

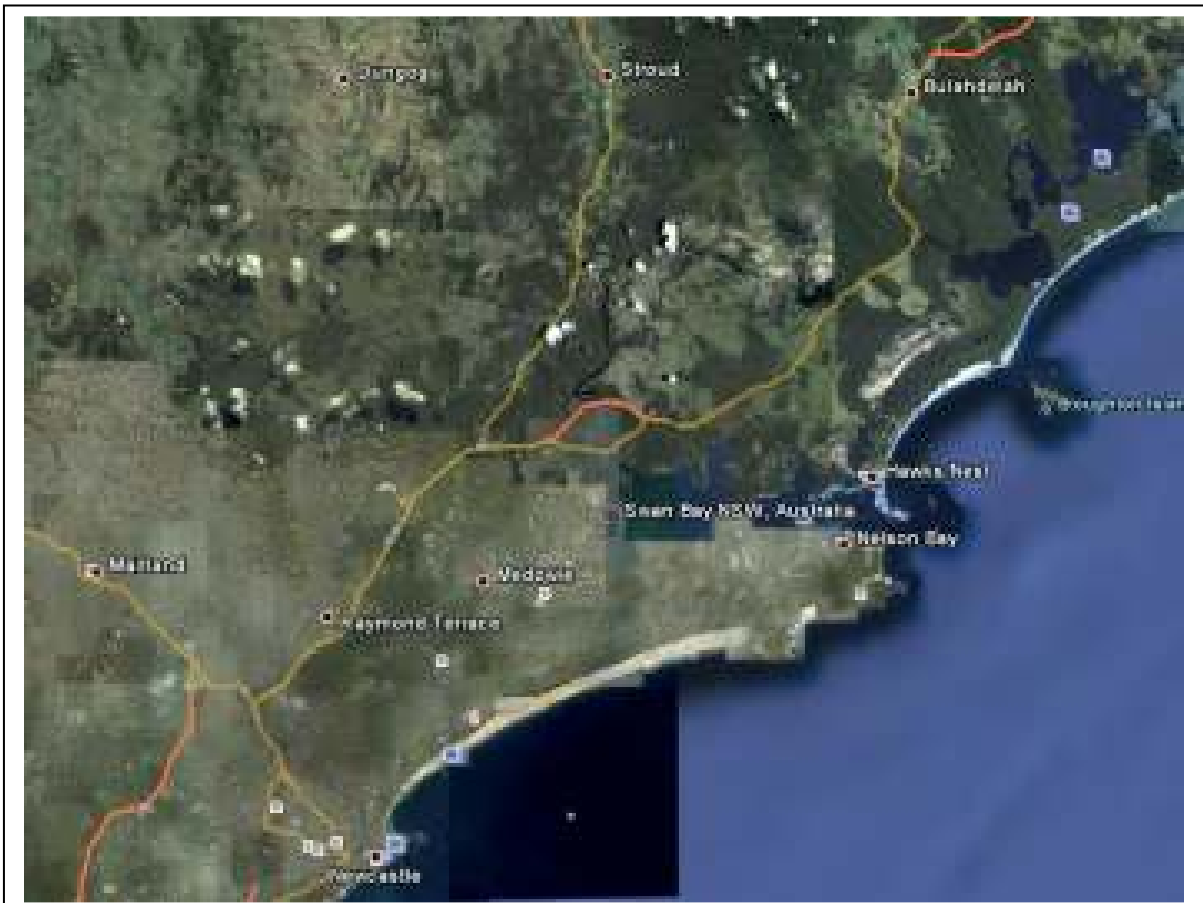


Department of Planning and Infrastructure

**MAJOR PROJECT ASSESSMENT:
Four (4) Lot Residential Subdivision
Part Lot 222 & Lot 224 DP 862015,
Waterfront & Swan Bay Roads, Swan Bay
Proposed by WELLS ENVIRONMENTAL
SERVICES**

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

July 2009



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EXECUTIVE SUMMARY

This is a report on a Major Project Application by Wells Environmental Services to carry out a four lot residential subdivision at No.1C Waterfront Road and No.1107 Swan Bay Road (Lot 224 and part of Lot 222 DP 862015) ("the proposal") lodged with the Department in June 2007.

The Director General's Environmental Assessment Requirements (DGR's) for the development were issued on 17 August 2007. The Director-General has delegated authority to determine the application under the Instrument of Delegation dated 4 March 2009. The assessment responsibilities were delegated to Port Stephens Council however, the Minister for Planning remains the consent authority.

The proposal comprises a Torrens Title subdivision of three x 4000m² lots and one residue lot of 5.4979 hectares. Proposed Lot 1 will contain an existing dwelling, swimming pool and associated approved sewerage management facility. Proposed Lots 2 and 3 will both have a dwelling entitlement. Proposed Lot 4 will contain the remaining residual land of 5.4979 hectares with a dwelling entitlement, but will remain vacant for the foreseeable future.

Works associated with the subdivision proposal comprise:

- demolition and removal of existing garages and a brick wall; and
- earthworks associated with the construction / installation of driveways for each proposed lot along Swan Bay Road.

The estimated capital investment value of the development is \$11, 352.00. The proposal will not create any full time equivalent construction jobs or operational jobs.

During the exhibition period, the Department received a total of four submissions from public authorities and no submissions from the public. Key issues considered in the Department's assessment included:

- Groundwater/wastewater disposal
- Hazard Management and Mitigation
- Flora and Fauna

The Department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the Proponent's Environmental Assessment and Statement of Commitments, and the Department's recommended conditions of approval. The proposal can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. The Department is satisfied that the site is suitable for the proposal and that it will provide environmental, social and economic benefits to the region. The Department recommends the project application be approved, subject to conditions.

CONTENTS

EXECUTIVE SUMMARY	3
1. BACKGROUND.....	5
1.1 THE SITE.....	5
1.1.1 SITE CONTEXT AND LOCATION.....	5
1.1.2 EXISTING SITE FEATURES	7
1.1.3 SURROUNDING DEVELOPMENT.....	7
1.2 SITE HISTORY.....	8
2. PROPOSED DEVELOPMENT	9
2.1 THE PROPOSED DEVELOPMENT	9
2.2 PROJECT CHRONOLOGY	10
3. STATUTORY CONTEXT	11
3.1 MAJOR PROJECT DECLARATION	11
3.2 PERMISSIBILITY.....	11
3.3 MINISTER'S POWER TO APPROVE.....	11
3.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRs)	12
3.5 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.....	12
3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES	13
3.7 SECTION 75I OF THE ACT.....	14
3.8 ENVIRONMENTAL PLANNING INSTRUMENTS.....	14
3.8.1 APPLICATION OF EPIS TO PART 3A PROJECTS	14
3.8.2 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005.....	15
3.8.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION (SEPP 71).....	15
3.8.4 HUNTER REGIONAL ENVIRONMENTAL PLAN 1989	15
3.8.5 HUNTER REGIONAL ENVIRONMENTAL PLAN 1989 (HERITAGE).....	15
3.8.6 PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 (LEP 2000).....	15
3.9 OTHER PLANS AND POLICIES	15
3.9.1 PORT STEPHENS DEVELOPMENT CONTROL PLAN (DCP) 2007.....	15
3.9.2 KARUAH URBAN MANAGEMENT PLAN AND GUIDELINES	16
3.9.3 KARUAH LOCAL AREA PLAN INCLUDING SWAN BAY.....	16
3.9.4 PORT STEPHENS SECTION 94 CONTRIBUTION PLAN 2007	16
3.9.5 DRAFT FORESHORE MANAGEMENT PLAN FOR PORT STEPHENS	16
3.9.6 PORT STEPHENS AREAS AFFECTED BY FLOODING AND/OR INUNDATION POLICY.....	16
4. CONSULTATION AND ISSUES RAISED	17
4.1 PUBLIC EXHIBITION DETAILS.....	17
4.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT	17
4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES	17
4.3.1 ROADS & TRAFFIC AUTHORITY (RTA)	17
4.3.2 NSW RURAL FIRE SERVICE (RFS).....	17
4.3.3 DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE (DECC).....	17
4.3.4 DEPARTMENT OF WATER AND ENERGY (DWE).....	18
5. ASSESSMENT OF ENVIRONMENTAL IMPACTS.....	19
5.1 GROUNDWATER/WASTEWATER DISPOSAL.....	19
5.2 HAZARD MITIGATION AND MANAGEMENT	19
5.3 FLORA AND FAUNA	21
6. CONCLUSION.....	22
7. RECOMMENDATION.....	22
APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS.....	23
APPENDIX B. CONSIDERATION OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS	25
APPENDIX C. COMPLIANCE WITH DCPS AND OTHER PLANS AND POLICIES	28
APPENDIX D. SUMMARY OF SUBMISSIONS.....	30
APPENDIX E. RESPONSE TO SUBMISSIONS	34
APPENDIX F. ENVIRONMENTAL ASSESSMENT	59

1. BACKGROUND

1.1 THE SITE

1.1.1 SITE CONTEXT AND LOCATION

The site at No.1C Waterfront Road, Swan Bay (Lot 224 and part of Lot 222 DP 862015), is located within the village of Swan Bay within the Local Government Area of Port Stephens (see **Figure 1**), adjacent to the Port Stephens-Great Lakes Marine Park. The site is approximately 33kms east-northeast of Raymond Terrace and approximately 7kms south of the township of Karuah on the western shores of Port Stephens. The site is owned by Robert, Alan, Lynnette May and Lynnette Ann Wells.

Part Lot 222 DP 862015 has frontage to Swan Bay Road and Lot 224 DP 862015 has frontage to Waterfront Road, Swan Bay (**Figure 2**). Waterfront Road lies between privately owned land and public reserve and the shoreline of Swan Bay waterway. Access to both lots is from the Pacific Highway via Swan Bay Waterfront Roads.

Town water and reticulated sewer are not available to the site but on-site tank water and wastewater management facilities are available. Electricity and telecommunication services are available to the subject lots and surrounding locality. Postal and school bus services are available to the subject lots and the surrounding locality.



Figure 1 - Site context

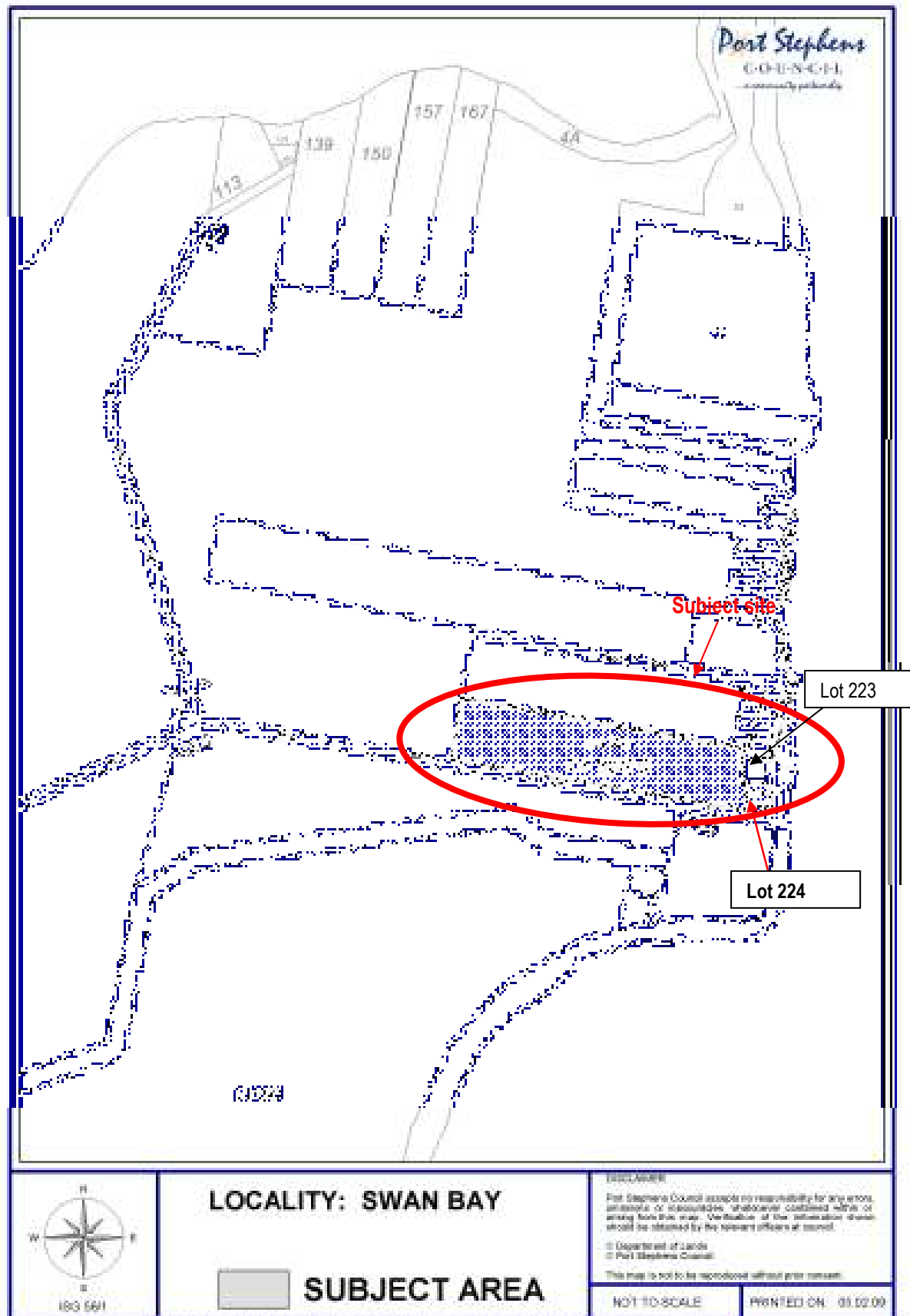


Figure 2: Site location

1.1.2 EXISTING SITE FEATURES

The site is generally flat with an average elevation of approximately 1.6 metres AHD. Vegetation comprises open grassland, isolated mature trees and residential gardens. Soils are loams overlaying clay soil types.

Site improvements include a two-storey brick dwelling, timber and iron sheds, a swimming pool and associated fencing (see **Figures 3 and 4**). A grassed drainage swale (existing inter-allotment drainage easement) exists along the western boundary of Lot 224 within Lot 222 DP 862015. The easement conveys surface runoff into a drain running parallel with Swan Bay Road.

1.1.3 SURROUNDING DEVELOPMENT

Surrounding development comprises dwelling-houses fronting Waterfront Road, Swan Bay. Generally, Swan Bay comprises a housing mix of single storey weatherboard, brick veneer or fibro construction. Lot sizes range from approximately 600m² in the centre of the village, with larger lots to the north, of approximately 700m² to 3.05 hectares. There is generally a mixture of occupancy rates, both permanent and part-time with peak rates during holiday periods.

Adjoining the site to the south is a residential dwelling with frontage to Waterfront and Swan Bay Roads. Adjoining the site to the east is a public reserve, managed by Council located between Waterfront Road and the foreshore. The reserve contains recreational facilities such as picnic tables and a mixture of eucalypts and Casuarina trees. Immediately to the west of the site is vacant land in both public and private ownership.



Figure 3 – Site looking east to Swan Bay



Figure 4 – Site looking west from Waterfront Road public reserve

1.2 SITE HISTORY

Lots 222, 223 & 224 DP862015 were created from a three lot subdivision of Lot 622 DP 30360 Swan Bay Road, Swan Bay approved by Council (DA 7-1995-1931-1).

On 23 September 2005, the Director-General approved DA64-3-2005 for a four lot subdivision of Part Lot 222 and Lot 223 DP 862015. This site, No. 1B Waterfront Road, is not part of the subject site, but adjoins it to the north and is owned by the proponent (**Figure 2**). The approval comprised three x 4,000m² lots and one 5.658ha residue lot. The approval was modified (MOD5-1-2006) on 8 May 2006 to permit the re-subdivision of one of the lots into 2 smaller lots (but still creating 4 lots in total). The consent has been acted upon and a Subdivision Certificate was recently obtained from Council for registration of the subdivision.

2. PROPOSED DEVELOPMENT

2.1 THE PROPOSED DEVELOPMENT

It is proposed to subdivide the site into three x 4000m² lots and one residue lot of approximately 5.49 hectares as a Torrens Title subdivision (see **Figure 5** and **Table 1**). Proposed works include:

- demolition and removal of existing garages and a brick wall; and
- earthworks associated with the construction / installation of driveways for each proposed lot along Swan Bay Road.

The proposed subdivision layout provides regular shaped lots allowing for the construction of dwellings and efficient on-site effluent disposal with two road frontages.



Figure 5 – Proposed subdivision

	Existing	Proposed	Planning Control (SEPP, REP, LEP, Compliance DCP)	
Site Area	2,819m ² (Lot 224) 6.416 (Lot 222)	4,000m ² (x 3 lots) 5.4979 ha (x 1 lot)	LEP 2000 – Clause 17 (min 500m ² lot size)	Yes
Floor Space Ratio		Future dwelling on each lot	LEP 2000 – Clause 19 (max 0.5: 1 FSR)	N/A
Height		Future dwelling on each lot	LEP 2000 – Clause 19 (max 9.0m height limit)	N/A

Table 1 – Development data

2.2 PROJECT CHRONOLOGY

The proponent responded to DWE's issues regarding wastewater and DWE deemed the response adequate, subject to conditions of approval. The proposed subdivision layout (as exhibited) (**Figure 5** above) supersedes the original proposal which was considered an undesirable lot layout/configuration. The proposed layout was submitted following consultation between the proponent and Council in January 2008. The area of the residue lot was adjusted (as reflected in Figure 5) following exhibition to correct a minor drafting error (which read 5.51ha).

On 23 June 2009, the proponent provided additional assessment details regarding the impacts of climate change and flooding. This is discussed in Section 5.2 below.

3. STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION

The project is subject to assessment under Part 3A of the Act and the Minister's approval is required to carry out the project. The opinion that the project is one to which Part 3A of the Act applies was formed by the Minister for Planning on 21 June 2007.

State Environmental Planning Policy (Major Projects) 2005 (MP SEPP) identifies development that involves the subdivision of land wholly or partly in a 'sensitive coastal location' that is not connected to an approved sewage treatment work pursuant to Schedule 2 Clause 1(h)(i), as being a Major Project.

3.2 PERMISSIBILITY

Under the *Port Stephens Local Environmental Plan 2000 (LEP 2000)*, the site is zoned part Residential 2(a) Residential 'A' zone and part Rural 1(a) Agriculture "A" Zone. It is proposed to subdivide part of the site zoned 2(a) Residential into 3 lots. A residue lot will comprise the balance of the site zoned 1(a) Rural and some 2(a) Residential land. The proposal is permissible with development consent.

The Proposal is consistent with the provisions and objectives of the site zoning and is listed as a permissible use in Clause 16 of *LEP 2000*, subject to the Minister's approval.

3.3 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 750 of the Act.

Section 751(2) sets out the scope of the Director-General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

(a) a copy of the proponent's Environmental Assessment and any preferred project report; and

The proponent's EA is included at Appendix F. There is no preferred project report in respect of this project.

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

All advice provided by public authorities on the project for the Minister's consideration is set out at Appendix D and is discussed in detail in Section 5 below.

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

Independent hearing and assessment panels no longer exist.

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

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

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

An assessment of the relevant EPI's is provided in Appendix B.

(f) any Environmental Assessment undertaken by the Director General or other matter the Director General considers appropriate.

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

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

3.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRs)

The DGRs were issued on 17 August 2007 and required the following issues to be addressed:

- Statutory and Other Requirements
- Strategic Planning
- Subdivision Design, Layout and Desired Future Character
- Visual Impact
- Infrastructure provision
- Traffic and Access
- Hazard Management and Mitigation
- Water Cycle Management
- Heritage and Archaeology
- Flora and Fauna
- Noise

The DGRs are attached at **Appendix A**.

3.5 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

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

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

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

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

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application. ESD is considered in more detail in section 3.6 below.

3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

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

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

- (a) **Integration Principle** - the proposal is considered consistent with this principle.
- (b) **Precautionary Principle** – the proposal is not considered to pose any significant long-term, irreversible impacts upon the environment, namely the waterway of Swan Bay. Management measures such as wastewater treatment, acid sulphate soil management, sediment and erosion controls, and mechanical, electrical and hydraulic systems as well as architectural designs will ensure high environmental performance is delivered.
- (c) **Inter-Generational Principle** – the proposal is not thought to pose any significant long-term, irreversible impacts upon the environment.
- (d) **Biodiversity Principle** – the proposal is not considered to pose any significant impacts on flora and fauna, either on-site or within the surrounding locality. The site is predominantly cleared of vegetation and each lot to be created has adequate area for future development for the purposes of dwelling and associated facilities/services.
- (e) **Valuation Principle** – the proposal is not considered to pose any significant impacts in this regard based on the design of the subdivision taking into consideration, solar access for future dwellings, the harvesting, storage and use of water within the subdivision and ensuring the potential recycling of materials associated with the construction of the subdivision.

3.7 SECTION 75I OF THE ACT

Section 75I(2) of the Act and clause 8B of the *Environmental Planning and Assessment Regulation 2000* require the Director-General's report to address a number of requirements. Those matters and the Department's response are as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA is on the assessment file.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out at Appendix D and Section 4 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	Such independent hearing and assessment panels no longer exist.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Every relevant SEPP substantially governing the carrying out of the project, is identified and assessed in section 3.8 below and in Appendix B.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the proposal relative to all environmental planning instruments is provided in section 3.8 of this report.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proponent's EA addresses the DGRs and is considered to have satisfied those requirements as addressed in this report. Refer to the Conclusion in section 6 of this report for a statement relating to this requirement.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in section 5 of this report.
The suitability of the site for the project	The site is identified in the Port Stephens LEP 2000 Zone No. 2(a) Residential 'A' and Zone No. 1(a) Rural Agriculture 'A' and is permissible with consent.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in submissions is provided in Section 4 and Appendix D. The Proponent's response to submissions is provided in Appendix E of this report.

3.8 ENVIRONMENTAL PLANNING INSTRUMENTS

3.8.1 APPLICATION OF EPIS TO PART 3A PROJECTS

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments governing the project and which have been considered in the environmental assessment of the project. A summary of compliance with relevant EPIs is at **Appendix B**.

The LEP and DCP provisions, including development standards, are not strictly required to be applied in the assessment and determination of major projects under Part 3A of the Act. Nonetheless, those provisions are relevant considerations as the DGRs require the proponent to address them. Accordingly, the objectives and

development standards of a number of EPIs, and other plans and policies substantially governing the project are appropriate for consideration in this report, as follows:

3.8.2 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005

The *MP SEPP* applies to the project as discussed in Section 3.1 above.

3.8.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION (SEPP 71)

SEPP 71 – Coastal Protection applies to the project as the land is identified as within a 'sensitive coastal location'. Given the subdivision will not be connected to reticulated sewer services Part 3A of the Act applies and the Minister for Planning is the consent authority. Consideration has been given to Parts 2, 4 and 5 of the *SEPP 71* and the project is consistent with those provisions. The waterway adjacent to the site is located within the Port Stephens-Great Lakes Marine Park Sanctuary Zone. The proposal is not considered to pose a threat or impact to the Marine Park.

3.8.4 HUNTER REGIONAL ENVIRONMENTAL PLAN 1989

Consideration has been given to the aims and objectives of the Hunter Regional Environmental Plan 1989 and the project is consistent with those provisions.

3.8.5 HUNTER REGIONAL ENVIRONMENTAL PLAN 1989 (HERITAGE)

The site does not contain any items of environmental heritage. The project does not pose any adverse impact and is consistent with the Plan.

3.8.6 PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 (LEP 2000)

The Proposal is consistent with the provisions and objectives of the Zone No. 2(a) Residential 'A' and Zone No. 1(a) Rural Agriculture 'A' and is permissible with consent. Other provisions include subdivision in residential zones; objectives for development on flood prone land; development on flood prone land; appearance of land and buildings; services; and development on land identified on Acid Sulphate Soils Planning Maps. The Proposal is consistent with the relevant provisions and further consideration is provided in **Appendix B**.

3.9 OTHER PLANS AND POLICIES

The proposal has been considered against the following non-statutory documents (see **Appendix C**):

3.9.1 PORT STEPHENS DEVELOPMENT CONTROL PLAN (DCP) 2007

The relevant matters listed in Part B1 – Subdivision and Streets include site analysis, topography and views, street and block layout (residential), lot layout and infrastructure. The proposed subdivision is considered consistent with these key components of DCP 2007.

The relevant matters listed in Part B2 – Environmental and Construction Management include water quality management, acid sulphate soils, landfill, contaminated land, vegetation management, koala management, koala management, mosquito control and weed control. The proposed subdivision is considered consistent with these key components of DCP 2007.

Whilst matters listed in Part B6 – Single and Dual Occupancy Dwellings do not strictly apply to the proposed subdivision, by creating lots for future dwellings, the subdivision is consistent with those matters, in terms of achieving lots capable of providing adequate area for building envelopes, infrastructure and service provision and vehicular access.

3.9.2 KARUAH URBAN MANAGEMENT PLAN AND GUIDELINES

The Plan and Guidelines were prepared to identify and improve the lifestyle attributes of the Karuah – Swan Bay district and the proposal is considered consistent with the objective of the Plan and Guidelines.

3.9.3 KARUAH LOCAL AREA PLAN INCLUDING SWAN BAY

The Karuah Local Area Plan is a strategy to guide growth and development of Karuah and Swan Bay. The main aim of the Plan is to ensure sustainable growth through the integration of the economy, community and environment and the proposal is consistent with the Plan.

3.9.4 PORT STEPHENS SECTION 94 CONTRIBUTION PLAN 2007

The Port Stephens Section 94 Contributions Plan 2007 applies to the proposal. Contributions will be imposed on a per lot basis, with credit given to the two (2) existing lots comprising the site. A contribution for a total of two (2) lots is recommended as a condition of approval.

3.9.5 DRAFT FORESHORE MANAGEMENT PLAN FOR PORT STEPHENS

The Draft Plan applies to the site and aims to address the sustainable use of the foreshore that supports commercial and recreational activities while preserving ecological values. The proposal is not considered to impact on the foreshore and is consistent with the Plan.

3.9.6 PORT STEPHENS AREAS AFFECTED BY FLOODING AND/OR INUNDATION POLICY

The Policy provides guidelines for the development of land subject to flooding and tidal inundation and is based on the NSW Floodplain Development Manual. It provides that flood prone land should not be developed without adequate assessment of the risks and consideration of the satisfactory precautions where appropriate, and lists matters for consideration in development assessment. It incorporates the provisions of the Port Stephens Foreshore (Floodplain) Management Plan which requires a minimum habitable floor level of 2.5mAHD.

4. CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited in accordance with Section 75H (3) of the Act for a thirty (30) day period from 30 July to 29 August 2008. The application was exhibited at the Department's Information Centre and the Hunter Regional Office; and Council's Administration Building. The EA was also placed on the Department's website.

4.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

Four submissions were received from public authorities. No submissions were received from members of the public. The project application has not been amended since the final EA was lodged with the Department, however, the proponent's Response to Submissions included additional information addressing DECC and DWE's issues (the Bush Stone – curlew, Aboriginal stakeholders; and wastewater).

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

4.3.1 ROADS & TRAFFIC AUTHORITY (RTA)

The RTA raised no objections to, or requirements for the proposal, as it was considered unlikely to have a significant impact on the classified road network.

4.3.2 NSW RURAL FIRE SERVICE (RFS)

The RFS raised no major objections to the proposal and recommended conditions for approval based on assessment as residential development only. RFS recommended upgrading of the existing dwelling in order to achieve the best bushfire outcome for the site.

4.3.3 DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE (DECC)

DECC expressed 'in principle' support for the project subject to consideration of comments in regards to Aboriginal Cultural Heritage and aspects of threatened species and biodiversity. The Proponent responded by providing an Aboriginal Stakeholder Register in the Response to Submissions. DECC advised that it was satisfied with the proponent's response, subject to conditions of approval.

DECC noted that the development footprint is primarily restricted to cleared lands and overall the proposal is considered unlikely to pose a significant impact on threatened species, their habitat and ecological communities or to pose any threats to Gir-um-bit National Park (Worimi Nature Reserve). Given the extent of cleared area and proposed development, there is limited habitat and/or resources for threatened species. However, DECC requested the need for more surveys of the endangered Bush-Stone curlew. This was provided in the Response to Submissions which addressed DECC's comments. DECC recommended conditions of approval restricting cats and dogs, and direct access from the site to the adjacent Gir-um-bit National Park.

DECC supported the proponent's Bushfire assessment, provided that all APZs are exclusive of the adjacent Gir-um-bit National Park, and this is recommended as a condition of approval. The proposal is considered to satisfy DECC's issues subject to the recommended conditions of approval.

4.3.4 DEPARTMENT OF WATER AND ENERGY (DWE)

The EA outlines works to be undertaken together with future excavation works associated with future dwellings. Proposed works include the installation of 375mm pipes along the edge of the road. The EA notes that the existing inter-lot drainage system was constructed in accordance with a previous approval. DWE requested information regarding the depth of proposed excavations and potential impacts on ground water. The Response to Submissions addressed DWE's comments on groundwater and DWE is satisfied that the issue (see Section 5 below) has been satisfactorily addressed subject to conditions of approval.

5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the EA and as outlined in the Director-General's Requirements, included the following:

- Groundwater/wastewater disposal
- Hazard management and mitigation
- Flora and fauna

5.1 GROUNDWATER/WASTEWATER DISPOSAL

The subject site is not serviced by reticulated sewer. The proposed treatment systems will produce effluent to a secondary level or higher, with methods minimising the risk of surface transportation and groundwater contamination. Additional information on groundwater and wastewater disposal was requested by DWE. Relevant information supplied by the proponent and additional assessment undertaken by Council satisfied DWE which advised that Council was the appropriate authority to regulate effluent treatment for the proposal. DWE raised no further issues and did not recommend conditions of approval.

The proponent has demonstrated that issues of groundwater/surface water protection and other environmental impacts can be minimised through careful selection of on-site treatment and the method/design of land application areas. The proponent's Statement of Commitments includes construction management and sediment and erosion control measures which will be augmented by a Section 68 Application to be submitted to Council, prior to any development.

Council's On-site Sewage Management Program addresses critical issues surrounding environmental protection. It identifies key issues at the time of application, and requires further assessment/information from the proponent, prior to release of installation approvals. Those measures, including the conditions of approval are considered sufficient to mitigate any groundwater issues.

Potable Water Supply

Town water is not available to the site and water supply for the existing dwelling is obtained by collecting and storing rainwater from roof areas in above and below ground tanks with an approximate total storage capacity of 55,000 litres. Any future dwellings on the proposed lots will obtain water supply similarly, and this will be assessed with future DAs.

5.2 HAZARD MITIGATION AND MANAGEMENT

Acid Sulphate Soils

Lot 222 is identified as Class 3 Acid Sulphate Soils (ASS), and Lot 224 is identified as Classes 3 and 4 ASS. The proponent's ASS geotechnical investigation concludes, that based on test results, there will not be a major risk associated with the subdivision. It recommended a number of ASS management strategies/measures, including:

- minimising the disturbance of ASS;
- limiting the use of de-watering measures unless essentially required;
- minimising excavated soil air exposure time;

- dosing excavated soils and the base of the excavated trench;
- undertaking chemical pH tests on dosed soils;
- control leachate movement on the site; and
- backfill hole with excavated treated soils.

Those measures are included in the conditions of approval. The Statement of Commitments provides for ASS testing to be carried out during construction works, and an ASS contingency plan implemented if ASS are discovered. The proposal involves minimal on-site earthworks and therefore is considered unlikely to expose ASS, or result in acid sulphate run-off.

Bushfire

The land is identified as bushfire prone land. The proponent's bushfire assessment concluded that the site is of variable risk (from 'extreme' along southern boundary to 'medium' on the northern boundary). It recommended mitigation measures, including Asset Protection Zones, appropriate levels of construction for future dwellings, on-going vegetation management to minimise potential fuel loads, and water storage facilities for fire-fighting. The RFS raised no objections to the proposal subject to conditions included in the Statement of Commitments and conditions of approval. RFS recommended upgrading of the existing dwelling based on a Level 1 (medium risk of bushfire attack) category in accordance with Australian Standard AS3959, to achieve the best bushfire outcome for the site.

Flooding, coastal processes and inundation

The entire site is identified as flood prone land on Council's mapping. The site's existing ground levels drop away from Waterfront Road and range from approximately 1.29m to 1.59m AHD. The EA indicates that future dwellings will be greater than 45m from the existing foreshore and separated by a sealed public road.

Council's flood policy (*Areas Affected by Flooding and/or Inundation Policy*) requires an assessment of risks and satisfactory precautionary measures for development of flood prone land. The policy recommends subdivision of low risk flood prone land only and only if the minimum size is 1ha. The policy requires a 2.5m AHD RL minimum habitable floor level for residential development which was developed in accordance with the findings of the Port Stephens Foreshore (Floodplain) Management Study ('Floodplain Study').

The proponent advised that the typical ground level across the site is approximately 0.4m above the maximum annual tidal level, with no ocean anomalies. With a sea level rise of 0.9m, the typical ground level would be inundated by 0.1m at a "normal" high tide and 0.5m in a maximum annual tide. The proponent advised that the inflows from the Karuah River have been considered in establishing the design flood level of 1.9m (see below), as reflected in the flood gradient in the estuary (as documented in Council's Floodplain Study).

Recent predictions of the overall range of sea level rise towards the end of this century indicate a likely, predicted maximum sea level rise of 0.91m by the year 2100. The proponent's water and environmental engineering submission advised that Council's minimum habitable floor level is based on the 1% AEP flood level (of 1.9m AHD) plus a freeboard allowance to cater for wave action, uncertainties in design flood estimation, local hydraulic factors, some component of climate change, and the cumulative effects of further development. The proponent notes that whilst the 2.5m minimum habitable floor level is based on a potential sea level rise of 0.2m to the year 2050, the magnitude of the components of freeboard allowance has not been quantified and will vary within the estuary.

The proponent recommends a habitable floor level of 3.4m AHD for proposed dwellings on the site. This incorporates Council's minimum (2.5m) plus the maximum potential sea level rise (0.91m). Hence, finished levels will be approximately 1.9m above typical ground level across the site. Council does not recommend filling at subdivision stage, and this level would be achieved by various construction types, including piered construction with raised floor, or two storey construction (with habitable rooms above the flood planning level).

The proponent acknowledged that no mitigation measures are proposed in the event of maximum sea level rise, and that the site may have to be abandoned for residential use, like many properties along the NSW coast. This is reflected in the conditions of approval which incorporate the required habitable floor level, and an advisory note regarding likely limited life span of future residential use of the site.

Details of construction types will be subject to future development applications for dwellings and associated structures (for example, fill pads). Given the size of the proposed lots, it is considered that measures required to achieve the flood planning level will not be significant, and the impacts minimal.

5.3 FLORA AND FAUNA

The EA identifies the northern edge of a SEPP 14 Wetland (Worimi Nature Reserve) immediately south of the site, on the other side of Swan Bay Road. Worimi Nature Reserve also exists to the west on the other side of Davis Road.

The proposal is unlikely to impact upon the wetland providing that it and future residential development is undertaken in accordance with conditions of approval regarding off-site impacts from sediment and nutrient loadings, and effluent disposal.

The site comprises three individual specimens of two species of 'potential koala habitat' (River red gum and Swamp mahogany) pursuant to SEPP 44. The proponent's Flora and Fauna Assessment noted that surveys did not record any koalas on the site (with the last recorded sighting being August 2002), and that the site does not comprise core koala habitat. The EA is satisfactory with respect to Council's *Comprehensive Koala Plan of Management*. A condition of approval is recommended relating to Council's Tree Preservation Order.

DECC noted that the development footprint is primarily restricted to cleared lands and considered the proposal unlikely to pose a significant impact on threatened species, their habitat and ecological communities further noting the limited habitat and/or resources for threatened species. DECC requested additional survey information for the threatened Bush-Stone curlew, recorded within the vicinity of the site. The information was acceptable to DECC subject to a condition of approval restricting domestic cats and dogs on the site. This and access from the site to the adjacent Gir-um-bit National Park will be addressed by way of Section 88B restrictions on the subdivision. Overall the project is considered to have minimal environmental impact due to the site's highly disturbed nature.

6. CONCLUSION

The Department has assessed the EA and considered the agency submissions. The key issues raised in those submissions included groundwater contamination, wastewater, ecology, bushfire and Aboriginal/Archaeological matters. The Department has considered those submissions and considers that conditions of approval and the proponent's Statement of Commitments satisfactorily address the issues and will result in minimal impacts.

The proposal will allow for the use of land zoned for residential development. It has largely demonstrated compliance with relevant environmental planning instruments.

On those grounds, the Department considers the site to be suitable for the proposed development and the project to be in the public interest. Consequently, the Department recommends the project for approval, subject to conditions of approval.

7. RECOMMENDATION

It is recommended that the Director-General, as delegate of the Minister:

- (A) consider the findings and recommendations of this Report; and
- (B) approve the project application subject to conditions; and
- (C) sign the Determination of the Major Project (**Tag A**).

Prepared by:
Amanda Gale
Development Coordinator
Port Stephens Council

Endorsed by:
Mark Schofield
Team Leader
Coastal Assessments

Alan Bright
A/Director
Coastal Assessments

APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Key Issues

Strategic Planning

- Justify the proposal with reference to relevant local, regional and State planning strategies.
- Demonstrate consistency with the draft Mid-North Coast Regional Strategy.

Subdivision Design, Layout and Desired Future Character

- Demonstrate the consistency of the proposal with the character of existing subdivision patterns in the locality, including lot size and shape, street frontage, scale of development, building envelopes, future built form controls, energy and water efficiency, and design quality controls.
- Demonstrate the consistency of the proposed subdivision design and layout with the *Coastal Design Guidelines for NSW*, *NSW Coastal Policy 1997* and *SEPP 71 – Coastal Protection*.
- Identify the type of subdivision proposed across the site ie. Community, Torrens, strata.
- Demonstrate that the proposed residential allotments will be wholly contained within the 2(a) Residential Zoning.
- Provide details of access provisions for each proposed lot to Council's requirements.
- Outline the long-term management and maintenance of areas to provide for bushfire management public access, revegetation and rehabilitation works, as relevant.

Visual Impact

- Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address impacts on the amenity of the foreshore, overshadowing of public reserves, loss of views from public places and cumulative impacts.

Infrastructure Provision

- Address existing capacity, requirements and staging of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies.
- Demonstrate that the design of on-site effluent disposal systems is consistent with Council's on-site effluent disposal requirements, AS1547-2000 On-site domestic waste water management requirements and the Environmental Health Protection Guidelines.
- Address and provide the likely scope of a planning agreement and/or developer contributions with Council/Government agencies.

Traffic and Access

- Assess the traffic impacts of the development and demonstrate compliance with Port Stephens Council's traffic and car parking codes.

Hazard Management and Mitigation

Contamination

- Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.
- Identify key groundwater issues for the site, and demonstrate that the design and operation of on-site effluent disposal systems will not result in contamination of groundwater (nutrients, bacteria, viruses) or ecological impacts on adjacent groundwater dependent ecosystems, such as SEPP 14 wetlands, including under conditions of rising water tables associated with climate change.
- All potential sources of contamination to aquifer and recharge areas are to be investigated and risk management procedures for the site are to be assessed.

Acid Sulfate Soils

- Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures in accordance with relevant guidelines.

Bushfire

- Address the requirements of Planning for Bush Fire Protection 2006 (RFS).

Geotechnical

- Provide an assessment of any geotechnical limitations that may occur on the site and appropriate design considerations that address these limitations.

Flooding

- Provide an assessment of any flood risk on the site in consideration of relevant provisions of the NSW Floodplain Development Manual (2005) and Council's flood management guidelines.
- Consider the potential impacts of any filling on the flood regime of the site and adjacent lands.

Water Cycle Management

- Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles.
- Demonstrate that the proposed development will result in no net increase in pollutants to adjoining land and water bodies, and SEPP 14 Coastal Wetland No. 789, consistent with relevant policies and guidelines.
- Assess the impacts of the proposal on surface and groundwater hydrology and quality during both construction and occupation of the site.

Heritage and Archaeology

- Identify whether the site has significance for Aboriginal cultural heritage and measures to preserve any significance.
- Identify any items of European heritage significance and measures for their preservation.
- Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the EPBC Act, as relevant.

Flora and Fauna

- Outline potential impacts on aquatic and terrestrial flora and fauna and their habitats (within the meaning of relevant legislation).
- Assess any potential impacts on koala habitat with reference to relevant policies and guidelines.
- Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
- Address impacts on migratory species, RAMSAR wetlands and species listed the EPBC Act.

Noise

- Address potential noise impacts for future residents and appropriate mitigation measures.

APPENDIX B. CONSIDERATION OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

Environmental Planning Instruments (EPIs) considered in the assessment of this proposal are as follows:-

Provisions of Environmental Planning Instrument	Consideration
<p>Port Stephens Local Environmental Plan 2000 :</p> <p>Matters in clauses 2, 11, 16, 17, 19, 37 and 38, 44, 47 & 51A of the LEP are applicable.</p>	<p>The proposal is consistent with Clause 2 in that it has considered the principles of ESD and promotes the orderly development of the site.</p> <p>The proposal is consistent with Clause 11 and the rural zoned land will be retained as a residue lot.</p> <p>The proposal is considered a permissible form of development pursuant to Clause 16 and is consistent with the zones and associated objectives / provision of LEP 2000.</p> <p>The proposal is consistent with Clause 17 in so far as the proposal creates lots greater than 500m².</p> <p>The proposal is consistent with Clause 19 and relates to the existing dwelling-house and future dwelling-houses and the development standards within Clause 19 are easily achievable given proposed lot sizes.</p> <p>The proposal is consistent with Clause 37 and 38 in regards to flood prone land and provides adequate area for future dwelling-houses on each lot and associated structures and infrastructure provision.</p> <p>The proposal is consistent with Clause 44 in regards to the appearance of land and buildings, when viewed from a public road or the waterway.</p> <p>The proposal is consistent with Clause 47 in regards to the provision of adequate services – namely, water and wastewater disposal for each lot.</p> <p>The proposal is consistent with Clause 51A in regards to Acid Sulphate Soils.</p>

Hunter Regional Environmental Plan 1989	
<p>The policy applies to the land and aims to promote balanced development of the Hunter Region, to encourage orderly and economic development, and to bring about optimum use of land and other resources consistent with the needs and aspirations of local communities.</p>	<p>The site is identified as within the Region to which this Plan applies, being within Port Stephens Local Government Area.</p> <p>The proposal is consistent with the Aims and Objectives of the HREP 1989.</p>

State Environmental Planning Policy (Major Projects) 2005	
<p>Clause 1 (h) of Schedule 2 of SEPP – Major Project 2005</p>	<p>Identifies the site as an area to which Part 3A of the Act must apply.</p>

State Environmental Planning Policy No.71 – Coastal Protection	
<p>The policy applies to land within 100 metres of the water's edge of a coastal lake, bay or an estuary.</p> <p>Matters listed in Parts 2, 4 and 5 of the SEPP are applicable.</p>	<p>The site is identified as within the Coastal Protection area and involves the subdivision of land near a 'sensitive coastal location' that is not connected to reticulated sewer services.</p> <p>The proposal is considered consistent with the matters listed in Parts 2, 4 and 5 of the SEPP.</p>

State Environmental Planning Policy No.14 – Coastal Wetlands	
<p>The policy applies to the land in so far as it adjoins wetlands south of the project and extends along the shores of Swan Bay.</p>	<p>The proposal is not considered to pose a threat to the ecology or groundwater characteristics of the wetlands.</p> <p>The proposal is considered consistent with the provisions of the SEPP.</p>

State Environmental Planning Policy No.44 – Koala Habitat Protection	
<p>The policy applies to the land within Port Stephens Local Government Area.</p>	<p>The site comprises three individual specimens of two species of 'potential koala habitat' (River red gum and Swamp mahogany) pursuant to SEPP 44. The proponent's Flora and Fauna Assessment noted that surveys did not record any koalas on the site (with the last recorded sighting being August 2002), and that the site does not comprise core koala habitat. The EA is satisfactory with respect to Council's <i>Comprehensive Koala Plan of Management</i>. A condition of approval is recommended relating to Council's Tree Preservation Order.</p>

State Environmental Planning Policy No.55 – Remediation of Land	
<p>The policy applies to the land and makes provision of the remediation of contaminated land for the purpose of minimising the risk of harm to the health of humans and the environment.</p>	<p>Preliminary Geotechnical investigations of contamination and site classification for the proposal were undertaken by the proponent.</p> <p>The proposal is considered to be consistent with the Policy and the site is not identified as being contaminated land needing remediation.</p>

APPENDIX C. COMPLIANCE WITH DCPS AND OTHER PLANS AND POLICIES

DCPS and other plans and policies considered in the assessment of the proposal are as follows:-

Port Stephens Development Control Plan 2007	Consideration
<p>Port Stephens Development Control Plan 2007</p> <p>Matters listed in Part B1 – Subdivision and Streets</p>	<p>The proposed subdivision is consistent with the relevant key components of this Section namely:</p> <ul style="list-style-type: none"> – site analysis; – topography and views; – street and block layout – residential; – lot layout; – infrastructure
<p>Matters listed in Part B2 – Environmental and Construction Management</p>	<p>The proposed subdivision is consistent with the relevant key components of this Section namely:</p> <ul style="list-style-type: none"> – water quality management; – acid sulphate soils; – landfill; – contaminated land; – vegetation management; – koala management; – mosquito control; – weed control
<p>Matters listed in Part B6 – Single and Dual Occupancy Dwellings</p>	<p>Whilst this Section does not strictly apply to the proposed subdivision, it is noted that by creating lots for future dwellings, the subdivision is consistent with this Section of the DCP, in respect to achieving lots capable of providing adequate area for building envelopes, infrastructure and service provision and vehicular access.</p>
Karuah Urban Management Plan and Guidelines	Consideration
<p>The Plan and Guidelines were prepared to identify and improve the lifestyle attributes of the Karuah – Swan Bay district.</p>	<p>The proposal is considered consistent with the Objectives of the Plan and Guidelines.</p>
Karuah Local Area Plan including Swan Bay	Consideration
<p>The Karuah Local Area Plan is a strategy guiding growth and development of the areas of Karuah</p>	<p>The proposal is considered consistent with this Plan.</p>

<p>and Swan Bay, developed in consultation with those communities.</p> <p>The aim of the Plan is to ensure Karuah and Swan Bay are made sustainable communities through the integration of the economy, the community and the environment.</p>	
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Port Stephens Section 94 Contribution Plan 2007	Consideration
<p>The Plan applies to the land and subdivision proposal.</p>	<p>Section 94 contributions will be imposed on a per lot basis, with credit given to the two (2) existing lots the subject of this project application.</p> <p>Therefore, contributions will be charged for a total of two (2) lots and imposed as a condition of approval.</p>

Draft Foreshore Management Plan for Port Stephens	Consideration
<p>The Draft Plan applies to the land.</p> <p>The Plan aims to address the sustainable use of the foreshore that supports commercial and recreational activities while still preserving ecological values for generations.</p>	<p>The site is located across Waterfront Road which adjoins the public foreshore reserve.</p> <p>The proposed subdivision is not considered to impact on the aims of the Plan to preserve the foreshore and improve foreshore access and safety, visual amenity, recreational facilities, ecological integrity and the health of the waterway.</p> <p>The proposal is consistent with the Plan.</p>

Port Stephens Areas Affected by Flooding and/or Inundation Policy	Consideration
<p>The policy applies to the land and subdivision proposal.</p> <p>The objective of the policy is to manage the development of land subject to flooding and/or tidal inundation.</p>	<p>The Policy provides guidelines for the development of land subject to flooding and tidal inundation and is based on the NSW Floodplain Development Manual. It provides that flood prone land should not be developed without adequate assessment of the risks and consideration of the satisfactory precautions where appropriate, and lists matters for consideration in development assessment. It incorporates the provisions of the Port Stephens Foreshore (Floodplain) Management Plan which requires a minimum habitable floor level of 2.5mAHD.</p> <p>The proposal is consistent with the Policy and future dwellings will need to comply with the minimum habitable floor level, as reflected in the conditions of approval. Measures to achieve that level are not expected to have any significant environmental impacts.</p>

APPENDIX D. SUMMARY OF SUBMISSIONS

Summary of all agency submissions received and Departmental response.

Date	Stage of process	Agency comment	Department's response
Roads & Traffic Authority (RTA)			
	Exhibition of EA	<p>RTA advised that its primary interests are the road network, traffic and broader transport issues, particularly the efficiency and safety of the classified road system, security of property assets and the integration of land use and transport.</p> <p>RTA reviewed the EA and raised no objections to or requirements for the proposal, as it is unlikely to have a significant impact on the classified road network.</p>	<p>RTA has no objections to the proposal and have not required any conditions to be imposed on the project.</p> <p>As consent authority, the Minister will impose relevant conditions relating to road works, access and driveways as required for the project.</p>
NSW Rural Fire Service (RFS)			
	Exhibition of EA	<p>RFS advice was provided with conditions imposed in the following key areas:-</p> <ul style="list-style-type: none"> - Asset Protection Zones - Water and Utilities - Design and Construction <p>RFS noted that the above advice/conditions were given for residential purposes only, noting on Page 28 of the Bushfire Report referred to SEPP Seniors Living development, presumably in error.</p>	<p>As consent authority, the Minister will impose relevant conditions as identified by RFS for the project.</p> <p>An Advisory Note has been incorporated into the Determination to this effect.</p>

Department of Environment & Climate Change (DECC)			
	Exhibition of EA	<p>DECC's initial submission advised that it could support the project in principle, subject to consideration of comments in regards to Aboriginal Cultural Heritage and aspects of Threatened Species and Biodiversity and the imposition of conditions of consent.</p> <p>The key areas that needed further consideration and subject to conditions included:-</p> <p><u>Aboriginal Cultural Heritage</u></p> <ul style="list-style-type: none"> - Statement of Commitment required from proponent that works will cease if objects/sites disturbed / unearthed; - Aboriginal Community Consultation to be undertaken; - Heritage Mitigation Measures; - Aboriginal Cultural Education Program for construction works on-site; and - Development Activity shall cease in the event of any disturbance / unearthing of sites. <p><u>Threatened Species & Biodiversity</u></p> <ul style="list-style-type: none"> - On-site retained habitat / vegetation – DECC concurs that the development footprint is primarily restricted to the in situ cleared lands and as a whole is unlikely to have a significant impact on threatened species, their habitat and ecological communities, providing adequate protection is afforded to the adjacent Gir-um-bit National Park and SEPP 14 Wetland communities. DECC further noted that the vegetated parts outside of the development footprint provide suitable habitat for threatened species (such as several birds species, Green Turtle, Grey-headed Flying Fox and Koala). Threatened Species Assessment – DECC acknowledged that due to cleared nature of footprint, the previously cleared areas of the site offer limited habitat and/or resources for threatened species and recognised that no trees are proposed to be removed or destroyed as a result of the subdivision. <p>In relation to Grey-headed Flying Fox, DECC confirms record, which was not included in the EA, however based on the above, should not impact directly on the species.</p>	<p>Additional information was requested and submitted by the proponent which addressed relevant matters raised by DECC.</p> <p>As consent authority, the Minister will impose conditions on the project as identified by DECC's advice.</p> <p>As outlined in the D-G's Report, assessment by Council and DWE have been undertaken in determining adequate wastewater provision without impact is available to the subdivision and relevant conditions have been imposed on the project determination.</p>

		<p>DECC's final submission advised that the Department was satisfied that the proponent has addressed their concerns and included suggested conditions relating to imposing a covenant prohibiting cats, and only permitting dogs if fenced at all times and walked on a leash and prohibiting direct access from the subdivision to the adjacent DECC estate in the form of access trails and gated entry. In addition, APZ's for the proposed subdivision should be exclusive of DECC estate. DECC also advised that no comment was being provided in relation to waste water, given Council is the regulatory authority responsible for this assessment.</p>	
DECC (National Parks & Wildlife Service (NPWS))			
	<p>Exhibition of EA</p>	<p>NPWS raised issue relating to firstly, inadequacies of the Flora and Fauna Report and Threatened Species Assessment and secondly, Surrounding land use and these are outlined as follows:-</p> <p><u>Flora and Fauna Report and Threatened Species Assessment</u></p> <p>Inadequacies related to the following:-</p> <ul style="list-style-type: none"> - fails to include any consideration of the Bush Stone-curlew, an endangered ground-nesting bird, therefore need to undertake adequate surveys for Bush Stone-curlews prior to a decision on this project. - should Bush Stone-curlews be recorded on or within a few kilometres of site, request that construction activities be confined to the non-breeding season and that ownership of cats and dogs be restricted on the property. <p><u>Surrounding Land use</u></p> <p>Both the preliminary EA & EA contained information on surrounding land use, however both documents failed to identify the DECC as an adjacent land manager to the proposal area. Worimi Nature Reserve was gazetted in 1999 and has since undergone name change to Gir-um-bit National Park.</p> <p>DECC supports the recommendations of the Bushfire Threat Assessment undertaken for the</p>	<p>Additional information was requested and submitted by the proponent which addressed relevant matters raised by DECC and NPWS.</p> <p>As consent authority, the Minister will impose conditions on the project as identified by DECC's advice.</p>

		<p>project, that all Asset Protection Zones (APZs) are contained with the development site and/or Swan Bay Road. This will rule out any potential impacts on the reserve. Other issues raised in the EA such as access, effluent and provision of utilities, do not seem to pose any threat to the reserve.</p>	
Department of Water and Energy (DWE)			
	<p>Exhibition of EA</p>	<p>DWE's original response advised that the EA, did not include Appendix 4 – Onsite Assessment Report prepared by Barker Harle Pty Ltd (as referenced in the EA). Further, DWE could not determine depths of proposed excavations and were unable to assess the potential for interception of groundwater. The EA documentation needed also to address the NSW State Groundwater Policies. The final issue related to the need for a license under Part 5 of the Water Act, and for consideration of potential impacts of groundwater quality by possible leaching into the Bay.</p> <p>DWE's final response advised that the Department agrees that Council is the appropriate authority to regulate effluent treatment for the proposal. DWE commends Council's common goal to protect the surface and groundwater sources (including groundwater dependent ecosystems).</p> <p>DWE advised of relevant guidelines for the information of Council and they have no further issues to raise regarding the proposal.</p>	<p>The proponent responded to issues raised and a copy of the Appendix 4 – Onsite Assessment Report was provided to agencies for their consideration.</p> <p>Further information was provided to DWE from Council's assessment staff to ensure adequate information was available. Relevant conditions are recommended for the approval.</p> <p>DWE is satisfied their concerns have been adequately addressed through assessment / imposition of relevant conditions.</p>

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

APPENDIX E. RESPONSE TO SUBMISSIONS



Lot 222 DP 862015
Major Project 07_0041

29 October 2009

Mr. [Name Redacted]
Development and Planning
Waterfront & Swan Bay
[Address Redacted]
Major Project 07_0041

Attention: Mr. Andrew Gens and Ms. Katrina Smith

Dear Mr Gens and Ms Smith

Lot 222 Major Project 07_0041 (DP 862015) was lodged on 12/02/09 without notice to the South Bay Council. You are being notified of the lodgement of the documents and the above described Major Project Application (MPC) by way of this submission to the above described MPC.

For your reference the correspondence and the relevant documents and MPCs in this matter are listed within the attached Table 1 below.

Table 1: Correspondence for Development

Date	Description
12/02/09	<p>1. The proposed subdivision plan (Shaded Design - Development) was lodged on 12/02/09 and 22/02/09.</p>
12/02/09	<p>2. It is noted that the DP 862015 Application for the project is primarily subject to the following aspects of the Environmental Heritage and aspects of "Protected Species and Biodiversity".</p> <p>3. The relevant Environmental Heritage legislation was provided on 12/02/09 to the land and planning staff of the South Bay Council for the Project (see Table 1).</p> <p>4. The relevant species protection legislation was provided on 12/02/09 to the land and planning staff of the South Bay Council.</p> <p>5. The proposed Environmental Heritage and Biodiversity legislation was provided on 12/02/09 to the land and planning staff of the South Bay Council.</p> <p>6. The relevant species protection legislation was provided on 12/02/09 to the land and planning staff of the South Bay Council.</p>

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

18 October 2009
6:04 PM AEST



Wells Environmental Services Pty Ltd
PO Box 212
BASS POINT NSW 1585 0300

Attention: Director DG03

Dear Sir

Re: Proposed Residential Subdivision
Lot 224 and Part Lots 222 & 224 DP862015 North Waterfront Road,
Swan Bay

Further to NSW Department of Planning and Infrastructure's (NSW DPI) request for a
Report on 18/10/09 and the subsequent discussions, please refer to the attached report
on the proposed subdivision of Lot 224 and Part Lots 222 & 224 DP862015.

The report is a preliminary report and is subject to further information.

The report is a preliminary report and is subject to further information.

The NSW Department of Planning and Infrastructure's (NSW DPI) request for a
Report on 18/10/09 and the subsequent discussions, please refer to the
attached report on the proposed subdivision.

Very cordially

Yours faithfully,
Director-General

- [illegible]
- [illegible]
- [illegible]
- [illegible]

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

16 March 2009
821/07/0041

The proposed subdivision of Lot 222 and 224 DP 862015 is proposed to be divided into two lots, one of which will be used for residential purposes. The proposed subdivision is a subdivision of land for residential purposes and is proposed to be divided into two lots, one of which will be used for residential purposes.

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Proposed Subdivision of Lot 222 and 224 DP 862015, Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

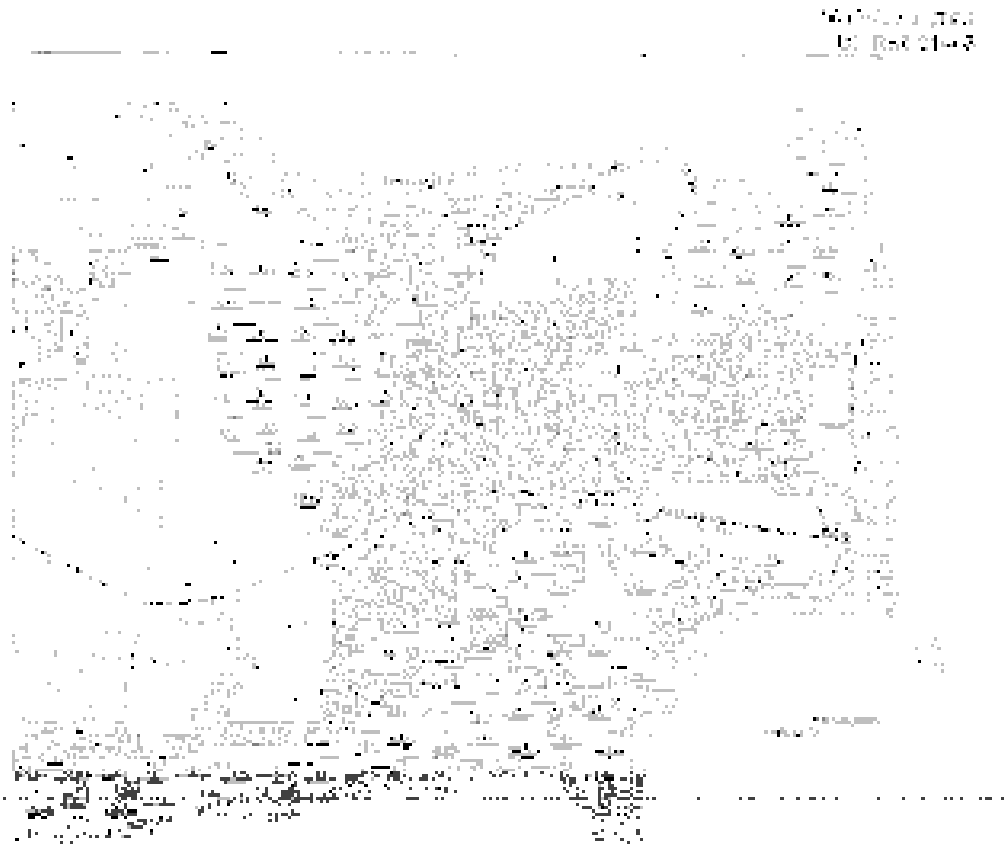


Figure 1 – Proposed residential subdivision

For the 2016 residential subdivision, detailed information was not available on the location of the water supply network. It is noted that the water supply network is located approximately 200m to the west of the subject site. It is considered that the water supply network is located between the subject site and the water supply network. It is noted that the water supply network is located between the subject site and the water supply network. It is noted that the water supply network is located between the subject site and the water supply network.

Figure 1 shows the location of the subject site and the water supply network. It is noted that the water supply network is located between the subject site and the water supply network. It is noted that the water supply network is located between the subject site and the water supply network. It is noted that the water supply network is located between the subject site and the water supply network.

1. The information provided in this report is based on the information provided to the Director-General of the Department of Planning and Infrastructure. It is noted that the information provided in this report is based on the information provided to the Director-General of the Department of Planning and Infrastructure.

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

10/10/09 10:00 AM
10/10/09 10:00 AM

The following information is provided for the purpose of providing information to the Director-General of the Department of Planning and Infrastructure regarding the proposed subdivision of the land.

The proposed subdivision of the land is shown in the attached plan.

The proposed subdivision of the land is shown in the attached plan.

For further information,
Please contact:

Mr. [Name] [Title]

Mark Smith
Senior Planning Officer
Department of Planning and Infrastructure

The following information is provided for the purpose of providing information to the Director-General of the Department of Planning and Infrastructure regarding the proposed subdivision of the land.

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Contractor: [Name]

Page 2 of 7

Contract No: [Number]
Contract Date: [Date]
Contract Value: [Amount]

Project Details

Project Name: [Name]
Project Location: [Address]
Project Description: [Details]

Contractor Details

Contractor Name: [Name]
Contractor Address: [Address]
Contractor Contact: [Details]

Contract Terms

The Contractor shall be responsible for all costs of the project, including the cost of the contract, the cost of the project, and the cost of the project.

Contract No.	Contract Date	Contract Value	Contract Status	Contract Type	Contract Description
[Number]	[Date]	[Amount]	[Status]	[Type]	[Description]

Contractor Performance

Contract No.	Contract Date	Contract Value	Contract Status	Contract Type	Contract Description
[Number]	[Date]	[Amount]	[Status]	[Type]	[Description]

Contractor Contact

Contract No.	Contract Date	Contract Value	Contract Status	Contract Type	Contract Description
[Number]	[Date]	[Amount]	[Status]	[Type]	[Description]

The Contractor shall be responsible for all costs of the project, including the cost of the contract, the cost of the project, and the cost of the project.

Contractor: [Name]

Page 2 of 7

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Applicable Planning Provisions

Page 10/11

Local Laws **Code**
 Local Government Act Township of Shellharbour
 Local Law

Control Codes

Development Control Code
 Development Code Development Code
 Environmental Code Environmental Code

Development Code

Development Code Development Code
 Part 1 Part 1
 Environmental Code Environmental Code

Environmental Code

Part 1 of the Environmental Code and Part 2 of the Environmental Code
 Part 1 of the Environmental Code and Part 2 of the Environmental Code

Code	Code	Code	Code	Code	Code	Code	Code	Code	Code
1	2	3	4	5	6	7	8	9	10

Development Code Provisions

Code	Code	Code	Code	Code	Code	Code	Code	Code	Code
1	2	3	4	5	6	7	8	9	10

Development Code

Code	Code	Code	Code	Code	Code	Code	Code	Code	Code
1	2	3	4	5	6	7	8	9	10

Part 1 of the Environmental Code and Part 2 of the Environmental Code
 Part 1 of the Environmental Code and Part 2 of the Environmental Code

Development Code Provisions

Page 10/11

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Table 1: Summary of the Subdivision

Page 10 of 11

Table 2: Summary of the Subdivision (continued)

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

ENGINEERING LOG



**Department of Infrastructure,
Planning and Environment**

Project Name: Four (4) Lot Residential Subdivision (Torrens Title) of Lot 222 & 224 DP 862015
Project Location: Waterfront & Swan Bay Road, Swan Bay
Project Description: Major Project 07_0041
Project Status: Approved
Project Reference: DP 862015

Project No: 0000000000
Project Date: 07/07/09
Project Author: [Name]

Project Title: **TP2**
Project Ref: [Number]

Time	Location	Activity	Remarks
08:00	Site	Arrival	Site inspection
08:30	Site	Site inspection	Site inspection
09:00	Site	Site inspection	Site inspection
09:30	Site	Site inspection	Site inspection
10:00	Site	Site inspection	Site inspection
10:30	Site	Site inspection	Site inspection
11:00	Site	Site inspection	Site inspection
11:30	Site	Site inspection	Site inspection
12:00	Site	Site inspection	Site inspection
12:30	Site	Site inspection	Site inspection
13:00	Site	Site inspection	Site inspection
13:30	Site	Site inspection	Site inspection
14:00	Site	Site inspection	Site inspection
14:30	Site	Site inspection	Site inspection
15:00	Site	Site inspection	Site inspection
15:30	Site	Site inspection	Site inspection
16:00	Site	Site inspection	Site inspection
16:30	Site	Site inspection	Site inspection
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19:00	Site	Site inspection	Site inspection
19:30	Site	Site inspection	Site inspection
20:00	Site	Site inspection	Site inspection
20:30	Site	Site inspection	Site inspection
21:00	Site	Site inspection	Site inspection
21:30	Site	Site inspection	Site inspection
22:00	Site	Site inspection	Site inspection
22:30	Site	Site inspection	Site inspection
23:00	Site	Site inspection	Site inspection
23:30	Site	Site inspection	Site inspection
00:00	Site	Site inspection	Site inspection

Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

ENGINEERING LOG



Bechtel Manda
Engineering and Architecture

Project: 07_0041 - Four (4) Lot Residential Subdivision (Torrens Title) of Lot 222 & 224 DP 862015, Waterfront & Swan Bay Road, Swan Bay
 Date: 07/01/09
 Drawn: [Name]
 Checked: [Name]
 Title: [Title]
 Scale: 1:1000
 Project No: 07_0041

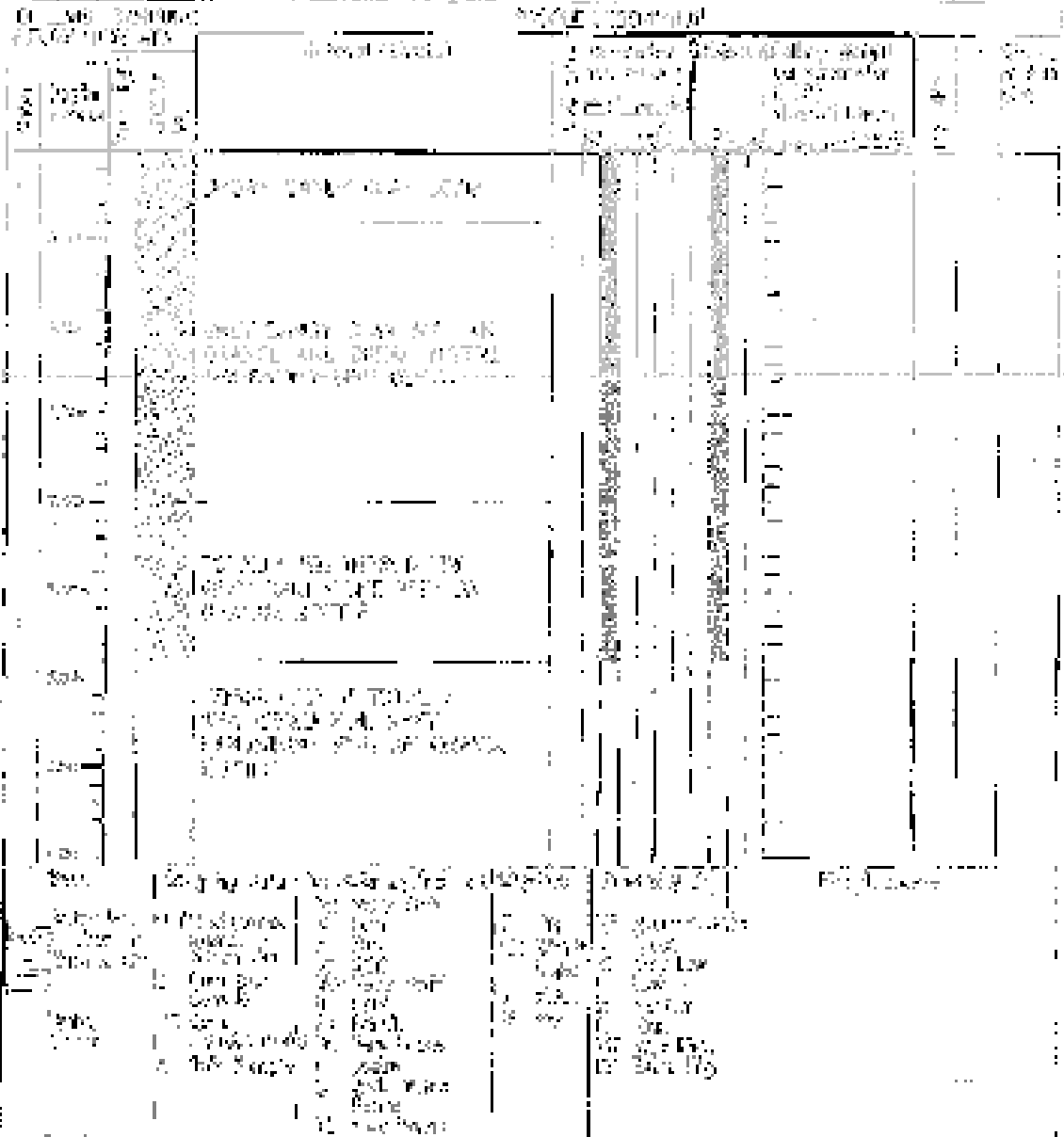


Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Engineering Drawing



Location:	LOT 222 & 224 DP 862015, SWAN BAY	Project:	071
Client:	NSW GOVERNMENT	Bay:	SWAN BAY
Project:	FOUR (4) LOT RESIDENTIAL SUBDIVISION	Proposed:	04
Contract No.:	071000	Applicant:	NSW GOVERNMENT
Contract Name:	LOT 222 & 224 DP 862015	Project Name:	FOUR (4) LOT RESIDENTIAL SUBDIVISION
		Date:	07/2009

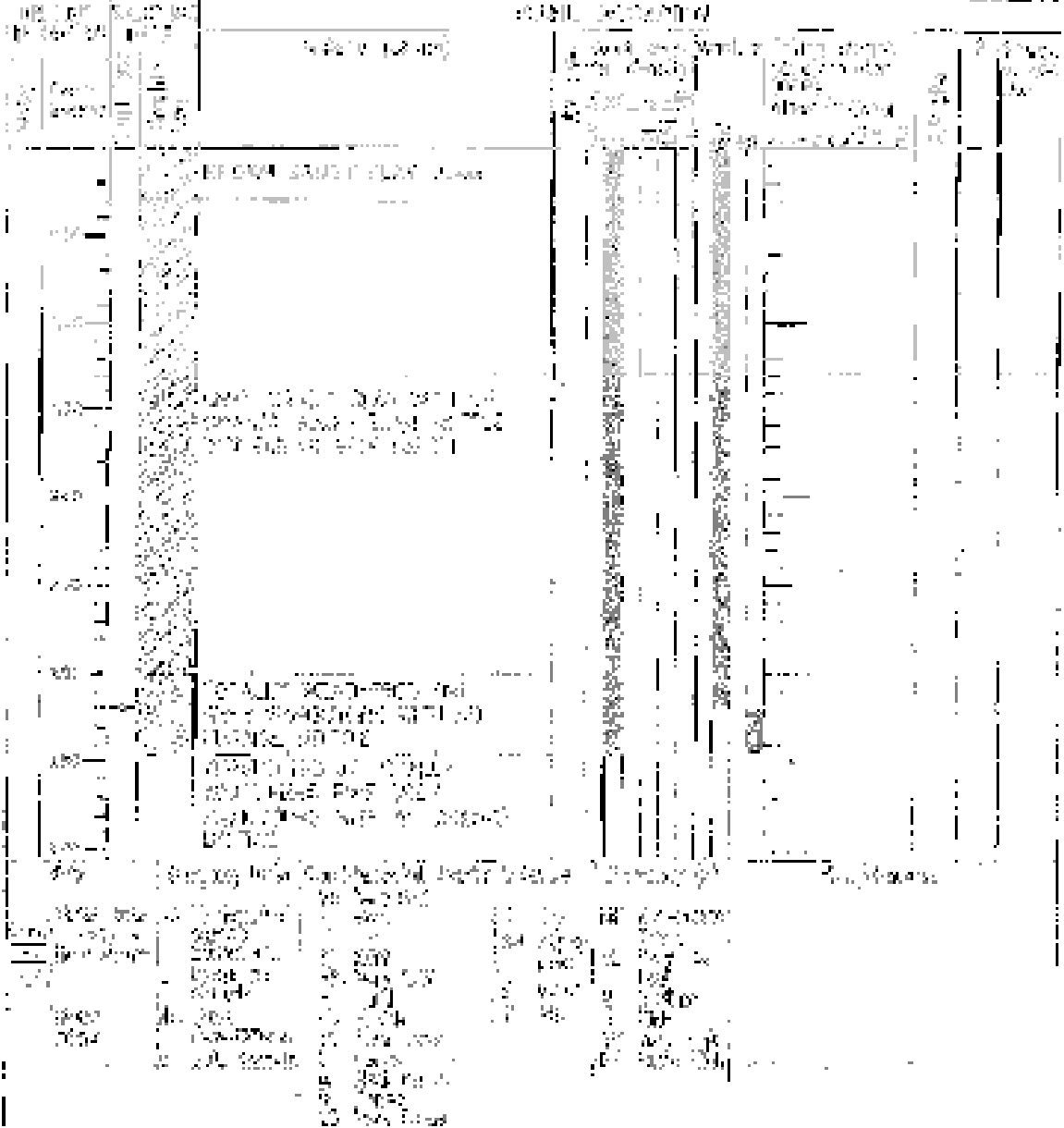


Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Engineering Drawing



Location	LOT 224 WATERFRONT ROAD SWAN BAY	Project	TP
General	3.3.1.1.1.1.1	Ref	0408
Division	91.001.01.1.46/48/51	Section No	101
Sub-division	10/10/06	Equipment	EXOSMATIC
Contractor	91.001.01.1.46	Case No	00000
		Issue	01/01/07

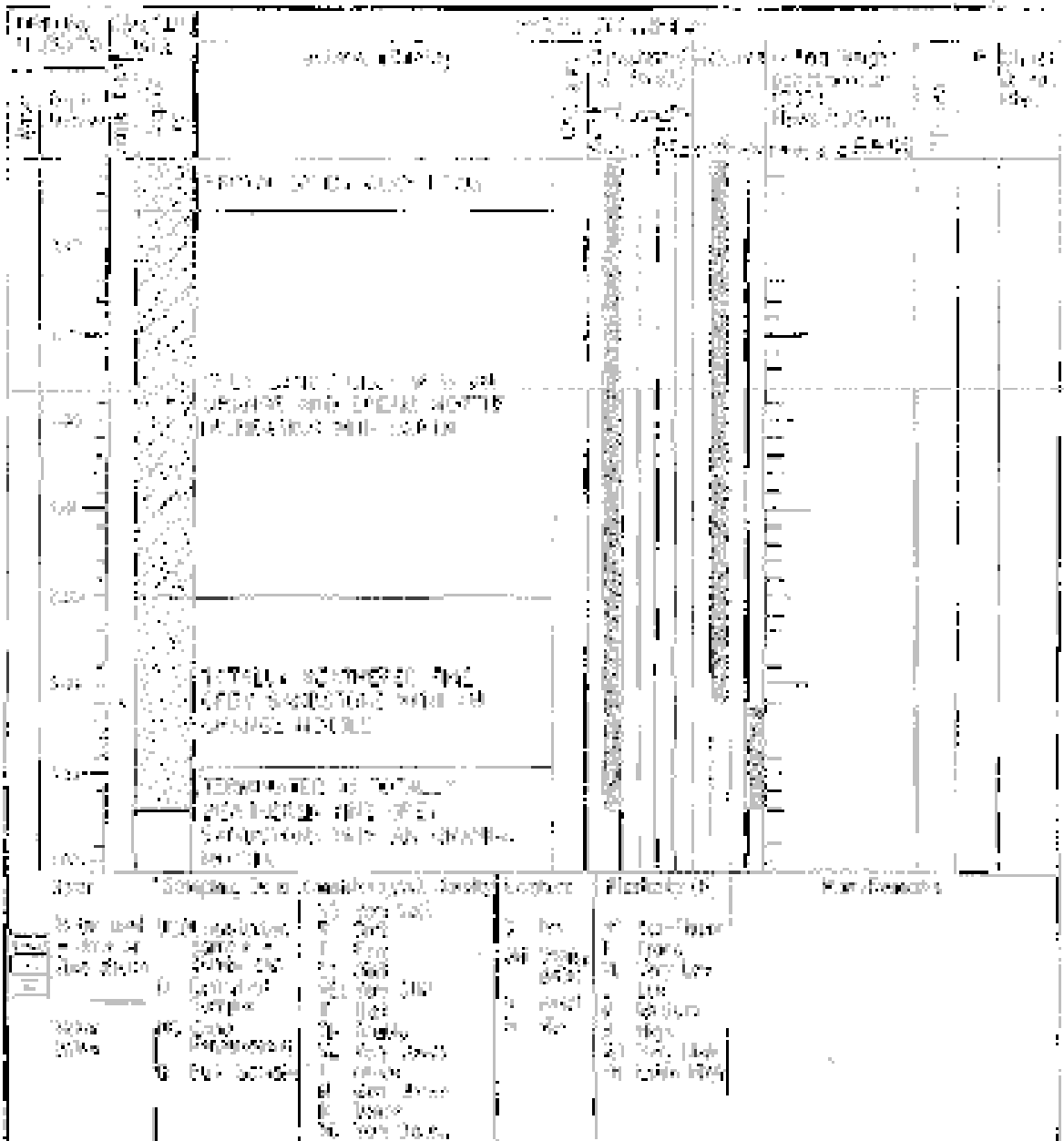


Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

Engineering Plans



Location:	101-103 WATERFRONT ROAD, SWAN BAY	Township:	154
Lot:	222 & 224	Zone:	RU2
Project No:	DP 862015	Lot Area (sqm):	60
Project Name:	RESIDENTIAL	Lot Dimensions:	20m x 30m
Project Status:	APPLICANT'S PLAN	Site Area (sqm):	60
		Date:	15/07/2015

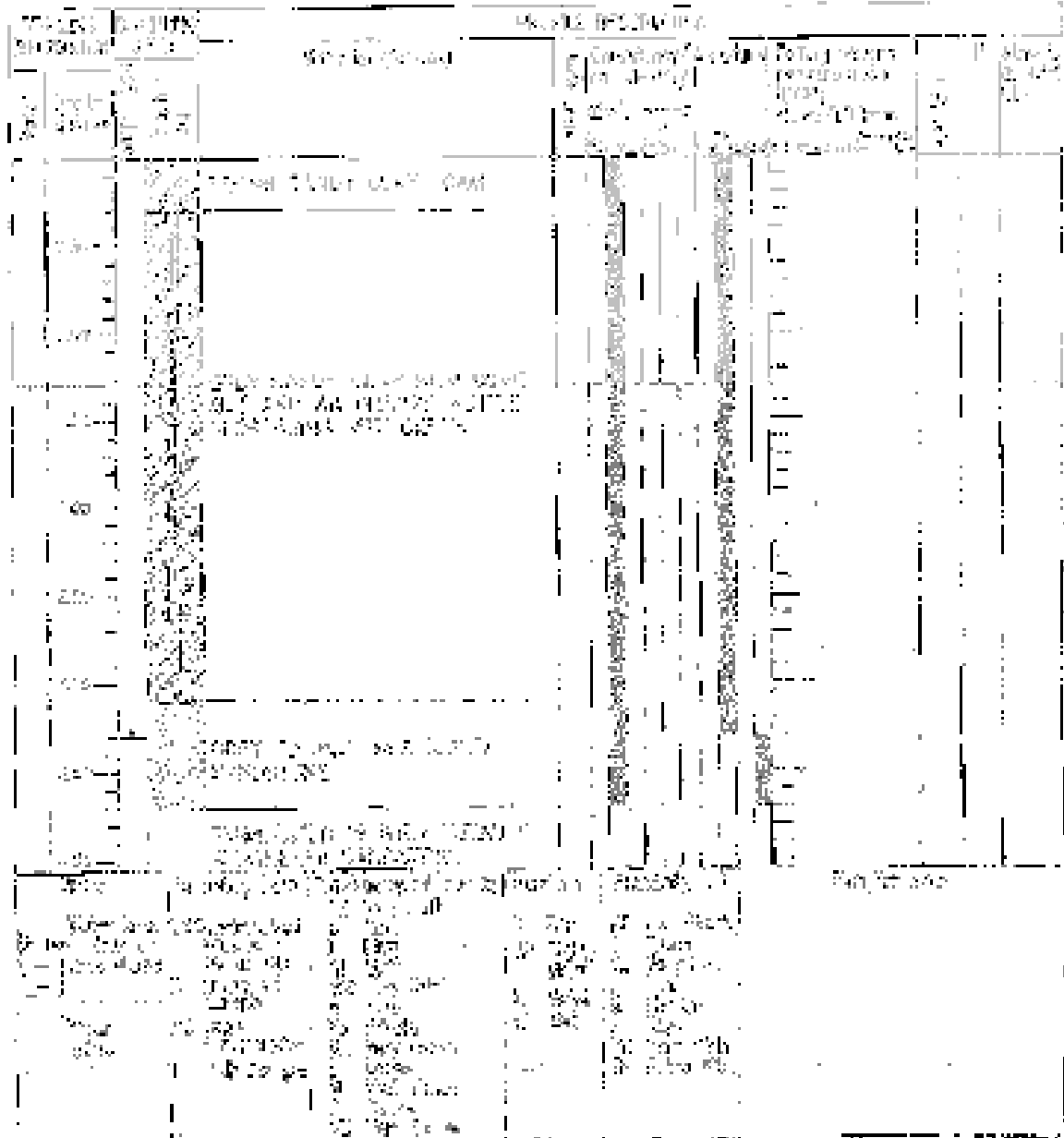


Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041

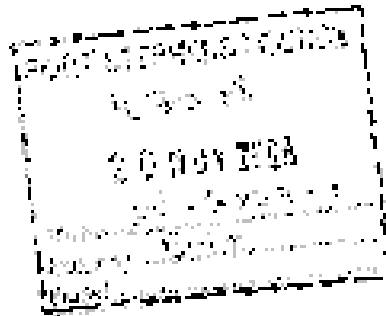
Engineering Log



Location:	LOT 222 & 224 DP 862015 (Waterfront Road)	Project:	TR
Client:	TRILLIUM	Map:	64416
Scale:	1:500 (Site Plan)	Design No.:	114
Contract No.:	2011/01	Design Date:	2011/08/23
Contract Value:	\$1,000,000	Project No.:	07/0041
		Issue:	1/0000



Waterfront & Swan Bay Road, Swan Bay
Major Project 07_0041



Mr. Stan Little
Civil and Building

19 November 2008

Tom Mackay
Department of Planning and Building
Acting Deputy Director
PO Box 447
Sydney NSW 1588, 2000

Attention: Mr. Robert Mann

Dear Sir,

Re: Major Project 07 - 0041, Lot 224 and Part Lot 222, Waterfront Road, Swan Bay.

Further to my letter of 10 November 2008 please find attached a copy of a decision from Mr. Mike Smith of Swan Bay Consulting Engineers regarding the site access arrangement following discussions with Mr. A. Crookes of Part 862015 and Council.

Yours faithfully

Alan Little
Acting Director of Planning and Building, 19 November 2008

APPENDIX F. ENVIRONMENTAL ASSESSMENT
