point on the site, known as the "Knoll" is incorporated in the major east-west vegetation / open space corridor.

The current proposal does depart to some extent from some of the provisions of DCP 160 however it is considered to be generally in accordance with the objectives and strategies of the plan. An assessment of the current proposal against the provisions of DCP 160 is included at Appendix C.

Inadequate arrangements for access given the scale of the development – The previous proposal sought approval for a single point of access from George Bass Drive on the eastern side of the Wetland in an arrangement broadly identified in Council's DCP 160 – Rosedale Expansion Area. However the owner of the part of the land required for this access withheld owners consent and did not support the construction of the road in this location. The proponent's alternative proposal would have resulted in an unsatisfactory alignment, including two "dog-legs" and did not allow for an appropriate intersection treatment with George Bass Drive.

In addition, it was considered that the single point of access was insufficient to accommodate the traffic generated by the proposed development and that it would not be appropriate in terms of bushfire management.

Response in Current Application

The current application originally proposed upgrading of the existing Bevia Road (on the western side of the Wetland) for use as the primary southern access to the site. However, in response to concerns raised by both the public and Council during the consultation process, the Proponent has relocated the southern access road to the eastern side of the Wetland. Council has facilitated the new road location, resolving at its meeting of 24 June 2008 to dedicate a 20 metre wide strip within Lot 5 DP 264630 (land owned by Council forming part of the Tomakin Sewage Treatment Plant) as public road. This issue is discussed in more detail in Section 5.7 of this report.

The application also seeks approval for a northern access road which generally follows the alignment of Bevia Road and intersects with George Bass Drive some 1.2km to the north of Rosedale Parade, which is the primary access road into the existing settlement of North Rosedale. The section of Bevia Road, between the boundary of the subject site and George Bass Drive is owned by Rosedale Farm NSW Pty Ltd. A Right-of-Way over this

section of road exists and the Proponent has provided a copy of the signed agreement with the adjoining owner to use and upgrade this section of road as part of the development of the subject site.

Council has also raised concern about the functionality and safety of this northern intersection and has suggested that the opportunity to provide a future road connection between the subject site and the Rosedale Farm site to the east (subject of a separate Major Project Application MP06_0038) should be provided for as part of any future development applications relating to the two properties. This issue is also addressed in greater detail in Section 5.7 of this report.

Non-compliance with Fire Safety Requirements – Concern was raised about the number of dead end streets and culs-de-sac in the previous Masterplan, some of which were in excess of 200m in length; and the generally convoluted road network. In addition large open spaces were proposed at the rear of development, often comprising vegetated gullies with poor road access.

Response in Current Application

The current proposal does not include any culs-de-sac and the road network has been rationalised to ensure a more legible public domain and to comply with the requirements of the Rural Fire Service. Furthermore, the RFS has raised no objections in this regard.

Loss of Spotted Gum Forest and inadequate assessment of impacts – Particular concern was raised in relation to the loss and / or degradation of the area of Spotted Gum Forest located in the north eastern corner of the site, particularly since it would have resulted in the loss of habitat for two identified threatened species and resultant negative visual and aesthetic impacts.

Response in Current Application

The Spotted Gum Forest has been preserved under the current proposal and will be enhanced through the implementation of bushland regeneration programs set out in the Proponent's Statement of Commitments.

Inadequate setback from Sewage Treatment Plan (STP) – The proposed development was considered to be too close to the STP and a more generous setback was required.

Response in Current Application

During the consultation process, Council again raised concerns about the proximity of the proposed development to the STP. Accordingly, the Proponent has amended the proposal and has identified an area of land in the south eastern corner of the site as a "deferred area". This part of the site will be subject to a separate application and no development can be considered in this area until it can be demonstrated to Council's satisfaction, that relevant odour management criteria for residential development can be met. Further discussion of this issue is set out in Section 4 and Section 5.15 of this report.

Visual impacts and character of the development – it was considered that the cumulative impact of the loss of existing vegetation in the north eastern part of the site, smaller sized lots in the character zone known as "the farm", repetition of built form, roads cutting across contours and the inclusion of an area of integrated housing would compromise the rural / semi-rural character of this area.

Response in Current Application

The visual impact of the proposed development and its impact on the character of the area have been significantly reduced, using the following mechanisms:

- inclusion of larger lots in the northern part of the site (which is visible from more distant vantage points to the south such as Broulee Headland);
- re-design of the internal road network to ensure that the majority of roads follow the contours rather than cutting across them;
- prohibition of development on ridgelines across the site and their inclusion in the open space network;
- preservation of significant stands of vegetation and proposed regime of bushland regeneration.
- The visual impact has been assessed in detail in Section 5.2 of this report.

Potential negative impacts on Bevan Swamp – Concern was raised in relation to the potential for negative impacts on the water quality and ecological values of the Bevan Wetland resulting from runoff and intended use of the Wetland.

Response in Current Application

The EA for the current proposal is accompanied by a comprehensive Water Management Strategy based on Water Sensitive Urban Design principles. The report demonstrates that the balance between surface and subsurface flows would closely mimic existing conditions for flows entering the Wetland and the runoff water quality would have pollutant loads up to 25% lower than existing conditions.

Summary

The Proponent has satisfactorily addressed the deficiencies / reasons for refusal of the 2002 Masterplan application.

2. THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

This is an application for a Concept Plan which seeks approval for the following:

- The extent of environmental constraints
- The extent of developable area
- The indicative subdivision of the site for residential development and ancillary commercial and community facilities, under the Community Land Development Act 1989, into six (6) Ecological Protection Lots; one (1) Community Lot and thirteen (13) Neighbourhood Precinct Lots (which will yield a maximum of 792 residential allotments)
- Road Hierarchy Plan
- Landscape Concept Plan

Advice from the Proponent indicates that:

- (i) the Environmental Constraints Plan, the Developable Area Plan and the description of the development, specifically in terms of the maximum number of residential lots (792) and community lots be approved such that the details contained therein are fixed;
- (ii) the set of draft Urban Design Guidelines which were submitted as part of the documentation, the Subdivision Plan, Road Hierarchy Plan and Concept Landscape Plan are draft documents and will be further refined and revised as part of design development following the approval of the Concept Application. The revised documents will then be submitted for approval as part of subsequent development application(s) submitted to Eurobodalla Shire Council. It is anticipated that the Urban Design Guidelines would ultimately be adopted by Council as a site specific Development Control Plan; and
- (iii) the residential and commercial buildings and community facilities will be the subject of subsequent and separate development application(s) as their precise form and design have not yet been finalised. However, the commercial development will be local in nature (initially a general store of approximately 100sqm) and the community facilities will likely comprise a community / recreation building and tennis court.

Figure 7 depicts the original concept plan. Figures 8 and 9 depict the modified concept plan, as outlined in the Preferred Project Report (submitted on 10 July 2008)

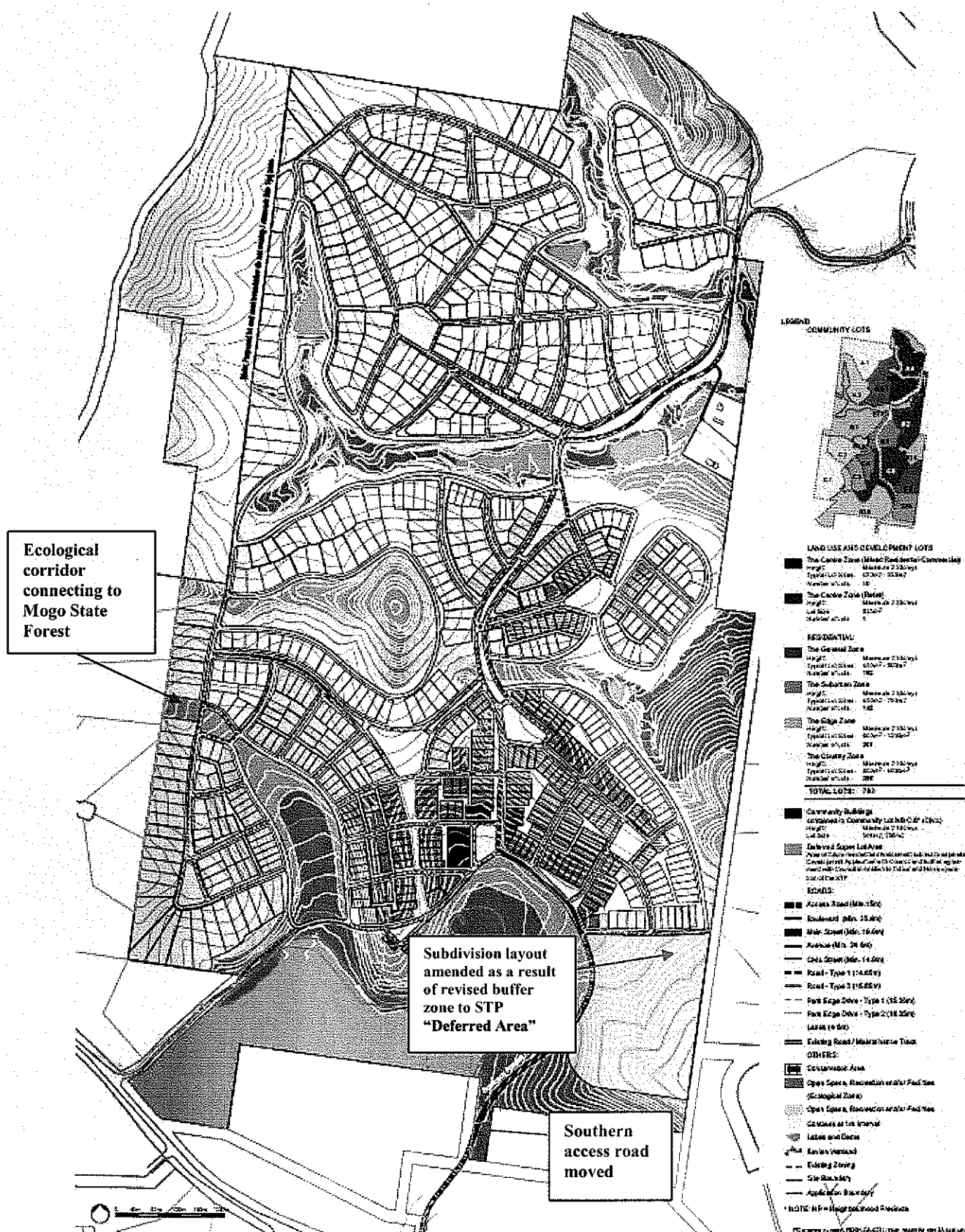


Figure 8 – Current Concept Plan

(Source: Preferred Project Report – Bevia Road Concept Plan, dated July 2008)

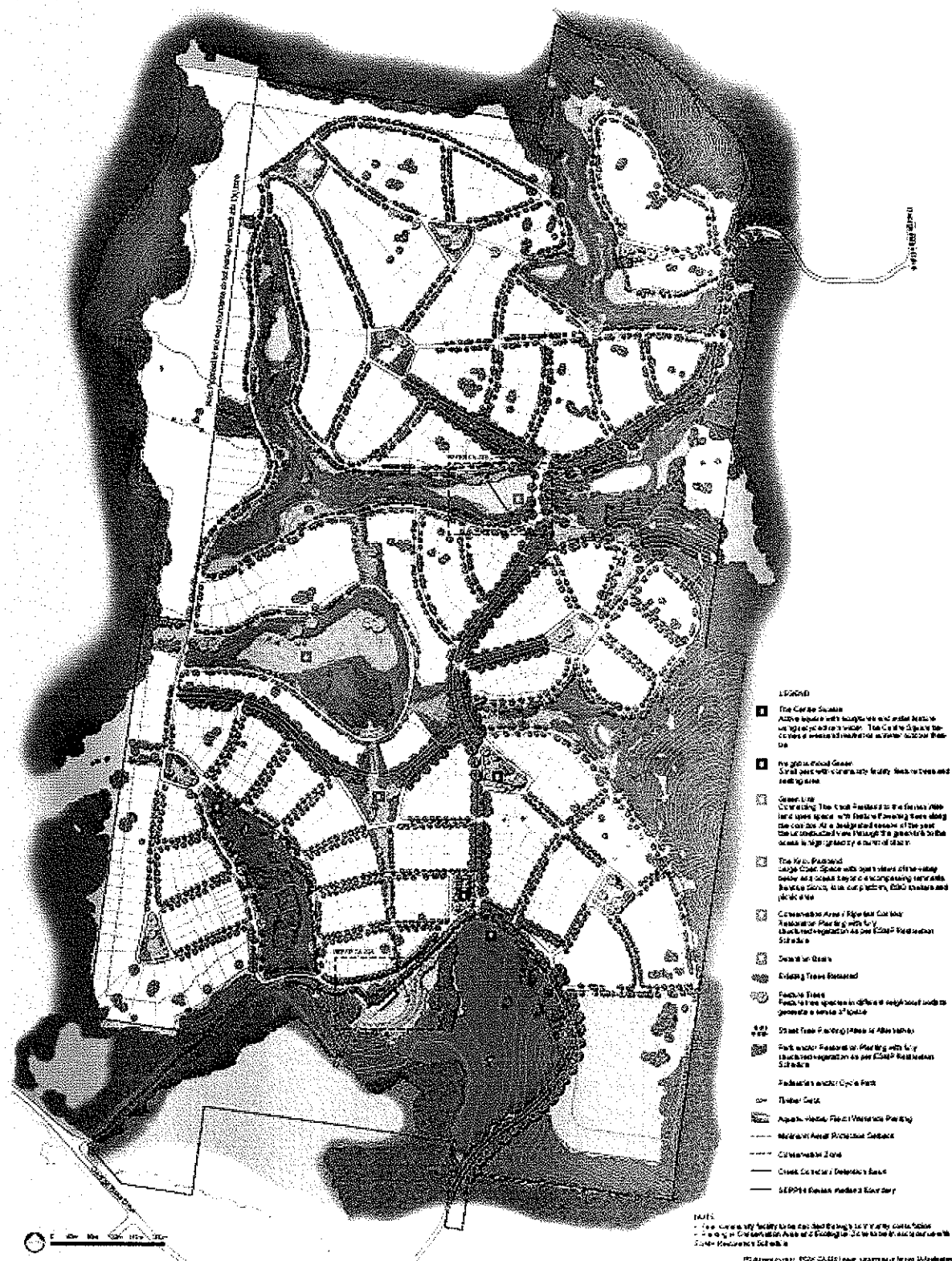


Figure 9 – Landscape Concept Plan

(Source: Preferred Project Report – Bevia Road Concept Plan, dated July 2008)

2.2 PROJECT CHRONOLOGY

- 22 December 2005 – request for clause 6 opinion lodged with the Department
- 12 January 2006 – Director-General, as delegate for the Minister/the Minister formed the opinion that the proposal is a Project and that Part 3A of the Act applies
- 14 November 2006 – Preliminary Assessment lodged with the Department
- 9 December 2006 – Minister authorises the Major Project to be dealt with as a concept plan
- 28 December 2006 – Director-General's Environmental Assessment Requirements (DGRs) signed by the Director-General's Delegate and provided to the proponent.
- 19 February 2008 - Environmental Assessment lodged with the Department. Assessment deemed adequate.
- 6 March 2008 – EA placed on public exhibition
- 17 April 2008 – Summary of submissions provided to proponent
- 16 May 2008 – Meeting with Council to discuss the extent of the buffer zone to be observed to the adjacent Sewage Treatment Plant and access issues
- 10 June 2008 – Proponent meets again with Council officers to discuss alternative locations for vehicular access
- 12 June 2008 – Council submission received
- 17 June 2008 – Department officers meet with the Proponent to discuss Council's preferred access arrangements
- 20 June 2008 – Summary of issues from the Department provided to proponent
- 30 June 2008 – further consultation with DWE and DECC regarding impacts of proposed relocation of southern access road
- 10 July 2008 – preferred project report submitted
- 1 August 2008 - Meeting with proponent to discuss further issue raised by Council in relation to the location of the proposed Northern Access Road and the additional investigations into potential impacts on Aboriginal Cultural Heritage as a result of the relocated Southern Access Road
- 1 August 2008 – further consultation with DECC in relation to Aboriginal Cultural Heritage issue
- 6 August 2008 – response received from DECC
- 14 August 2008 - preliminary draft conditions forwarded to the Proponent.

2.3 PROJECT AMENDMENTS

A preferred project report was submitted on 10 July 2008 which made the following modifications to the original concept plan (as outlined in Figure 8):

- relocation of the southern access road from Bevia Road (western side of the Wetland) to a location on the eastern side of the Wetland, adjacent to the Tomakin Sewage Treatment Plant;
- reconfiguration of the subdivision layout to accommodate the impact of recent augmentation works and a revised buffer zone to the Sewage Treatment Plan, resulting in the reduction of potential yield from 806 lot to 792 lots; and
- extension of the ecological corridor in the south western part of the site to create a direct connection between the Wetland and heavily vegetated areas to the west (which ultimately connect to the Mogo State Forest).

Whilst the preferred project report was not advertised, it was referred to both the Department of Water and Energy (DWE) and the Department of Environment and Climate Change (DECC) for comment because of the potential environmental impacts associated with the relocation of the southern access road in particular (primarily in relation to the likely impact on EEC's / riparian buffer zones and Aboriginal Cultural Heritage) and was placed on the Department's website.

3. STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION

The proposal is subject to assessment under Part 3A of the *Environmental Planning and Assessment Act 1979* (the *Act*) and the approval of the Minister for Planning is required to carry out the project. Under delegation of the Minister, the Director-General formed the opinion on 12 January 2006 that the project is one to which Part 3A of the *Act* applies.

On 9 December 2006, the Minister authorised the Proponent's request that the Major Project be dealt with as a Concept Plan pursuant to Section 75M of the *Act*.

The *State Environmental Planning Policy (Major Projects) 2005* (as at January 2008) identifies development for subdivision of land in a residential zone into more than 25 lots in the coastal zone as a project to which Part 3A of the *Act* applies (Schedule 2, clause 1(1)(i) – Coastal areas). The proposal achieves the Major Project criteria in the Major Project SEPP, being the subdivision of land in a residential zone creating more than 25 lots in the coastal zone.

3.2 PERMISSIBILITY

3.2.1 Urban Expansion Zone

Under the Eurobodalla Rural LEP 1987, the majority of the site is zoned 10 Urban Expansion permitting a range of activities with the consent of Council including residential and commercial uses as well as subdivision of the land.

3.2.2 Rural 1(c) Zone

A relatively small area (7.23 ha) in the south western corner of the site is zoned 1(c) (Rural Small Holdings Zone). Dwelling houses and subdivision of land are permissible with consent. Whilst no minimum allotment size is specified in the LEP, Clause 17 sets out the requirements for subdivision of land in the 1(c) zone, which provides that Council shall not consent to the subdivision of such land unless it is satisfied that each lot to be created by the subdivision will have an adequate area, having regard to the following:

- means of providing water supply,
- ability of the land to accommodate sewage disposal,
- standard and capacity of public roads,
- availability of utility services,
- topography,
- desirability of maintaining relatively low densities in the primary catchments of wetlands or other areas where there is a risk of soil erosion or pollution,
- desirability of achieving a range and mix of allotment sizes,
- the need to maintain a semi-rural character in the area.

A **Services and Infrastructure** report accompanies the EA and addresses the capacity and requirements of the development for sewage, water and electricity and has indicated that the future residential development on the site can be serviced, subject to a variety of augmentation works. These issues are addressed in more detail in Section 5.14 of this report.

A **Traffic** Report accompanies the EA and has satisfactorily demonstrated that the proposed development will have no significant adverse impact on the operation of the local road network. Traffic and Access are addressed in Section 5.7 of this report.

The **topography** of the land has been a determining factor in the subdivision design. However further detailed analysis of the topography, **siting** of future dwellings and the relationship between dwellings will be provided as part of any future applications to Council for subdivision, built form and other associated works.

The likely impact on the Bevia Wetland has been assessed and it is considered that such impacts will be within reasonable limits and that the environmental integrity of the Wetland will be largely preserved, through the creation of appropriate buffers around the perimeter; and the implementation of a comprehensive water management plan which will ensure that the water quality of the Bevia Wetland will be maintained and improved. Detailed discussion about the management of riparian zones and water cycle management is provided in Sections 5.5 and 5.6 respectively.

The land use pattern has been designed to accommodate smaller lots than traditionally achieved in the 1(c) zone (ranging in size between 558 and 3,665sqm). The larger lots are located adjacent to the property boundary where they interface with similarly zoned land in the Barlings Drive subdivision.

Council's DCP 156 – Rural Subdivision sets out the lot sizes and subdivision density for rural areas. Clause 4.2 provides that:

For areas where specific constraints maps are yet to be determined, lots created should have an average area of 2ha or more in order to maintain the "semi rural character" of land zoned Rural Small Holdings.

The average lot size principle is used to protect environmentally sensitive areas from the effects of development without unduly restricting the overall development potential of the land. The average lot size may be achieved either by intermingling of several different lot sizes within the subdivision according to environmental constraints or by the clustering of smaller lots in either one or several areas to protect larger environmentally sensitive areas elsewhere on the land.

Lots less than 5,000sqm or the re-subdivision of environmentally sensitive land will not be permitted.

The area of the site that is zoned 1(c) is proposed to be subdivided into 26 lots ranging in size between 558 and 3,665sqm, with the larger lots arranged around the edge of the site where it adjoins the existing Barlings Drive subdivision (also zoned Rural 1(c)). This results in an average lot size in this area of 1,642sqm.

Notwithstanding the numerical non-compliance with the DCP provisions, Council has examined the proposal and has confirmed its in principle support for the range of proposed lot sizes.

3.2.3 Environment Protection Zone

The area at the southern end of the site, including the Bevia Wetland is zoned 7(a) Environment Protection (Wetlands). No development is proposed in this part of the site.

The Proposal is consistent with the objectives of each of the three land use zones and is permissible, subject to the Minister's approval.

3.3 EXHIBITION AND NOTIFICATION

The concept application and Environmental Assessment were placed on public exhibition from 6 March to 7 April 2008 and submissions were invited in accordance with section 75(H) of the Act. Notification of the exhibition was given in advertisements in:

- The Bay Post (and Moruya Examiner) Wednesday 5 March 2008
- Eurobodalla Shire Independent Thursday 6 March 2008

Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney
- Department of Planning Wollongong Office, Crown Street Wollongong
- Eurobodalla Shire Council, Vulcan Street Moruya
- Nature Conservation Council, Kent Street Sydney

The EA was also provided for download on the Department's website. The Department has exhibited the Environmental Assessment (EA) in accordance with section 75H (3) of the Act.

Letters were sent to adjoining owners and 457 notifying of the Exhibition and inviting a submission.

3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75O of the Act. Section 75I(2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 sets out the matters to be addressed in the Director General's report. These matters and the Department's response are set out as follows:

(a) a copy of the proponent's environmental assessment and any preferred project report; and

The proponent's EA is included at **Appendix E** whilst the preferred project report is set out for the Minister's consideration at **Appendix F**.

(b) any advice provided by public authorities on the project; and

All advice provided by public authorities on the project for the Minister's consideration is set out in section 4.3 of this report.

(c) a copy of any report of a panel constituted under Section 75G in respect of the project; and

No independent hearing and assessment panel was undertaken in respect of this project.

(d) a copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project; and

An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set in **Appendix B**.

(e) except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division; and

An assessment of the development relative to the prevailing EPI's is provided in **Appendix B**.

(f) any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.

The environmental assessment of the project is this report in its entirety.

(g) a statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.

The **Director-General's Environmental Assessment Requirements (DGRs)** were issued on 28 December 2006 and required the following issues to be addressed:

- Conceptual Layout
- Visual Impact, Amenity and Scale
- Social and Community
- Environmental Protection
- Riparian Management
- Water Cycle Management
- Traffic and Access
- Hazard Management and Mitigation
- Infrastructure Provision
- Heritage
- Noise
- Soil and Contamination

The EA lodged by the proponent on 19 February 2008 was accepted as being adequate.

An assessment of compliance with the environmental assessment requirements with respect to the project is included at Section 5 of this report.

3.5 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act in section 5 are as follows:

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

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iii), (v), (vi) and (vii) are significant factors informing the determination of the application. The project does not raise significant issues with regard to the Objects of the Act.

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the objects of the *EP&A Act*, including the encouragement of ESD, in the assessment of the application. ESD is considered in more detail in section 3.7 of this report.

3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);

- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposal in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – the future residential development of the land will provide economic benefits to the Rosedale area. The environmental impacts are addressed through the Proponent's EA report, and the Preferred Project Report including an amended Statement of Commitments, and the recommended modifications to the Concept Plan. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval does not compromise a particular stakeholder or hinder the opportunities of others.

- (b) **Precautionary Principle** – Following an assessment of the proponent's EA it is considered that there is no threat of serious or irreversible environmental damage as a result of the proposal. The eastern edge of the Wetland is dominated by Swamp Oak Open Forest and Bangalow Sand Forest on higher sand profiles. The existing vegetation is partially fragmented by clearing on adjacent lands. Extensive areas of regenerating Swamp Oak Forest, Swamp Paperbark Heath and Redgum Woodland occur to the northeast of the Wetland and these areas have been nominated as a restoration zone.

The vegetation on the northern edge of the Wetland is dominated by Swamp Oak Open forest that has been severely impacts by past clearing. The western boundary of the Wetland is dominated by Swamp Oak Open Forest and Spotted Gum Ironbark Forest. The existing vegetation is in good condition and provides good bank stability.

The Concept Plan also provides for the preserves ridgelines and other significant landscape features such as the Knoll in the centre of the site, significant stands of vegetation as well as the revegetation of riparian corridors along the natural drainage lines across the site.

The site is located some 500 metres from the coast. The Flood Assessment Report submitted as part of the EA documentation indicates that the flood levels for the Wetland are controlled by the level of George Bass Drive (at RL 4.2m AHD). Adopting the worst case scenario (increase of 0.91m by 2100) which is considered to be highly unlikely given the volume of flood storage available in lower lying areas downstream of the site, would bring the flood level of the wetland up to RL 5.11m AHD. The proposed development closest to the Wetland will achieve a minimum ground level of approximately RL 7m AHD (which translates to a total freeboard in the order of 1.89m). Accordingly, the site does not appear to be at risk of inundation or increased coastline hazards within this timeframe.

- (c) **Inter-Generational Principle** – It is considered that the proposed development represents a sustainable use of land which provides residential sites to accommodate projected population growth in the region. The development of the site to the north of Barlings Beach and west of Rosedale Beach and Guerilla Bay is a logical extension to the sequence of urban development in this area. The development of this site will have positive economic benefits and the environmental impacts are ameliorated with appropriate measures and conditions of approval.
- (d) **Biodiversity Principle** – The development site contains a number of Endangered Ecological Communities. The impacts on the EEC's and proposed mitigation works are summarised in the table below:

Table 2 Summary of Impacts on Endangered Ecological Communities

EEC	Existing Area	Impact / Mitigation Works	New Area
Swamp Oak Floodplain Forest	11.23 ha	1.78ha removed / modified 5.04ha to be revegetated in cleared lands Net improvement 3.2ha	14.49ha
Riverflat Eucalypt Forest	2.05ha (fragmented stands)	0.36ha removed / modified 0.74ha to be revegetated in cleared lands and improved from its currently disturbed state Net improvement 0.38ha	2.43ha