

**Preliminary
Environmental Assessment
of the Subdivision of
1C Waterfront Road
Swan Bay**

Preliminary Environmental Assessment prepared by:

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PO Box 205
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April 2007

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1 INTRODUCTION

This preliminary environmental assessment has been prepared by Wells Environmental Services on behalf of R & L Wells, the owners of Lot 224 Waterfront Road, Swan Bay.

The purpose of this preliminary environmental assessment is to provide an overview of the potential environmental impacts of the proposal and to describe the measures and safeguards required during the construction and operational phases of the subdivision to minimise adverse environmental effects.

1.1 The Proposed Development

Wells Environmental Services on behalf of the Wells family seek approval to subdivide their land into three (3) allotments. The précis of the proposal is given below. A detailed description of the proposal is presented in **Section 3** of the SEE.

Proposal: Subdivision involving the creation of three allotments for residential purposes.

Proponent: Wells Environmental Services on behalf of Robert Wells and Lynnette Wells (the Wells Family).

Site: Southern end of Waterfront Road, Swan Bay. Lands fronting Waterfront and Swan Bay Roads, Swan Bay.

Real Property Description: Lot 222 and 224 in Deposited Plan 862015, 1C Waterfront Road, Swan Bay, Parish of Sutton, County of Gloucester.

Landowners: Robert Stanley Wells, Lynnette May Wells, Alan Kenneth Wells and Lynnette Ann Wells.

Construction Period: Three months from grant of conditional approval.

Construction Times: Monday to Friday 7.00am to 6.00pm
Saturday 7.00am to 1.00pm.

Environmental Assessment: Integrated state significant development, Part 3A of the Environmental Planning and Assessment Act 1979.

Consent Authority: Minister for Planning.

Main Planning Instruments: State Environmental Planning Policy No. 71 – Coastal Protection; Port Stephens Local Environmental Plan 2000; Karuah Urban Management Plan and Guidelines; and Karuah Local Area Plan.

1.2 Structure of preliminary environmental assessment

The contents of the preliminary environmental assessment are as follows:

Section 1 contains an introduction, background, description and summary of the development, together with the study team who assisted in the compilation of the document. It also provides an overview of consultation with officers of Port Stephens Council and a request to waive the requirement of a Master Plan under the provisions of SEPP No. 71 – Coastal Protection.

Section 2 of this preliminary environmental assessment provides a description and analysis of the site.

Section 3 provides a detailed description of the proposed development.

Section 4 provides an assessment of the potential environmental and socio-economic impacts of the proposal, and details the mitigation measures that are to be implemented to ameliorate any adverse impacts.

Section 5 provides a summary of the environmental impact assessment and a justification for the proposal with reference to the principles of ecologically sustainable development.

Section 6 provides a summary of the environmental impact assessment and a justification for the development with reference to SEPP No. 71 – Coastal Protection and the principles of ecologically sustainable development.

Section 7 provides a conclusion and requests that the Minister grant conditional consent to the subdivision.

Section 8 contains a list of references utilised in the compilation of the preliminary environmental assessment.

1.3 Study Team

The preparation of this preliminary environmental assessment has been undertaken by Wells Environmental Services in conjunction with EcoBiological (flora, fauna and bushfire threat assessments), Barker Harle Pty Limited (on-site sewage management and acid sulfate soil investigations) and Rennie Golledge Pty Limited (subdivision design).

1.4 Consultation

Liaison and consultation occurred between Officers in the Department of Planning, Port Stephens Council and the Wells family from March 2007 to discern the format and issues that needed to be addressed within the Preliminary Environmental Assessment.

This document supports an application to the Minister for Planning to receive the Environmental Assessment Requirements for the development.

1.5 Request to Waiver Master Plan

A master plan for the site has not been prepared. Pursuant to Clause 18(2) of SEPP No. 71 – Coastal protection, the Minister is formally requested to waive the need for a master plan. This request is based on the scale of the development proposed, the adequacy of both statutory controls in force and the environmental safeguards documented within the preliminary environmental assessment. An assessment of the subdivision in relation to those matters listed within Clause 8 of SEPP No. 71 – Coastal Protection is contained in **Section 6.1** of the preliminary environmental assessment.

2 SITE ANALYSIS

2.1 Site Location

The village of Swan Bay is located approximately 33 kilometres east-northeast of Raymond Terrace and approximately 7 kilometres south of Karuah on the western shores of Port Stephens.

The site of the subdivision is located at the southern end of the village of Swan Bay. A topographical plan showing the site location is given in **Figure 1**.

2.2 Property Description and Ownership

The site of the proposed subdivision consists of two allotments of land, these being Lots 222 and 224 within Deposited Plan 862015.

Lot 222 is jointly owned by Robert Stanley Wells, Lynnette May Wells, Alan Kenneth Wells and Lynnette Ann Wells. Lot 222 has an area of 6.558 hectares and is best described as rectangular in shape, having a frontage of 606 metres to Swan Bay Road (southern boundary) and a depth of 123 metres along its western boundary.

It should be noted that DA 44-2-2004 (3 lot subdivision of Lot 223 and Lot 222 DP 862015) has been approved and acted upon. A fence along the boundaries of the proposed allotments has been constructed and the plan of subdivision is pending endorsement by Port Stephens Council and registration at the NSW Land Titles Office.

Lot 224 is jointly owned by Robert Stanley Wells and Lynnette May Wells. Lot 224 has an area of 2819 square metres and has a 45.1 metre frontage to Waterfront Road (eastern boundary), a depth of approximately 56.84 metres along its northern boundary and 59.59 metres along its southern boundary. Lot 224 shares a common boundary with Lot 222.

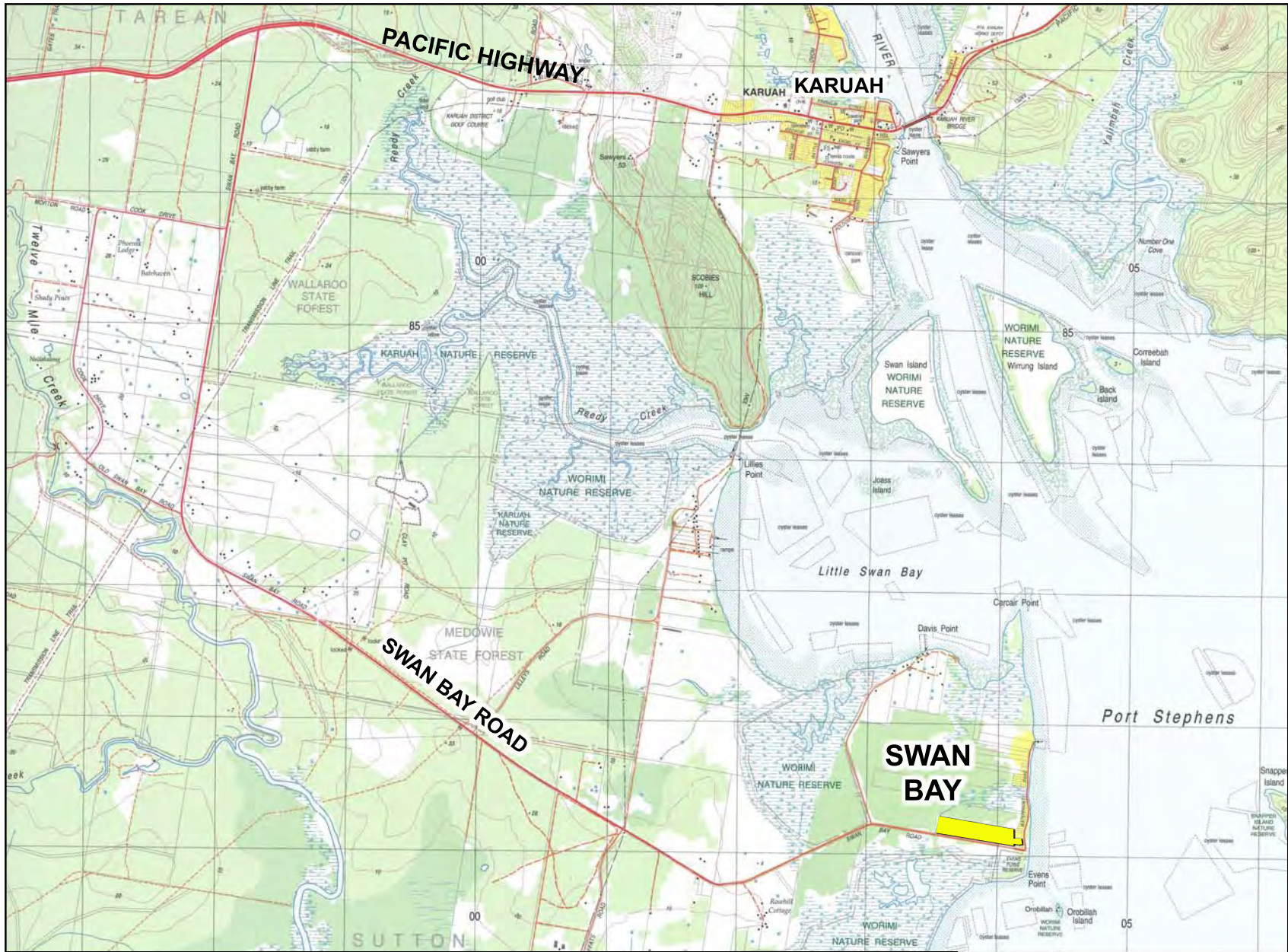
A copy of Deposited Plan 862015 showing the site comprising Lots 222 and 224 is contained in **Figure 2**.

2.3 Physical Characteristics of the Site

The site is characterised by its flatness with an average elevation of approximately 2.5 metres Australian Height Datum (AHD). Vegetation on the site consists of open grass lands, isolated mature trees and associated residential gardens. Soils on the site consist of loams overlaying clays.

Man-made improvements to the site include a two (2) storey brick dwelling, timber and iron sheds, a swimming pool and associated fencing. These improvements are illustrated in **Photographs 1** and **2** below.

A grassed drainage swale approved in DA 44-2-2004 has been constructed along the western boundary of Lot 224 within Lot 222 of DP862015. This drainage easement conveys clean surface water runoff into the drain along Swan Bay Road.



Wells Environmental Services

Location Plan for Swan Bay

Drawn: JPB Date: 27/02/2007

Figure 1

Base map: 9232-15
LPI NSW 2001 2nd Ed.

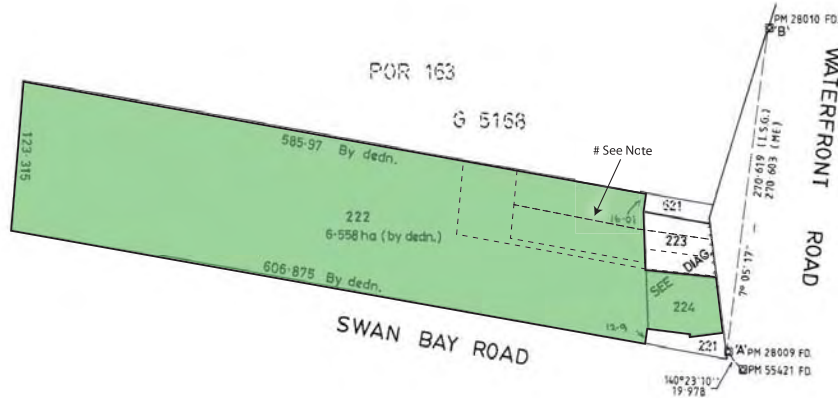
10m Contours

SIGNATURE AND SEALS ONLY.

R. Wells
 Lynette Wells
 Q. K. Wells
 RWells

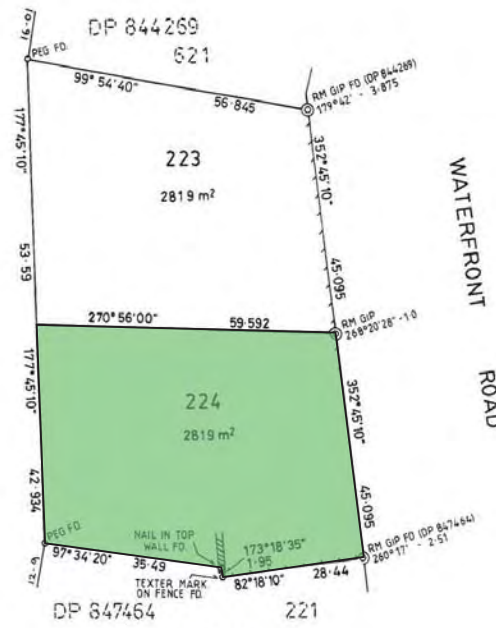
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WATERFRONT ROAD

SWAN BAY ROAD



SURVEY PRACTICE REGULATIONS 1990
 CLAUSE 32(2)

MARK	EASTING	NORTHING	ACC	ZONE
PM 28009	391591.339	1379677.153	2	561
PM 28010	391624.732	1379945.704	2	561
PM 55421	391604.092	1379661.763	2	561

COORDINATES ADOPED FROM SURVEY CONTROL BRANCH
 DATE AUGUST 1994

COMBINED SCALE & SEA LEVEL CORRECTIONS
 FACTOR - 1.000003

CONNECTIONS

PM 28009 TO S.E.CNR. LOT 224 - 348°04'07"	17.313
PM 28010 TO N.E.CNR. LOT 223 - 196°36'34"	169.184

DIAGRAM
 1 : 600

Note: Approved Development Application DA 64-3-2005
 8 May 2006 - Plan still to be endorsed and registered

Crown Lands Office Approval

PLAN APPROVED: _____
 Authorized Officer: _____

Land District: _____
 Paper No.: _____
 Field Book: _____ pages

Council's Certificate

I hereby certify that -
 (a) the requirements of the Local Government Act, 1999 (other than the requirements for the registration of plans); and
 (b) the requirements of Part 3-Division 6 of the Water Board Act 1992 or Part 5 Division 7 of the Hunter Water Board (Corporation) Act 1991
 have been complied with by the applicant in relation to the proposed subdivision.

Subdivision No.: 96/15
 Date: 24.7.96
 Signature: _____
 General Manager/Authorized Person
 Council File No.: 3/1931/95

* This part of certificate to be deleted where the application is only for a consolidated lot or the opening of a new road or where the land to be subdivided is wholly outside the areas of operations of the Water Board and the Hunter Water Corporation Ltd.
 (Delete if inapplicable)

DP 862015

Registered: 28-8-1996

CA: NO 96/75 OF 24-7-1996

Title System: TORRENS

Purpose: SUBDIVISION

Ref. Map: PARISH F

Last Plan: DP 847464

PLAN OF SUBDIVISION OF
 LOT 222 D.P. 847464

Lengths are in metres. Reduction Ratio 1:2500

LGA: PORT STEPHENS

Locality: SWAN BAY

Parish: SUTTON

County: GLOUCESTER

This is sheet 4 of my plan in _____ sheets.
 (Delete if inapplicable)

Geoffrey Allan Gollidge
 of 36 St Andrews St. Maitland NSW 2320

A surveyor registered under the Surveyors Act 1926, hereby certifies that the survey represented in this plan is accurate, has been made in accordance with the Survey Practice Regulation 1990 and was completed on 13 June 1996.

Signature: _____
 Surveyor registered under Surveyors Act, 1926
 Datum: Line of Azimuth 'A' - 'B'

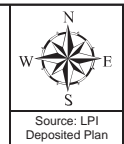
Plans used in preparation of survey/compilation:

- DP 844269
- DP 847464

PANEL FOR USE ONLY for statements of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

PURSUANT TO SEC. 88b OF THE CONVEYANCING ACT 1919 AS AMENDED IT IS INTENDED TO CREATE :-

- 1.) Restriction as to user



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Plan of Lot 224 and Part Lot 222, DP 862015
 Waterfront and Swan Bay Roads, Swan Bay

Source: LPI
 Deposited Plan

Drawn: JPB Date: 26 February 2007

Figure 2

Photographs 1 and 2 show the physical characteristics and improvements on the site.



Photograph 1: View of the existing residence looking from the reserve on the eastern side of Waterfront Road.



Photograph 2: View of vacant land and existing residence looking in an easterly direction.

2.4 Existing Development and Land Use

The land has been in the ownership of the Wells family since 1994. The existing residence is a two storey rendered brick, tile roof dwelling, with adjoining timber and iron roof sheds. It has a fenced in-ground swimming pool at the rear, and is serviced by two rain-water tanks – one underground and one above ground.

The residence is a holiday home for the Wells family, who have had an association with Swan Bay that dates back to 1946.

2.5 Surrounding Land Use

Land use immediately surrounding the site is as follows: -

- **North** - to the north of the site are dwellings which have frontage to Waterfront Road, Swan Bay. The village of Swan Bay is characterised by a mixture of housing stock, predominantly comprising of ground floor construction, three bedroom, weatherboard, brick veneer and fibro dwellings. Average allotment size is approximately 600 square metres in the central area of Swan Bay village, whilst the northern portion is characterised by larger allotments ranging in size from 700 square metres to 3.05 hectares. Occupancy of the dwellings along Waterfront Road is a mixture of permanent and part-time residents with peak seasons being Christmas and Easter.
- **South** - Immediately adjoining the southern boundary of the site is a dwelling which has frontage to Waterfront Road and Swan Bay Roads, Swan Bay. The dwelling is occupied on a permanent basis.
- **East** - Immediately east of the site is a public reserve which is under the care, control and maintenance of Port Stephens Council. The reserve contains a mixture of eucalyptus and casuarina species and is located between Waterfront Road and the shoreline. The public reserve, adjacent to the site, contains picnic tables for use by day trippers and local residents.

The shoreline contains private and public boat ramps for the launching and recovery of private pleasure craft. The waters of Swan Bay are currently used for boating, swimming, recreational and professional fishing, and oyster farming.

- **West** - Immediately west of the site is vacant, publicly and privately owned land.

2.6 Access and Road Network

Access to the site is derived from the Pacific Highway via Swan Bay Road and Waterfront Road.

Swan Bay Road is 11 kilometres in length and is of variable construction. The first 8.8 kilometres of Swan Bay Road is bitumen sealed, with the last 2.2 kilometres being gravel construction. A small section of Swan Bay Road on the approach to the village of Swan Bay Road is bitumen sealed. Traffic utilising Swan Bay Road are required to observe the speed limit signs of 80, 100 and 50 kmph.

Waterfront Road lies between privately owned land and public reserve/foreshore of Swan Bay. The road has a 3 metre seal width with grassed shoulders and table drains, and provides public road access for all properties within the village. Motorists utilizing Waterfront Road are required to observe the speed limit of 50 kmph.

Swan Bay and Waterfront Roads are under the care, control and maintenance of Port Stephens Council. **Photographs 3 and 4** show the characteristics of Waterfront Road.

2.7 Utilities and Services

- **Water** - Town water is not available at the site. The water supply for the existing dwelling is obtained by collecting and storing rainwater from roof areas in above-ground and below-ground tank storages with a total storage of approximately 55,000 litres.
- **Sewer** - Town sewer is not available in the village of Swan Bay. Waste water generated from the existing household is treated in a Port Stephens Council approved aerated waste water treatment system.

The treated effluent is conveyed by an underground pipe via an easement over Lot 222 DP 862015 (located immediately west of Lot 224) to a dedicated irrigation area. This on-site effluent disposal arrangement was recently approved by Port Stephens Council on 19 March 2007. The on-site sewage management system is regularly serviced and maintained.

- **Electricity** - Electricity is supplied to the existing dwelling via overhead lines located in Waterfront Road via the Energy Australia electricity supply network. The electrical supply is three phase.
- **Telecommunications** - Telecommunications in the form of land lines and mobile services are available to the site.
- **Garbage disposal** - A weekly garbage and recycling service is provided in Swan Bay by Port Stephens Council.
- **School Bus Service** - The Blue Ribbon Bus Company operates a daily bus service along Swan Bay Road to transport children to schools located in Karuah and Raymond Terrace.
- **Postal Service** - Australia Post provides a daily postal service to the residents of Swan Bay village.



Photograph 3: View of Waterfront Road looking in a northerly direction.



Photograph 4: View of Waterfront Road looking in a southerly direction.

2.8 Heritage

The land does not contain any known European items of environmental heritage or Aboriginal sites or relics.

2.9 Streetscape and Visuals

The site itself is not visually prominent. Views of the site are available to motorists from Waterfront Road and the last 200 metres of Swan Bay Road. There is a gap in the casuarina trees along the waterfront reserve opposite the existing dwelling, which allows the residents unrestricted views to the waters directly in front of the residence. The remaining vista is characterised by filtered views of the western waters of Port Stephens through the trees.

The dominant feature of the Waterfront Road streetscape is the row of detached dwellings (predominantly of single storey construction) with views across a public reserve to the waters of Port Stephens.

The northern end of the public reserve is characterised by its lack of trees and its narrowness. The southern end of the public reserve is characterised by its variable width and coverage of trees resulting in a park-like setting.

The site is set back some 50 metres from the shoreline. The site is unobtrusive when viewed from the waters of Port Stephens because of the trees within the public reserve. The existing trees permit only filtered views of the existing dwelling and vacant land when viewed from the waters of Port Stephens.

3 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The primary objective of the proposal is to develop the site to create two (2) additional allotments to enable the construction of dwellings.

The development of the land will involve:

- Demolition and removal of existing garages and a brick wall;
- Earthworks associated with the construction and installation of driveways for each of the proposed allotments along Swan Bay Road; and

3.1 Subdivision Design

The subdivision design has been strongly influenced by a number of physical constraints impacting upon the site, these being:

- The subdivision pattern within the village of Swan Bay is characterised by allotments having an area of about 600 square metres with 15 metre frontages.

The allotments proposed retain the typical 15 metre frontages common to the village of Swan Bay, but each have an area of 4000m². The allotments have been sized to cater for on-site effluent disposal. It is proposed to retain the existing effluent disposal system for proposed lot which will contain the existing dwelling;

- Making the allotments of sufficient size to capture, store and utilise the collected roof water for potable, domestic and emergency (fire-fighting) purposes; and
- Sizing and orientating the allotments to maximise future residents' views and solar access.

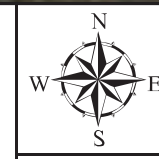
Figure 3 shows the plan of subdivision proposed in relation to the site.

3.2 Public Road System

Each of the proposed allotments will have access to Waterfront and Swan Bay Roads. It is anticipated that the two additional allotments would in due course (after dwellings are constructed) give rise to additional traffic. Typically a dwelling generates about 9 vehicle movements per day, giving a total of 18 additional vehicles per day utilising the local road network.

The local road network is capable of supporting traffic generated by two additional allotments/dwellings.

To facilitate vehicular access to each allotment from Swan Bay Road it will be necessary to install a 375mm diameter pipe 5 metres in length at a minimum distance of 2.0 metres from the edge of the road. Gravel backfill and concrete headwalls shall be placed in accordance with Port Stephen's Council's Standard Drawing No. 5107.



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Proposed Subdivision of Lot 224 and Part Lot 222 DP 862015, Waterfront and Swan Bay Roads, Swan Bay

Source: Google Earth - Accessed 2007

Drawn: JPB Date: 19 March 2007

Figure 3

3.3 Stormwater, Potable Water and Inter-allotment Drainage

Stormwater from roof areas within each of the proposed allotments shall be collected, conveyed and stored in above ground 45,000 litre rainwater tank(s). The stored water will then become available for use as a source of potable water for the residents of each of the proposed allotments.

During periods of prolonged rainfall events, the potable water storage tank will overflow. The excess water will be conveyed to a 22,000 litre tank dedicated for fire fighting purposes.

Excess water from the fire-fighting tank shall be conveyed by pipe to an interallotment drainage system. The interallotment drainage system will convey excess runoff to Council's street drainage system located in Swan Bay Road.

The interallotment drainage is contained within a 6 metre easement, and is in favour of benefiting allotments. The interallotment drainage line has been designed to accept concentrated roof drainage from dwellings and garages on each of the proposed allotments. The drainage easement is in the form of a grassed drainage swale approved with DA 44-2-2004.

Figure 3 shows the existing interallotment drainage system for the subdivision.

3.4 Disposal of Effluent

The owners of the site engaged the services of Barker Harle Pty Limited (geotechnical engineers and scientists) to investigate and report recommendations for the on-site disposal of effluent generated by the proposed subdivision's future residents.

Barker Harle Pty Limited undertook soil investigations in accordance with Australian Standard (AS) 1547-2000 "On-site Domestic Wastewater Management", the "Environment and Health Protection Guidelines" and the "On-site Sewage Management for Single Households".

Barker Harle Pty Limited concluded that "each of the proposed lots are suitable for on-site disposal of effluent from a septic tank system with an aerobic sand filter or an aerated waste water treatment system designed in accordance with the requirements of AS 1547".

Each of the proposed allotments contains sufficient area for the on-site disposal of effluent generated by future residents.

3.5 Fire-fighting Water Supply

As detailed in **Section 3.3**, it is proposed to install a 22,000 litre water storage tank dedicated for fire-fighting purposes. The tank will be fitted with a 65 mm Storz outlet with either a ball or gate valve to the requirements of the Rural Fire Service.

Both the potable water and fire-fighting tanks will be positioned on-site and filled with water prior to construction of any new dwellings associated with the proposed subdivision.

3.6 Site Preparation and Construction Times

The proposed subdivision will generate earthworks associated with the provision of access driveways from Swan Bay Road and the demolition of the corrugated iron and timber garages and brick fence. A site Erosion and Sediment Control Plan (ESCP) for the control of erosion and sedimentation during the construction phase of the proposed subdivision has been prepared and is shown by **Figure 4**.

The main features of the ESCP are:

- That the recommendations contained in the report entitled “Preliminary Acid Sulfate Soil Investigation Report” prepared by Barker Harle Pty Limited and dated 20 January 2004 be implemented;
- That the proposed physical works area be defined with temporary fencing;
- That sediment fencing is installed downslope of all disturbed areas and/or temporary stockpiles;
- That the stormwater drainage pipe located at the intersection of Waterfront Road and Swan Bay Road and discharges into Swan Bay be protected by the installation of sediment fencing;
- All demolition works are undertaken in general accordance with AS 2601-2001; and
- That all disturbed areas upon completion of earthworks be turfed with locally grown buffalo grass.

Once the subdivision construction works are complete and land stabilised, the temporary fencing and sediment fencing will be dismantled, stored and ready for re-use associated with the construction of new dwellings. Any material associated with the demolition or construction activities that cannot be either re-used or recycled are to be transported to Port Stephens Council’s landfill for disposal.

Machinery construction activities will be confined to the following days and times, these being:

Monday to Friday	7.00am to 6.00pm
Saturday	7.00am to 1.00pm.



Wells Environmental Services

Proposed Sedimentation Control Locations and the Acid Sulfate Soil and Onsite Effluent Disposal Test Pit Locations for the proposed subdivision of Lot 224 and Part Lot 222 DP 862015, Waterfront and Swan Bay Roads, Swan Bay

Drawn: JPB Date: 19 March 2007

Figure 4

4 STATUTORY AND ENVIRONMENTAL PLANNING

This section details the statutory and environmental planning background applicable to the proposed subdivision.

4.1 Environmental Planning and Assessment Act, 1979

Given the location of the development is within 100m of Port Stephens it is classified as being within a coastal zone as the development is considered of a kind described in clause 1(h) of Schedule 2 to the *State Environmental Planning Policy – Major Projects 2005* and therefore requires the Minister's approval under Part 3A of the *Environmental Planning and Assessment Act 1979* (EPA Act).

An application has been made to the Minister for Planning under Clause 6 of the *State Environmental Planning Policy – Major Projects 2005* for the project to be considered a Major Project and for Environmental Assessment requirements to be issued for the project.

The proposed development will also require:

- An authorisation under Section 100B of the Rural Fires Act 1997; and
- An approval under Section 138 of the Roads Act from Port Stephens Council to undertake drainage and earthworks and to erect siltation fencing within the road reservation associated with Swan Bay Road.

Before granting development consent for the proposed subdivision, the Minister for Planning must obtain from each relevant approval body the general terms of any approval proposed to be granted in relation to the development.

4.2 State Environmental Planning Policies (SEPPs)

4.2.1 SEPP No.14 – Coastal Wetlands

SEPP No.14 aims to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State. The wetlands were originally surveyed along the NSW coastline, coastal plain areas and major estuarine river system by an aerial photographic survey, carried out in 1981. The survey followed specifications set up by the then Department of Urban Affairs and Planning and are described in the Coastal Wetlands Survey Report of 1985. Since the original survey there have been amendments from time to time of the wetland boundaries. Wetlands were numbered from North to south from the Queensland Border to the Hawkesbury River.

The SEPP No.14 wetland Number 789 is located south of the proposed development and extends south along the shores of Swan Bay and Big Swan Bay to Twelve Mile Creek.

Providing the proposed subdivision and future residential development of the land is undertaken in accordance with accepted standards to minimise offsite impacts from sediment and nutrient loadings and effluent is disposed of within an approved disposal system there will be no adverse impact to this wetland.

4.2.2 SEPP No. 44 – Koala Habitat Protection

SEPP No. 44 encourages the conservation and management of koala habitats, to ensure permanent free living koala populations will be maintained over their present range. The policy applies to 107 local government areas including Port Stephens Council. Development cannot be approved in the areas covered by the policy without a prior investigation of core koala habitat.

The site contains only three individual koala habitat trees and surrounding vegetation does not contain significant suitable Koala habitat, as such it is unlikely that Koala would use the site.

4.2.3 SEPP No. 71 – Coastal Protection

SEPP No. 71 aims to manage, protect and preserve the coastal foreshores and coastal zones of New South Wales. The policy applies to land within 100 metres of the water's edge of a coastal lake, bay or an estuary.

The proposed development is considered a significant coastal development involving the subdivision of land that requires effluent generated by future development to be disposed of by means of a non-reticulated system.

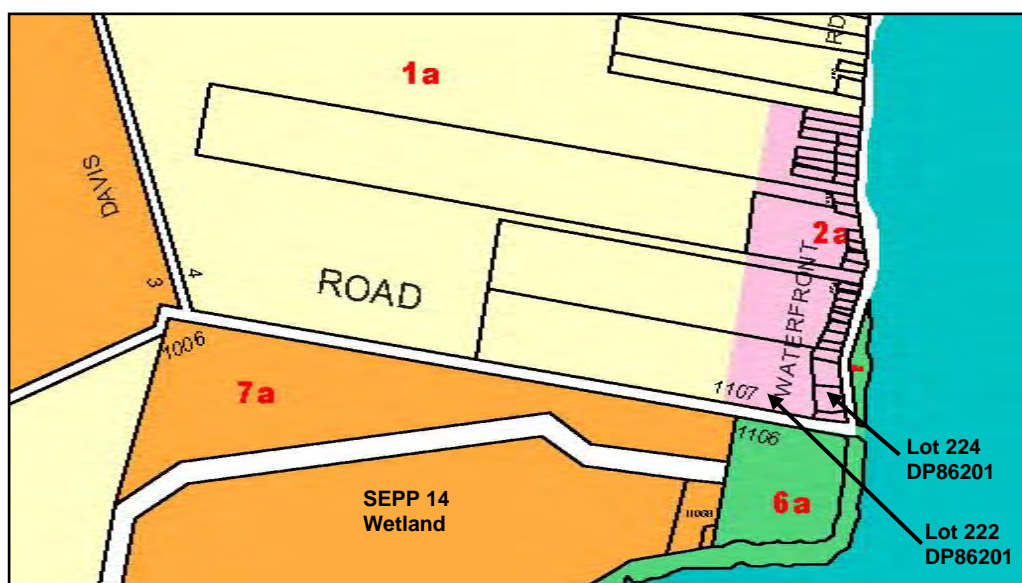
The consent authority is required to take into consideration those matters listed within Parts 2, 4 and 5 of SEPP No. 71 prior to determination of the application.

4.2.4 SEPP – Major Projects 2005

As detailed within Section 4.1 it is considered that the proposed development falls within clause 1(h) of Schedule 2 in the SEPP given the proposed subdivision being located within a coastal zone.

4.3 Port Stephens Local Environmental Plan 2000

The site of the development is zoned 2(a) – Residential 'A', notwithstanding the western portion of Lot 222 is zoned Rural 1(a) pursuant to the provisions of Port Stephens Local Environmental Plan 2000 (LEP 2000). The zoning of the land is illustrated in the extract of Sheet 81 below.



Zoning of Subject Lands, Lot 224 and 222 DP 862015 – Sheet 81 Port Stephens Local Environmental Plan 2000.

The stated objectives of the 2(a) Residential 'A' zone are: -

- a) ***“to encourage a range of residential development providing for a variety of housing types and designs, densities and associated land uses, with adequate levels of privacy, solar access, open space, visual amenity and services, and***
- b) ***to ensure that infill development has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like, and***
- c) ***to provide non-residential uses that are compatible with the area and service local residents, and***
- d) ***to facilitate an ecologically sustainable approach to residential development by minimising fossil fuel use, protecting environmental assets and providing for a more efficient use of existing infrastructure and services, and***
- e) ***to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk”.***

The development of the land will involve the construction and installation of access driveways from Swan Bay Road and the demolition and removal of a brick fence and timber/corrugated iron garage.

The proposed subdivision (as described) is a permissible form of development subject to the consent by the Minister of Planning.

Port Stephens LEP 2000 contains a number of special provisions which are identified and discussed in relation to the development below: -

Clause 17 of Port Stephens LEP 2000 requires that subdivisions create allotments with areas greater than 500m². The proposed development conforms with the stated performance standard.

Clause 19 of Port Stephens LEP 2000 relates to housing once the allotments are created by restricting dwellings to: -

- (a) a minimum site area of 500m²;
- (b) a floor space ratio of 0.5:1; and
- (c) a maximum building height of 9 metres.

The existing residence complies with each of the above described performance standards. Any new dwellings proposed for each of the proposed vacant allotments would need to achieve the above described performance standards.

Clauses 37 and 38 of Port Stephens LEP 2000 provides objectives for the development of flood prone land. The site, according to Port Stephens Council's

flood study, is potentially susceptible to inundation by flood waters to a height of 2.5m AHD in a maximum probable flood of 1:100 year.

When approval was granted by Port Stephens Council in 1997 to the existing dwelling on Lot 223 to the north it was subject to a condition that the floor height be at 2.5m AHD. Any future dwellings to be constructed upon each of the vacant allotments will be required to achieve a similar floor height.

Clause 44 of Port Stephens LEP 2000 requires the consent authority to consider the probable aesthetic appearance of the development when viewed from a waterway or public reserve. The existing dwellings on Lot 223 and Lot 224 compliments its setting and is not visually prominent when viewed from the waters of Swan Bay.

Clause 50 of Port Stephens LEP 2000 relates to the making of a tree preservation order. A general tree preservation order exists over the whole of the local government area. No trees are proposed to be removed or destroyed as a result of the subdivision proceeding. Minor lopping of trees may be required for boundary fencing.

As will be demonstrated within **Section 5** of this preliminary environmental assessment, appropriate environmental safeguards have been considered and will be implemented to ensure compliance with Port Stephens Council LEP 2000. A copy of a Section 149(5) Certificate issued by Port Stephens Council is contained in **Appendix 1**.

4.4 Development Control Plans

The subdivision has been designed having regard to the following development control plans:

- Draft Port Stephens Development Control Plan 2006
- Development Control Plan PS 3 – Subdivision Guidelines;
- Development Control Plan PS 9 – Energy Smart Homes; and
- Development Control Plan PS 1 – Urban Housing and Dual Occupancy Controls.

The design of the subdivision has been cognisant of the performance criteria contained within each of the above development control plans applying to the site. Ample scope exists for dwellings to be erected on each of the proposed vacant allotments which are energy efficient and maximise the use of renewable energy sources therefore reducing the level of greenhouse gas emissions.

4.5 Urban Design Principles

4.5.1 Karuah Urban Management Plan and Guidelines

The Karuah Urban Management Plan and Guidelines (KUMPG) was prepared to identify and improve the lifestyles attributes of the Karuah – Swan Bay district. Strong concern was raised within the document involving the commissioning of the Karuah By-Pass and its potential adverse socio-economic impact upon the existing commercial centre. The Karuah commercial centre relied heavily upon trade generated from motorists travelling along the Pacific Highway and to a lesser extent the local oyster growing industry.

The Karuah By Pass has been commissioned and the socio-economic concerns raised within the KUMPG have eventuated.

In terms of urban structure, the conclusions within the document are that: -

- The Karuah township should aim to have a consolidated, compact and walkable town centre;
- There should be an intensification of residential uses within existing zoning constraints; and
- Traditional residential areas should be maintained and reflect current planning requirements of Council.

4.5.2 Karuah Local Area Plan including Swan Bay

The Karuah Local Area Plan (KLAP) is a strategy guiding the growth and development of the area. The strategy was drafted in consultation with the Karuah and Swan Bay communities.

The vision emanating from the strategy is to make Karuah and Swan Bay as sustainable as possible through the integration of the economy, the community and the environment.

4.6 Port Stephens-Great Lakes Marine Park

Recreational waters of Swan Bay and Port Stephens have recently been incorporated into the Port Stephens-Great Lakes Marine Park that becomes effective on 21 April 2007.

The Park adopts four types of zones, these are outlined with the relevant percentages below.

- Sanctuary Zones 17.6% - provide the highest level of protection by allowing only activities that do not harm plants, animals or habitats. Sanctuary zones allow for guided tours, boating, surfing, snorkelling and diving;
- Habitat Protection Zones 34.4% - protect habitat by reducing high impact activities, but still allow for recreational fishing, some types of commercial fishing, tourist activities and fishing competitions. A special habitat protection zone exists east of Broughton Island to allow for seasonal trolling for surface fish;
- General Use Zones 47.75% - provide for a wide range of activities including both commercial and recreational fishing; and
- Special Purpose Zones 0.25% - provide for activities like aquaculture, marinas and research opportunities in a Marine Park.

Recreational fishing will still be allowed in over 80% of Port Stephens–Great Lakes Marine Park.

Waters fronting the village of Swan Bay are zoned as Habitat Protection Zone to permit recreational fishing from the banks of Swan Bay, while waters further out are zoned as a Sanctuary Zone.

5 ENVIRONMENTAL ISSUES

An assessment of the potential environmental impacts associated with the proposed development is provided in this section of the preliminary environmental assessment. Mitigation measures that will be implemented during construction and operation of the subdivision are also detailed.

5.1 Soils

5.1.1 Soil Landscape

The site is situated on the border of two (2) soil landscapes as identified by the “Soil Landscapes of the Newcastle 1:100,000”. The soil landscapes are the “Tea Garden Aeolian Landscape” and the “Branch Residual Landscape”. Both the soil landscapes are characterised by broad plains, gradients of less than 5%, local relief of about 1 metre and Pleistocene clay deposits and beach ridges.

5.1.2 Acid Sulfate Soils

Barker Harle Pty Limited (engineers and scientists) were engaged by the Wells family to undertake an acid sulfate geotechnical investigation to determine whether acid sulfate soils were present on the site.

Fieldwork was undertaken on 1 December 2003 and involved a visual assessment of the site and surrounding areas together with the excavation of four (4) test pits to depths ranging between 2.3m and 3.0m using an excavator with a 450mm bucket (refer Figure 4). Soil samples were collected and analysed in accordance with the “Acid Sulfate Soil Manual 1998”.

The soil texture classification sets out the Action Criteria required for acid sulfate soils. The action criteria sets out a level of risk which, if exceeded, triggers the need for an Acid Sulfate Soil Management Plan.

The results of the laboratory testing revealed that the Action Criteria have not been exceeded by any of the recovered soil samples, and an Acid Sulfate Management Plan is not required.

The subdivision will result in minimal on-site earthworks, therefore it is unlikely that these works would have the potential to produce acid sulfate runoff. However, Barker Harle Pty Ltd have produced a six (6) part management strategy which will be implemented during the construction stage of the subdivision to ensure protection the waters of Port Stephens.

5.1.3 Erosion and Sedimentation

Erosion and sedimentation control for the development is an important issue as the site ultimately drains to the environmentally sensitive waters of Swan Bay.

To address the risk of erosion and the mobilisation of sediments during the construction phase of the development a site Erosion and Sediment Control (ESC) Plan has been prepared. The plan has been prepared in accordance with the requirements of Port Stephens Council and the NSW Department of Housing document entitled “Managing Urban Stormwater – Soil and Construction 1998”. The main features of the SESC Plan have been identified in **Section 3.6** of this report.

5.2 Water

The village of Swan Bay is located remotely in relation to a reticulated water supply.

5.2.1 Construction Phase

Water stored on-site at the existing residence will be made available should it be required for use by contractors during the construction phase of the subdivision.

5.2.2 Potable Water – Operational Phase

Storm and rain waters from roof areas associated with future dwellings and garages on each of the proposed vacant allotments will be collected, conveyed by pipe and stored in above ground 45,000 litre rain water tanks on each lot.

The stored water will then be available for use as a source of potable water for the residents of each of the proposed allotments.

During periods of prolonged drought, the residents might exhaust their supply of potable water. Potable water is replenished by purchasing water which is transported to the site by an authorised contractor and pumped into the rain water tanks.

5.2.3 Fire Fighting Water – Operational Phase

During periods of prolonged rainfall events, the potable water storage tank will fill and overflow. The excess water will be captured and conveyed by pipe to a 22,000 litre above ground tank dedicated for potential bush fire fighting purposes.

5.2.4 Stormwater – Operational Phase

During prolonged rainfall events, both the potable and fire fighting water storage tanks will overflow. Excess water from the fire fighting water storage tank will be conveyed by a pipe to the existing interallotment drainage system. The interallotment drainage system will convey excess clean water runoff to Council's street drainage system located in Swan Bay Road, ultimately discharging into Swan Bay.

An interallotment drainage system was constructed within a 6 metre easement, and the easement shall be in favour of benefiting allotments. The interallotment drainage has been designed to accept water from the roofs of dwellings and garages on each of the proposed allotments. The drainage easement is in the form of an open grassed drainage swale, this easement was approved within DA 44-2-2004.

5.2.5 Storm Surge and Flooding

Port Stephens Shire Council on 27 January 1998 adopted a policy (**refer to Appendix 1**) restricting development around the foreshores of Port Stephens for land likely to be effected by storm surge. The effect of the policy was to ensure that future dwellings were constructed with a minimum floor height of 2.5m AHD. The 2.5m AHD level was adopted to provide a degree of "freeboard" for such potentially catastrophic events as: maximum probable flood event; melting of the polar ice caps as a result of increasing greenhouse gas emissions, resulting in rising sea levels; tidal waves; wind waves on top of a king tide, and tsunamis.

These events, if they were to occur, would cause major coastal erosion and result in the potential loss of life and property damage along the foreshores of Port Stephens. The policy generally applies to land having direct frontage to the foreshore of Port Stephens, and not the subject land, which is located on the western side of Waterfront Road, Swan Bay. (Personal comment by Mr. W. Mills – Port Stephens Council, 12 February 2004).

Port Stephens Shire Council on 19 December 2000 adopted a flooding policy (refer to Appendix 1), which requires the floor height of future dwellings to be at a minimum level of 2.5m AHD. This level is consistent with Council's previous flooding policy, which required the existing residence on the land to be erected with a minimum floor height of 2.5m AHD.

5.3 Waste Management

5.3.1 Construction Phase

There will be no significant quantities of waste generated during the construction of the subdivision.

The demolition of structures on the site will generate timber and corrugated iron, where possible this material will be salvaged for re-use, in the event that the material is unsuitable it will be disposed of with other waste likely to be generated that may include broken and/or off-cuts of timber and pieces of concrete. All recyclable waste will be separated and stored for later reuse. Any material that cannot be recycled will be transported to Port Stephens Council's landfill for disposal.

The existing residence's bathroom facilities will be made available to contractors working on the construction stage of the subdivision.

5.3.2 Effluent Disposal – Operational Phase

An assessment of the potential environmental impacts involving the disposal of effluent generated from residents of future dwellings associated with the subdivision is provided within this section.

Barker Harle Pty Limited (engineers and scientists) were engaged by the Wells family to investigate, report and make recommendations for on-site effluent disposal.

Fieldwork was undertaken on 1 December 2003 and involved a visual assessment of the proposed disposal area, together with the logging of the subsoil at six (6) locations (See **Figure 5** and the driving of six (6) falling weight penetrometer probes. The tests were undertaken in accordance with the methodology detailed in Australian Standard (AS) 1547-2000 "On-site Domestic Wastewater Management" and "On-site Sewage Management for Single Households".

Barker Harle Pty Limited concluded that "each of the proposed the lots are suitable for on-site disposal of effluent from a septic tank system with an aerobic sand filter or an aerated waste water treatment system designed in accordance with the requirements of AS 1547 mentioned above.

Each of the proposed vacant allotments contains sufficient land to support either of the above systems, appropriate buffers, yard areas and structures (residence and garage).

A description of each of the systems is contained within the Barker Harle Pty Limited report. It is noted that similar systems have been installed by other residents living along Waterfront Road.

The existing effluent disposal system will be retained for one of the proposed allotments. A description of this system is contained in the report produced by Barker Harle Pty Limited.

5.3.3 Solid Waste – Operational Phase

The operation of the subdivision, when fully occupied by residents, will generate normal amounts of household waste. Waste will be typical of a normal residential subdivision. Households will be provided with a weekly garbage collection by Port Stephens Shire Council.

5.4 Flora and Fauna

The Wells family engaged EcoBiological to undertake a flora and fauna assessment of the site and to report on whether or not the development of the site would have a significant effect upon any populations, ecological communities, or habitats of threatened flora and fauna species.

The proposed subdivision will not have a significant impact on native flora and fauna.

5.5 Bushfire

The Wells family engaged EcoBiological to undertake an assessment of bushfire threat to the subdivision.

The assessment concluded that the site consisted of variable bushfire risks (extreme along the southern boundary of the site to medium on the northern boundary). As such the following mitigation measures are proposed:

- A maintained Asset Protection Zone (APZ) of 30m along the southern boundary of Lots 224 and 222;
- Construction of future dwellings to the highest applicable standard relevant to the bushfire risk;
- Appropriate vegetation management to minimise potential fuel loads; and
- The provision of a 22,000 water tank dedicated to bushfire protection.

With the adoption of these bushfire safety measures the subdivision is consistent with the bushfire protection guidelines prepared by the NSW Rural Fire Service.

5.6 Traffic

When the subdivision is finalised and dwellings are constructed on each of the vacant allotments, approximately 18 additional traffic movements per day will eventuate. This figure is based on 9 movements per day per household. An allowance has been provided for the existing dwelling.

Access to each of the proposed vacant allotments will be in accordance with the requirements of Port Stephens Council. The existing road network servicing Swan Bay (Waterfront Road and Swan Bay Road) is capable of supporting the traffic generated by the subdivision.

The Wells family will be required to make a Section 94 monetary contribution to Port Stephens Shire Council as a roadworks levy associated with the subdivision.

5.7 Noise

5.7.1 Construction Phase

Construction of the subdivision will occur during daytime hours established by the Department of Environment and Conservation (DEC). The construction times will be restricted to:

Monday to Friday - 7.00am to 6.00pm; and
Saturday - 7.00am to 1.00pm.

No construction work involving heavy machinery will take place on Sundays or public holidays. The nearest sensitive receivers are residents whose dwellings are located adjoining the proposed subdivision. By restricting construction to the above times, the proposed subdivision will comfortably comply with the DEC's construction noise criteria.

5.7.2 Operational Phase

Background noise levels in the vicinity of the site are considered to be consistent with that of a typical rural environment. The most significant noise sources are related to passing motor vehicles and water pleasure craft. Aircraft noise associated with fighter pilot training in conjunction with the Salt Ash air weapons range is audible on training days throughout the whole district. The village of Swan Bay is located outside the Department of Defence's critical noise contour limit of 20 ANEF level, as shown in **Figure 5**.

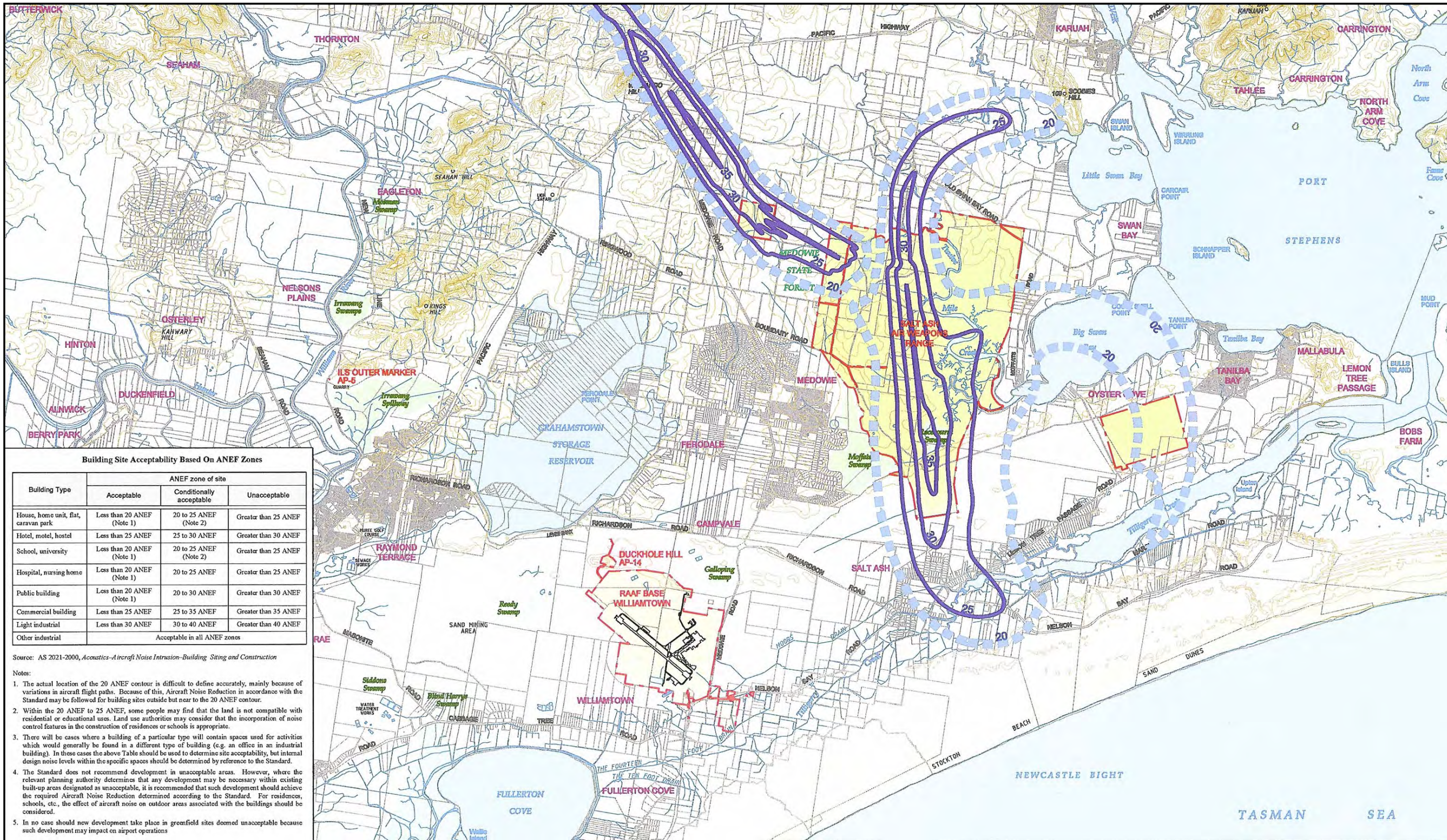
When the subdivision is constructed and dwellings are erected, the development will function similarly to the other residences located in Swan Bay and not adversely impact upon the locality by reason of noise.

5.8 Air Quality

5.8.1 Construction Phase

The following mitigation measures will be implemented to prevent nuisance dust emissions during the construction stages of the project: -

- Areas to be disturbed will be minimised as far as practicable to reduce the area of exposed soil on site;
- All disturbed areas will be stabilised (i.e. compacted and vegetated with buffalo grass) as soon as practicable;
- During dry, windy conditions, regular wetting of exposed areas will be undertaken by a hand held garden hose or a water cart;
- Any sand or soil stockpiles will be located toward the rear of the site and covered;
- Visual monitoring of the construction works will be undertaken to ensure that adequate dust control measures are in place; and
- All contractors' machinery will be required to be in good working order so as to minimise combustion exhaust emissions.



Building Site Acceptability Based On ANEF Zones

Building Type	ANEF zone of site		
	Acceptable	Conditionally acceptable	Unacceptable
House, home unit, flat, caravan park	Less than 20 ANEF (Note 1)	20 to 25 ANEF (Note 2)	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF (Note 1)	20 to 25 ANEF (Note 2)	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF (Note 1)	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF (Note 1)	20 to 30 ANEF	Greater than 30 ANEF
Commercial building	Less than 25 ANEF	25 to 35 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	Acceptable in all ANEF zones		

Source: AS 2021-2000, Acoustics-Aircraft Noise Intrusion-Building Siting and Construction

Notes:

- The actual location of the 20 ANEF contour is difficult to define accurately, mainly because of variations in aircraft flight paths. Because of this, Aircraft Noise Reduction in accordance with the Standard may be followed for building sites outside but near to the 20 ANEF contour.
- Within the 20 ANEF to 25 ANEF, some people may find that the land is not compatible with residential or educational uses. Land use authorities may consider that the incorporation of noise control features in the construction of residences or schools is appropriate.
- There will be cases where a building of a particular type will contain spaces used for activities which would generally be found in a different type of building (e.g. an office in an industrial building). In these cases the above Table should be used to determine site acceptability, but internal design noise levels within the specific spaces should be determined by reference to the Standard.
- The Standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required Aircraft Noise Reduction determined according to the Standard. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered.
- In no case should new development take place in greenfield sites deemed unacceptable because such development may impact on airport operations

NOTES:

- ANEF CONTOURS WERE GENERATED USING INM v6.0.
- FOR TRACK, PROFILE AND AIRCRAFT MOVEMENT DETAILS REFER TO SALT ASH AIR WEAPONS RANGE 2012 ANEF SUMMARY REPORT (SAR), August 2003.

This 2012 ANEF contour plan of Salt Ash Air Weapons Range is endorsed by

Signature: *Michael Pezzullo* Date: 5/9/03
 Michael Pezzullo
 Assistant Secretary Strategic Planning and Estate Development

Australian Government
 Department of Defence
 Corporate Services & Infrastructure Group

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Scale: 850 0 850 metres Graphic Scale: 1:50,000 for A1 size	DO NOT SCALE
Drawn: M. Haber	Designed: C. Niewiadomski
Drafting Check: G. Moss	Design Check: G. Moss
GHD Approved: <i>[Signature]</i>	Date: 5/9/03
This Drawing must not be used for Construction unless signed as Approved	

Client: DEPARTMENT OF DEFENCE
 Project: 2012 ANEF FOR SALT ASH AIR WEAPONS RANGE

Title: **2012 ANEF**

Original Size: A1
 GHD Drawing No: 23-10762-G002
 Rev: 0

0	For Approval by Department of Defence	MH	GM	GM	5.09.03
No	Revision	Drawn	Checked	Approved	Date

Note: * Indicates signatures on original issue of drawing or last revision of drawing



Wells Environmental Services

ANEF Contours for Salt Ash Air Weapons Range

Drawn: JPB Date: 26/2/07

Figure 5

Base map: 2012 ANEF, Dept of Defence, 2003

5.8.2 Operational Phase

Air quality within the vicinity of the site is considered to be good, with the most significant emission sources likely to be combustion exhaust and dust associated with vehicles entering and leaving Swan Bay, and smoke from combustion heaters during the months of winter from dwellings along Waterfront Road.

Potential air quality impacts associated with the proposed development are the same as reported above. The development is not expected to generate significant amounts of air emissions.

5.9 Utility Services

The site has the ability to be connected and supplied with a range of public utilities and services. Services which are available to service the subdivision include electricity, telecommunications, postal, garbage and school bus services.

The design of the subdivision reflects the opportunities and constraints associated with the land's physical and infrastructure serviceability attributes.

5.10 Socio-Economic

The proposed subdivision will have a small but positive social and economic impact upon the Karuah and Swan Bay communities. The community of Karuah voiced strong opposition to the Karuah By Pass on economic grounds. The document identifies the fact that the loss of passing traffic has the potential to “create both positive and negative impacts relating to the town's population growth and its economy”.

This development will have a positive social and economic impact upon the local Karuah and Swan Bay communities. The subdivision will provide further housing choice for existing and future residents at Swan Bay. The local building industry and associated trades will benefit from not only subdivision work but also the construction of subsequent dwellings.

The occupancy of the dwellings will add to the economic sustainability of existing business houses within the Karuah township.

The Wells family will contribute in accordance with Council's Section 94 Contribution Plan for the establishment and embellishment of community facilities in the Karuah – Swan Bay district. The establishment and embellishment of community based facilities benefits both the “new” and “existing” residents of both districts.

Port Stephens Shire Council will seek Section 94 monetary contributions for open space/recreation, community facilities, fire emergency services, library, roadworks levy and renewal of the Section 94 plan for each new allotment to be created.

5.11 Urban Design

The proposed subdivision reinforces the way in which the village of Swan Bay sits within the landscape. The proposed subdivision and subsequent dwellings can best be described as sympathetic infill development which adds to the original structure of the settlement and existing street character.

The subdivision acknowledges the relationship between the village of Swan Bay to the environment by reinforcing the visual and environmental dominance of the landscape and surrounding ecological systems. The subdivision design is located within the boundaries of the village, incorporating water cycle management and bushfire protection.

The subdivision design is sensitive to the existing visual catchment. Foreshore access is maintained whilst the original and only street pattern of Swan Bay is reinforced. The subdivision design will not compromise pedestrian and cycle access ways along Waterfront or Swan Bay Roads. The riding of cycles and strolling along Waterfront Road is a favourite pastime of the residents (including the Wells family) of Swan Bay.

The proposed allotments will cater for sensitive infill, small-scale development similar to other homes in Swan Bay. Future dwellings should ideally address the street and respond to the streetscape in terms of building setbacks and landscaping, with vehicle parking behind the main dwelling.

6 SUMMARY AND JUSTIFICATION FOR THE SUBDIVISION

This section provides a summary of the environmental assessment and a justification for the proposal with reference to SEPP No. 71 – Coastal Protection, and the principles of ecologically sustainable development.

6.1 SEPP No. 71 – Coastal Protection

The proposed subdivision design has given due consideration to those matters listed within Clause 8 of SEPP No. 71 – Coastal Protection, these being:

- The existing public access to and along the Swan Bay foreshore is retained and not impacted upon;
- No scope exists given the location of the site to provide new public access to and along the Swan Bay foreshore;
- The land area is small, involving the creation of two (2) additional allotments, and its design is in keeping with the surrounding area;
- The development will not involve any loss of views from a public place to the coastal foreshore, nor result in any overshadowing by the coastal foreshore;
- The scenic qualities of the New South Wales coast will be maintained;
- The proposed development will not adversely impact any animals or plants;
- The proposed development will not adversely impact any fish or fish habitat;
- The development will not impact upon any existing wildlife corridor;
- The development and future housing is unlikely to be impacted by coastal processes or hazards;
- The future dwellings proposed for the subdivision will ensure that water and energy usage is efficient; and
- Appropriately researched and designed effluent disposal systems and stormwater overflow systems are proposed to protect the waters of Port Stephens, therefore reducing potential for conflict between land based and water based coastal activities.

A master plan for the site has not been prepared. Pursuant to Clause 18(2) of SEPP No. 71 – Coastal Protection, the Minister is formally requested to waive the need for a master plan. The request is based on the scale of the development proposed, the adequacy of both statutory controls in force and the environmental safeguards documented within the preliminary environmental assessment.

Comment: It would be in the interests of the public for the Minister to grant conditional consent to the proposed development.

6.2 Ecologically Sustainable Development

Ecologically Sustainable Development (ESD) is a concept firmly entrenched in NSW environmental legislation and government policy. The four guiding principles of ESD, and their relation to the proposal, are outlined below (Environmental Planning and Assessment Regulation, 2000):

- a) **The precautionary principle** - namely, that 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.

It is considered that the biggest threat of serious or irreversible environmental damage with the proposal is the potential for harm to the waters of Swan Bay. However, given the nature of the proposed development, this is considered to be extremely low. Management measures such as wastewater treatment, acid sulfate soil management and sediment and erosion controls will be incorporated into the construction of the project.

The flora and fauna assessment accompanying the preliminary environmental assessment details that the development will have minimal impact.

- b) **Inter-generational equity** – namely, that the present generation should ensure the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

The proposed development is not expected to have any significant long-term, irreversible impacts upon the environment.

- c) **Conservation of biological diversity and ecological integrity** – namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.

The site of the proposed development is predominantly cleared of vegetation. The flora and fauna assessment accompanying this preliminary environmental assessment details the potential impacts on threatened flora and fauna of the area.

- d) **Improved valuation and pricing of environmental resources** – namely, that environmental factors should be included in the valuation of assets and services, such as polluter pays, full life cycle costing, and utilising incentive structures/market mechanisms to meet environmental goals.

ESD principles have been considered in the design of the proposed development, including: -

- The design of the subdivision to ensure that the allotments can maximise and protect solar access for future dwellings;
- The harvesting, storage and use of water within the subdivision; and
- The potential recycling of materials associated with the construction of the subdivision.

With the implementation of the mitigation measures and safeguards proposed in this preliminary environmental assessment, the development is considered to be able to be conducted in accordance with the principles of ecologically sustainable development.

6.3 Conclusion

The preliminary environmental assessment identifies the key issues relating to the proposed development and the proposed mitigation strategies. It is respectfully requested that the Director General provide Environmental Assessment Requirements pursuant to Section 75F of the EP&A Act, 1979.

7 REFERENCES

Coastal Design Guidelines for NSW – Coastal Council of NSW, 2001.

Development Control Plan PS1 – Urban Housing and Dual Occupancy Controls – Port Stephens Council, 2003.

Development Control Plan PS3 – Subdivision Guidelines – Port Stephens Council 2001.

Development Control Plan PS9 – Energy Smart Homes – Port Stephens Council, 2001.

Environmental Planning and Assessment Act, 1979.

Environmental Planning and Assessment Regulations, 2000.

Karuah Local Area Plan – Port Stephens Council, 2003.

Karuah Urban Management Plan and Guidelines – Port Stephens Council, 2002.

Karuah 1:25,000 Acid Sulfate Soil Risk Map – Dept. of Land & Water Conservation, 1997.

Managing Urban Stormwater – Soil and Construction – NSW Dept. of Housing, 1998.

Newcastle 1:250,000 Regional Geology Map – Dept. of Mines, 1966.

Planning for Bushfire Protection – Planning NSW, 2001.

Port Stephens Local Environmental Plan, 2000.

Soil Landscape Newcastle 1:100,000. Dept. of Land & Water Conservation, 1979.

8 APPENDICES

Appendix 1 - Section 149(5) Certificate – Port Stephens Council, 5 February 2004.

APPENDIX 1

SECTION 149(5) CERTIFICATE

Lot 224 DP862015

PLANNING CERTIFICATE

Appln No.: 47383
Cert No.: 25999
Page No.: 1
Receipt No.: 932634
Issue Date: 26/03/2007

Applicant Ref.: Parcel No: 31965

APPLICANT DETAILS:

**MR R S WELLS
36 CARRINGTON STREET
MAITLAND NSW 2320**

PROPERTY DESCRIPTION:

**1C Waterfront Road, SWAN BAY 2324
LOT: 224 DP: 862015**

BACKGROUND INFORMATION:

This certificate provides information on how a property (such as land, a house, a commercial building, etc) may be used and the limits on its development. The certificate contains information Council is aware of through its records and environmental plans, along with data supplied by the State Government. The details contained in this certificate are limited to that required by Section 149 of the Environmental Planning and Assessment Act.

NAME OF LOCAL ENVIRONMENTAL PLAN APPLYING TO THE PROPERTY:

Port Stephens Local Environmental Plan 2000 – Gazetted on 29th December, 2000 in Government Gazette No. 170 and as subsequently amended.

DRAFT LOCAL ENVIRONMENTAL PLAN(S) EXHIBITED PURSUANT TO SECTION 66 (1)B OF THE EP&A ACT:

Draft Amendment No.26 to Port Stephens Local Environmental Plan 2000 affects the whole local government area of Port Stephens. The aim of this plan is to provide detail of criteria that will be required to be met for certain kinds of exempt and complying development. Further information can be obtained from Council's Land Use Planning Section.

ZONING:

2(a) - RESIDENTIAL "A"

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The purposes for which development may be carried out in accordance with the above zones are as follows:

Zone No 2(a) – Residential "A" Zone

ITEM 1: Development allowed without development consent

- exempt development.

ITEM 2: Development allowed only with development consent

Any purpose other than a purpose included in item 1 or 3.

ITEM 3: Development which is prohibited

Development for the purpose of:

- abattoirs,
- airports,
- animal establishments,
- aquaculture,
- brothels,
- bulky goods salesrooms or showrooms,
- bus stations,
- camp or caravan sites
- commercial premises,
- clubs,
- depots,
- dual occupancy housing within the Hill Tops precinct of the Nelson Bay (West) Area,
- extractive industries,
- forestry,
- hazardous industries,
- hazardous storage establishments,
- helicopter landing sites,
- heliports,
- hotels,
- industries,
- institutions,
- intensive agricultural pursuits,
- intensive agriculture,
- intensive animal husbandry,
- liquid fuel depots,
- marinas,
- material recycling facilities,
- medical centres,
- mines,

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- mineral sand mines,
- mortuaries,
- motor showrooms,
- offensive industries,
- offensive storage establishments,
- places of assembly,
- race tracks,
- restaurants,
- restricted premises,
- retail plant nurseries,
- roadside stalls,
- rural industries,
- service stations,
- shops,
- telecommunications facilities,
- tourist facilities,
- urban housing within the Hill Tops precinct of the Nelson Bay (West) Area
- veterinary hospitals,
- warehouses

SITE SPECIFIC CLAUSES APPLYING TO THE PROPERTY UNDER PORT STEPHENS LOCAL ENVIRONMENTAL PLAN(S):

The land the subject of this certificate does NOT have a site specific clause applying to it.

NAME OF EACH DEVELOPMENT CONTROL PLAN APPLYING TO THE PROPERTY:

A DCP adds further detail to Local Environmental Plans and may address issues such as building height, carparking etc. Copies of the plans are available from Council. This section includes any Development Control Plan prepared by the Director-General Planning NSW.

- PS4 - Commercial and Industrial Development Guidelines.
- PS2 - Traffic and Parking Guidelines.
- PS3 - Subdivision Guidelines.
- PS1 - Urban Housing and Dual Occupancy Guidelines.
- PS6 - Bed and Breakfast Establishments.
- PS7 - Keeping of Dogs for Commercial Purposes.
- PS5 - Home Employment Guidelines.
- PS11 - Controls for Site Waste Management and Minimisation.
- PS8 - Guidelines for Exempt and Complying Development.
- PS9 - Energy Smart Homes.
- PS10 - Building Standards and Notification Procedures for Development Applications.

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NAME OF REGIONAL ENVIRONMENTAL PLAN(S) APPLYING TO THE PROPERTY:

Including Draft Regional Environmental Plans exhibited pursuant to Section 47(b) of the EP&A Act.

HUNTER REGIONAL ENVIRONMENTAL PLAN 1989.
WILLIAMS RIVER CATCHMENT REGIONAL ENVIRONMENTAL PLAN 1997.

NAMES OF STATE ENVIRONMENTAL PLANNING POLICIES APPLYING TO THE PROPERTY:

Including Draft State Environmental Planning Policies exhibited pursuant to Section 39(2) of the EP&A Act.

S.E.P.P. NO 1 - DEVELOPMENT STANDARDS.
S.E.P.P. NO 4 - DEVELOPMENT WITHOUT CONSENT.
S.E.P.P. NO 6 - NUMBER OF STOREYS IN A BUILDING.
S.E.P.P. NO 8 - SURPLUS PUBLIC LAND.
S.E.P.P. NO 9 - GROUP HOMES.
S.E.P.P. NO 10 - RETENTION OF LOW COST RENT ACCOMMODATION.
S.E.P.P. NO 11 - TRAFFIC GENERATING DEVELOPMENTS.
S.E.P.P. NO 15 - RURAL LANDSHARING COMMUNITIES.
S.E.P.P. NO 21 - CARAVAN PARKS.
S.E.P.P. NO 22 - SHOPS AND COMMERCIAL PREMISES.
S.E.P.P. NO 30 - INTENSIVE AGRICULTURE.
S.E.P.P. NO 32 - URBAN CONSOLIDATION.
S.E.P.P. NO 33 - HAZARDOUS AND OFFENSIVE DEVELOPMENT.
S.E.P.P. NO 36 - PLANNING INITIATIVES FOR MANUFACTURED HOME ESTATES.
S.E.P.P. NO 37 - CONTINUED MINES AND EXTRACTIVE INDUSTRIES.
S.E.P.P. NO 44 - KOALA HABITAT PROTECTION.
S.E.P.P. NO 45 - PERMISSIBILITY OF MINING.
S.E.P.P. NO 48 - MAJOR PUTRESCIBLE LANDFILL SITES.
S.E.P.P. NO 50 - CANAL ESTATE DEVELOPMENT.
S.E.P.P. NO 55 - REMEDIATION OF LAND.
S.E.P.P. NO 65 - DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT.
S.E.P.P. NO 71 - COASTAL PROTECTION.
SEPP (ARTC Rail Infrastructure)
SEPP (Building Sustainability Index: BASIX)
SEPP (State Significant Development)

DRAFT S.E.P.P. NO 66 - INTEGRATION OF LAND USE AND TRANSPORT.

DO THE PROPERTIES DIMENSIONS PERMIT THE ERECTION OF A DWELLING-HOUSE?

The erection of a dwelling-house (where permitted by the land use tables) may be prohibited because of a development standard relating to the minimum area on which a dwelling-house may be erected. This development standard is dependent upon the zoning of the land. Clauses 14, 19, 34 and 35 of

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Port Stephens Local Environmental Plan 2000 are relevant in this regard and can be found at Annexure A to this certificate.

DOES THE PROPERTY INCLUDE OR COMPRISE OF CRITICAL HABITAT?

Council's records indicate that the land subject of this certificate DOES NOT include or comprise of critical habitat.

IS THE PROPERTY IN A CONSERVATION AREA?

The property subject of this certificate is not within a conservation area.

IS AN ITEM OF ENVIRONMENTAL HERITAGE SITUATED ON THE PROPERTY?

No item(s) of Environmental Heritage are situated on the land the subject of this certificate.

IS THE PROPERTY PART OF ANY APPLICATION FOR "DECLARED STATE SIGNIFICANT DEVELOPMENT"?

Development is judged to be "State significant" if it involves development of economic, social or environmental significance to the State or regions. For more information contact Department of Planning.

Development to which State Environmental Planning Policy (**State Significant Development**) and State Environmental planning Policy No. 48 - Major Putrescible Landfill Sites apply has been declared as State significant development by the Minister for Planning.

IS THE PROPERTY AFFECTED BY SECTION 38 OR 39 OF THE COASTAL PROTECTION ACT 1979?

Section 38 or Section 39 of the Coastal Protection Act is not applicable in respect to the site the subject of this Certificate.

IS THE PROPERTY IN A "PROCLAIMED MINE SUBSIDENCE DISTRICT" WITHIN THE MEANING OF SECTION 15 OF THE MINE SUBSIDENCE COMPENSATION ACT 1961?

Section 15 of the Mine Subsidence Compensation Act is not applicable in respect to the land the subject of this Certificate.

IS THE PROPERTY AFFECTED BY ROAD WIDENING OR ROAD REALIGNMENT?

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Council's records indicate that the land the subject of this Certificate is NOT affected by any road widening or road realignment under:- (1) Section 25 of the Roads Act 1993; or (2) any environmental planning instrument; or (3) any resolution of the Council.

ARE THERE ANY COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES THAT RESTRICT DEVELOPMENT?

Council's records indicate that the land subject of this certificate is NOT affected by Council's Policy for Aircraft noise Exposure in Port Stephens.

ARE THERE ANY FLOOD RELATED DEVELOPMENT CONTROLS?

Council's records indicate that the land may be wholly or partially flood prone land. On 19 December 2000, Council adopted a policy which restricts development on land so effected. Development on flood prone land is subject to flood related development controls. Information on the extent of flooding and development controls on land is available from Council's Land Use Planning Section and you are advised to make further enquiries.

IS THE LAND RESERVED FOR ACQUISITION?

Port Stephens Local Environmental Plan 2000 does not provide for the acquisition of the land subject of this certificate by a public authority, as referred to in Section 27 of the Act.

WHICH DEVELOPMENT CONTRIBUTION PLANS APPLY IF THIS PROPERTY IS DEVELOPED?

A Development Contribution Plan – commonly known as a Section 94 Plan – outlines the financial costs Council charges if a property is developed and Council believes the development will require additional services or facilities such as parks, road etc. Copies of the Plans are available from Council.

Section 94 Contributions Plan No. 4 - Karuah/Swan Bay.

IS THE PROPERTY AFFECTED BY ANY OF THE MATTERS OUTLINED IN SECTION 59(2) OF THE CONTAMINATED LAND MANAGEMENT ACT 1997?

Council's records indicate that the land to which this certificate relates IS NOT:

- within land declared to be an investigation area or remediation site under Part 3 of the Contaminated Land Management Act 1997,
- subject to an investigation order or a remediation order within the meaning of the Contaminated Land Management Act 1997,

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- the subject of a voluntary investigation proposal or voluntary remediation proposal the subject of the Environmental Protection Authority's agreement under section 19 or 26 of the Contaminated Land Management Act, or
- the subject of a site audit statement within the meaning of Part 4 of the Contaminated Land Management Act 1997.

BUSHFIRE PRONE LAND

The land is shown as bush fire prone land in Council's records. Further details of any applicable restrictions on development of the land may be obtained on application to Council.

THE FOLLOWING ADDITIONAL INFORMATION IS ISSUED UNDER SECTION 149(5):

This information is provided in accordance with Section 149(5) of the Environmental Planning & Assessment Act. Section 146(6) states that Council shall not incur any liability in respect of advice provided in good faith pursuant to Section 149(5) of the Act. If this information is to be relied upon, it should be independently checked.

In addition to the zoning of the property, the following specific clause of LEP 2000 applies to this site: Clause 40 – **Minor variation to zone boundaries:** This clause allows a twenty metre variation between the boundaries of zones, permitting some flexibility in the control of development for different purposes throughout the Port Stephens Local Government Area.

Port Stephens Council must take into consideration the likely effect of proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity. Please contact Council's Land Use Planning Section for more information.

When determining a development application on known or potential archaeological sites of both Aboriginal and non-Aboriginal heritage significance, Port Stephens Council must consider an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site. Please contact Council's Land Use Planning Section for more information.

Council resolved on 17 November, 1998 to adopt an amended Tree Preservation Order in accordance with the Environmental Planning and Assessment Act Model Provisions 1980 and Port Stephens Local Environmental Plan 2000. The Tree Preservation Order applies to the whole of the land within the Port Stephens Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any tree or trees specified in Council's policy, except with the written consent of the Council. Contact Council's Environmental Services Section for more information.

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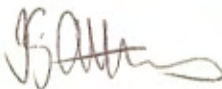
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For further information, please contact ..
Council's Land Use Planning Section


for **P G GESLING**
General Manager



ANNEXURE A

CLAUSES 14, 19, 34 AND 35 OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 DWELLING-HOUSES

Clause 14 – Dwelling-houses and dual occupancy housing in rural zones

- (1) This clause applies to land within any rural zone.
- (2) The consent authority shall not consent to the erection of a dwelling-house or dual occupancy housing on an allotment of land to which this clause applies if:
 - (a) in the case of land within Zone No. 1(a) – the allotment has an area of less than 4,000 square metres, or
 - (b) in the case of land within Zone No. 1(c1), 1(c2), 1(c3) or 1(c4) – the allotment has an area of less than 3,500 square metres, or
 - (c) in the case of land within Zone No. 1(c5) – the allotment has an area of less than 2,000 square metres, or
 - (d) in any case:
 - (i) if the allotment was created before the appointed day - the consent authority is of the opinion that the allotment was intended to be used for any one or more of the purposes (other than the purpose of a dwelling-house or dual occupancy housing) for which it could have been used (with or without the consent of the consent authority) under the environmental planning instrument under which it was created, or
 - (ii) if the allotment was created after the appointed day - the allotment was intended to be used for any one or more of the purposes (other than the purpose of a dwelling-house or dual occupancy housing) for which it may be used (with or without the consent of the consent authority) under this plan.
- (3) Despite subclause (2), the consent authority may consent to the erection of a dwelling-house or dual occupancy housing on any one or more of the allotments created to correspond to the parts into which a single allotment is (or was) divided by a public road.
- (4) However, the consent authority shall not consent to the erection of dual occupancy housing on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the two dwellings give the appearance of being an integrated development by sharing infrastructure such as access arrangements, fire breaks and services, and
 - (b) the clustering of rural buildings has regard to topographical features, and
 - (c) any clearing necessary for the dwellings is minimised.
- (5) The consent authority shall not consent to the carrying out of development involving the erection of more than one dwelling house on an allotment of land to which this clause applies unless the development is for the purpose of dual occupancy housing.
- (6) The subdivision of any dual occupancy development shall not be permitted unless the subdivision may be carried out in accordance with the provisions of clause 13.

ANNEXURE A

CLAUSES 14, 19, 34 AND 35 OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 DWELLING-HOUSES

Clause 19 Dwelling-houses, dual occupancy housing and urban housing

- (1) Consent must not be granted to the erection of a dwelling-house, dual occupancy housing or urban housing on land in a zone, or on land within a precinct of the Nelson Bay (West) Area, specified in the Table to this subclause, unless:
- (a) the allotment on which the existing or proposed building is or is proposed to be erected has an area of not less than the minimum area for each dwelling specified in the Table in respect of the type of housing, zone or precinct concerned, and
 - (b) the ratio of the gross floor area of the building to the site area of the allotment does not exceed the ratio identified for the relevant zone or precinct concerned, and
 - (c) the height of the building does not exceed the maximum height identified for the relevant zone or precinct concerned.

Table

HOUSING TYPE	ZONE	PRECINCT (where specified)	MINIMUM SITE AREA PER DWELLING	FLOOR SPACE RATIO	MAXIMUM HEIGHT
Dwelling-house	2(a), 2(c)	Unspecified Areas	500 m ²	0.5:1	9m
	2(a)	Hill Tops	600 m ²	0.5:1	9m
Dual Occupancy Housing	2(a)	Unspecified Areas	300 m ²	0.5:1	8m
	2(c)	Unspecified Areas	250 m ²	0.5:1	8m
	2(a)	Upper Slopes	500 m ²	0.5:1	8m
	2(a), 2(c)	Foreshore and Lower Slopes	300 m ²	0.5:1	8m
	2(a), 2(c)	Town Centre Edge, Town Centre Housing, Wahgunyah Neighbourhood	250 m ²	0.5:1	8m
Urban Housing	2(a)	Upper Slopes	500 m ²	0.5:1	8m
	2(a)	Unspecified Areas	300 m ²	0.5:1	8m
	2(a)	Foreshore and Lower Slopes	300 m ²	0.5:1	8m
	2(a)	Town Centre Edge, Wahgunyah Neighbourhood	250 m ²	0.5:1	8m
	2(c)	Town Centre Housing	150 m ²	1.8:1	15m
	2(c)	Foreshore; Unspecified Areas	150 m ²	1.8:1	15m

ANNEXURE A

CLAUSES 14, 19, 34 AND 35 OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 DWELLING-HOUSES

Clause 34 - Subdivision within environment protection zone No. 7(f1)

- (1) The consent authority shall not consent to the subdivision of land within the environment protection zone No. 7(f1) unless each allotment to be created by the subdivision has an area of not less than 40 hectares.
- (2) Notwithstanding subclause (1), the consent authority may consent to a subdivision of land referred to in that sub-clause involving the creation of not more than one allotment having an area of less than 40 hectares if the consent authority is satisfied that:
 - (a) the allotment to be created is lawfully used for a purpose other than a dwelling-house, dual occupancy housing or agriculture, or
 - (b) the allotment to be created may, by reason of a development consent granted in respect of that allotment, lawfully be used for a purpose other than a dwelling-house, dual occupancy housing or agriculture.

Clause 35 - Development within all environment protection zones

- (1) The consent authority must not grant consent to a development application relating to land within an environment protection zone unless it is satisfied that:
 - (a) the carrying out of the proposed development will not harm or compromise ecological habitats, and
 - (b) the land is not subject to high bushfire hazard, and
 - (c) where a dwelling-house is permissible on the land (with or without the consent of the consent authority), each allotment to be created by any proposed subdivision has an area of land, suitable for the erection of a dwelling-house, which is not affected by slopes greater than 30%, and
 - (d) where a dwelling-house or dual occupancy housing is permissible on the land, any proposed building will have a height of no more than 9 metres in the case of a dwelling-house and 8 metres in the case of dual occupancy housing, and
 - (e) any subdivision will occur in an orderly and efficient manner and will not create undue demands on the provision of services and infrastructure for the locality, and
 - (f) the land concerned has an adequate area of suitable soils available for on-site septic effluent disposal, located away from drainage lines and shallow or impervious soils, unless reticulated water and sewerage services are available.
- (2) The consent authority must not consent to the erection of a dwelling house or dual occupancy housing on an allotment having an area of less than 40 hectares created pursuant to a consent referred to in clause 34(2).