



18 April 2019

Planning Officer, Regional Assessments
NSW Department of Planning and Environment
320 Pitt Street
Sydney NSW 2001

Our ref: 2218786-90096
Your ref:

Att: Emma Butcher

Dear Emma,

Settlers Ridge Residential Estate Modification to 10_0103 (MOD 3)

GHD has been engaged by the proponents of Settlers Ridge Estate at South West Rocks, to prepare and lodge an application to modify Concept Plan Approval 10_0103 in accordance with former Section 75W of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). The modification falls within the provisions of Clause 3BA (5) of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 which states:

(5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that:

(a) the proposed modification is to correct a minor error, misdescription or miscalculation, or

(b) the proposed modification is of minimal environmental impact, or

(c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

The proposed modification relates to changing the wording of Condition A5 (3) and (4) to reference a reduced biodiversity credit requirement and apportion the biodiversity credit requirement across each separate landowner. The modification is substantially the same as Concept Approval 10_0103 as it in no way changes the size or layout of the subdivision or results in any additional environmental impacts.

1 History

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

General's Environmental Assessment report was completed in June 2013 and the approval issued by the Minister's delegate on the 25 July 2013.

An application to modify 10_0103 (MOD 1) was submitted in October 2014 and was subsequently approved on 15 July 2016. This modification sought to provide revised plans for a 140 lot residential subdivision and associated BioBanking on the site. Further, the application proposed to refine provisions relating to the submission of BioBanking calculations; bushfire management; open space provision; traffic generation; geotechnical considerations; civil engineering and the management of a specific Aboriginal cultural heritage item as a consequence of further research completed and information supplied with the application.

A second application to modify 10_0103 (MOD 2) was submitted on 31 July 2017 and was subsequently approved on 25 September 2017. This modification was for an extension of time for the approval for 2 years from 25 July 2018 to 25 July 2020 and for a reduction in the number of ecosystem and species credits required to be secured to offset impacts to biodiversity for Phase 1 and 2 of the development. The reduction was a result of amending technical components associated with the application of the BioBanking Assessment Methodology (BBAM) in the original impact assessment (Peter Parker, April 2014).

2 Proposed modification

This proposed modification (MOD 3) involves the following changes to 10_0103 MOD 2:

- Modification to Condition A5 relating to the reduction in the number of ecosystem and species credits required to be secured for Phases 1 and 2 of the development.
- Modification to Condition A5 relating to the apportioning of ecosystem and species credits required to be secured for Phases 1 and 2 of the development for each separate landowner (and stage where relevant) within the Settlers Ridge Residential Estate.

2.1 Modification to Condition A5

GHD previously completed a Modification to Condition A5 of Approval 10_0103 MOD 2 meaning Condition A5 (3) and (4) currently reads:

3) Prior to the commencement of works within Phase 1, the Proponent shall provide evidence to the satisfaction of the Secretary confirming it has secured 90 ecosystem credits and 27 Brush-tailed Phascogale species credits in accordance with the BioBanking credit report prepared by GHD (March, 2017), and the credit profiles listed in the credit report prepared by Peter Parker (April 2014), to offset the removal of native vegetation for Phase 1 of the development;

4) Prior to the commencement of works within Phase 2, the Proponent shall provide evidence to the satisfaction of the Secretary confirming it has secured 966 ecosystem credits and 283 Brush-tailed Phascogale species credits in accordance with the BioBanking credit report prepared by GHD (March, 2017) and the credit profiles listed in the credit report prepared by Peter Parker (April 2014), to offset the removal of native vegetation for Phase 2 of the development;

These conditions relate to the BioBanking development impact assessments carried out by GHD (March 2017) which was based on Peter Parker (April 2014).

2.1.1 *Reduction in biodiversity credits for the project*

GHD was engaged by the applicants to determine the credit requirements for each of the three separate landowners in April 2018. While undertaking these works it became apparent, the original development impact calculations completed by Parker were based on an incorrect development impact area. GIS analysis and detailed survey confirmed the development impact area was 12.35 hectares instead of the figure of 15.49 hectares used in the Parker assessment (the development site used in the Parker assessment is included as Attachment A). GHD has provided the GIS files and analysis from the Parker assessment which confirm this error. GHD had no reason to question this figure during the credit calculations in March 2017 which informed the MOD 2 application and therefore entered the same impact area accordingly.

This change in impact area means the credit obligations for the project should be a total of 842 ecosystem credits of NR228 and 247 species credits of Brush-tailed phascogale. The updated credit report is included as Attachment B. The breakdown of these totals across both Phase 1 and 2 include:

Phase 1

- 91 ecosystem credits for NR228
- 27 species credits for Brush-tailed phascogale

Phase 2

- 751 ecosystem credits for NR228
- 220 species credits for Brush-tailed phascogale

2.1.2 *Apportioning biodiversity credits*

The second component of GHD's assessment was to calculate the ecosystem and species credits obligations for each separate landowners portion of the overall Settlers Ridge Residential Estate. This exercise also included calculating the maximum area of development that would be able to be suitably offset via the biodiversity credits being generated from the onsite biobank site (referred to as the Settlers Ridge Biobank site). This site is approximately 27.04 hectares and has the following biodiversity credits available as part of the offsets for the project:

- 166 ecosystem credits of NR228
- 192 species credits of Brush-tailed phascogale
- 192 species credits of Squirrel Glider (these are not required for the Settlers Ridge Residential Estate)

The Settlers Ridge Biobank site is owned by Voyee and Supaeast only. Consultation with OEH indicated they would support the Phase 2 Voyee and Supaeast development portion being separated into two separate stages. The first stage (referred to as Phase 2 Stage 1) would be offset from the retirement of biodiversity credits from the Settlers Ridge Biobank site. The second stage (referred to as Phase 2 Stage

2) would need to be offset by biodiversity credits secured through the biodiversity market in accordance with the trading rules associated with the BBAM.

The results of the credit apportioning analysis is summarised in Table 1, below and shown in detail in Attachment C with separate ownership, project Phases and Stages are shown in the site map included as Attachment D.

Table 1 Credit obligation for each landowner

Development phase/stage	Area of development Phase and/or stage (ha)	Ecosystem credits required (NR228)	Species credit required Brush-tailed Phascogale
Phase 1	1.33	90	27
Phase 2 Stage 1 (Voyee and Supaeast)	2.43	166	49
Phase 2 Stage 2 (Voyee and Supaeast)	1.29	89	26
Phase 2 Eric Norman Developments Pty Ltd	4.31	295	87
Phase 2 Machro Pty Ltd	2.99	204	60
Totals	12.35	844	249

NOTE: The slight difference in scores between this summary table and Attachment B and C is due to the need to 'round-up' the total credit requirement as well as each landowner's separate credit requirement to the nearest whole credit.

2.2 Proposed amended Condition A5

The results of the assessment will require amended wording to Condition A5 (3) and (4). The proposed rewording is as follows (amended or additional wording shown in red):

3) Prior to the commencement of works within Phase 1 (*within part Lot 31 DP754396*), the Proponent (*Voyee Pty Ltd and Supaeast Pty Ltd*) shall provide evidence to the satisfaction of the Secretary confirming it has secured 90 ecosystem credits and 27 Brush-tailed Phascogale species credits in accordance with the BioBanking credit report prepared by GHD (*April, 2019*), and the credit profiles listed in the credit report prepared by Peter Parker (April 2014), to offset the removal of native vegetation for Phase 1 of the development;

4) Prior to the commencement of works *within each separate component and/or stage* in Phase 2, the *relevant* Proponent shall provide evidence to the satisfaction of the Secretary confirming it has secured ecosystem credits and Brush-tailed Phascogale species credits *as per the following*;

- *Phase 2 Stage 1 (within part Lot 31 DP754396) – Voyee Pty Ltd and Supaeast Pty Ltd requires 166 ecosystem credits and 49 Brush-tailed Phascogale species credits*

- *Phase 2 Stage 2 (within part Lot 31 DP754396 and crown road reserve)– Voyee Pty Ltd and Supaeast Pty Ltd requires 89 ecosystem credits and 26 Brush-tailed Phascogale species credits*
- *Phase 2 (within part Lot 57 DP1117398 and part Lot 31 DP754396)– Eric Norman Developments Pty Ltd requires 295 ecosystem credits and 87 Brush-tailed Phascogale species credits*
- *Phase 2 (Lot 223 DP754396 – Machro Pty Ltd requires 204 ecosystem credits and 60 Brush-tailed Phascogale species credits*

The credits will be secured in accordance with the BioBanking credit report prepared by GHD (April, 2019) and the credit profiles listed in the credit report prepared by Peter Parker (April 2014), to offset the removal of native vegetation for Phase 2 of the development;

3 Consultation

3.1 DPE

Discussions between GHD and DPE's Emma Butcher identified that a modification application to change the modified terms of approval to reference the reduced biodiversity credits required as well as to apportion the credits to each separate landowner would be required. The discussion confirmed the proposed modification would need to be supported by the NSW Office of Environment and Heritage (OEH).

3.2 Office of Environment and Heritage

GHD has been in consultation with OEH during the preparation of this MOD 3 application. GHD first contacted OEH via email 6 March 2018 to discuss the potential of separating the biodiversity credit requirements to each landowner. The existing Condition A5 (4) requires all credits required for Phase 2 to be secured before development can occur on any of the separate landowners sites. This was limiting each separate landowners ability to progress and/or sell their portion of the development. It was also inhibiting Voyee Pty Ltd and Supaeast Pty Ltd from being able to progress their portion of the development even though they are the owner of the onsite biobank site and would have biodiversity credits available to offset further impacts on their lands.

A phone conference was then held with OEH on 14 March 2018 where details of the approach were discussed with OEH providing in principle support to move forward. Further emails were then exchanged regarding the credit apportioning approach as well as the potential for having any of the credit requirements converted from BBAM 2014 credits to be equivalent of the Biodiversity Assessment Methodology (BAM) credits 2016. OEH issued a letter of support on 9 July 2018 to have any credit shortfalls converted to the equivalent BAM 2016 credits via the credit equivalence process and included the relevant application form as an attachment to the letter.

GHD then continued to complete the credit apportioning works and determined the original impact area of 15.49 hectares used in the Peter Parker assessment was incorrect. This was confirmed by the project's surveyors. GHD advised OEH of this error via email on 2 August 2018 and provided a draft copy of the results of the credit apportioning analysis as well as relevant GIS shapefiles to enable OEH

to confirm the development impact area as 12.35 hectares. OEH indicated they would support the reduction in the overall biodiversity credit requirements to reflect the correct impact area.

Finally, a draft copy of this MOD 3 application was provided to OEH for their review and comment before lodging the application with the DPE. The OEH issued a letter to GHD in response to this review which is included as Attachment E. GHD amended the draft MOD 3 application letter in response to this review. The OEH raised no objection to the changes requested in this MOD 3 application.

3.3 Kempsey Shire Council

Kempsey Shire Council has been consulted and no objection has been raised in relation to the proposed modification.

4 Conclusion

The proposed modification seeks approval for the reduction in the number of biodiversity credits required by the project as well as the ability to apportion the biodiversity credit requirements to each of the three separate landowners. This modification has been prepared with consultation with the NSW Office of Environment and Heritage (OEH). The proposed modification does not alter the size or layout of the existing project, nor does it include any additional and/or changes to environmental impacts. It is not considered a departure from Project Approval 10_0103 MOD 2, enabling the Minister to modify the approval under section 75W of the EP&A Act.

Sincerely
GHD



Dan Williams

Technical Director Biodiversity
(02) 6586 8714

Attachment A: Development site map (Parker 2014 assessment)

Attachment B: BioBanking Credit Report

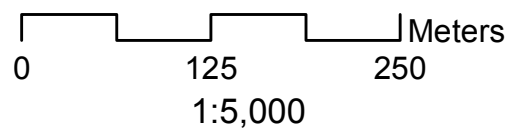
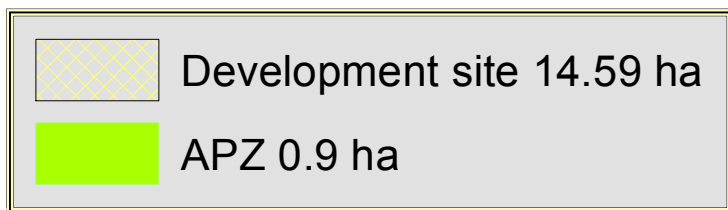
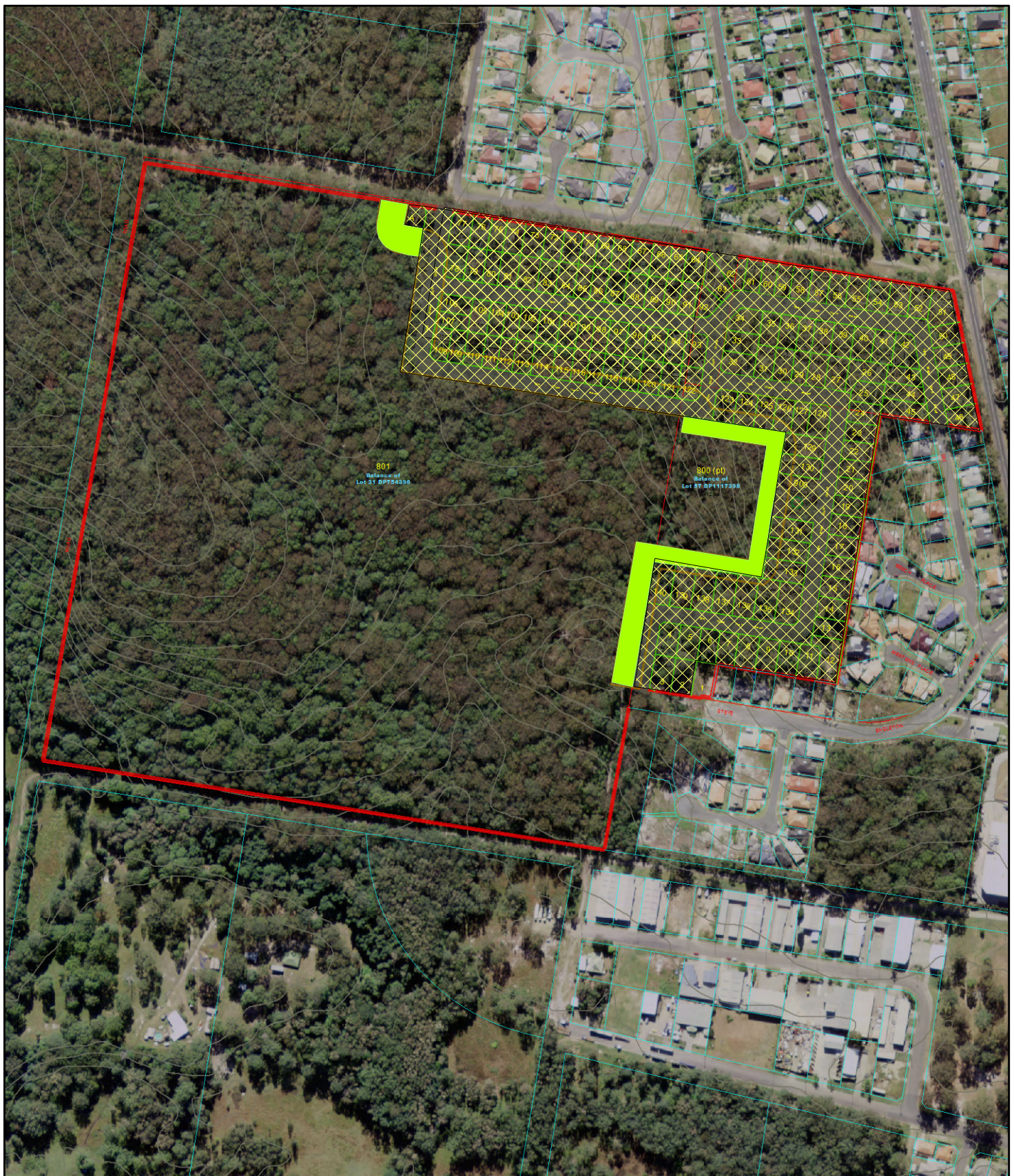
Attachment C: Detailed Breakdown Credit Apportioning

Attachment D: Map of Land Ownership, Phases and Staging

Attachment E: OEH Pre Lodgement Advice letter (6 December 2019)



Attachment A – Development Site Map (Parker 2014)





Attachment B – Credit Report (GHD 2019)

This report identifies the number and type of credits required at a DEVELOPMENT SITE.

Date of report: 3/04/2019

Time: 10:01:21AM

Calculator version: v4.0

Development details

Proposal ID: 082/2017/4267D

Proposal name: Settlers Ridge

Proposal address: Steve Eagleton Drive South West Rocks NSW 2431

Proponent name: Voyee Pty Ltd & Supaeast Pty Ltd

Proponent address: 30 Breakers Way Korora NSW 2450

Proponent phone: 0427652327

Assessor name: Daniel Williams

Assessor address: Level 1, 62 Clarence Street Port Macquarie NSW 2444

Assessor phone: 6586 8714

Assessor accreditation: 082

Improving or maintaining biodiversity

An application for a red flag determination is required for the following red flag areas

Red flag	Reason
Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the NSW North Coast Bioregion	Vegetation type being > 70% cleared; or it contains an endangered ecological community;

The application for a red flag determination should address the criteria set out in the BioBanking Assessment Methodology. Please note that a biobanking statement cannot be issued unless the determination is approved.

Additional information required for approval:

- ☐ Change to percent cleared for a vegetation type/s
- ☐ Use of local benchmark
- ☐ Change negligible loss
- ☐ Expert report...
- ☒ Request for additional gain in site value
- ☐ Predicted threatened species not on site
- ☐ Change threatened species response to gain (Tg value)

Ecosystem credits summary

Plant Community type	Area (ha)	Credits required	Red flag
Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the NSW North Coast Bioregion	12.35	842.00	No
Total	12.35	842	

Credit profiles

1. Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the NSW North Coast Bioregion, (NR228)

Number of ecosystem credits created

842

IBRA sub-region

Macleay Hastings - Northern Rivers

Offset options - vegetation types	Offset options - CMA sub-regions
<p>Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the NSW North Coast Bioregion, (NR228)</p> <p>Angophora paludosa shrubby forest and woodland on sandstone or sands of the NSW North Coast Bioregion, (NR101)</p> <p>Angophora robur shrubby forest and woodland on sandstones of the NSW North Coast Bioregion, (NR102)</p> <p>Bailey's Stringybark - Needlebark Stringybark heathy woodland on sandstones of the lower Clarence Valley of the NSW North Coast Bioregion, (NR104)</p> <p>Blackbutt - bloodwood dry heathy open forest on Quaternary sands of the northern NSW North Coast Bioregion, (NR114)</p> <p>Blackbutt - bloodwood dry heathy open forest on sandstones of the northern NSW North Coast Bioregion, (NR115)</p> <p>Blackbutt - Spotted Gum shrubby open forest on sandstones of the lower Clarence Valley of the NSW North Coast Bioregion, (NR118)</p> <p>Needlebark Stringybark - Red Bloodwood heathy woodland on sandstones of the lower Clarence of the NSW North Coast Bioregion, (NR200)</p> <p>Needlebark Stringybark - Turpentine heathy open forest of the Clarence lowlands of the NSW North Coast Bioregion, (NR201)</p> <p>Pink Bloodwood - Red Mahogany - Smudgy Apple shrubby open forest on sandstone of northern NSW North Coast Bioregion, (NR218)</p>	<p>Macleay Hastings - Northern Rivers</p> <p>and any IBRA subregion that adjoins the IBRA subregion in which the development occurs</p>

Species credits summary

Common name	Scientific name	Extent of impact Ha or individuals	Number of species credits created
Brush-tailed Phascogale	Phascogale tapoatafa	12.35	247



Attachment C – Detailed Breakdown Credit Apportioning

CREDITS REQUIRED EACH LANDOWNER and PHASE/STAGE - Settlers Ridge

Development phase and/or stage	Area of phase or stage (ha)	Credit impact rate NR228 per ha	Credit impact rate Phascogale per ha	Credits required NR228	Credit required Phascogale
Phase 1 (Voyee and Supaeast)	1.33	68.173	20.01	90.5	26.6
Phase 2 (Voyee and Supaeast) stage 1	2.43	68.173	20.01	165.9	48.7
Phase 2 (Voyee and Supaeast) stage 2	1.29	68.173	20.01	87.6	25.7
Eric Norman Developments Pty Ltd	4.31	68.173	20.01	294.1	86.3
Macro Pty Ltd	2.99	68.173	20.01	203.6	59.8
totals	12.35			841.8	247.1

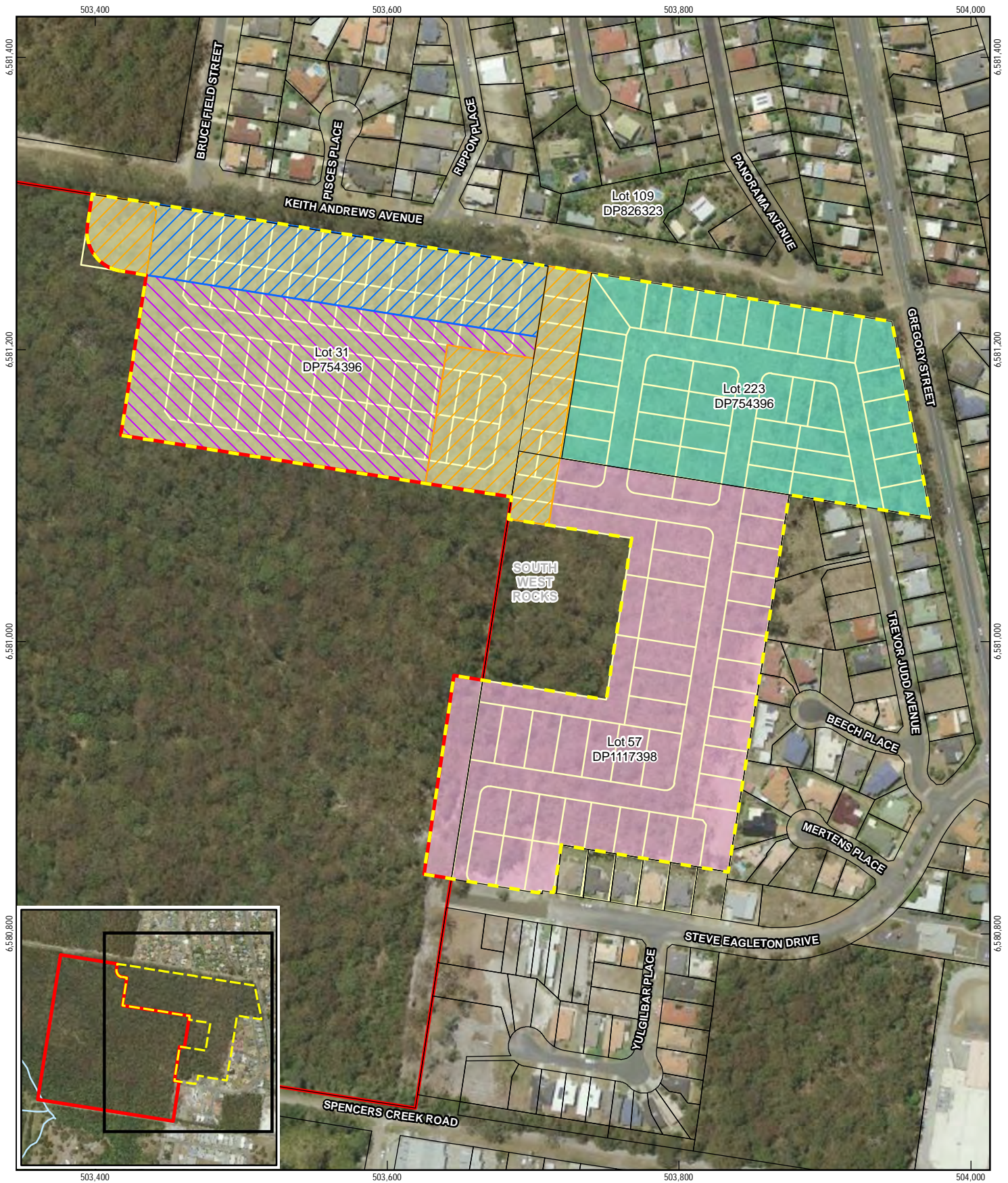
Credits NR228 (required)	Phascogale credits (required)
90	27
166	49
89	26
295	87
204	60
844	249

Notes:

- 1 NR228 - Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the NSW North Coast Bioregion
- 2 The credit impact rate per ha for NR228 is approx. 68.173. Calculated from credit report GHD (March 2018)
- 3 The credit impact rate per ha for Brush-tailed Phascogale is 20.01. Calculated from credit report GHD (March 2018)
- 4 Total credit number for NR228 and Phascogale will round up to nearest whole credit for each phase and stage (see total credit requirements right hand columns)
- 5 This would allow a maximum area of 2.434ha to be developed in Phase 2 Stage 1
- 6 Area of Phase 2 Stage 1 for Voyee has been calculated based on the maximum area that could be offset from the onsite biobank (166 ecosystem credits)
- 7 The ecosystem credits required for Phase 1 remains at 90 as this Phase has been completed and credits retired accordingly. After rounding technically 91 credits are required.
To account for this an additional 1 credit of NR228 has been added to Phase 2 stage 2 requirements. Total credit requirements for the project and each proponent remains the same.



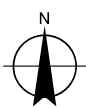
Attachment D - Map of Land Ownership, Phases and Staging



LEGEND

- Settlers Ridge Biobank Site
- Settlers Ridge Development site boundary
- Cadastre
- Phase 1
- Phase 2, Stage 1
- Phase 2, Stage 2
- Ownership**
- Eric Norman Developments Pty Ltd (Lot 57 DP1117398 and Lot 31 DP754396)
- Machro Pty Ltd (Lot 223 DP754396)
- Voyee Pty Ltd and Supaeast Pty Ltd (Lot 31 DP754396 and Crown Road)

Paper Size A4
0 15 30 60 90 120
Metres
Map Projection: Transverse Mercator
Horizontal Datum: GDA 1994
Grid: GDA 1994 MGA Zone 56



Voyee Pty Ltd and Supaeast Pty Ltd
Settlers Ridge Residential Estate
MOD 3 Application

Job Number 22-18786
Revision A
Date 15 Jan 2019

Land ownership, Phases and Staging **Figure 1**

Level 3, GHD Tower, 24 Honeysuckle Drive, Newcastle NSW 2300 T 61 2 4979 9999 F 61 2 4979 9988 Entlmail@ghd.com W www.ghd.com.au
G:\22\18786\GIS\Maps\Deliverables\Mod3Application\2218786_MOD3001_LandOwnership_Staging_A.mxd
© 2019. Whilst every care has been taken to prepare this map, GHD, Degroot & Benson and LPI make no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and cannot accept liability and responsibility of any kind (whether in contract, tort or otherwise) for any expenses, losses, damages and/or costs (including indirect or consequential damage) which are or may be incurred by any party as a result of the map being inaccurate, incomplete or unsuitable in any way and for any reason.

Data source: DeGroot & Benson: Subdivision layout, 2018; LPI: DTDB 2012, DCDB 2017, Aerial Imagery 2016. Created by: fmackay, kpsroba



Attachment E - OEH Pre Lodgement Advice letter (6 December 2019)



Office of Environment & Heritage

Our Ref: DOC18/831033
Your Ref: Settlers Ridge pre MOD 3

Mr Daniel Williams
GHD Technical Director Biodiversity
Suite 7a, 66 Lord Street
Port Macquarie NSW 2444

Dan
Dear Mr Williams

Re: Pre-lodgement Advice – Settlers Ridge MP10_0103 modification request

Thank you for your email dated 31 October 2018 about the proposed modification to the above major project seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

I have considered the information that you provided in your email which explains the reasons for seeking a modification to the existing conditions of consent. The proposed modification relates to changing the wording of Condition A5 (3) and (4) to reference a reduced biodiversity credit requirement and apportion the biodiversity credit requirement across each separate landowner.

The reduced biodiversity credit requirement relates to an incorrect area of the development being used in the BioBanking credit calculator. The area of impacts used was 15.49ha, however detailed surveys have confirmed that the development impact area is 12.178ha.

The OEH provides the following comments for consideration to assist you in preparing a modification request to the Department of Planning and Environment (DPE):

- a. Further evidence should be provided to make it clear that the 15.49ha area is incorrect, such as the report or maps associated with the original BioBanking calculations.
- b. The North West corner of the development area is squared off, however the BioBanking agreement application currently with the OEH has a rounded North West corner. Further detail and justification should be provided about any implications of this discrepancy.
- c. The proposed modification references the previous consultant's report. If this reference is no longer required, then removing this reference may simplify the modification.
- d. Based on the information provided, it appears that a reduction of the biodiversity credits may be warranted.
- e. As the DPE is the consent authority, the OEH would rely on the DPE's advice in regards to the proposed staging and apportioning of the biodiversity credits.

I hope this information is of assistance and if you have any further questions about this issue, Mr Krister Waern, Senior Operations Officer, Conservation and Regional Delivery, OEH, can be contacted on 6640 2503 or at krister.waern@environment.nsw.gov.au.

Yours sincerely

 6 December 2018

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Conservation and Regional Delivery

Contact officer: KRISTER WAERN
6640 2503