

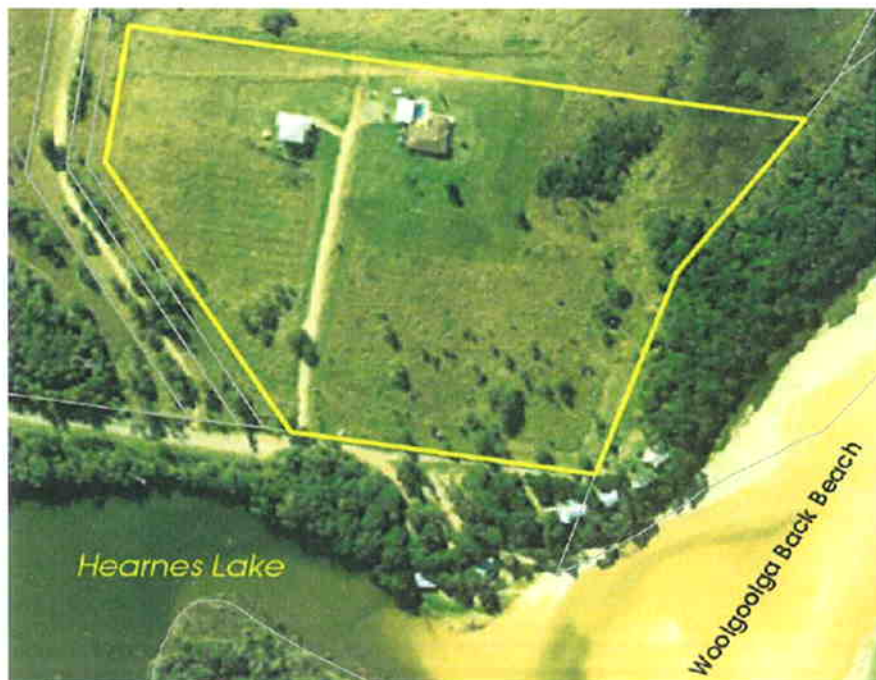


Planning

**MAJOR PROJECTS ASSESSMENT:
RESIDENTIAL SUBDIVISION OF
LOT 21 DP 714858
45 HEARNES LAKE ROAD,
WOOLGOOLGA
Proposed by MERSONN PTY LTD**

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

December 2009



© Crown copyright 2009
December 2009
NSW Department of Planning
www.planning.nsw.gov.au

Disclaimer:

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

EXECUTIVE SUMMARY

This is a report on a project application prepared by Mersonn Pty Ltd to carry out a 42 lot residential subdivision at 45 Hearnese Lake Road, Woolgoolga (Lot 21 DP 714858) ("the proposal").

On 24 July 2007, the proposed development was declared a Major Project. Subsequently the Director-General's Environmental Assessment Requirements were issued on 24 August 2007.

The project application seeks approval for:

- A 42 lot subdivision, including 39 Torrens title residential lots, 1 allotment for stormwater management, 1 allotment for buffer and environmentally sensitive land protection, and 1 allotment as a pocket park;
- Construction of associated access way, internal access roads, pedestrian paths and fire trails;
- Construction of utility services;
- Construction of associated detention/bioretenion basin;
- Necessary rehabilitation, regeneration and planting of environmental land; and
- Bulk earthworks and associated site preparation.

The estimated project cost of the development is \$3.5 million. The proposal will create 15 full time equivalent construction jobs and 1 full time equivalent operational job.

During the exhibition period, the Department received a total of 9 submissions from public authorities and 6 submissions from the public. Key issues considered in the Department's assessment included:

- Strategic Planning
- Flora and fauna
- Coastal Processes
- Urban design
- Visual impact
- Noise
- Infrastructure
- Traffic and Access
- Geotechnical
- Contamination and remediation
- Acid sulfate soils
- Bushfire
- Water cycle management
- Heritage
- Contributions

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

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

CONTENTS

EXECUTIVE SUMMARY	3
1 BACKGROUND	5
1.1 THE SITE	5
2 THE PROPOSED DEVELOPMENT	8
2.1 PROJECT DESCRIPTION	8
2.2 PROJECT AMENDMENTS	12
3 STATUTORY CONTEXT	13
3.1 PART 3A DECLARATION	13
3.2 PERMISSIBILITY	13
3.3 EXHIBITION AND NOTIFICATION	13
3.4 MINISTER'S POWER TO APPROVE	13
3.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)	14
3.6 OTHER PLANS AND POLICIES	14
3.7 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES	15
3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979	16
4 CONSULTATION AND ISSUES RAISED	17
4.1 PUBLIC EXHIBITION DETAILS	17
4.2 SUBMISSIONS FROM THE PUBLIC	17
4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES	18
5 ASSESSMENT OF ENVIRONMENTAL IMPACTS	22
5.1 STRATEGIC PLANNING	22
5.2 FLORA AND FAUNA	22
5.3 COASTAL PROCESSES	25
5.4 SUBDIVISION DESIGN & LAYOUT	25
5.5 VISUAL IMPACT	26
5.6 TRAFFIC AND ACCESS	27
5.7 GEOTECHNICAL AND CONTAMINATION	27
5.8 ACID SULFATE SOILS	28
5.9 BUSHFIRE	28
5.10 WATER CYCLE MANAGEMENT AND WATER QUALITY	28
5.11 HERITAGE	29
5.12 NOISE	29
5.13 LAND DEDICATION	30
5.14 INFRASTRUCTURE PROVISION	30
5.15 SECTION 94 AND OTHER CONTRIBUTIONS	30
6 CONCLUSION	32
7 RECOMMENDATION	32
APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	33
APPENDIX B. COMPLIANCE WITH ENVIRONMENTAL PLANNING INSTRUMENTS	36
APPENDIX C. COMPLIANCE WITH OTHER PLANS AND POLICIES	38
APPENDIX D. SUMMARY OF PUBLIC SUBMISSIONS	40
APPENDIX E. RESPONSE TO SUBMISSIONS	43
APPENDIX F. ENVIRONMENTAL ASSESSMENT	44

1 BACKGROUND

1.1 THE SITE

1.1.1 Site Context and Location

The site at 45 Hearnes Lake Road, Woolgoolga (Lot 21 DP 714858), is located within the local government area of Coffs Harbour City Council and is owned by BBK Development Corporation Pty Ltd ATF BBK Development Trust, BBK Development Corporation Pty Ltd ATF BBK Investment Trust, Barry France, Kerry Shambly and Barry Mann.

The site is located in the north coast of NSW. The site is approximately 2 kilometres south of the edge of Woolgoolga township and 400 metres east of the Pacific Highway and Hearnes Lake Road intersection (**Figure 1**).

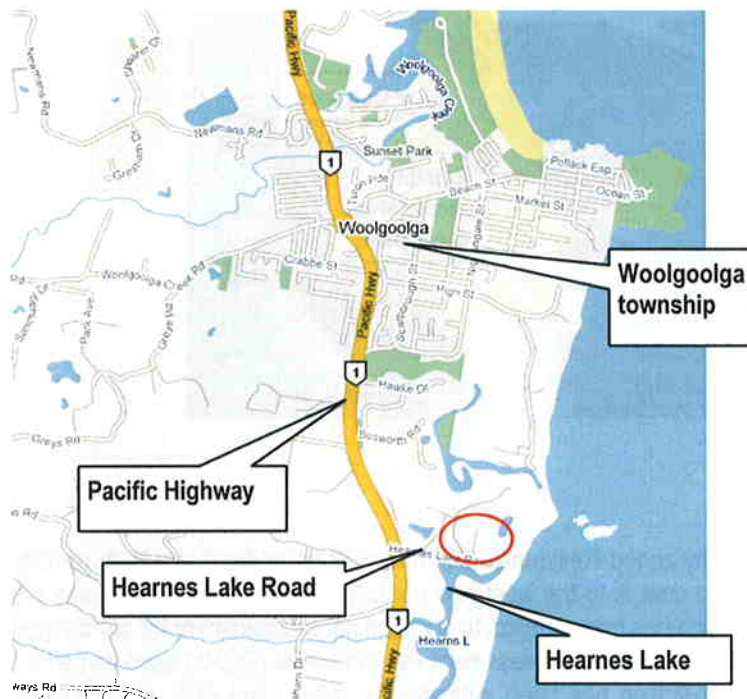


Figure 1: Site Location

1.1.2 Existing site features

The site is bound by Hearnes Lake Road to the south, an existing residential subdivision and pasture land to the north and west, and Coastal Littoral Forest and the Pacific Ocean to the east (**Figure 2**). The site is accessed by an unsealed driveway off Hearnes Lake Road from the south-western corner of the site. East of the site access, Hearnes Lake Road becomes a dirt track which provides access to the tenanted cottages on the Crown Land beyond.

The 5.54 hectare site is irregular in shape and rises approximately 16 metres from the south-western boundary adjoining Hearnes Lake Road to a knoll in the northern part of the site. From the knoll, the land falls steeply north-eastward to the ephemeral wetland and littoral forest beyond. There are two existing dwellings on the crest of the knoll as illustrated in Figure 2.

The land has been significantly altered as a result of 50 years of grazing. There are a few scattered shade trees on the site but the only significant vegetation is on the eastern boundary on the downhill slopes.



Figure 2: Site features

1.1.3 Surrounding development

The Site forms part of a larger release area currently zoned Residential 2E Tourist Zone under Coffs Harbour City Local Environmental Plan 2000. Most of this release area is to the west and northwest of the site, and includes the land at 1 Hearnese Lake Road (Lot 4 DP 612977) which has been subject to a Preliminary Assessment for subdivision into approximately 90 lots. The Director-General's Environmental Assessment Requirements (DGRs) were issued for that site in October 2006, however no Part 3A application has been submitted to date. Land west of the Pacific Highway is zoned for rural purposes and has extensive tertiary habitat reservations.

To the immediate north of the property, there are three privately owned residential lots with access to Hearnese Lake Road via separate driveways along the western boundary of the subject site. Parts of the land to the north are part of an estuarine wetland system. Beyond this is an area of land zoned and used for industrial purposes, followed by the residential development of the township of Woolgoolga.

To the east of the site is a strip of coastal Crown Land incorporating vegetated dunes, a SEPP 26 littoral rainforest and Hearnese Lake Beach (referred to by the applicant as "Solitary Beach"). This coastal area is designated to be 'Habitat Protection Zone' as part of the Solitary Islands Marine Park (SIMP). Flat Top Point, a 'Sanctuary Zone' within the SIMP, is to the north east of the site. Several leasehold cottages are located within the Crown Land to the south east corner of the site.

To the south of Hearnese Lake Road is a small strip of dense vegetation followed by the mouth of Hearnese Lake, an intermittently closed or open lake or lagoon (ICOLL). A small area of land to the west of Hearnese Lake is used as a caravan park. The land to the south of Hearnese Lake is also the subject of a Preliminary Assessment under Part 3A for a proposed subdivision into approximately 300 lots. Known as Lot 2 DP 813954 Sandy Beach North, the DGRs were issued in October 2006 but no Part 3A application has yet been submitted.

These features are shown in Figure 2.

1.1.4 Zoning

The site is currently zoned Residential 2E Tourist Zone under the Coffs Harbour City Local Environmental Plan 2000:

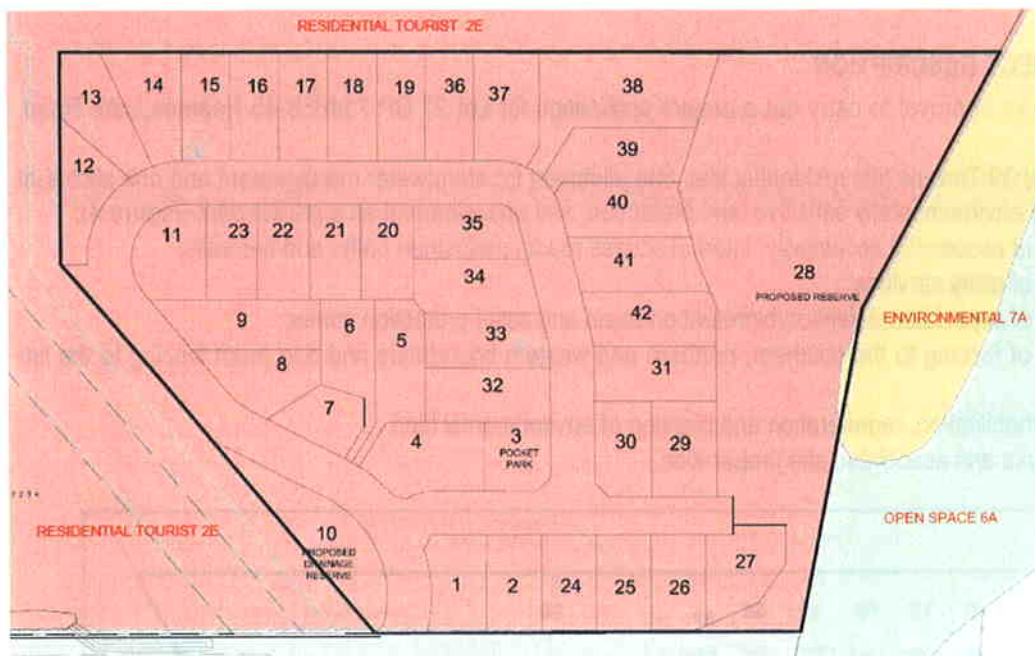


Figure 3: Zoning plan under Coffs Harbour City Council LEP 2000 (Source: DeGroot and Benson)

2 THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

This is an application for approval to carry out a project application for Lot 21 DP 714858 45 Hearnese Lake Road, Woolgoolga for:

- Subdivision of 39 Torrens title residential lots, one allotment for stormwater management and one allotment for buffer and environmentally sensitive land protection, and one allotment as a pocket park (**Figure 4**);
- Construction of associated accessway, internal access roads, pedestrian paths and fire trails;
- Construction of utility services;
- Construction of associated detention/bioretention basin and asset protection zones;
- Construction of fencing to the southern, northern and western boundaries and dog proof fencing to the fire trail;
- Necessary rehabilitation, regeneration and planting of environmental land
- Bulk earthworks and associated site preparation.

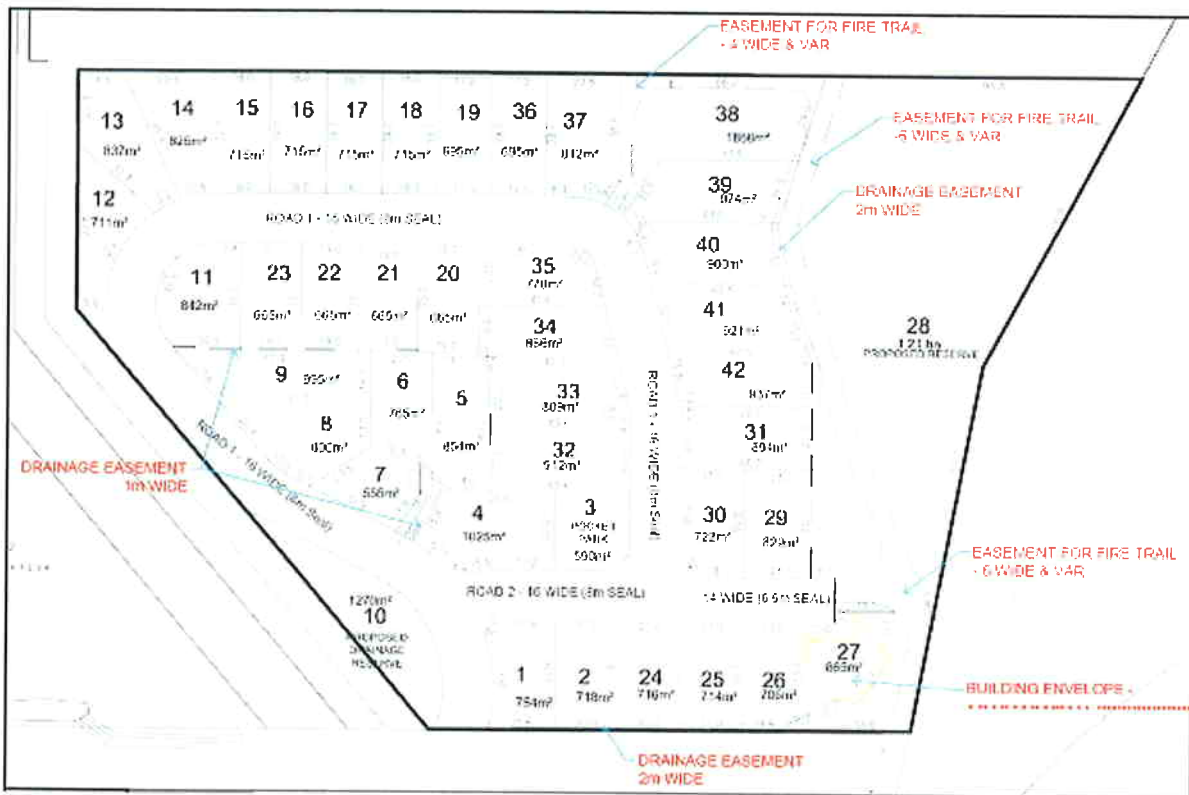


Figure 4: Allotment plan

2.1.1 Subdivision of Torrens title residential lots

The proposed subdivision and its subsequent construction will be carried out in one stage but released over time in 5 stages subject to market conditions, with the total size of the residential lots being 32,710 square metres:

Stages	Number of allotments	Allotment sizes	Total size
Stage 1	8	555m ² – 1025m ²	6466m ²
Stage 2	5	711m ² – 842m ²	3930m ²
Stage 3	8	655m ² – 715m ²	5500m ²
Stage 4	9	706m ² – 912m ²	8113m ²
Stage 5	9	695m ² – 1866m ²	7875m ²

2.1.2 Subdivision of one allotment for stormwater management

As part of the stage 1 subdivision, lot 10 (1,270m²) will be created for stormwater management infrastructure. The site is designed so that the majority of the runoff is captured and diverted to this drainage reserve for treatment before it is discharged into Hearnese Lake. The remainder of stormwater runoff flows to the north and east and is dealt with separately. This will improve overland flow that was previously experienced by the site. This allotment is proposed to be dedicated to Council following the release of the subdivision certificate for stage 1. The proponent will maintain this lot for two years following dedication.

2.1.3 Subdivision of one allotment as buffer and protection for environmentally sensitive land

Lot 28 will be created as part of stage 4 subdivision to hold the Environmental Protection 7(a) zoned land: the ephemeral wetland and all of the sensitive environmental land located on the eastern boundary of the site. This lot will include a 50 metre buffer to the ecologically sensitive dune system and SEPP 26 Littoral Rainforest area to the north and east of the subject site. As a condition of consent, lot 27 and the eastern most part of Road 2 will be incorporated into lot 28 so that all residential development is outside of the buffer (Figure 5). Lot 28 is proposed to be dedicated to the Lands and Property Management Authority following the release of the subdivision certificate for stage 4. The proponent will maintain this lot for two years following dedication.

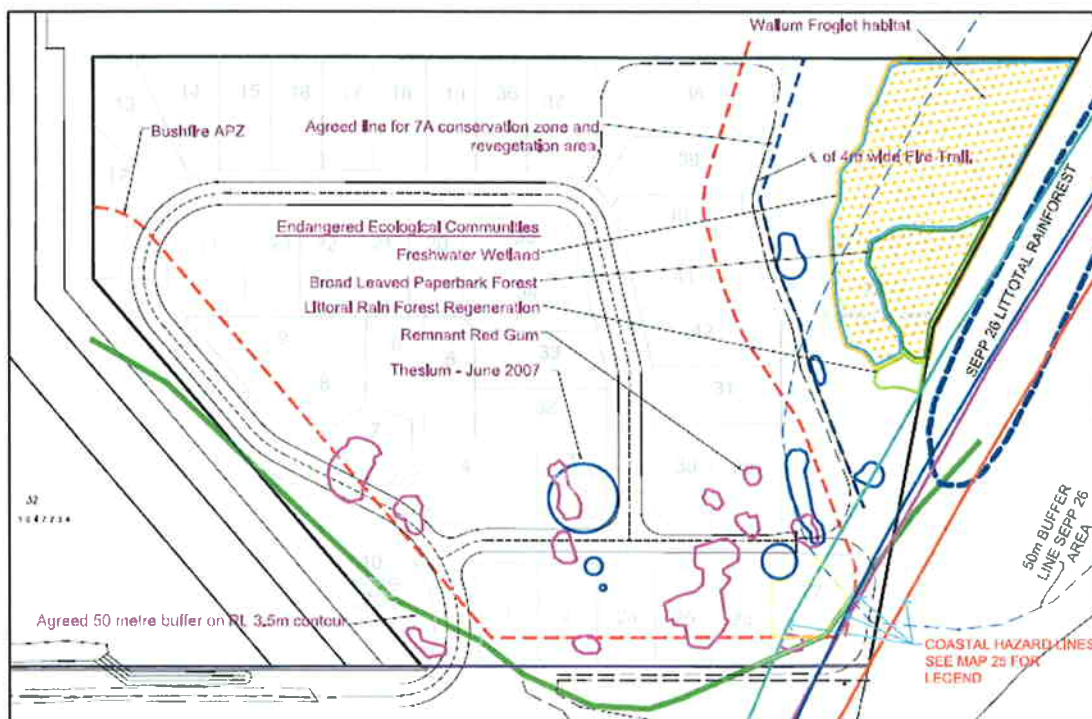


Figure 5: Environmental Constraints Plan

The environmental protection area will be fenced off from the residential development through the use of dog mesh, timber posts and rail fencing to minimise the impacts on native flora and fauna. Furthermore, public access will be directed away from the lot towards the existing Hearnese Lake day visitor area and beach via a gravel track.

2.1.4 Subdivision of one allotment as a pocket park

Lot 3 (590 square metres) will be created as a pocket park and is proposed to be dedicated to Council to accommodate the Austral Toadflax community and remnant red gum community (Figure 5).

2.1.5 Construction of access from Hearnese Lake Road

Access to the site will be from Hearnese Lake Road which is connected to the Pacific Highway. The access road will comprise of an eight metre wide carriageway in a 16 metre road reserve. It is to be paved where required and landscaped (Figure 4).

Hearnese Lake Road will be upgraded to a minimum six metre wide carriageway and include a 1.2 metre wide sealed footpath between the site and the existing bus stop at the western end of Hearnese Lake Road. The ownership of the road will be transferred from the Crown to Council as Council Road.

The Hearnese Lake / Sandy Beach Development Control Plan identifies a new access way that will be created west of the site linking Hearnese Lake Road to Bosworth Road to the north once Hearnese Lake Road has achieved a threshold.

2.1.6 Construction of internal access road, pedestrian paths and fire trails

Internal access roads will be constructed in a loop to avoid the need for vehicles to turn around (Figure 4).

The access road will be used for both vehicular and pedestrian movement. It will provide footpaths, bollards, filter strips, swales and street tree planting. The footpaths and the proposed vegetated swales will be separated on either side the road so that each function is able to operate independently. Likewise, the pedestrian movement link will be separated from the vehicular traffic by landscaped vegetation.

A condition of approval seeks to modify the alignment of the fire trail to follow the eastern boundaries of lots 42, 31, 29 and 26 to provide for the retention of a larger portion of *Thesium australe* and protect the north-south wildlife corridor in light of future sea level rise predictions (Figure 5). The condition also seeks to slightly modify the boundary of lot 31 and 29, delete lot 27 and modify Road 2 to accommodate the change. Dog proof fencing will be used on the eastern side of this trail to protect the conservation land. The gravel track east of the site entrance will also be upgraded to meet the requirements for a fire trail. No locked gates are proposed for the fire trails.

The fire trail has curves with an inner radius of six metres and an outer radius of 12 metres. Although the design prevents the trail following the natural contour of the land, the trail allows fire fighting vehicles to easily drive forward or reverse in an emergency situation. The fire trail will be transferred to Council.

2.1.7 Construction of utility services

With some amplification and improvement, water and sewer services are generally able to utilise existing infrastructure. A sewer extension to the existing rising main on the Pacific Highway is proposed to run along Hearnese Lake Road reserve (Figure 6). Sewer from within the development is proposed to be gravity fed to this extension. Further, a sewer pumping station is to be located on private land north of Hearnese Lake Road. This will not be required until later stages at which point it will form a separate development application.

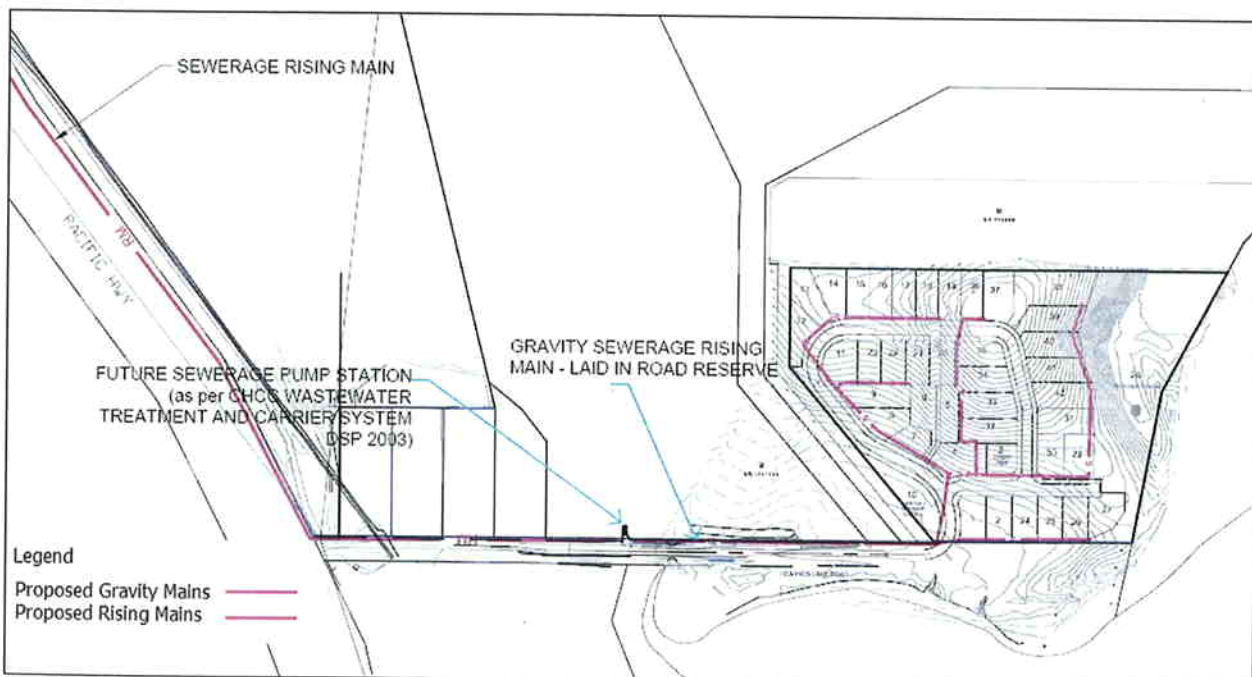


Figure 6: Proposed sewer system

A new water main to be laid within the Hearnese Lake Road Reserve will provide reticulated water to the site. This new water main will also connect the site to the existing main on the western side of the Pacific Highway (Figure 7).

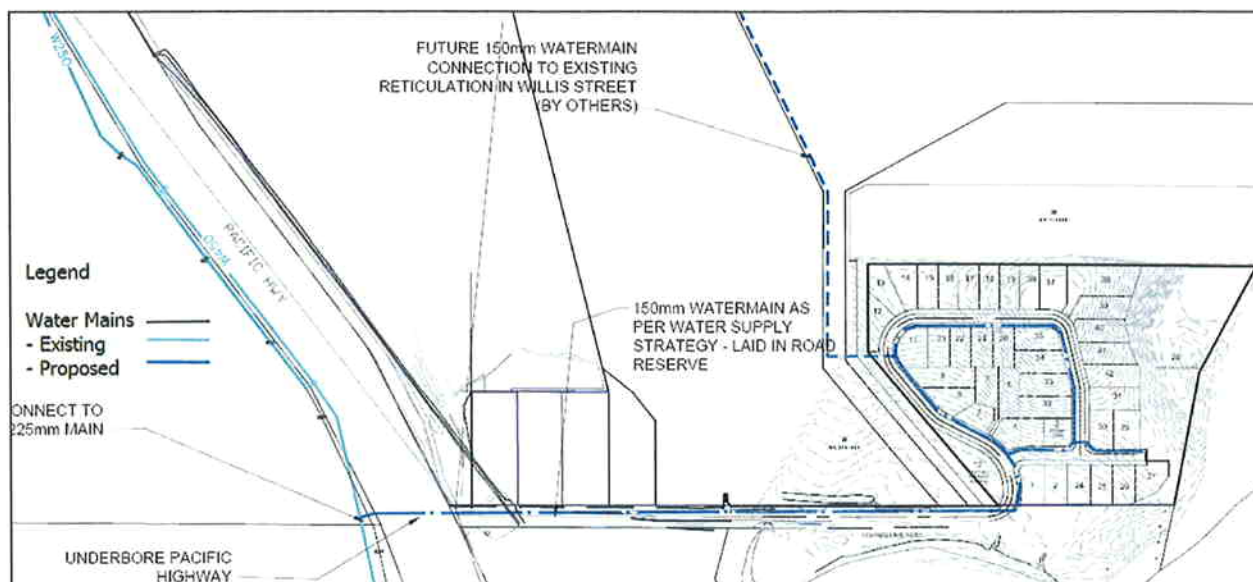


Figure 7: Proposed water system

The sewer and water infrastructure are proposed to be forward funded by the proponent to remain as public assets and available for future connection by surrounding residents. Connection to this infrastructure will come at individual costs.

2.1.8 Construction of bioretention/detention basin

Environmental impacts associated with stormwater runoff are to be minimised through the use of vegetated swales, bio-filters, rain-gardens and a bioretention/detention basin in order to prevent pollutants from entering Hearnese Lake and to manage the flow of water leaving the site.

Rain gardens will be located where two existing minor overland flow paths drain water into the ephemeral wetland. The gardens will drain and filter water from allotments before emptying the water into the wetland catchment. This ensures that there is high quality water entering the wetlands and that the existing patterns of water drainage are maintained.

The road easement will contain footpaths, bollards, filter strips, swales and street tree planting. In particular, the grass swales which make up a part of the pedestrian movement network have a bio-filtering function of collecting runoff and overflows from the residential allotments before the water is slowly filtered into the detention basin. No stormwater swales are proposed outside the southern boundaries of the site.

2.1.9 Construction of fencing

As part of the site preparation, fencing will be installed at the subdivisional construction works stage. Fencing will be provided the southern, northern and western boundaries of the site. Specific fencing details will be determined at later stages of the development. As requested by Council, a condition of consent requires this boundary fencing to be a maximum of 1.8 metre high so as to reduce the visual impact to the public domain.

2.1.10 Rehabilitation, regeneration and planting of environmental land

The areas of environmental significance on the site have been identified and protected through the creation of lot 28. Other environmentally constrained areas on the site are proposed to undergo long term environmental rehabilitation and management. This ensures that the site will be a high quality setting for the development and that the environmental and recreational values of the site are enhanced.

2.1.11 Bulk earthworks and site preparation

Erosion and sedimentation control measures will be put in place in accordance with Council's requirements and the 2004 NSW Department of Housing Manual: Soils and Construction, before commencing any earthworks on the site.

The bulk earthwork and filling are required for the site so that detention and road level on parts of the site can be achieved. These will include replacing any soft spots with approved engineering fills, placing cut and fill material in layers not greater than 200mm thickness and compacted to not less than 98% SMDD.

2.2 PROJECT AMENDMENTS

A preferred project report was submitted on 9 September 2009 incorporating the following amendments:

- Reduction in the number of proposed residential lots from 41 to 39;
- Lot 28 reserve expanded from 8,890 square metres to 12,100 square metres;
- Amended subdivision layout to provide a 50 metre buffer from the SEPP 26 littoral rainforest;
- Dedication of lot 3 as a pocket park for the retention of the Austral Toadflax in this location;
- Modification of the boundaries of previous lots 32, 43, 39 and 40 to enable the proposed fire trail to be located outside of the agreed vegetation line;
- Provision of infrastructure and services to the site, as determined in consultation with Council; and
- Provision of truck wash down facilities within the site during the construction phase.

The Preferred Project Report was accepted as adequate on 6 November 2009.

The PPR was not advertised, but was placed on the Department's website for public viewing.

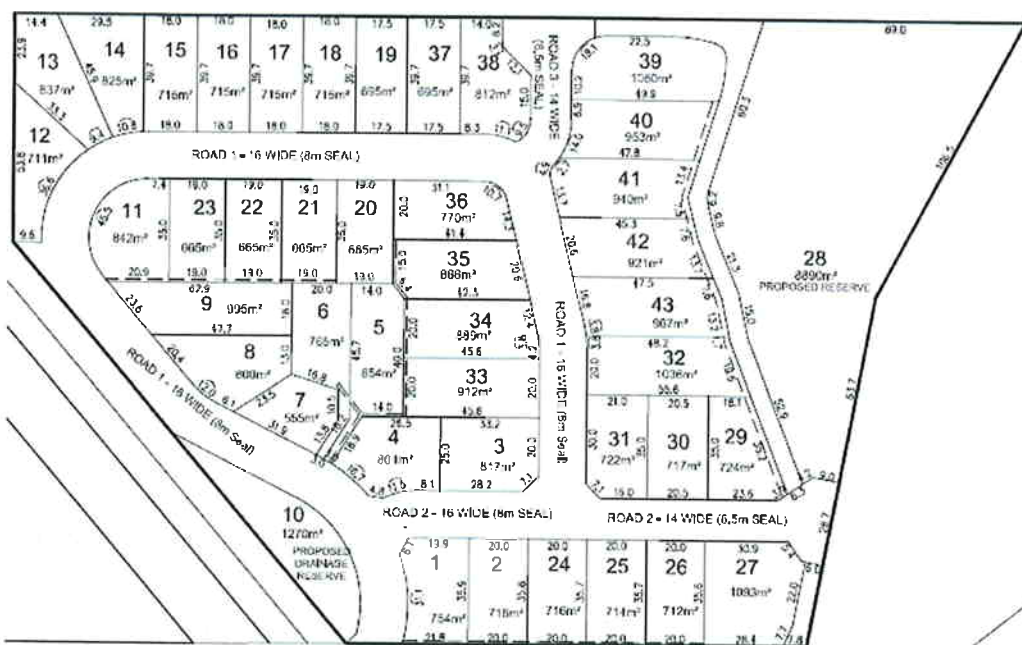


Figure 8: Subdivision proposed in the Environmental Assessment

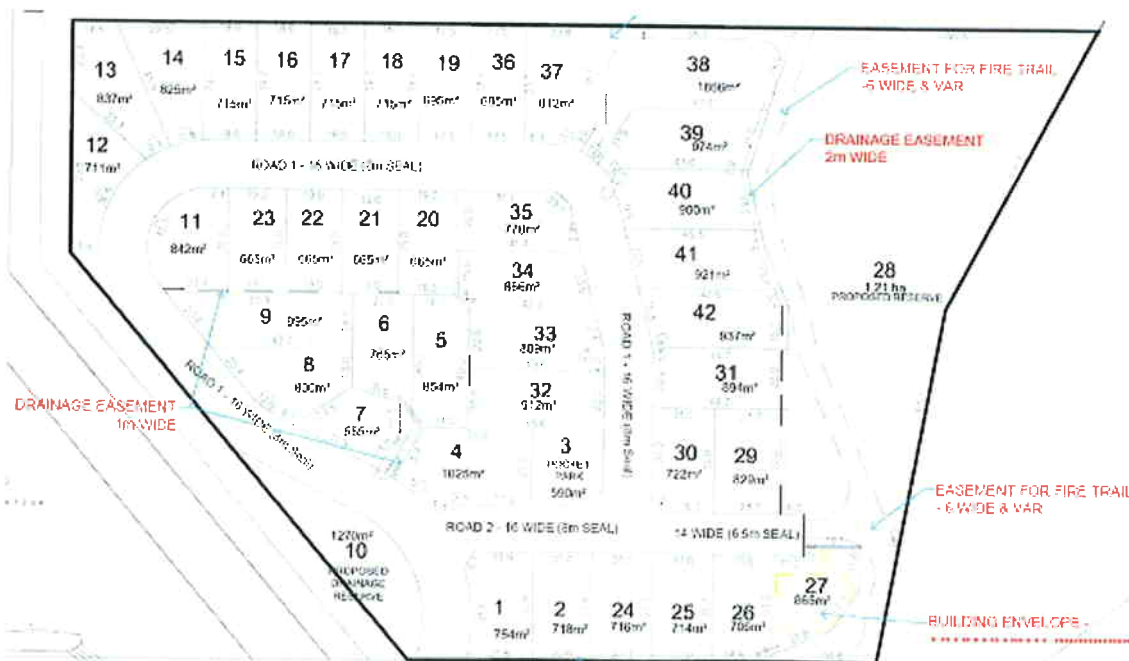


Figure 9: Subdivision proposed in the Preferred Project Report

3 STATUTORY CONTEXT

3.1 PART 3A DECLARATION

The project is a Major Project under the former *State Environmental Planning Policy (Major Projects) 2005* being a residential land subdivision in the NSW Coastal Zone into more than 25 lots (Clause 1(1)(i) of Schedule 2 of the Act). The opinion was formed by the Director-General as delegate on 13 July 2007.

3.2 PERMISSIBILITY

Under the Coffs Harbour City Council LEP, the site is zoned 2E Tourist zone, permitting sub-division, dwelling houses, earthworks, access roads and infrastructure. The Proposal is consistent with the objectives of Zone No. 2E and is listed as a permissible use in clause 9 is therefore permissible subject to the Minister's approval.

3.3 EXHIBITION AND NOTIFICATION

The Department has exhibited the EA in accordance with section 75H (3) of the Act. The EA was placed on public exhibition from 1 June 2009 until 30 June 2009 and submissions were invited in accordance with section 75(H) of the Act.

3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75J of the Act. Section 75I(2) and Clause 8B of the Regulation set 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:

Table 1 – Compliance with Section 75I(2) and Clause 8B Criteria

Section 75I(2) Criteria	Response
A copy of the proponent's environmental assessment and any preferred project report	The proponent's EA is included at Appendix F whilst the preferred project report is set out for the Ministers consideration at Appendix E .
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 discussed in detail in Section 4 below.
A copy of any report of the Planning Assessment Commission in respect of the project, and	The Planning Assessment Commission was not involved in the assessment of this project.
A copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project	An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set in Appendix B .
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 development relative to the prevailing EPI's is provided in Appendix B .
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.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment requirements under this Division, issued on 24 August 2007 are in Appendix A . The Department is satisfied that the EA submitted in support of the project application complies with these requirements. A detailed assessment of how the proponent has addressed

Clause 8B Criteria	Response
An assessment of the environmental impact of the project.	these issues is provided in Section 5 of this report. All environmental impacts associated with the development are discussed in Section 5 of this Report. ESD is discussed in Section 3.7 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 considered suitable for the project based on its relationship with the surrounding environment.
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.	All submissions provided by agencies are summarised at Section 4.3 and a summary of public submissions is attached at Appendix D .

The Department has met its legal obligations and the Minister has the power to determine this project.

3.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

3.5.1 Application of EPIs to Part 3A of the Act

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that substantially govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment. In summary, the relevant EPIs for this project include:

- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Planning Policy No. 26 – Littoral Rainforest
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 71 – Coastal Protection
- State Environmental Planning Policy (Infrastructure) 2007
- North Coast Regional Environmental Plan
- Coffs Harbour City Local Environmental Plan 2000
- Coffs Harbour City Local Environmental Plan Amendment 29

A detailed assessment of compliance with the relevant EPIs is provided in **Appendix B**. The proposal is generally consistent with the objectives of these controls.

3.6 OTHER PLANS AND POLICIES

The proposal has been considered against the following non-statutory documents:

- 1) Hearnese Lake/Sandy Beach Development Control Plan 2005;
- 2) Coffs Harbour City Council Subdivision Development Control Plan 2000;
- 3) Draft Vegetation Conservation Development Control Plan;
- 4) Sustainability Criteria of the Draft Mid-North Coast Regional Strategy;
- 5) NSW Coastal Policy 1997; and,
- 6) NSW Coastal Design Guidelines.

A detailed assessment against these controls can be found in **Appendix C**. The proposal is generally consistent with the objectives of these controls.

3.7 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).

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

3.7.1 Integration Principle

In the assessment of the proposal, the Department has taken into consideration economic, environmental, social and equitable matters. The development of this land will have a positive impact on the local economy and society through the creation of new residential accommodation close to Woolgoolga while regenerating and protecting the most environmentally valuable aspects of the site. The development will not provide any further access across the fore dune area yet will not impact on existing public access and recreational facilities and thus will not impede a particular stakeholder.

3.7.2 Precautionary Principle

The EA submitted has identified and assessed the range of environmental impacts of the proposal. The proposal takes into consideration the environmental constraints of the site and includes:

- the retention and management of the majority of the threatened plant species, *Thesium australe* and the relocation of any *Thesium australe* plants in proposed residential areas;
- the protection and buffering of the adjacent SEPP 26 Littoral Rainforest community, freshwater wetland and Hearn's Lake;
- development of land only above the level of predicted sea level rises;
- stormwater management features;
- sediment and erosion control;
- bushfire risk management.

The proponent has proposed appropriate measures in their Statement of Commitments. Conditions of approval and modifications to the proposal are recommended that will further manage the potential environmental impacts of the development.

3.7.3 Inter-Generational Principle

The proposal provides additional residential development in Woolgoolga and will contribute towards the upgrade and improvement of community facilities in the area while improving and maintaining the health and diversity of the adjacent environment.

3.7.4 Biodiversity Principle

The proposed development recognises the need to protect areas of natural and cultural significance through mitigation measures and management strategies to conserve biodiversity and protect areas of high conservation value such as:

- the retention of the majority of *Thesium australe* through the creation and dedication of a pocket park and a large reserve within the east of the site;
- Providing a 50 metre buffer to the SEPP 26 Littoral Rainforest and above the high water datum (AHD) vertical contour of Hearnese Lake;
- Retention of mature remnant red gums and habitat trees where possible;
- Maintenance of the Kangaroo Grass grassland habitat on designated parts of the site; and
- stormwater management designed to maintain existing flows and the quality of runoff water.

3.7.5 Valuation Principle

The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The cost of the establishment of infrastructure and appropriate environmental management measures are incorporated into the cost of the project.

3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

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

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

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application. The balancing of the project in relation to the Objects is provided in **Section 5**.

4 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The EA was exhibited for 30 days from 1 June 2009 to 30 June 2009. Notification of the exhibition was given in the following local papers:

- Coffs Coast Advocate;
- Coffs Harbour Independent; and
- Woolgoolga Advertiser.

Exhibition locations were at:

- Department of Planning, Information Centre;
- Department of Planning North Coast Regional Office;
- Nature Conservation Council of NSW;
- Coffs Harbour City Council, Administration Building; and
- Woolgoolga Library, Ganderton Street.

The EA was also provided for download on the Department's website.

Letters were sent to adjoining landowners and relevant government agencies, including Council, notifying of the exhibition and inviting a submission. A total of 15 submissions were received, comprising 6 submissions from the public and 9 submissions from public authorities being:

- Coffs Harbour City Council;
- Department of Water and Energy;
- Department of Environment and Climate Change;
- NSW Rural Fire Service;
- Northern Rivers Catchment Management Authority;
- Solitary Islands Marine Parks Authority;
- Department of Lands;
- Department of Primary Industries;
- Roads and Traffic Authority.

The 6 submissions from the public included 5 letters of objection and 1 letter of support. Of the public authority submissions, all raised concerns and issues to be addressed (refer to section 4.3). These matters have been addressed in the Department's assessment in Section 5.

A PPR was lodged on 9 September 2009. As the changes to the nature of the project were not significant, it was not re-exhibited but was placed on the Department's website.

4.2 SUBMISSIONS FROM THE PUBLIC

4.2.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Fauna and flora;
- Electricity;
- Water;
- Littoral rainforest;
- Stormwater;
- Road network;
- Sewerage;
- Hearnes Lake;
- Erosion; and
- Density.

An assessment of the key issues from the above list can be found in **Section 5** of this report.

A summary of all public submissions received can be found in **Appendix D**. The proponent responded to these submissions on 9 September 2009 as part of the Preferred Project Report (PPR) submission and the proponent's Response to Submissions is in **Appendix E**.

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

4.3.1 Coffs Harbour City Council

Coffs Harbour City Council raised the following concerns:

Subtropical Coastal Floodplain Forest EEC (SCFF EEC) and Little Tern Breeding Colony:

- The calculations of the SCFF EEC should also include the disturbed areas between individual tree crowns.
- There is little space within the 50 metre lake buffer zone for replanting.
- A 30 metre wide vegetated corridor from the proposed lot 28 to the south-eastern corner of the site should be incorporated to address the loss of SCFF EEC.
- The development has the potential to exacerbate existing issues and introduce new impacts on the little tern population.

Draft Hearn's Lake Estuary Management Plan:

- The buffer around the lake should match the development footprint outlined in the DCP master plan.
- Adopt WSUD principles to manage stormwater.
- Review and rationalise the current recreational uses of the estuary
- Address environmental weed and pest removal.
- Implement appropriate vegetation management, and revegetate foreshores and catchment.
- Acquire and preserve foreshore land
- Incorporate foreshores and coastal buffers into Coffs Coast Regional Park

Hearn's Lake Road:

- Upgrade the Crown road sections of Hearn's Lake Road to Council's standards.
- The bus bay does not require construction as part of this proposal.
- Specify how safe pedestrian access arrangements on Hearn's Lake Road will connect with the existing bus bay.
- Medium and long term flood access along the low spot on Hearn's Lake Road and possible elevation of the low spot needs to be considered.

Stormwater management

- The existing table drain is poorly defined and does not work satisfactorily. A design review is required.
- The bioretention swales form part of the footpath and may impact on footpath function.
- The detention basin peak flows showing a critical duration of 90 to 120 minutes is considered implausible.
- The water tanks should be installed during the subdivision works with further consideration given to more storage outside the individual lots.
- The applicant should demonstrate compatibility of parking on the filter strips in the road reserve areas.

Sewerage reticulation

- The proponent is to liaise with adjoining property owners to determine location of the sewerage pumping station (SPS).
- Council will only support a temporary private pump station at the proponent's expense if the other options are exhausted.

Other Issues

- Reasons for filling the southern part of the site need to be justified.
- Structures east of the 2108 Coastal Hazard Line should be prohibited.
- An assessment of ASS should be conducted to address potential ASS disturbance during the construction of the bioretention/detention basin and for services in Hearn's Lake Road.
- There should be controls addressing the risk of slope instability for developments in Zone M "Moderate Risk Steep Land", as identified in the Holmes and Holmes Pty Ltd report.
- The development needs to consider the Sapphire to Woolgoolga Pacific Highway upgrade and revise Highway/service road access arrangements from Hearn's Lake Road.
- The development should address the proposed fencing to Hearn's Lake Road and lot 28, and address visual amenity, access, biodiversity and other relevant considerations for this structure.
- The boundary fencing should be carried out as part of the subdivision works.

- The proponent should nominate the timing of dedication of the stormwater quality treatment area and the habitat protection area which should be at no cost to Council.

4.3.2 Department of Water and Energy

The Department of Water and Energy (DWE) raised the following issues:

- The Asset Protection Zones (APZ) should be located outside of the buffer zones outlined in the Hearnnes Lake/Sandy Beach Development Control Plan
- A temporary dewatering licence will be required from DWE if groundwater is encountered.
- The lower area of Lot 32 is considered unsuitable for development due to poor drainage and the low lying nature of the ground and its potential to contain Acid Sulfate soils.
- A more comprehensive sampling program than the Acid Sulfate Manual is required to identify and manage the ASS areas.
- Potential effects of disturbed ASS on water quality of the groundwater table should be addressed.
- Stormwater should be appropriately treated to ensure there are no increased nutrient loads affecting the water quality of the ephemeral wetland and the Wallum Froglet habitat.
- There does not appear to be any baseline water quality data for Hearnnes Lake or the ephemeral wetland to enable a comparison with the MUSIC modelling.
- The EA does not seem to include a monitoring and maintenance program to ensure effective operation.
- The detention basin should be appropriately constructed and lined in accordance with industry guidelines.
- The cumulative impacts of the developments surrounding the lake should be addressed.

4.3.3 Department of Environment and Climate Change

The Department of Environment and Climate Change (DECC) suggested several recommendations to the draft statement of commitment. In addition, DECC raised the following concerns:

- No amendments have been made to the lot layout in order to provide greater protection for the local population of Austral Toadflax.
- All protection measures proposed in Section 5.5 of the EA should be included in the statement of commitment or conditions of approval.
- The relevance of native title and land rights under the *NSW Native Title Act 1994* and the *Aboriginal Land Rights Act 1983* are not discussed.
- The mythological significance of nearby areas linked with the freshwater wetland and the islands should remain sacred and confidential.

4.3.4 Marine Parks Authority

Marine Parks Authority (MPA) raises a number of concerns, including:

- The EA does not use the current predictions for climate change, in particular the predicted sea level rises.
- The stormwater management plan does not include sufficient sediment and erosion control measures for the construction phase of the development.
- The proposed density is still too high to ensure the protection of the surrounding ecosystems.
- The EA does not address the proposed development's impacts on the marine and estuarine ecosystem of Hearnnes Lake and surrounding area.

4.3.5 Department of Lands

The Department of Lands (Lands) raised the following issues:

Hearnnes Lake Road

- The landowner's consent was not granted by the Department to use the Crown Public Road as part of the development.
- The EA does not appear to have considered all the potential impacts of the road works, specifically vegetation clearing. A full flora survey does not appear to have been conducted.
- Lands does not consent to the installation of a locked gate on Hearnnes Lake Road, and the construction of a three-metre wide road easement and vegetated stormwater flow swale on Crown Public Road.
- Bush fire trail and pedestrian access route should be upgraded if Hearnnes Lake Road is to be included in the development.
- It is unclear whether the temporary truck wash-down facilities will be located on Crown Public Road or within the subject site.

Hearnese Lake Road Public Recreational Area, Threatened Entities and Planning

- The EA does not adequately address the likely impacts a future residential population may have on the surrounding public recreation areas through increased visitation and usage.
- The Flora and Fauna Assessment does not cover the entirety of the development footprint and overlooks the likely impacts of the development on threatened entities surrounding the subject site.
- The increased density will have direct and indirect impacts on threatened entities across both the Subject Site and adjoining lands.
- A number of plans submitted with the EA display inconsistency in their information.

The Proposed Environmental Protection 7(a) Zone/Ephemeral Wetland Reserve (Lot 28)

- The proposed wetland reserve dedication should be given to Lands instead of Council as it is contiguous with Crown lands.
- A potential vehicle passing bay described in the "Bushfire Protection Assessment", some road works and a proposed perimeter fire trail to the east of lots 29, 32, 39 to 43 appears to encroach upon the wetland reserve.
- As large an area as possible should be reserved for the Austral Toadflax colony to repopulate.
- The dog mesh fence should be extended along the site's northern, south-eastern and southern boundaries.

Vegetation Management Plan (VMP)

- Lands would like the opportunity to input into this plan as the subject site is located close to Crown Reserve land.
- It's not clear who will be developing the VMP.
- The responsibility of rehabilitating and restoring the Ephemeral Wetland Reserve should be clarified, especially the seed collection and storage.
- The VMP should encompass the whole site and include recommendation regarding management of wetland, Wallum Froglet habitat, EEC and Austral Toadflax.
- The proponent assumes responsibility for a number of actions in regards to vegetation management in the Draft Statement of Commitments.
- The VMP should performance requirements for rehabilitation and a monitoring program.

Revised Stormwater Management Strategy (RSMS)

- The RSMS indicate that the proposed development would not achieve the runoff and gross pollutant targets. The implications of not achieving the gross pollutant targets are not discussed.
- The extent and location of the stormwater mitigation measures appears inconsistent with the EA.
- The plan in the RSMS should be adopted and conditioned as part of any development consent as it excludes the proposed vegetated swale on Hearnese Lake Road.
- The RSMS should take into consideration the ability of the bioretention basin to discharge into Hearnese Lake under a peak 100 year recurrence interval flood.

Hearnese Lake Buffer

- It is difficult to ascertain the specific management requirements of the Hearnese Lake Buffer as the WBM Oceanics (2006) study was not included in the EA.

Other

- The last two draft commitments relating to 'Aboriginal Heritage' on page 230 should also be made the responsibility of the proponent.

4.3.6 Department of Primary Industries

The Department of Primary Industries (DPI) raised the following concerns:

- The buffer to the hind dune wetland on the site is less than the generally accepted 50 metres.
- The two proposed discharge points will require armouring to mitigate against erosion.
- The native endemic vegetation buffer that is between the hind wetland and the bushfire trail should be increased by 5 to 10 metres.
- Stormwater management features need to accommodate a range of water level heights under a minimal intervention entrance management regime.
- The EA does not adequately demonstrate that the design of the detention basin operation have considered the consequences of changes in tail water height.

DPI also made several recommendations including:

- Integrated water quality infrastructure to be installed.
- The provision of the sewerage pumping station should be accompanied by bunding or other appropriate measures to limit overflows entering the lake.

4.3.7 Rural Fire Service

RFS recommended that several conditions be placed into the final Consent. These conditions encompassed the issues of the subdivision certificate, water, electricity, gas, public road access and the proposed fire trail.

4.3.8 Northern Rivers Catchment Management Authority

The Northern River Catchment Management Authority (NRCMA) raised a number of concerns and recommendations, including:

- The EA should demonstrate consistency with the targets and intent of the Northern Rivers Catchment Action Plan.
- Measures to minimise the impact of the development on the native vegetation should be included, despite the site being excluded from the *Native Vegetation Act 2003* as this would be beneficial to both the native fauna and flora and prospective residents.
- EA should take into account potential rising sea levels and the maintenance of the vegetated dunal system behind the beach.
- The native vegetation buffer strip along Hearnes Lake should be maintained to preserve the integrity of the estuarine ecosystems and their processes.
- The subject area may be prone to acid sulphate soils.
- The proponent should assess the potential impact of vegetation loss and/or the altered hydrology in relation to the Solitary Islands Marine Park.
- Compliance and on going regulation of CHCC's Tree Preservation Order should be maintained and a domestic animals policy would be beneficial.
- There is potential land use conflict between urban development and the high conservation value habitat areas. DPI's *Living and Working in Rural Areas* handbook should be referred to for guidance.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the Environmental Assessment and the Preferred Project Report and consideration of the proponent's draft Statement of Commitments include the following:

- Strategic planning
- Subdivision design/layout and desired future character
- Visual impact
- Flora and fauna
- Traffic and access
- Hazard management and mitigation
- Water cycle management
- Heritage
- Noise
- Infrastructure provision

Some of these issues were resolved following consultation with the Proponent, or were directly addressed via the proponent's Statement of Commitments or the Department's recommended conditions of approval. Significant issues are discussed in detail below.

5.1 STRATEGIC PLANNING

The proposed subdivision is consistent with State, Regional and local planning strategies. Further assessment can be found in the consideration of Environmental Planning Instruments and other plans and policies at **Appendix C**.

At the time of lodgement of this project application this site was one of a number of environmentally sensitive coastal sites that Coffs Harbour City Council was considering site specific changes to historic residential zonings in order to improve environmental protection. The Department commissioned a detailed environmental review (the Sainty Report) into the conservation values of those sites subject to Part 3A of the Act in order to ensure that lands of high conservation value were protected. This site was reviewed as part of the review process and the Department is satisfied that the proposed subdivision layout and the recommended conditions of approval are generally in accordance with the recommendations of the Sainty Report.

5.2 FLORA AND FAUNA

A Flora and Fauna Report for the subject site been prepared by EcoLogical on behalf of the Proponent. The report identifies the presence of four listed Endangered Ecological Communities (EECs) under the NSW *Threatened Species Conservation Act 1995* (TSC Act), mostly located in the east of the site. This includes:

- A mostly ephemeral Freshwater Wetland, part of the Freshwater wetlands on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions EEC;
- Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions (SSF EEC) represented on site by Broad-leaved Paperbark Forest;
- Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions EEC represented on the site by Littoral Rainforest Regeneration. This is adjacent to the intact SEPP 26 Littoral Rainforest; and
- Highly fragmented and degraded Remnant Red Gum species are found scattered through the southern portion of the site. This is part of the Sub-tropical Coastal Floodplains Forest of the NSW North Coast bioregion (SCFF EEC).

Approximately 700 plants of the threatened flora species Austral Toadflax (*Thesium australe*) were found in eight discrete patches in the south-eastern section of the site. This species is also listed under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) as vulnerable. The Freshwater Wetland is habitat to the Wallum Froglet (*Crinia tinnula*), the only threatened fauna species listed under the TSC Act noted on the site. Despite the presence of Koala food trees, the assessment failed to locate any evidence of Koala scratches or scats on the property and concludes that the site provides only low quality Koala habitat.

Due to the significant environmental values, several concerns regarding the impact of the development on the eastern section of the site were raised. These were addressed in the PPR through an amended subdivision layout to accommodate a 50m buffer to the Littoral Rainforest and to move the fire trail west of the vegetation line in the north east. The proponent has also committed to a number of mitigation measures including edge planting to the southern tip of the SEPP 26 Littoral Rainforest, a water cycle management plan and a construction environmental management plan which will protect the quality of the sensitive waterways and wetland.

While the proposed lot 28 reserve accommodates a number of the Austral Toadflax plants, including a relocation area, concern was raised with the number of scattered pockets of the species to be lost. The amended subdivision layout proposed in the PPR addressed this through the increased area of lot 28 and the proposal to retain lot 3 as a pocket park. This also captures some Remnant Red Gum species. However, further concerns were raised with regard to the location of the fire trail causing the potential loss the north-south wildlife corridor in the future due to sea level rises, as well as the encroachment of lot 27 into the 50m buffer for the Littoral Rainforest (Figure 10), the predicted hazard line (Figure 11) and the proposed Environmental Protection zone in the Draft LEP (Figure 12). To address these concerns, the Department has recommended a condition of approval to incorporate lot 27 into lot 28 as well as redirect the fire trail along the amended boundaries of lots 31 and 29. This is detailed in Section 5.4.

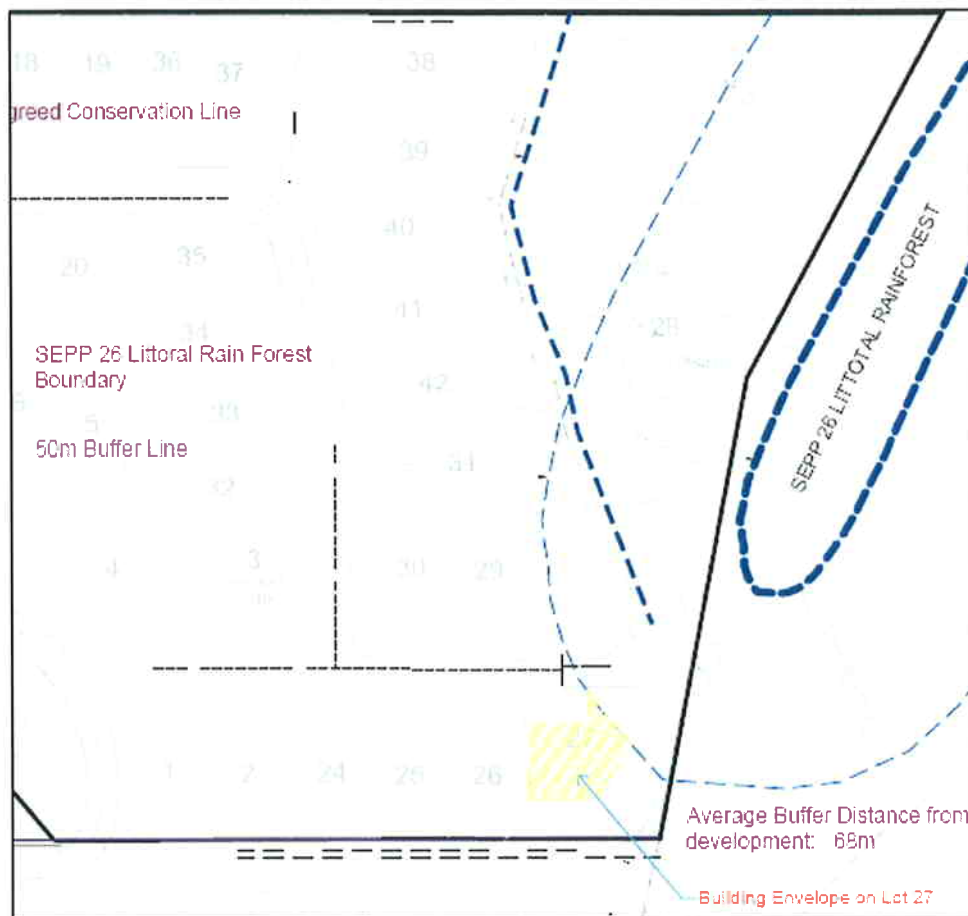


Figure 10: 50m buffer to the SEPP26 Littoral Rainforest

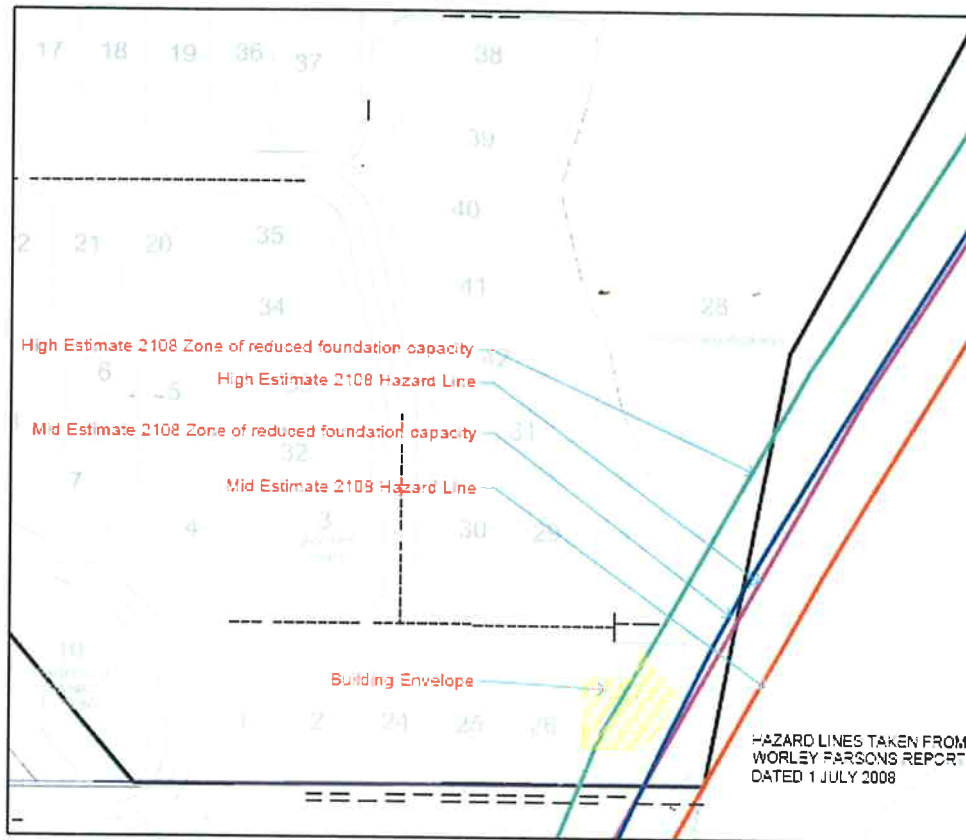


Figure 11: Predicted Hazard Lines

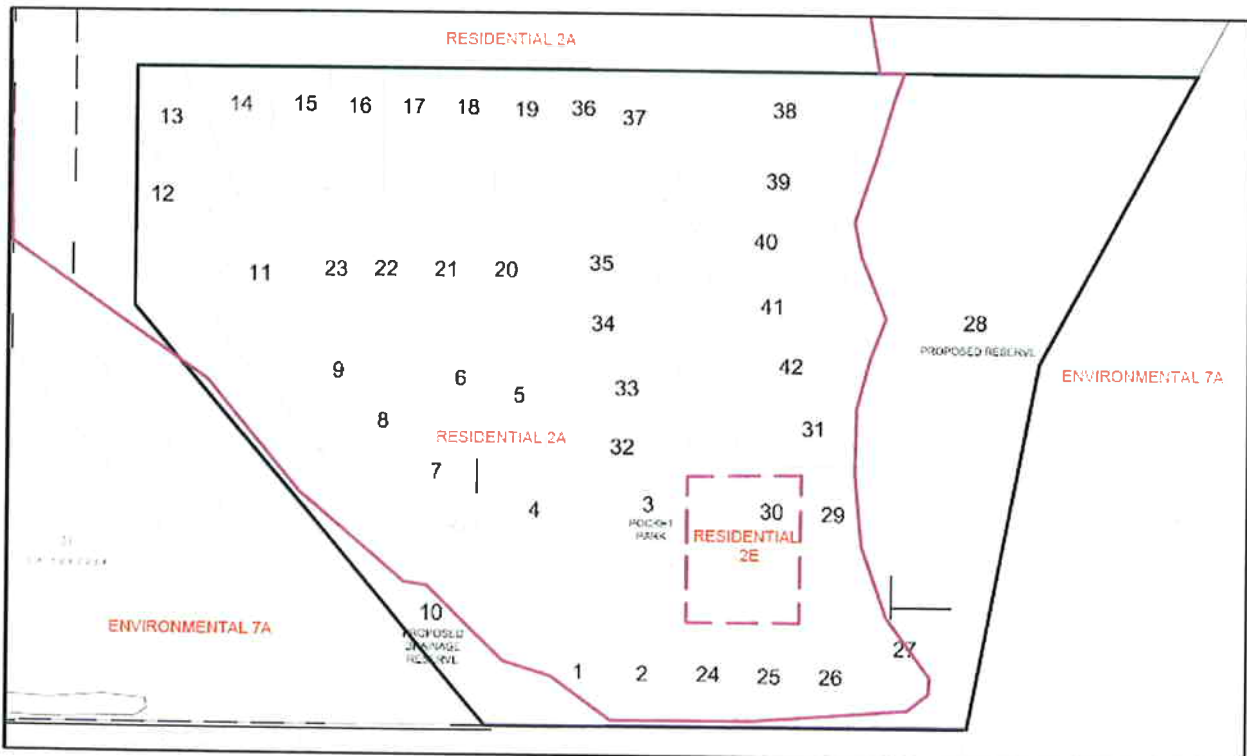


Figure 12: Draft LEP 2000 Zoning Amendments no. 29

The PPR proposes that lots 3 and 28 be transferred to Council. Considering lot 28 is adjacent to Crown land, the proponent has since committed to dedicating lot 28 to the LPMA following the establishment and implementation of a Vegetation Management Plan to be approved by the LPMA. Lot 3 will still be dedicated to Council as this is accessible via a Council road.

The Department is satisfied that the proposed modifications to the subdivision layout and the proposed conditions of approval will effectively ensure the conservation of important flora and fauna species and the threatened ecological communities on and surrounding the site. The development is consequently considered to be acceptable.

5.3 COASTAL PROCESSES

A report prepared by Patterson Britton and Partners Pty Ltd was submitted as part of the application, examining the impact of the proposal on coastal processes and hazard management.

Flooding

The dune levels to the east of the subject site boundary are above RL 9m AHD forming a protective barrier from processes such as storm surge. This well vegetated foredune is considered to be relatively stable in its present form thus protecting the site from sand drift hazard. Consequently, beach access has been limited to the existing access via Hearnese Lake Road to ensure the integrity of the dune.

To the south of the site is the entrance to Hearnese Lake. While an ICOLL, it has been found to only open when significant rainfall-runoff occurs. It is noted that the vegetated banks of Hearnese Lake have remained relatively stable since 1943 and it is considered unlikely the Hearnese Lake channel would meander in a way as to prove a risk to the site. Residential lots will be at a minimum RL 4.5m which is well above the suggested flood planning level of RL 3.5 based on High Berm levels. The coastal inundation hazard for the site is therefore considered insignificant for a 1 in 100 year storm event and it is considered unnecessary to set minimum habitable floor levels to manage the impacts of coastal tidal inundation on the subject site.

The Department raised concern regarding the low point on Hearnese Lake Road and how this may affect evacuation at times of significant flooding. The response to submissions notes that flood evacuation would not be necessary considering the level of the development. However, access to the site is possible during current 1:100 flood levels of RL 2.6m as the minimum level of Hearnese Lake Road is RL 2.51m. At predicted future high berm levels of RL 3.5m, pedestrian egress would be possible along high ground adjacent to the existing driveways west of the site. This will form the vehicle evacuation route once the collector road proposed by the DCP has been constructed.

Hazard lines

Slope and cliff instability hazards were determined for the immediate, 50 year and 100 year planning periods for the site which was assumed to be composed entirely of sand within the active coastal zone. This included the Zone of Slope Adjustment, which has been denoted as the 'Hazard Line', and the Zone of Reduced Foundation Capacity. While the Hazard Line does not impact on the site for all planning periods, the 2104 Zone of Reduced Foundation Capacity is predicted to extend over the south eastern corner of the site taking in much of lot 27. While this zone is not considered to preclude development in this area, considering the noted level of uncertainty associated with climate change and other constraints on this site as noted in sections 5.2 and 5.5, the Department has recommended a condition of approval that lot 27 be deleted as a residential lot and integrated into the proposed lot 28 reserve. The subsequent reduction in length of Road 2 prevents this road from being constructed on land affected by predicted Hazard Lines.

The Department considers that the level and layout of the proposed subdivision and the recommended conditions of approval adequately protect the development and its residents from coastal processes for the immediate and 100 year planning periods.

5.4 SUBDIVISION DESIGN & LAYOUT

The subdivision layout generally responds to the physical characteristics of the site and the surrounding environment. The design confines new residential development to the cleared land currently zoned for urban use and preserves the important vegetation at the eastern edge of the site which includes a SEPP 26 littoral rainforest and the ephemeral wetland.

In response to the concern over the significant loss of the threatened flora species Austral Toadflax raised by several agencies, the PPR reduced the total number of residential allotments proposed from 41 to 39 through the consolidation of lot 29 into the proposed reserve on lot 28 and the designation of lot 3 as a pocket park. These amendments provided for a greater retention of the Austral Toadflax community as well as remnant Red Gum species. As discussed in Section 5.2, a condition of consent has been recommended to reduce the number of residential lots to 38 through the consolidation of lot 27 into the proposed reserve on lot 28.

Location of fire trail

This sensitive natural environment is to be further protected through the position of a fire trail which physically separates the development from this vegetation. Concerns were raised by the Land and Property Management Authority (LPMA) in relation to the proposal to restrict fire trail access via a locked gate on Crown Lands and over the alignment of the proposed fire trail, noting that it should be outside of the agreed vegetation line. These issues were subsequently addressed by the Proponent in the Preferred Project Report which deleted the gates and reduced the depth of previous lots 39, 40, 43 and 32 to allow the proposed fire trail to move to the west of the vegetation line. Following further discussion with the LPMA, the Proponent has committed to extending the proposed dog proof fence, seaward of the fire trail, south of the existing permissive occupancies access track to the existing car parking area and providing two access gates to the permissive occupancies.

As discussed in Section 5.2, Council raised concerns that the new proposal failed to address the potential effect of predicted future coastal hazards on wildlife corridor function through and adjacent to the site as the proposed fire trail would fragment the wildlife corridor under the predicted 2054 coastal hazard scenario. The Department recommends a condition of approval to consolidate lot 27 into lot 28, delete the south east corner of lot 31 and move the eastern boundary of lot 29 west to continue the fire trail (and associated swale and rain garden) along the eastern boundary of lot 42, 31, 29 and 26. The eastern boundary of lot 29 is to be reduced to the extent to accommodate the 6 metre wide fire trail easement between the western boundary of the Austral Toadflax community (as depicted in Map 20 Amendment H) and lot 29. Subsequently, the eastern end of Road 2 is to be reduced in length so as to only provide access to lots 29 and 26 at the western end of these frontages.

These amendments aim to resolve the following issues:

- provide a more connected and manageable area for the protection and regeneration of the Austral Toadflax;
- ensure that all residential development is outside of the 50 metre buffer zone to the littoral rainforest;
- ensure that all residential development is clear of the High Estimate 2108 zone of reduced foundation capacity;
- protect the north / south regional and state significant wildlife corridor; and
- provide greater consistency with the draft LEP Amendment 29 proposed Environmental Protection Zone.

The Department considers that subject to the recommended modifications, the proposed subdivision layout is acceptable, as it provides for low density residential development with an appropriate road design and pedestrian system and will result in a balance between the built form and the surrounding natural character of the locality.

5.5 VISUAL IMPACT

The works associated with the subdivision are earthworks, road construction and infrastructure provision. The visual impact of these activities will be minimal. However, the visual impacts upon completion of the 39 residential dwellings anticipated to occur on the proposed lots have also been examined.

There will be some visual impacts for existing residents in the area, particularly those on the adjacent lands, as the existing rural character of the site will change to a residential environment. The site is currently zoned for residential purposes and the land is identified in Coffs Harbour City Council's "Hearnies Lake/Sandy Bay DCP" as being a suitable location for future residential development. The scale and layout of the proposed subdivision is considered to be suitable for the site and its local context.

The topography of the site slopes to the south and northeast and has a predominantly southerly aspect. Residences on adjacent land are situated on elevated land to the north of the site, taking advantage of the sweeping coastal views afforded by this location. As the proposed development is located on sloping land, potential view loss will be effectively minimised.

The visual impacts of the proposed residential estate from the surrounding local area are minimal, as the site is effectively screened by vegetation located on the site, and on adjacent private and public lands. This vegetation and the natural topography of the land prevent the site from being viewed from Hearnies Lake and picnic area and both the Pacific Highway and Hearnies Lake Road. As the vast majority of this vegetation has high environmental values, it is considered likely to be retained in the future and the site will remain screened from view from these key vantage points.

The retention of the existing littoral rainforest and ephemeral wetland in the eastern portion of the site will screen the development entirely from view from Hearnese Lake Beach. A small number of new dwellings will be visible above this vegetation when viewed from some distance out to sea, although the two existing dwellings and others on adjacent lands are already visible from the coast and their impacts are considered to be acceptable.

It is considered that the proposed development will not produce unacceptable visual impacts, or result in substantial view loss for existing residents. Conditions of approval will require the existing environmentally significant vegetation in the proposed reserve on lot 28 to be retained and suitably protected into the future. It is considered that this will preserve an appropriate level of tree canopy, which will help to mitigate impacts on local visual amenity resulting from the proposal when viewed from the coastline.

5.6 TRAFFIC AND ACCESS

The proposed development will generate traffic that will impact upon the existing road network as it will increase the residential density on the site from two dwellings to 39. Access to the site will continue to operate from one entry point from Hearnese Lake Road. The Proponent's Traffic Study has concluded that the local and regional road network can accommodate the additional traffic generated by the proposed residential subdivision. The proposed residential lots are of sufficient size to accommodate off street car parking.

The Hearnese Lake / Sandy Beach DCP limits development on the site to a maximum of 80 residential allotments until the Pacific Highway upgrade works are completed or alternate access arrangements to the Highway are provided via Bosworth Road. The proposed development for 39 lots is below this threshold and the impacts of the new development on the Hearnese Lake Road intersection of the Pacific Highway are acceptable and the Roads and Traffic Authority raised no objection to the proposal.

The proponent proposes to dedicate the road to Council following its upgrade between the Pacific Highway and the access point to Council standards. This will include the upgrading of the three driveways to the immediate west of the site. In response to a request by Council, the bus turning circle proposed in the EA has been deleted and a pedestrian footpath along the southern mown verge of the road from the Pacific Highway to the access point will be constructed to provide access to the existing bus stop on Hearnese Lake Road.

The LPMA raised several concerns relating to the use of Hearnese Lake Road as this is Crown Land and landowners consent is therefore needed. In consultation with LPMA, landowners consent has been granted for the these and additional works, including the extension of the bitumen surfacing towards the existing vehicular access point to Hearnese Lake Beach.

It is therefore considered that the Proponent has adequately addressed traffic and access impacts associated with the proposed development.

5.7 GEOTECHNICAL AND CONTAMINATION

The site has historically been used for grazing cattle, a use which is unlikely to present issues in terms of contamination of the land. A contaminated soil assessment carried out by Holmes and Holmes notes no evidence of contamination. Coffs Harbour City Council records indicate that the site was not used for banana plantations as were other sites in the area. It is therefore concluded that the site does not present a significant risk of soil contamination and is suitable for the proposed residential subdivision.

The land is generally cleared and is characterized by a prominent ridgeline and knoll in the central northern area of the property. The western and southern portions of the site slope gradually, while the northern and eastern portions of the property slope steeply to the ephemeral wetland and littoral rainforest to the northeast. On most of the site, the soils are typically silty clays which are suitable for residential development, however, the steeper slopes of the site have been identified as consisting of 'Low risk steep land' and 'Moderate risk steep land'. The proponent has committed to providing a site specific geotechnical assessment for any proposed dwellings on lots 38 to 41 to confirm site stability and suitability. A condition of approval is recommended for this to occur via a Section 88B Covenant on lots 38 to 41.

In order to achieve required detention and road levels, some bulk earthworks, including filling, is required. Considering the area of fill is well above flood levels, this is not considered to increase the risk of flooding off-site. The proponent has committed to managing the potential environmental impacts associated with the earthworks including a detailed sediment and erosion control plan.

The risk management measures proposed by the proponent as well as recommended conditions of approval are considered to satisfactorily address the issues of contamination, geotechnical stability and earthworks on the site.

5.8 ACID SULFATE SOILS

The geotechnical assessment of the site has identified that acid sulphate soils are likely to occur in the area of the site occupied by the ephemeral wetland. As this important ecological feature is to be retained and protected under the proposed subdivision layout, the presence of acid sulphate soils in this area presents no concern or implications for the development of the property. While the Proponent has committed to undertaking further ASS assessments on site prior to construction of future stages *if required*, the Department recommends a condition of approval that adequate testing is undertaken to ensure that no acid sulphate soils will be encountered during the construction of the bioretention / detention basin and infrastructure services along Hearnese Lake Road. Also, as recommended by the NSW Office of Water, the Department recommends a condition of approval to line the proposed detention basin with impermeable material to ensure the protection of ground water. These commitments and condition are considered adequate to manage any potential contact with acid sulfate soils.

5.9 BUSHFIRE

The site is identified as bushfire prone land, due to the presence of vegetation in the eastern portion of the site which presents a bushfire hazard, and associated buffers impacting the site from bushfire prone vegetation located to the east, south and west of the property.

The NSW Rural Fire Service noted that the land has significant bushfire issues. Coffs Harbour City Council also raised bushfire hazard management as a key issue for the future development of the site.

The proposed subdivision layout includes Asset Protection Zones, supported by a minimum 6 metre wide perimeter fire trail. The proponent has adequately demonstrated that suitable Asset Protection Zones can be achieved on the proposed residential lots and that these are compliant with *Planning for Bushfire Protection 2006*. The conditions of approval stipulate that a Section 88B Instrument under the *Conveyancing Act 1919* is to be applied to the title of all lots within the proposed subdivision to secure the ongoing management of the Asset Protection Zone and fuel management on individual allotments. A reticulated water supply connected to the municipal mains is also to be provided and supplied with water hydrants as noted in the Proponent's Statement of Commitments which will assist in bushfire management.

Suitable construction standards in accordance with AS 3959 – Construction of buildings and bushfire prone areas and *Planning for Bushfire Protection 2006* will be applied to all future residential development on the land at the construction stage.

The hazard risk management measures proposed in the subdivision layout, the Proponent's Statement of Commitments and the Department's conditions of approval are considered to satisfactorily address the issue of bushfire risk management on the subject site.

5.10 WATER CYCLE MANAGEMENT AND WATER QUALITY

A Stormwater Quality Management Strategy has been prepared by BMT WMB and submitted as part of this Project Application.

The site features a prominent ridge which influences the natural drainage patterns on the land. Areas to the west and south of the ridge account for approximately 60% of all site runoff and drain into an existing table drain located adjacent to Hearnese Lake Road. To the east of the ridgeline, runoff from approximately 30% of the site drains to the ephemeral wetland in the east of the property, while the remaining runoff drains towards adjoining properties to the north of the site.

The proposed water cycle management measures are critical to ensuring that no adverse environmental impacts occur in terms of pollution of the adjacent Hearnese Lake, the littoral rainforest and ephemeral wetland. This issue was raised in submissions from both the local community and relevant government agencies.

For the majority of the water flows, the strategy proposes a treatment train including vegetated swales and filter strips draining to a combined bioretention / detention basin. This seeks to manage common stormwater pollutants and flood waters prior to release into the existing table drain on Hearnese Lake Road. This table drain is also to be upgraded as part of this proposal. The adherence of a 50m buffer from the 3.5m contour to Hearnese Lake, acts as a

further measure to mitigate adverse impacts of water quality from new development. To manage the 30% of stormwater which flows to the east of the site, a vegetated swale is proposed on the western boundary of the fire trail with two rain gardens located at the points of discharge to the wetland to further control the quality and quantity of water entering this sensitive system. A 50m buffer zone from the SEPP 26 littoral rainforest serves as a further buffer for the preservation of water quality in the wetland and rainforest systems. As advised by the Department of Industry and Investment, a condition of approval that the two points of discharge be armoured to mitigate against erosion is recommended.

In order to determine the effectiveness of the proposed Stormwater Quality Management Strategy prior to handing all maintenance responsibility to Council, the Department recommends a condition of approval to extend the proposed surface water monitoring for a period of two years after the sale of the last lot. A Stormwater Quality Monitoring Strategy is to be prepared to the satisfaction of Council prior to release of the first construction certificate and is to include pre-development monitoring of Hearnese Lake and the wetland to establish base line data.

The proponent has also committed to the construction of rainwater tanks on all new residential lots by way of a Section 88 Instrument. Residential lots 29-31 and 38-42 will be required to provide rainwater tanks with at least a 40kL capacity to control the quantity and quality of water draining to the eastern wetlands. All remaining lots will be required to provide rainwater tanks with at least a 15kL capacity. The Department agrees with Council that the construction of the rainwater tanks should be constructed by the developer and has recommended a condition of approval that these be constructed at the subdivision stage and be maintained and protected from removal by a Section 88 Instrument.

It is considered that the measures proposed and the recommended condition of approval will effectively manage the quantity and quality of stormwater resulting from increased runoff due to the development of the site.

5.11 HERITAGE

Aboriginal Cultural Heritage

A field survey conducted with local Aboriginal groups was conducted in 2004 to assist the preparation of the Hearnese Lake/Sandy Beach Development Control Plan. The assessment concluded that there are two places of traditional and ongoing spiritual Aboriginal significance associated with Hearnese Lake, although neither is to be affected by the proposed development. The coastal dune adjacent to the south eastern corner of the site also holds cultural significance, again, this will not be affected by the proposed development. Registered Aboriginal stakeholders were consulted in relation to the proposed subdivision. They advised that the Lake is part of their 'dreaming' and that their concern with the proposal was the potential adverse impacts it may have on the quality of Hearnese Lake.

With regard to the proposal, a small crest in the south east of the site was recognised as requiring further investigation. An Aboriginal Cultural Heritage Assessment was undertaken by Archaeologist Jacqueline Collins in March 2009. Due to its erosional soil conditions, this was achieved by 'scraping off' the grass cover to reveal the ground surface. While several artefacts were found, Aboriginal field representatives assessed the site to have a low level of cultural/social significance and did not warrant an amendment of the proposed subdivision layout. However, changes proposed in the PPR and in the recommended conditions of approval result in this area now being largely undisturbed and within the lot 28 reserve.

It is therefore considered that the proposed subdivision will not impact upon the significance of the important cultural and spiritual values of Hearnese Lake and its environs. The Approved Statement of Commitments ensures that pollutant runoff from the site into Hearnese Lake will be carefully managed in both the construction phase and in the longer term to protect this important place. It also commits to ensuring that all construction works are sensitively undertaken, ensuring that in the event that artefacts or other significant or sensitive items are discovered on the land, the appropriate Aboriginal stakeholder groups will be immediately contacted and construction works will cease. It is considered that the proposed development and the Proponent's Statement of Commitments have adequately addressed this issue and the site is suitable for the proposed development.

5.12 NOISE

The subject site is located approximately 500m from the Pacific Highway and the Hearnese Lake Road intersection. An assessment of noise impacts concludes that no mitigation measures are required in relation to the proposed residential subdivision, and that the traffic noise from the proposed development will not cause unacceptable impacts upon the local area.

The Department considers that construction noise can be adequately managed through the provisions of the Construction Environmental Management Plan and the Proponent's Statement of Commitments, stating that construction operations will take place in approved hours. This is reflected in the conditions of approval.

5.13 LAND DEDICATION

Two lots within the site will be dedicated to Coffs Harbour City Council for public purposes. These are Lot 10 as a drainage reserve and Lot 3 as a pocket park. The proponent has committed to the maintenance of these lots for two years after dedication. The fire trail north of the section that is currently Crown lands will also be dedicated to Council. The proponent has committed to the dedication of these lands upon registration of the first subdivision plan in which they are proposed in the PPR.

The LPMA has agreed to transfer to Coffs Harbour City Council, as Council Public Road, all land directly affected by road upgrade, footpath and infrastructure provision works on Crown lands according to the PPR and not amounting to a width greater than 20m from the southern boundaries of Lots 4, 5, 6 and 7 DP 612977, Lots 31 and 32 DP 1047234, Lot 1 DP 253878, Lots 201 and 202 DP 1066412 and Lot 21 DP 714858 (the site). This is to be undertaken prior to the release of a construction certificate for the works.

The proponent has committed to the dedication of land seaward of the proposed fire trail (as amended in the Conditions of Consent) known as lot 28, to the Land and Property Management Authority upon registration of the stage 4 subdivision plan in which it is proposed to be created in the PPR. The Proponent has committed to the development of a Vegetation Management Plan for this land and the adjacent Crown lands as per Annexure A of the Statement of Commitments.

The Department is satisfied that these land dedications and transfers and any associated management plans, will result in the adequate maintenance of these lands into the future.

5.14 INFRASTRUCTURE PROVISION

The proposed subdivision will require the construction of roads, sewer, water, electricity, gas and communications infrastructure to adequately meet the increased demand of the proposed new residential lots. The relevant utility service providers have furnished advice that the local services can be upgraded or expanded to adequately service the proposed subdivision.

The proponent has committed to provide underground electricity, upgraded local drainage infrastructure, reticulated potable water and sewer services and fibre optic telecommunications services to service the anticipated infrastructure needs of the proposed residential development. These commitments are reflected in the conditions of approval for the project.

The Proponent has also committed to providing a sewer point and mains water to a determined location in the existing car park to Hearnese Beach for the proposed toilet facilities.

It is therefore considered that appropriate infrastructure services can be provided to the proposal.

5.15 SECTION 94 AND OTHER CONTRIBUTIONS

Prior to the release of a Subdivision Certificate for each stage of the subdivision, the Proponent must pay, in proportion to the additional lots created by that stage, the rate current at the time of payment to Council pursuant to Section 94 of the *Environmental Planning and Assessment Act (1979)* less any amounts offset through forward funding of infrastructure beyond the site.

The relevant plans are:

- Regional, District & Neighbourhood Facilities & Services Plan 2008.
- Coffs Harbour Road Network Developer Contributions Plan 2008.
- Surf Rescue Equipment Developer Contributions Plan 2008.
- Hearnese Lake Release Area Contributions Plan 2008.

The current contribution rate is:	Per Lot
Coordination and Administration	\$338.40
Coffs Harbour Road Network	\$815.62
Surf Rescue Equipment	\$94.87
Development Studies	\$132.79
District Open Space	\$3,058.02
Neighbourhood Open Space	\$778.06
Neighbourhood Open Space - Northern Precinct	\$343.77
Transport and Traffic	\$5,477.33
Roads and Traffic Facilities – Northern Precinct	\$8,800.00

Prior to the release of a Subdivision Certificate for each stage of the subdivision, the Proponent must pay, in proportion to the additional lots created by that stage, the rate current at the time of payment to Council pursuant to Section 64 of the *Local Government Act (1993)*.

The relevant plans are:

- Water Supply Development Servicing Plan 2008.
- Waste Water Treatment and Carrier System Development Servicing Plan 2008.

The current contribution rate is:		Amount/Lot	Total
Works to satisfy increased demand within the area for 40 lot(s) of residential subdivision.			
Water	Headworks	\$4,957.37	\$198,294.80
	Reticulation	\$1,880.38	\$75,215.20
Sewer	Headworks	\$1,634.28	\$65,371.20
	Reticulation	\$3,035.10	\$121,404.00
TOTAL AMOUNT PAYABLE			\$460,285.20

6 CONCLUSION

The Department has assessed the EA and PPR and considered the submissions in response to the proposal. The key issues raised in submissions related to environmental and water quality management, subdivision layout and management and mitigation of construction impacts. The Department has considered these issues and a number of conditions are recommended in conjunction with the proponent's Statement of Commitments to ensure these issues are satisfactorily addressed of these issues and the proposal has minimal impacts.

The proposed development will allow for the provision of low density residential development to allow for future growth in the region. The project will provide the following benefits:

- The proposed development provides for additional housing and a range of lot sizes;
- The subdivision represents a suitable and orderly development of appropriately zoned land contiguous to existing residential neighbourhoods;
- Areas which have been identified as having particular environmental qualities are preserved as part of the development, including the littoral rainforest, ephemeral wetland and the majority of the Austral Toadflax (*Thesium australe*) on the site; and
- The development will provide employment opportunities during the construction phase.

Furthermore, the proposal has largely demonstrated compliance with the existing environmental planning instruments.

On these grounds, the Department considers the site to be suitable for the proposed project and that it is in the public interest. Consequently, the Department recommends that the project be approved, subject to the conditions of approval and the proponent's Statement of Commitments.

7 RECOMMENDATION

It is recommended that the Ministers delegate:

- (A) consider the findings and recommendations of this Report; and
- (B) approve the carrying out of the project, under Section 75J *Environmental Planning and Assessment Act, 1979*; subject to modifications of the project and conditions and sign the Determination of the Major Project; and,
- (C) sign the Instrument of Approval at Tag A.

Prepared by:
Annette Birchall
A/Senior Environmental Planner
Regional Projects


Alan Bright
A/Director
Regional Projects

Endorsed by:
Stuart Withington
A/Team Leader
Regional Projects



Richard Pearson
Deputy Director-General
Development Assessment and System Performance

13/12/09