



Department of Planning and Environment

**MAJOR PROJECT ASSESSMENT:
63 LOT RESIDENTIAL SUBDIVISION OF
LAND AT MORISSET PARK
LOT 9 DP 244002 AND LOT 358 DP 755242
CORNER OF MORISSET PARK ROAD AND
CHIFLEY ROAD, MORISSET PARK
Proposed by POSTFOX PTY LTD**

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

August 2009



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EXECUTIVE SUMMARY

This is a report on a project application submitted de Witt Consulting Pty Ltd on behalf of Postfox Pty Ltd (the proponent) to carry out development for residential subdivision of land at Morisset Park (Lot 9 DP 244002 and Lot 358 DP 755242) ("the proposal").

The subject site was rezoned from zone '10 Investigation' to zone '2(1) Residential' under the *Lake Macquarie Local Environmental Plan 2004* in 2007.

The proponent is proposing a 63 lot (62 residential lots and 1 drainage lot) Torrens title subdivision at the corner of Morisset Park Road and Chifley Road, Morisset Park. The proposed lots range in size from 570m² to 9,610m².

The estimated project cost of the development is \$5 million. The proposal will create 5 construction jobs (full-time equivalent).

During the exhibition period, the Department received a total of 10 submissions from public authorities and 4 submissions from the public. Key issues considered in the Department's assessment included:

- 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;
- Mine Subsidence; and
- Hazard Management.

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.

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1 BACKGROUND

1.1 THE SITE

1.1.1 Site Context and Location

The site, at Morisset Park, (Lot 9 in DP244002 and Lot 358 DP755242), is located within the local government area of Lake Macquarie City Council and is owned by Postfox Pty Ltd (the proponent).

The 6.4 ha site is located on the south-western edge of the urban area of Morisset Park and Windermere Park. It is bounded by Morisset Park Road to the south, Chifley Road to the east and dwellings fronting Frederick Street to the north. The Lake Macquarie State Conservation Area is located south of the site, on the opposite side of Morisset Park Road.

The site is located approximately 3.5 km to the east of the intersection of the Main Northern Railway line (that links Sydney and Newcastle) and the intersection of Macquarie Street and Fishery Point Road.

1.1.2 Existing site features

The site presently consists of two lots, each with a dwelling and associated sheds. Three small dams are also located on Lot 9 to the east and north-east of the existing dwelling.

The highest point on the site is located in the south-western corner at 25 m AHD and slopes gently down to the north and north-east towards Lake Macquarie. The lowest point of the site is located in the north-eastern corner at around 10m AHD. Drainage over the site is predominantly by overland flow, with some infiltration and subsurface flow. The site drains off-site towards Freshwater Creek which leads into Lake Petite and eventually Lake Macquarie. The site has not been identified as prone to flooding.

The site comprises a largely forested western boundary (approx 1.2 ha of Open Eucalypt Forest) which links up to bushland on the neighbouring property, 2 ha of fragmented and under-scrubbed forest and 3.2 ha of pasture and scattered trees. The Open Eucalypt forest and hollow-bearing trees potentially provide habitat for threatened species on the site.

1.1.3 Surrounding development

To the south of the site is the Lake Macquarie State Conservation Area. The site boundary is within 100m of the Conservation Area and separated by Morisset Park Road. To the north of the site are dwellings fronting Frederick Street. To the east of the site is a residential subdivision. To the west of the site are large lot dwellings and to the south-west of the site are the urban areas of Morisset Park and Windermere Park.



Figure 1: Site location



Figure 2: Site & surrounding development

1.1.4 Zoning

The site is zoned Residential 2(1) under the *Lake Macquarie Local Environmental Plan 2004* (LEP). The proposed subdivision is permissible in the zone pursuant to clause 24. Schedule 2 of the LEP prescribes a minimum residential lot size of 450sqm for standard lots (with minimum road frontage of 14m) and 600sqm for battle axe lots with 5m frontage for the two lots. All proposed lots are above these minimum area requirements.

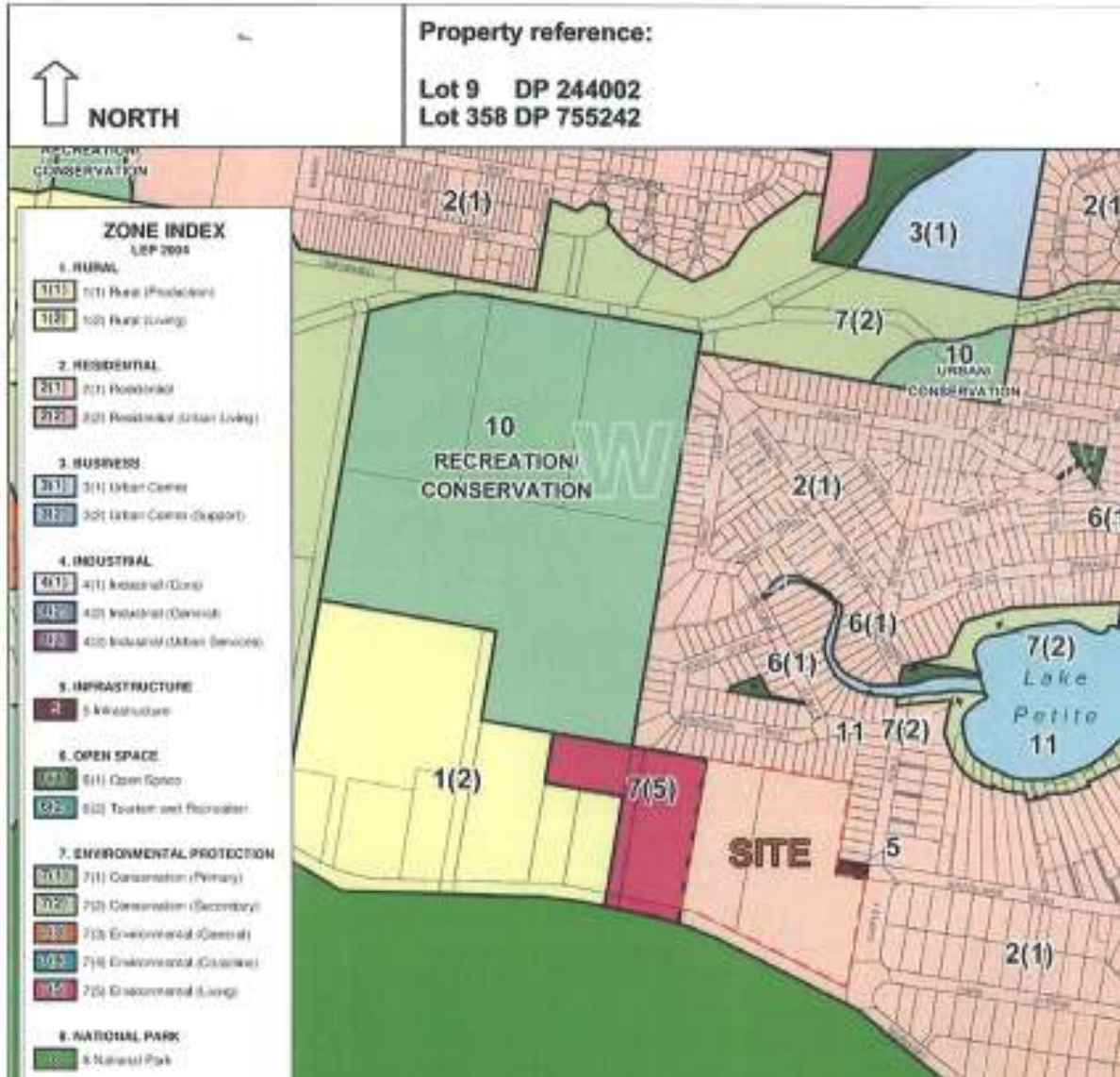


Figure3: Zoning plan

1.2 SITE HISTORY

The site was re-zoned '2(1) Residential' on 13 July 2007 from '10 Investigation' to permit residential development of the land. The rezoning was supported by a Local Environmental Study and was considered to be consistent with the local strategy, Lake Macquarie Lifestyle 2020 and the Lower Hunter Regional Strategy during the rezoning process. A deed of agreement was entered into between the proponent and the RTA for funding of some RTA road infrastructure prior to the rezoning of the site.

2 THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

A description of the project application is provided below:

- Subdivision of the site into 62 residential lots and 1 drainage lot under Torrens Title scheme. The lots range in size between 570m² to 9,610m²;
- Two entry roads of 14.5m wide, one leading off Chifley Road and through the centre of the site and one leading off Morisset Park Road and through the western section of the site;
- An internal road network comprising interconnected roads of 14.5m wide and one road of 14m wide;
- A bushfire asset protection zone (APZ) of 20m (Inner Protection Area of 10m and Outer Protection Area of 10m) along the western bushland interface (incorporating the road for lots 48, 58 and 57) ;
- A bushfire APZ of 25m (Inner Protection Area of 15m and Outer Protection Area of 10m) is provided between the proposed dwelling on Lot 3 and the vegetation to the north;
- The retention of stormwater from the proposed development within the road network. A detention basin will be provided in the north-eastern corner of the site, in accordance with the existing natural drainage patterns across the site;
- The connection of the subdivision to the existing reticulated water mains system; and
- The retention of numerous established and hollow-bearing trees on the site.



Figure 4: Subdivision Layout as exhibited in the EA

2.2 PROJECT AMENDMENTS

A response to submissions was accepted by the Department on 20 July 2009 incorporating the following minor amendments:

- Adjustments to positions and widths of asset protection zones (APZs);
- Addition of water detention and quality measures for the south-eastern portion of the site;

- Redesign of the detention basin batters and outlet and resizing of outlet pipes;
- Connection of the detention basin to the Council stormwater system;
- Provision of kerb and guttering to both external street frontages;
- Amending the existing easement over neighbouring Lot 2 DP 244002 to ensure mutually beneficial outcome;
- Commitment to construction of road works in kind as a developer contribution to Council for the traffic impacts of the proposal;
- Commitment to the provision of a Vegetation Management Plan to be registered on title for Lot 3 for the purposes of long-term bushland management; and
- A revised Statement of Commitments.

As the changes were deemed to be relatively minor further advertisement was not warranted. The response to submissions was placed on the website.



Figure 5: Subdivision Plan as amended in the Response to Submissions

3 STATUTORY CONTEXT

3.1 PART 3A DECLARATION

The project was declared a Major Project under *State Environmental Planning Policy (Major Projects) 2005* (as in force at the time) being a residential subdivision of land into more than 25 lots in the metropolitan coastal zone that is partly in a sensitive coastal location. The opinion was formed by the Director-General as delegate of the Minister for Planning on 13 March 2008.

3.2 PERMISSIBILITY

Under the *Lake Macquarie Local Environmental Plan 2004*, the site is zoned 2(1) Residential, permitting subdivision of the land pursuant to clause 24, which stipulates that subdivision requires the development consent of Council. The Proposal is consistent with the objectives of the 2(1) Residential zone and is 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 4 December 2008 until 30 January 2008 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) 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 E whilst the Response to Submissions is set out for the Ministers consideration at Appendix D.

(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 C and is discussed in detail in Section 5.

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

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

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

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

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

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

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

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

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

The environmental assessment requirements under this Division, issued on 16 May 2008 are in **Appendix A**. A detailed assessment of how the proponent has addressed these issues is provided in **Section 5** of this report.

The Department has met its legal obligations and the Director-General under delegation from the Minister has the power to determine this project.

The EA lodged by the proponent on 12 June 2008 was reviewed against the DGRs and, after amendment, was accepted as adequate on 2 December 2008.

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. A detailed assessment of compliance with the relevant EPIs can be found at **Appendix B**. A summary of compliance is provided below.

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 as follows:

3.5.2 State Environmental Planning Policy (Major Projects) 2005

The SEPP applies to the project as discussed in section 3.1 above.

3.5.3 State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The Scribbly Gum species found within the Open Eucalypt Forest and Modified Open Eucalypt Forest within the site is classified as "Potential Koala Habitat" pursuant to SEPP 44. However, there was found to be no secondary evidence of the presence of koalas. As a result, these areas do not qualify as "Core Koala Habitat" and no further provisions of SEPP 44 apply to the site.

3.5.4 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore unsuitable for the use for which development is proposed. A Preliminary Contamination Assessment identified that an area where burning was previously undertaken has contaminated soil. As a result, some remediation work is required prior to the use of the site for residential purposes. A detailed assessment of the compliance of the proposal with the provisions of SEPP 55 is provided at Appendix B.

3.5.5 State Environmental Planning Policy No. 71 – Coastal Protection

SEPP 71 applies to land within the coastal zone. It aims to protect and manage the many attributes of this area of the State. In response to the aims and matters for consideration under SEPP 71, the development incorporates:

- Stormwater management based on water sensitive urban design;

- A Statement of Commitment by the proponent to discontinue work on-site should any Aboriginal archaeological content be exposed during the project and ensure consultation with DECC and the Aboriginal stakeholders group;
- The retention of the Open Eucalypt Forest remnant on the western part of the site in Lot 3, and minimising the removal of hollow bearing trees to 7 (25 hollow-bearing trees are currently present on the entire site). Nesting boxes will also be placed within larger trees on Lot 3; and
- Morisset Park Road as it exists provides a buffer between the site and the State Conservation Area protecting this environmentally sensitive area from diminution of amenity resulting from the proposed residential development.

A detailed assessment of the compliance of the proposal with the provisions of SEPP 71 is provided at Appendix B.

3.5.6 State Environmental Planning Policy (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. The application was referred to the Roads and Traffic Authority (RTA) for consideration of traffic and access matters. The RTA provided comment in relation to the proposed development. A detailed assessment of the compliance of the proposal with the provisions of the SEPP Infrastructure is provided at Appendix B.

3.5.7 Hunter Regional Environmental Plan 1989

The Hunter Regional Environmental Plan 1989 (REP) provides a framework for policy preparation for the Hunter region. A detailed assessment of the compliance of the proposal with the provisions of the Hunter REP is provided at Appendix B.

3.5.8 Lake Macquarie Local Environmental Plan 2004

The subject site is zoned 2(1) Residential pursuant to the Lake Macquarie LEP 2004. The proposed development meets the objectives of the 2(1) zone in that it provides low density housing that is consistent with the character of surrounding low density development.

The development complies with the provisions of the Lake Macquarie LEP.

A detailed assessment of the compliance of the proposal with the provisions of the Lake Macquarie LEP is provided at Appendix B.

3.6 OTHER PLANS AND POLICIES

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

- 1) Lake Macquarie Development Control Plan No.1;
- 2) Lower Hunter Regional Strategy;
- 3) NSW Coastal Policy 1997; and,
- 4) NSW Coastal Design Guidelines.

A detailed assessment against these controls can be found in **Appendix B**. 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).

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 making its recommendation on the proposed development, the Department has taken into consideration environmental, social and economic matters. The development will have a positive impact on the local economy and society through the creation of new residential accommodation adjoining existing settlement at Windermere Park. Further, the development will provide employment opportunities during the construction stage.

3.7.2 Precautionary Principle

The EA submitted has identified and assessed the range of environmental impacts of the proposal. The proposal includes the following:

- Retention of the majority of Open Eucalypt Forest and hollow-bearing trees across the site;
- Provision of compensatory measures for the loss of existing vegetation and trees on the site;
- The provision of nesting boxes to be placed within larger trees on Lot 3 to offset the impact of removing any hollow-bearing trees and habitat;
- A stormwater management system that incorporates an overland flow path, swales and a detention basin to maintain water quantity leaving the site;
- A Statement of Commitment by the proponent to discontinue work on-site should any Aboriginal archaeological content be exposed during the project and ensure consultation with DECC and the Aboriginal stakeholders group;
- Further investigation will be required to define the extent of contamination identified in certain areas and possible remediation works prior to the use of the site for residential purposes; and
- Appropriate asset protection zones and access to the site as recommended in the Bushfire Threat Assessment.

The proponent has proposed appropriate measures in their Statement of Commitments and conditions of approval that will manage the potential environmental impacts of the development.

3.7.3 Inter-Generational Principle

The development provides additional low density residential development opportunities now and into the future in Morisset Park. The project will seek to minimise its ecological footprint, and provide a relative degree of local and regional self reliance and capacity for future adaptability, through:

- appropriate planning and design approaches; and
- maximising the protection and rehabilitation of the majority of vegetation and trees existing on the site.

3.7.4 Biodiversity Principle

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site. Mitigation measures and management strategies will be implemented to prevent any potential environmental impacts, such as:

- Protection of the Open Eucalypt Forest and hollow-bearing trees in the western part of the site, which provide habitat for threatened and potentially threatened species; and
- Protection of the Lake Macquarie State Conservation Area from potential erosion and sediment movement from construction on the site.

3.7.5 Valuation Principle

The subdivision has been designed in accordance with the principles of Water Sensitive Urban Design and includes provision for a detention basin. The system is designed to promote an environmentally sustainable outcome through management of the stormwater runoff and potable water. These measures will help future development applications for the site to comply with BASIX. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

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), (vi), (vii) are significant factors informing the determination of the application. The project does not raise significant issues with regards to (iii), (iv), (v), (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.

4 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The EA was exhibited from 4 December 2008 to 30 January 2009. The exhibition period was longer than the usual 30 days due to exhibition occurring over the Christmas period. Notification of the exhibition was given in the following local papers:

- The Newcastle Herald on 4 December 2008

Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney;
- Department of Planning Hunter Regional Office, Level 2, 6 Honeysuckle Drive, Newcastle;
- Nature Conservation Council, Level 2, 301 Kent Street, Sydney;
- Lake Macquarie City Council, 126-138 Main Road, Speers Point and Morisset Library, 39 Yambo Street, Morisset.

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

Letters were sent to adjoining landowners and relevant government agencies, including Council, notifying of the exhibition and inviting a submission. A total of 14 submissions were received, comprising 4 submissions from the public and 10 submissions from public authorities being:

- Lake Macquarie City Council;
- Department of Water and Energy;
- Department of Environment and Climate Change;
- Rural Fire Service;
- Roads and Traffic Authority; and
- Department of Primary Industries.

The 4 submissions from the public were all objections. Of the public authority submissions, all raised objections or imposed certain requirements to be met except for the Department of Water and Energy and the Department of Primary Industries.

A response to submissions was lodged on the 7 May 2009 and was accepted by the Department on the 20 July 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:

- Design
 - The proposed number of lots to be developed on the site is unclear;
 - The area of proposed Lot 3 is unclear;
 - The density of the development is too high and not compatible with the surrounding rural character of the area;
 - No inclusion of public open spaces; and
 - Concerns regarding easements.
- Infrastructure
 - Concerns that the detention basin and discharge piping capacity is not adequate to control stormwater leaving the site;
 - Concerns over detention basin design and maintenance;

- Concerns that sewer upgrade will pollute the lake; and
- Concerns that road grading and kerb and guttering may affect entrances to existing properties and direct water flows.
- Hazard Mitigation Management
 - Concern regarding the management of mosquitoes;
 - Safety concerns for future residents relating to the potential removal of retained hollow-bearing trees on-site; and
 - Concern over bushfires, potential contaminated soil and noise, dust, soil and water control concerns during the construction stage;
- Flora, Fauna and Environmentally Sustainable Development (ESD)
 - Concern over impact on flora and fauna inhabiting the site;
 - The need to retain the entire vegetation existing on Lot 3 as a wildlife corridor;
 - Concern that there will be a loss of cool south-east breezes and natural shading from the removal of existing vegetation.
- Social Implications
 - Concern that insufficient jobs will be created;
 - Concerns that building standards may not be met during construction stage; and
 - Concern that there are Insufficient services and facilities to meet an increase in demand;
- Traffic and Access
 - Concern over roads maintenance;
 - Inadequate bus services in the area;
 - Concern over increased traffic along busy roads; and
 - Request the upgrading of a number of intersections and local roads close to the site;
- Water Cycle/Water Quality Management
 - Concern that the EA lacks information on how water quality will be managed;
 - Concern that upstream catchments have not been included in the detention modelling;
 - Concern that nutrient runoff from the proposal will increase the impact on the lake;
 - Concern over inadequate information on the design and functioning of the detention basin;
 - Concern the existing swale along Chifley Road and GPT at the end of Chifley Road is not adequate to accommodate an extra 62 houses; and
 - Require confirmation that all the developed properties will have access to the drainage easement.
- Visual Impact
 - The removal of trees on-site will impact upon views looking toward the site.
- Consistency with Strategies
 - Concern the proposal may not meet the objectives of the Metropolitan and Regional Strategies.

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

A summary of all submissions received can be found in **Appendix C**. The proponent's response to these submissions is in **Appendix D**.

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

4.3.1 Roads and Traffic Authority

The RTA raised no objection to the development and informed the Department that a condition of their approval to the rezoning of the land in 2007 was for the proponent to enter into a Deed of Agreement for funding of road upgrades at the intersection of Fishery Point Road and Macquarie Street. The required contribution is for \$3,000 per lot at the subdivision stage of development, prior to the release of the linen plans.

4.3.2 Department of Primary Industries

The DPI required the proposal to be referred to the Mine Subsidence Board for approval. The Mine Subsidence Board raised no objection to the proposal.

4.3.3 Rural Fire Service

The Rural Fire Service raised no objections provided a number of standard conditions were included in the approval.

4.3.4 Department of Environment and Climate Change (DECC)

DECC raised the following issues:

- A Vegetation/Habitat Management Plan is required to manage the existing vegetation and trees along the western boundary of the site (i.e. proposed Lot 3);
- Displaced hollow-dependent fauna during the pre-clearing phase must be conducted in accordance with DECC translocation policy;
- The proposed trees lining the streets are not native and will not attract native species, and hence lack habitat value to locally occurring threatened species and other wildlife.

DECC also requested standard conditions relating to Aboriginal Heritage be included in the approval.

These issues are further discussed in Section 5 and in Appendix C.

4.3.5 Lake Macquarie City Council (LMCC)

While LMCC do not have an issue with development on the site generally, they had a number of concerns regarding the development proposed. The issues addressed in their submission included:

- Subdivision Layout – the proposal should be staged following the approval of the proposal;
- Landscaping – construction documentation for street planting should incorporate LMCC Standard Details;
- Ecology – a binding agreement to be placed on native vegetation and habitat trees within Lot 3 or a covenant placed on the land to protect these attributes;
- Section 94/Developer Contributions – the need for intersection upgrades that are identified in the Traffic Impact Study have not been included in the proponent's Statement of Commitments and a comprehensive assessment of the scope of traffic works (beyond intersection analysis) are required together with an appropriate contribution;
- Traffic – inadequate carriageway widths of Morisset Park Road and Chifley Road and the need to address the intersection treatment of Morisset Park Road and the proposed road into the subdivision; and
- Stormwater Management – the design of the detention basin is not adequate to retain and discharge high water flows and this will cause spilling onto private property.

Each of these issues is further discussed in Section 5 and in Appendix C.

4.3.6 Department of Water and Energy

The DWE considers the proposal to be adequate.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the Environmental Assessment and the Response to Submissions and consideration of the proponent's draft Statement of Commitments include the following:

- 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; and
- Mine Subsidence.

Lake Macquarie City Council was engaged on a consultancy basis to assess the technical engineering aspects of the proposal. Key issues considered in Council's assessment of the EA and the Response to Submissions and consideration of the proponent's draft Statement of Commitments include the following:

- Geotechnical and Contamination;
- Stormwater;
- Traffic Impacts; and
- Infrastructure provision

All 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 B**.

5.2 SUBDIVISION DESIGN, LAYOUT AND DESIRED FUTURE CHARACTER

The subdivision layout for residential lot sizes ranges from 570m² - 9610m². The indicative layout responds to the site's physical characteristics. The proposed subdivision layout utilises the north facing slope of the land that provides for greater solar access and less overshadowing as dwellings to the south will be predominately uphill of those dwellings to the north.

The proposed development complies with the building controls for future building form on each lot across the site as set out in Lake Macquarie City Council's Development Control Plan No. 1.

Council raised a number of minor concerns over the subdivision layout, all of which the proponent has addressed. Concerns included:

- a lack of provision of Small Lot Housing, as per Schedule 2 of Lake Macquarie LEP 2004 which requires provision of at least 10% of lots in a subdivision be made for Small Lot Housing;
- the application does not mention required demolition of existing houses;
- landscaping of the stormwater detention area; and
- staging of the proposal.

The Proponent's response stated that:

- The majority of lots were capable of accommodating future dual occupancy dwellings, subject to Council approval;
- Demolition is mentioned a number of times within the EA;
- The detention basin will be turfed and landscaped with appropriate tree species; and
- There is no intention to stage the subdivision.

In general, the Department considers that the indicative layout for the future subdivision of the site is acceptable as it provides for low density residential development, good connectivity, integration to the existing centre and will result in a balance between built form and the surrounding rural character. Conditions of approval will require a demolition plan and a detailed landscaping plan be approved by the PCA prior to issue of the construction certificate.

5.3 VISUAL IMPACT

The proposed development will result in visual impacts for existing residents in the area as it will result in a change to the existing rural character of the area to residential development. The site is located within 'Scenic Management Zone C – Moderate' under Lake Macquarie City Council's Development Control Plan No. 1. The site is not visible from any identified prominent landscape or scenic feature and is well removed from Lake Macquarie. Residential housing is visually dominant in this area and therefore the proposed development is not considered to have any significant visual impacts. Native trees are proposed to be incorporated into the street landscape design, retaining the general appearance of the area and enhancing the visual quality of the extended urban area.

The view from the south-eastern corner of the site at the intersection of Morisset Park Road and the corner of Chifley Road has the highest visual exposure, therefore planting of new trees and the retention of existing trees are proposed along the Morisset Park Road frontage and Chifley Road frontage is supported. Existing residents along Frederick Street adjoining the site boundary are all facing north and will not experience any change in views. Residents on the opposite side of the road will lose part of the backdrop of the thick tree canopy that is provided by existing vegetation. The existing tree canopy can also be viewed looking towards the site from the open area adjacent to Lake Petite. The loss of some of this canopy will have a low to moderate visual impact.

The retention of the majority of existing mature trees will help to moderate the impact on the visual amenity of the site. Overall, it is unlikely that the proposed development would have unacceptable visual impacts or result in substantial view loss for existing residents. Recommended conditions of approval require that all trees are to remain on the site except for those required to be removed for the provision of roads, footpaths, drainage, utilities, building envelopes, asset protection zones or because they are unsafe. Conditions of approval also require the retention of all native vegetation on Lot 3 outside of the Asset Protection Zones. It is considered that these conditions will ensure an appropriate level of tree canopy will remain to help moderate any impact on visual amenity as a result of the proposal.

5.4 INFRASTRUCTURE PROVISION

The proposed subdivision will require the construction of roads and associated drainage infrastructure, along with the construction of services including roads, sewer, water, electricity, gas and communications to adequately service the proposed lots. The relevant authorities responsible for the utility services have advised that all services required by the development can be either extended or upgraded to service the proposed subdivision needs.

The proponent has committed to the provision of underground power, telecommunications infrastructure and, reticulated water and sewerage to each lot, prior to the release of the Subdivision certificate.

Hunter Water Corporation (HWC) has indicated that water and sewerage services are available to the proposed development however, as an additional sewerage connection will be required to provide for all lots within the subdivision upgrading of downstream sewer mains and Morisset Park No. 1 Wastewater Pumping Station may be required and similarly the existing reticulated water-main along Morisset Park Road may require upsizing.

The Department considers that services will be able to be provided to the proposal.

5.5 TRAFFIC AND ACCESS

The proposed development will generate traffic that will impact on the existing road network. Two existing roads will provide access to the development – Chifley Road to the east will be the main access point, and Morisset Road to the south, will be the secondary access point. Both intersections are believed to have clear visibility in both directions. The roadsides fronting the proposal are proposed to be provided with kerb and guttering, parallel parking and associated drainage works. The main impacts of traffic from the development would be felt by Morisset Park Road, Baldwin Boulevard, Fishery Point Road and Victoria Street. The proponent's Traffic Assessment concluded that the existing road network can accommodate the additional traffic generated by the proposed development. Each lot will be of sufficient size to ensure that off street parking can be provided.

Council has raised a number of concerns, many of which have satisfactorily been addressed in the Response to Submissions. Concerns include:

- Analysis of the capacity of the proposed intersections to cope with future traffic growth has not been provided, nor has comment been provided on alterations required to existing road infrastructure required as a result of additional traffic;
- Mitigation measures for other impacted intersections, such as Morisset Park Road and Fishery Point Road and Fishery Point Road and Baldwin Boulevard need to be discussed and practical mechanisms for their funding need to be provided;
- Road pavement widths within the subdivision comply with Council guidelines but may not comply with the requirements in *Planning for Bushfire Protection* for unobstructed 6.5m wide carriageways and access to services if parking is allowed on both sides of the road without parking bays being provided;
- Actual measured intersection sight distances are to be provided;
- The RTA should be requested to lower the speed limit from 70 to 50km/h;
- Discussion on pedestrian and cycle connectivity within the site and with local shops and schools and development proposals at Trinity Point should be discussed; and
- Consultation with local bus service is required.

In the Response to Submissions:

- the proponent provided a further report addressing Council concerns about traffic impacts of the proposal and proposed mitigation measures and funding measures (see discussions at 5.5).
- No Parking signs are proposed along one side of all internal roads to ensure that 4.1.3 of *Planning for Bushfire Protection* is met.
- Footpath amenity within and bordering the site is to be provided according any approval. The proponent states that the proposal will not generate pedestrian or cycle activity to a level that would justify the provision of an off road link to schools, local shops or the like.
- The proponent does not believe that it is up to them to approach the RTA for a speed limit reduction. Intersection analysis has shown that there were no adverse safety concerns related to the current 70kp/h limit and that the Council and the RTA need to take a wider ranging review of speed limits in the local area, rather than focussing on one small frontage.
- The traffic report states that a 'hail and ride' bus service currently operates along Morisset Park Road and that the provision of bus shelters either side of Morisset Park Road may be an appropriate condition of approval for the proposal.
- The proponent has amended their Statement of Commitments to include AUR treatments to the Morisset Park Road and Chifley Street intersection and the Morisset Park Road and the New Access Road intersection as well as widening to Chifley Road to 8m at the frontage to the site plus kerb, guttering and drainage and widening Morisset Park Road to 6.5m from the centreline, at the frontage of the site plus kerb, guttering and drainage.

The application proposes to construct footpaving throughout the development to service the future residents. No footpaving or cycle facilities are proposed to extend from the site to other desire points. The nearest facility that would generate demand is the Bonnells Bay Public School at the corner of Morisset Park Road and Fishery Point Road. The school is more than 1.6km away from the subdivision site and it is not considered reasonable to require this development to construction that length of footpaving.

It is considered that the proponent has adequately addressed traffic and access impacts associated with the proposal. Conditions of approval require that the water-main along the northern side of Morisset Park Road be relocated within the appropriate location within the footpath when the carriageway widening works are undertaken, that bus shelters are provided on either side of Morisset Park Road in the vicinity of the site and that road and intersection upgrades are undertaken on Morisset Park Road and Chifley Road in relation to new entrances required for the proposal.

5.6 HAZARD MANAGEMENT AND MITIGATION

5.6.1 Contamination

A Preliminary Contamination Assessment identified, through surface sampling where previous burning and filling had been undertaken, that there is some minor localised contamination on-site. Further investigation will be required to define the extent of the contamination in these areas and possible remediation works required prior to the use of the site for residential purposes.

A recommended condition of approval requires the preparation of a Phase 2 contamination assessment, focusing on the areas identified by Coffey Geosciences in the preliminary contamination assessment and, if necessary, a remediation plan prior to issue of construction certificate and validation of remediation prior to release of subdivision certificate.

5.6.2 Acid Sulfate Soils

The site is not potentially affected by Acid Sulfate Soils.

5.6.3 Bushfire

The site is classified as bushfire prone land in accordance with Lake Macquarie City Council's mapping. A number of asset protection zones (APZs) are required for the development, including the following:

- An APZ of 20m (Inner Protection Area of 10m and Outer Protection Area of 10m) is provided between dwellings on Lots 1, 2, 3 and 4 and the western boundary.
- The provision of an APZ of 25m (Inner Protection Area of 15m and Outer Protection Area of 10m) is provided between the proposed dwelling on Lot 3 and the vegetation to the north.
- An APZ of 20m (Inner Protection Area of 10m and Outer Protection Area of 10m) is provided between the retained vegetation on Lot 3 and the residential lots to the east.
- An APZ of 20m (entirely an Inner Protection Area) is also provided between dwellings and the southern boundary.

A modified plan provided in the Response to Submissions reflect these RFS requirements, with the APZ for Lots 48, 57 and 58 mostly being provided by the road (14.5m road reserve) separating these lots from Lot 3 and the balance (5.5m) of the APZ being provided on each lot between the boundary and the building envelope. An s88E covenant on the title of these is required to ensure that all future dwelling owners are aware of their responsibilities to maintain these APZs. Appropriate conditions of approval have been recommended.

It is proposed to have the Asset Protection Zone for Lot 4 provided on the northern end of Lot 3. The Department is concerned that this may become a problem for ongoing management and believe that it would be more efficient to increase the size of Lot 4 to include the required APZ, deleting this area (350m²) from Lot 3. This will form part of the Department's recommended conditions of approval.

Other recommended conditions of approval will ensure that recommendations of the Rural Fire Service are met in regards to providing asset protection zones, utility services and road designs in accordance with *Planning for Bush Fire Protection 2006*

The Department considers that the commitments made by the proponent in relation to bushfire management and the recommended conditions of approval will result in the satisfactory management of bushfire prone land on the site.

5.6.4 Geotechnical

The site is located on the northern side of a west to east trending ridgeline with surface slopes ranging from 2 to 5 degrees. The surface soils over the site are typically silty and clayey sands. The site has been assessed as having a low risk of slope instability based on the existing site conditions.

5.6.5 Flooding

The site is not identified as being prone to flooding. There are no watercourses which traverse the site and the site is well removed from Lake Macquarie. Localised flooding will be generated only by stormwater falling on the site and will be managed as part of the proposed subdivision.

5.7 WATER CYCLE MANAGEMENT

5.7.1 Water Quantity

The proposed stormwater management system for the development centres around a proposed regional detention basin with a peak detention storage of 1107m³ requiring an area of 1470m² for its construction. The proponent proposes to divert most of the stormwater from lots and road surfaces through a pit and pipe system to a Gross Pollutant Device, prior to being discharged to the above ground detention reserve. The detention basin will then direct controlled flows through the existing services easement between Lots 1 and 2 DP 244002 to a proponent-upgraded connection to the Council stormwater system. The proponent proposes to upgrade the underground pipe system from the connection with the site at Chifley Road to the intersection of Frederick Street and Chifley Road to be able to convey the peak flow from a 1 in 100 year storm event. Council is satisfied with this, subject to detailed design at the construction certificate stage.

Post-development, a small part of the southeast of the site will not be able to drain to the detention basin instead stormwater 'pit inserts' within the street drainage system will be used to treat water quality for this section of the site. The portions of Morisset Park Road and Chifley Road which front the site will have stormwater diverted around the site through provision of kerb and gutter and an underground pit and pipe stormwater system.

5.7.2 Water Quality

The proponent has demonstrated that the proposal can meet Council's Stormwater Quality Improvement Device Pollutant Removal Efficiency targets. However, apart from gross pollutants the removal efficiencies are at the low end of the scale for Phosphorous and Nitrogen removal. The Department raised with the proponent the lack of water sensitive urban design within the proposed stormwater management system. As a result the design of the detention basin was further modified to include 42m³ of infiltration trenches designed to filter runoff of fine sediments and attached nutrients as well as encourage infiltration into the in-situ soils. The Department accepts that an attempt has been made to further improve on the removal efficiencies originally provided and that it is unlikely that any minor increase in nutrient levels reaching Lake Macquarie as a result of this development will cause a noticeable reduction in water quality. The catchments draining to the lake in this locality are already heavily urbanised with pit and pipe drainage systems and as Council pollution control targets are set fairly low requiring further WSUD measures for this infill development would be inequitable.

5.7.3 Easement

Council initially raised concerns over the proposal to use the easement that runs through private property to the north-east of the site for drainage. This issue was resolved to the satisfaction of the Council and the Department as well as the owners of the property over which the easement runs.

5.7.4 Erosion and Sediment control

The proponent provided an Erosion and Sediment Control Plan, however a recommended condition of approval will require that the PCA approve this prior to issue of the construction certificate for the construction of the subdivision's infrastructure.

5.8 HERITAGE AND ARCHAEOLOGY

5.8.1 Aboriginal Cultural Heritage

An Aboriginal Cultural Heritage Assessment and an archaeological excavation were undertaken in order to detect the presence of Aboriginal artefacts on the site, however no evidence of Aboriginal artefacts were discovered. Investigations and consultations were undertaken in accordance with the DECC Interim Community Consultation Requirements for Applicants and with the draft Part 3A Aboriginal Cultural Heritage Guidelines provided by the Department.

On DECC's request the proponent updated their Statement of Commitments to include a commitment to stop work and notify DECC and the Aboriginal stakeholders group if any Aboriginal archaeological remains are discovered during construction.

The Department considers that the proponent has adequately addressed the outstanding Aboriginal cultural heritage issues.

5.9 FLORA AND FAUNA

An initial proposal of 72 lots was of concern to DECC as this would have resulted in the removal of a substantial amount of intact remnant native vegetation on-site, including approximately 300 trees. DECC consider that the intact vegetation remnant (Open Eucalypt forest bordering the western boundary and the hollow-bearing trees on-site) provide habitat for known threatened species (including the Glossy Black Cockatoo and two species of microchiropteran bats), as well as a variety of threatened species that have the potential to occur on-site. DECC recommended that adequate compensatory habitat and offset measures be implemented in accordance with DECC 'offsetting principles'.

As a result the proposal was amended, prior to exhibition, to 62 lots by consolidating 10 lots on the western boundary, thereby retaining the best quality native vegetation on-site as well as a large number of hollow-bearing trees. Currently 25 hollow-bearing trees exist on-site. As a result of the reduction in the proposed number of lots only 7 hollow-bearing trees will be directly lost as a result of subdivision construction.

The Department believes that the amended proposal provides a suitable offset for the clearing of trees and native vegetation for the provision of roads and infrastructure, services, asset protection zones and building envelopes. It is proposed that a condition of approval require that this retained vegetation be protected in perpetuity with a S88E covenant and be managed in accordance with a Vegetation Management Plan and that a further condition of approval require that the Tree Retention Plan be updated to ensure protection of all trees that are not required to be removed for the provision of roads and infrastructure, services, asset protection zones and building envelopes.

DECC raised concerns the Environmental Assessment did not address the issue of displaced hollow-dependent fauna during the pre-clearing phase. The Department is satisfied that this issue has been adequately addressed by including a condition of approval stating that prior to the removal of any hollow-bearing tree on-site an inspection is carried out by a suitably qualified person to ensure that no resident animal is injured and if fauna need to be translocated then this activity must be conducted in accordance with DECC translocation policy.

Another issue of concern to DECC related to the proposed use of non-endemic native and exotic street trees species in the landscaping plan. The Department is satisfied that recommended conditions of approval requiring the use of locally endemic species in the landscaping for the site will satisfy this concern.

5.10 NOISE

The Traffic Impact Study considers that no mitigation measures are required in relation to the proposed residential subdivision and that the traffic noise from the proposed development will be similar to that already generated by the existing suburban areas to the north and east of the site.

The Department considers that construction noise can be adequately managed through the provisions of the Construction Management Plan and the proponent's Statement of Commitments, stating that construction operations will take place in approved Council hours. This has been included as a condition of approval.

5.11 MINE SUBSIDENCE

The site is located within a mine subsidence district. An approval for the future residential subdivision of the site has been granted by the Mine Subsidence Board.

5.12 SECTION 94 AND OTHER CONTRIBUTIONS

The proponent has stated that contributions to Council will be made in accordance with the *Lake Macquarie Section 94 Contributions Plan No.1 – City Wide* (the proponent believes this to be around \$17,000 per lot) and any conditions of approval. A Deed of Agreement has been entered into between the landowner and the RTA for the funding of an upgrade to the intersection of Fishery Point Road and Macquarie Street (State Classified Road). This agreement requires the landowner to pay an amount of \$3,000 per residential lot to the RTA by December 2011, or prior to full construction completion, whichever is the sooner.

The current Council's Contributions Plan only relates to the provision of Open space and recreation facilities; community facilities; and the management of the Section 94 contributions system and has not considered a transport scheme to meet the needs of all new development anticipated in the Cooranbong, Morisset and Morisset Park areas. As a result Council requested that a contribution be imposed on the approval for an upgrade to the Fishery Point Road and Station Street intersection in the amount of \$35,910 or 13.3% of the actual cost, whichever is the lesser.

Council based this amount on a review of the performance of the intersection which determined that an upgrade consisting of the installation of traffic signals, with an estimated cost of \$270,000, was required and that new development in the area should fully pay for the upgrade. Council provided information to support the calculation that this proposal amounted to 13.3% of the new development within the locality on a per lot basis. Council has assumed that conditions of approval will require intersection works/upgrades at:

- Site access to Chifley Road; and
- Site access onto Morisset Park Road.

The proponent did not have an issue with the requirement to contribute toward road works, however it was disputed that the proposal represented 13.3% of total new development in the area. An argument was made that the contribution ought to be based on the proportional increase in potential traffic generation of the proposal. The proponent undertook a further traffic impact review which concluded that:

- The subject proposal is not a significant impact on the road network when considered in isolation or as part of an accumulated know potential increase in land use development/traffic demand;
- The proposal has an accountability to participate in road network upgrade and that can be facilitated by consideration to completion of selective works in kind that contribute to a council masterplan view of the peninsular road network. (Rather than a payment to council via a Voluntary Planning Agreement);
- The scope of roadworks that would be an acceptable contribution to enhanced capacity and road safety on the peninsular road network by the subject proponent, subject to the timing of all known potential development is submitted to be:
 - Construct an AUR geometric intersection for Morisset Park Road and Chifley Road. (Estimated cost \$150,000)
 - Construct an AUR geometric intersection for Morisset Park Road and the New Access Road to the estate; including bus amenity. (Estimated cost \$250,000)
- Whilst not submitted as a work generated by the demands of the subject development, the construction of a left turn slip lane on Fishery Point Road at the Morisset Park Road intersection (for traffic from Morisset travelling east on Fishery Point Road) would assist driver decision making of the existing road network. (Estimated cost \$80,000)

The proponent's Statement of Commitments was updated to include provision of the two AUR intersections directly associated with the proposal.

The Department considers that the Council's request is reasonable as:

- the Council has already committed to forward funding the intersection works at Fishery Point Road and Station Street in the expectation that future developments will contribute to the cost;
- the required contribution will only be in the order of \$580 per lot; and that
- there is a nexus between the need to upgrade this intersection and the proposed development .

Council has provided a list of applicable City-wide Section 94 contributions, it is considered appropriate to apply a condition requiring a cash contribution for all of the applicable Section 94 contributions in addition to a proportionate contribution to the intersection upgrade of Fishery Point Road and Station Street.

Citywide OSA Land	\$536,504.00
Citywide RF Capital Fee	\$340,266.00
Citywide CF West Lake Capital Fee	\$132,493.00
Citywide CF West Lake Land Fee	\$33,940.00
Citywide Management Fee	\$10,193.00
Total	\$1,053,396.00

Contribution to Provision of Services – Traffic Signals -will be a monetary contribution of the lesser of \$35,910 or 13.3% of the actual construction cost to upgrade the intersection of Fishery Point Road and Station Street for traffic signals. The construction costs shall include, but not be limited to, signals, associated road works, kerb and guttering, signage, linemarking and drainage.

5.13 PUBLIC INTEREST

The proposal serves the public interest by the orderly provision and release of serviced residential land that is well designed and provides appropriate linkages to facilities and services. The public interest is also served by the ongoing protection of threatened species and other native flora and fauna habitat on site.

6 CONCLUSION

The Department has assessed the EA and the Response to Submissions and considered the submissions in response to the proposal.

The Department has considered the key issues raised and has recommended a minor modification to the proposed lot layout and conditions of approval to ensure the satisfactory addressing of other key issues and minimal impacts as a result of the proposal. The modifications to the lot layout require a reconfiguration of Lot 3 and Lot 4 to ensure that the APZ benefitting Lot 4 is provided within Lot 4.

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 intact Open Eucalypt forest and the majority of hollow-bearing trees (both of which may provide habitat for threatened species); and
- The development will provide employment opportunities during the construction stage.

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 Minister:

- (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 (**Tag A**).

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APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

APPENDIX B. ENVIRONMENTAL PLANNING INSTRUMENTS, DEVELOPMENT CONTROL PLANS, GUIDELINES CONSIDERATION

As required by the Director General Requirements of 18 May 2007 (to consider relevant statutory and non-statutory requirements) and having consideration to the provisions of Part 3A and section 75R of the Act, the environmental planning instruments, draft environmental planning instruments, development control plans, guidelines and other documents that could otherwise apply are as follows:

Environmental Planning Instruments:

- State Environmental Planning Policy (Major Projects) 2005
- 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
- Hunter Regional Environmental Plan 1989
- Lake Macquarie Local Environmental Plan 2004

Other Plans and Policies:

- Lake Macquarie DCP No. 1
- Lower Hunter Regional Strategy
- NSW Coastal Policy 1997
- Coastal Design Guidelines

State Environmental Planning Policy (Major Projects) 2005

MATTERS	COMPLY	CONSIDERATION
Schedule 2 Clause 1 (1)		
(j)(i) – subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) and is more than 25 lots	Yes	The proposal involves subdivision of land partly within a sensitive coastal location into more than 25 lots as such this identifies the site as an area to which Part 3A of the Act applies.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The Scribbly Gum species found within the Open Eucalypt Forest and Modified Open Eucalypt Forest within the site and is classified as "Potential Koala Habitat" pursuant to SEPP 44. However, there was found to be no secondary evidence of the presence of koalas. As a result, these areas do not qualify as "Core Koala Habitat" and no further provisions of SEPP 44 apply to the site.

State Environmental Planning Policy No. 55 Remediation of Land

MATTERS	COMPLY	CONSIDERATION
Clause 7: Contamination and Remediation to be Considered in Determining Development Application		
(1) A consent authority must not consent to the carrying out of any development	Yes	A Preliminary Contamination Assessment was prepared by

<p>on land unless:</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>		<p>Coffey Geosciences Pty Ltd. Whilst the assessment found that there was no evidence of contamination on-site, various areas on the site were identified as being of concern with respect to potential contamination, following surface sampling across four locations.</p> <p>Further investigation will be required prior to the use of the site for residential purposes to define the extent of contamination in these areas and possible remediation work will be required, pending the outcome of the investigation.</p>
<p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>Yes</p>	<p>The land has been previously used for oil storage and as a scrap yard.</p> <p>The land was used to burn timber and other materials, and was used as a minor dumping area, and is therefore described in subclause (4).</p> <p>The EA submitted for the proposal included a Preliminary Contamination Assessment prepared by Coffey Geosciences Pty Ltd.</p>
<p>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</p>	<p>Yes</p>	<p>The land has been previously used for oil storage and as a scrap yard.</p> <p>The land was used to burn timber and other materials, and was used as a minor dumping area, and is therefore described in subclause (4).</p> <p>The EA submitted for the proposal included a Preliminary Contamination Assessment prepared by Coffey Geosciences Pty Ltd.</p>

		Further investigation will be required prior to the use of the site for residential purposes to define the extent of contamination in the affected areas which were found following surface sampling at four different locations.
(4) The land concerned is: (a) land that is within an investigation area, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land: (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).	Yes	The subject site has been previously used for oil storage and as a scrap yard. The land was used to burn timber and other materials, and was used as a minor dumping area, and is therefore described as oil storage and scrap yards in Table 1 of the guidelines.

State Environmental Planning Policy No. 71 Coastal Protection

MATTERS	COMPLY	CONSIDERATION
Clause 2: Aims of the Policy		
1 (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and	Yes	The proposal will provide additional lots for residential development in an area zoned for residential development. The proposal includes a range of environmentally sustainable measures.
(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and	N/A	There is no direct public access to the foreshore from the site as it is well removed from the foreshore. The development proposes an internal road network in the form of a loop structure that will allow ongoing public access toward the

		foreshore.
(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and	N/A	There is no direct public access to the foreshore from the site as it is well removed from the foreshore. Notwithstanding, an internal road network as part of the development will ensure movement throughout and from the site.
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	Yes	The site was not found to contain any items of Aboriginal archaeological significance. The developer has committed to ensuring work on the site discontinues should any items of Aboriginal heritage significance be found during the project and notify the Aboriginal stakeholders group and DECC.
(e) to ensure that the visual amenity of the coast is protected	Yes	The proposed development incorporates a number of measures to minimise potential visual impacts such as utilising the north facing slope of the land that provides for greater solar access and less overshadowing, planting trees and retaining existing trees along highly visually exposed areas including the Morisset Park Road frontage and Chifely Road frontage and retaining intact vegetation on the site.
(f) to protect and preserve beach environments and beach amenity, and	N/A	The site is well removed from any beach and will therefore not impact upon beach environments or amenity.
(g) to protect and preserve native coastal vegetation, and	Yes	The proposal retains the majority of intact native vegetation on the site. Those areas of vegetation that are being removed are being compensated for by the proponent.
(h) to protect and preserve the marine environment of New South Wales, and	N/A	Runoff from the site drains into Freshwater Creek which leads into Lake Petite and eventually Lake Macquarie. While there is potential for the development to impact on the marine environment, the development proposes the implementation of water quality and quality control measures that will ensure the stormwater leaving the site is in accordance with Council's guidelines relating to

		pollutants.
(i) to protect and preserve rock platforms, and	N/A	There are no rock platforms affected by the proposal.
(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i>), and	Yes	The proposal is unlikely to result in serious or irreversible environmental damage. There are no adverse intergenerational impacts. The proposal will result in additional housing without significant environmental impacts.
(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and	Yes	The development is appropriate for the location and is consistent with the surrounding low scale residential development. A modification to the original proposed plan reduces the number of dwellings from 72 to 62, protecting intact native vegetation and habitat for threatened and potentially threatened species on the site.
(l) to encourage a strategic approach to coastal management.	Yes	The proposal is consistent with a strategic approach to development of this area. It is consistent with the zoning of the site and the provisions of the Lower Hunter Regional Strategy.
Clause 8: Matters for Consideration		
(a) the aims of this Policy set out in clause 2	Yes	These are addressed above.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	N/A	There is no direct public access to the foreshore from the site as it is well removed from the foreshore. Notwithstanding, an internal road network as part of the development will allow ongoing public access toward the foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	N/A	There is no direct public access to the foreshore from the site as it is well removed from the foreshore. Notwithstanding, an internal road network as part of the development will ensure movement throughout and from the site.
(d) the suitability of development given its	Yes	The proposed development is

type, location and design and its relationship with the surrounding area		considered suitable for the site and relates to the existing surrounding development.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	N/A	Due to the site's distance from the coastal foreshore, the proposed development will not result in overshadowing of the foreshore or loss of views from public places.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities	Yes	The proposed development has been designed to minimise potential visual impacts along highly visually exposed areas including the Morisset Park Road frontage and Chifley Road frontage by planting native trees and retaining existing trees along these frontages.
(g) measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats	Yes	The proposal will protect the majority of threatened species and potentially threatened species and their habitats. For the areas of threatened species and native vegetation that are being lost, the proponent will provide compensation.
(h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	Yes	There will be no impacts on fish, aquatic plants or their habitats. A detailed Concept Stormwater Management Plan and a Concept Sediment and Erosion Control Plan has been prepared by Northrop Engineers.
(i) existing wildlife corridors and the impact of development on these corridors	Yes	The Ecological Report Pertaining to Wildlife Corridor Issues has been prepared by Harper Somers O'Sullivan which concludes that the site does not form an important part of any potential wildlife corridor. Although the Department believes that it does provide important habitat and enhances the function of the corridor on the adjacent land.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	Yes	The development is unlikely to impact or be impacted upon by any coastal processes or hazards due to its distance from the foreshore.
(k) measures to reduce the potential for conflict between land-based and water-	Yes	No conflicts are expected.

based coastal activities		
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	Yes	The site was not found to contain any items of Aboriginal archaeological significance. The developer has committed to ensuring work on the site discontinues should any items of Aboriginal heritage significance be found during the project and notify the Aboriginal stakeholders group and DECC.
(m) likely impacts of development on the water quality of coastal waterbodies	Yes	The stormwater management system for the site incorporates water sensitive urban design.
(n) the conservation and preservation of items of heritage, archaeological or historic significance	N/A	There are no identified matters of European heritage or Aboriginal cultural heritage significance, as addressed above.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	N/A	There is no draft LEP for the site.
(p) only in cases in which a development application in relation to proposed development is determined:) the cumulative impacts of the proposed development on the environment, and i) measures to ensure that water and energy usage by the proposed development is efficient.	Yes	No potential unacceptable cumulative impacts of the proposal on the environment have been identified. The development ensures the water quality is maintained and energy usage is efficient by proposing an energy efficient lot layout.
Clause 14: Public Access		
A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	N/A	The site does not have direct access along the foreshore.
Clause 15: Effluent Disposal		
The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-	N/A	The development will be connected to a reticulated sewerage system.

<p>reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.</p>		
<p>Clause 16: Stormwater</p>		
<p>The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.</p>	<p>Yes</p>	<p>A detailed concept stormwater management plan based on water sensitive urban design has been prepared by Northrop Engineers. The proposal will not discharge any untreated stormwater.</p>

State Environmental Planning Policy (Infrastructure) 2007

MATTERS	COMPLY	CONSIDERATION
<p>CLAUSE 2: AIMS OF POLICY</p>		
<p>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</p>	<p>Yes</p>	<p>Relevant government authorities have been consulted in relation to the proposal and the provision of infrastructure and services including Energy Australia, the RTA, Agility and Hunter Water.</p> <p>Management plans for traffic, stormwater, and sewerage have been prepared by Northern Transport Planning and Engineering (for traffic impacts) and Northrop Engineers.</p>
<p>(b) providing greater flexibility in the location of infrastructure and service facilities</p>	<p>Yes</p>	<p>Relevant government authorities have been consulted in relation to the proposal and the provision of infrastructure and services including Energy Australia, the RTA, Agility and Hunter Water.</p> <p>These government authorities have consented to the location of the proposed infrastructure and</p>

		facilities.
(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and	N/A	The site is not surplus government owned land.
(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and	Yes	The EA adequately assesses the impact of the proposed infrastructure and services on the site.
(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and	Yes	The EA adequately assesses matters in relation to infrastructure adjacent to the development.
(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.	Yes	<p>Relevant government authorities have been consulted in relation to the proposal and the provision of infrastructure and services during the assessment process including Energy Australia, the RTA, Agility and Hunter Water.</p> <p>The comments provided by these authorities have been considered in the assessment of the proposal. A copy of the determination will be forwarded to these authorities.</p>

Hunter Regional Environmental Plan 1989

MATTERS	COMPLY	CONSIDERATION
PART 1 PRELIMINARY		
Clause 2: Aims, Objectives etc		
(1) The aims of this plan are: (a) to promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community	Yes	The proposed development is consistent with the surrounding low density residential development and includes a range of environmentally sustainable measures.
(b) to co-ordinate activities related to development in the region so there is optimum social and economic benefit to	Yes	The development will improve the support of businesses, community services and public transport in

the community, and		nearby centres of Bonnells Bay and Morisset. The development will also increase the availability of housing in the area and will not result in any adverse impacts upon the natural environment.
(c) to continue a regional planning process that will serve as a framework for identifying priorities for further investigations to be carried out by the Department and other agencies.	N/A	
PART 2 SOCIAL DEVELOPMENT		
Division 1 Housing		
The objectives of this plan in relation to planning strategies concerning housing are: (a) to provide opportunities for adequate provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups throughout the region, and	N/A	No affordable housing is proposed as part of the development. However a number of the lots are capable of accommodating dual occupancies which will be more affordable.
(b) to ensure that the design and siting of residential development meets community needs, minimises impact on the natural environment and involves the quality of the region's built environment.	Yes	The Lower Hunter Housing Market Study identifies the need for additional residential land along the Newcastle-Central Coast-Sydney urban corridor, which includes the site. The design of the development is consistent with surrounding low density residential development and minimises the impact on the natural environment.
Division 2 Health, Education and Community Services		
The objective of this plan in relation to planning strategies concerning health, education and community services is to encourage the co-ordinated provision of facilities and services designed to meet the needs of user groups and accessible to those groups.	Yes	The site is within 2-3kms of existing health, education and community facilities in Bonnells Bay and Morisset Park. The proposed increase in population in Morisset Park will assist in ensuring the long term viability of existing health, education and community facilities. A Social Impact Assessment has been prepared by Key Insights Pty Ltd.

PART 4 LAND USE AND SETTLEMENT		
Division 2 Urban Land		
<p>The objective of this plan in relation to planning strategies concerning urban land is to provide for sufficient urban land to meet anticipated growth in an orderly and efficient manner, having regard to:</p> <p>(a) constraints of the natural environment</p>	Yes	<p>There are no adverse affects of the development on the natural environment. Intact native vegetation will be protected and there will be offset measures for the loss of existing native vegetation.</p>
<p>(b) urban capability of the land as defined by the Soil Conservation Service</p>	Yes	<p>The urban capability of the site has been assessed as being suitable and all services will be able to be provided to any future development.</p>
<p>(c) supply and demand for land for all urban purposes</p>	Yes	<p>The Lower Hunter Housing Market Study identifies the need for additional residential land along the Newcastle-Central Coast-Sydney urban corridor, which includes the site.</p> <p>As mentioned above, existing services in Bonnells Bay and Morisset Park are able to cater for the increase in demand for services from the development.</p>
<p>(d) availability and cost of public utility services</p>	Yes	<p>Relevant public authorities have been consulted during the preparation of the EA and support the proposed development.</p> <p>The comments provided by these authorities have been considered in the assessment of the proposal.</p>
<p>(e) access to employment and commercial and community facilities, and</p>	Yes	<p>As previously mentioned, the site is within 2-3kms of existing health, education, commercial, employment and community facilities in Bonnells Bay and Morisset Park. The site is also 3.5kms from the Morisset train station.</p>
<p>(f) provision of a choice of locations and development types.</p>	Yes	<p>The proposal offers a choice of residential locations and development types within the region.</p>

PART 7 ENVIRONMENTAL PROTECTION		
Division 1 Pollution Control		
The objective of this plan in relation to planning strategies concerning pollution control is to control development so as to minimise air, noise and water pollution.	Yes	The proposed pollution control measures, the conditions of consent and stormwater management plan will ensure the minimisation of air, noise and water pollution.
Division 3 Environmental Hazards		
The objectives of this plan relating to planning strategies concerning environmental hazards are to: (a) minimise the effects of soil erosion and land slip	Yes	A Concept Sediment and Erosion Control Plan has been prepared by Northrop Engineers. The proponent's Statement of Commitments adequately addresses soil erosion and land slip issues.
(b) control developments on flood liable lands and encourage flood plain management practices which ensure maximum personal safety and appropriate land uses,	N/A	The site has not been identified as flood liable land.
(c) control development so as to minimise the dangers of coastal erosion and storm damage	N/A	The development is far removed from the coastal foreshore.
(d) minimise the dangers of bushfires to all forms of development, especially residential development in fire prone areas, and	Yes	The development has been designed in accordance with the recommendations made by the Rural Fire Service and a Bushfire Threat Assessment prepared by Harper Somers O'Sullivan Pty Ltd. Adequate Statement of Commitments proposed by the proponent have been made in relation to bushfire protection in the EA.
e) minimise the danger of mine subsidence to all forms of development.	Yes	An approval for the future residential subdivision of the site has been granted by the Mine Subsidence Board.
PART 8 CONSERVATION AND RECREATION		
Division 1 Natural Areas		
The objectives of this plan in relation to planning strategies concerning natural areas are to:	Yes	The proposed development protects the majority of intact native vegetation on the site.

(a) protect natural areas of geological, ecological or scenic interest such as important forests, bushlands, wetlands, rivers, estuaries, lakes, beach and dune systems, headlands, mountain ridges and escarpments		
(b) strictly control any reduction in the extent of important natural areas, especially important habitats such as natural wetlands	Yes	The majority of Open Eucalyptus forest and hollow-bearing trees which provide habitat for threatened species and potentially threatened species are retained on the site.
(c) protect and preserve bushland within larger urban areas because of its natural, aesthetic, recreational, educational, scientific, soil conservation and habitat values, and	Yes	As mentioned previously the majority of intact native vegetation and habitat for species will be retained on the site.
(d) improve the aesthetic appeal and image of the region where possible and preserve existing amenity.	Yes	The residential development of the land will preserve the existing amenity and residential character of the area.

Lake Macquarie Local Environmental Plan 2004

MATTERS	COMPLY	CONSIDERATION
PART 1 PRELIMINARY		
Clause 3: Objective of the Plan		
The objective of this plan is to achieve development of land to which this plan applies that is in accordance with the principles of ecologically sustainable development by: (a) promoting balanced development of that land, and (b) implementing the <i>Lifestyle 2020 Strategy</i> adopted by the Council on 27 March 2000.	Yes	The proposed development represents an appropriate and orderly development of the site. The proposal has been adequately designed, and subsequently amended, taking into account the environmental constraints.
PART 2 LIFESTYLE 2020 STRATEGY VISION, VALUES AND AIMS		
Clause 12: Vision		
The vision for land to which this plan applies is described in the <i>Lifestyle 2020 Strategy</i> , which is available from the office of the Council.	Yes	The proposed development is socially, economically and environmentally viable.
PART 3 GENERAL CONTROLS FOR LAND WITHIN ZONES		

Zone 2(1) Residential Zone		
<p>The objectives of this zone are to:</p> <p>(a) permit development of neighbourhoods of low-density housing, and</p> <p>(b) provide for general stores, community service activities or development that includes home businesses whilst maintaining and enhancing the residential amenity of the surrounding area, and</p> <p>(c) ensure that housing development respects the character of surrounding development and is of good quality design, and</p> <p>(d) provide for sustainable water cycle management.</p>	<p>Yes</p>	<p>The development responds to the objectives of the zone by proposing low density housing, providing housing located close to existing centres including Bonnells Bay and Morisset Park that offer retail, commercial and community services and facilities, development that preserves the existing amenity and residential character of the area and implementing water sensitive urban design measures.</p>
PART 5 SPECIAL CONTROLS FOR PROTECTION OF THE ENVIRONMENT OR FOR PARTICULAR LAND		
Clause 24 Subdivision		
<p>(1) Despite any other provision of this plan, subdivision of land, other than that identified in Schedule 1 as exempt development, may be carried out only with development consent.</p> <p>(2) Land in any zone may be subdivided only if the consent authority is satisfied:</p> <p>(a) that the resulting lots will conform to the requirements in Schedule 2 (Subdivision standards) applicable to subdivision in that zone, and</p> <p>(b) the resulting lots can be developed in accordance with this plan.</p> <p>(3) To avoid doubt, <u>State Environmental Planning Policy No 1—Development Standards</u> applies to a requirement referred to in subclause (2) (a) in the same way as it applies to a development standard.</p> <p>(4) Consent must not be granted to a subdivision of land in Zone 2 (1) or 2 (2) for the purpose of small lot housing unless consent has been or is also given to the erection on the land of dwellings that will comprise small lot housing.</p> <p>(5) Consent must not be granted for a subdivision of land in Zone 2 (1) for the purpose of dual occupancy-attached or dual occupancy-detached unless consent has been or is also granted for the erection on the land of dwellings</p>	<p>Yes</p>	<p>The subdivision of land zoned 2(1) Residential complies with the requirements as set out in Schedule 2. A number of lots are provided that are able to support dual occupancies. No dwelling houses are proposed as part of the proposal.</p>

<p>comprising that form of dual occupancy. (6) The subdivision of land in Zone 2 (1) for small lot housing, a dual occupancy-detached or a dual occupancy-attached is prohibited if it would result in the creation of any battle-axe lots. (7) The subdivision of land in Zone 2 (2) for small lot housing is prohibited if it would result in the creation of any battle-axe lots. (8) The subdivision of land in Zone 10 is prohibited.</p>		
Clause 25 Demolition		
<p>Except as provided otherwise by this plan, the demolition of a building or work requires development consent.</p>	Yes	<p>The development proposes the demolition of existing dwellings and associated sheds.</p>
Clause 27 Dwelling Houses and Dual Occupancies in Zone 1(2), 2(1), 2(2), OR 7(5)		
<p>(1) This clause applies to land in Zone 1 (2), 2 (1), 2 (2) or 7 (5). (2) In this clause: dwelling lot means a lot that: (a) was a lawfully created lot at the commencement of this plan, or (b) is a lot lawfully created after that commencement under a development consent granted before or after that commencement, or (c) complies with such of the requirements set out in Schedule 2 (Subdivision standards) as apply to the land comprising the lot. (3) A dwelling must not be erected or created on land to which this clause applies, except in accordance with this clause. (4) Consent may be granted for the erection or creation of: (a) a dwelling house on a dwelling lot in Zone 2 (2), or (b) a dwelling house or dual occupancy-attached on a dwelling lot in Zone 1 (2) or 7 (5), or (c) a dwelling house, dual occupancy-attached or dual occupancy-detached on a dwelling lot in Zone 2 (1). (5) Consent must not be granted for the erection or creation of a dwelling house, dual occupancy-attached or dual occupancy-detached on a dwelling lot if</p>	N/A	<p>The proposal is for subdivision only, not dwellings.</p>

<p>its erection or creation would mean:</p> <p>(a) if the lot is in Zone 1 (2), 2 (1), 2 (2) or 7 (5)—that there is more than one dwelling house on the dwelling lot (counting any dwelling house already on the lot), or</p> <p>(b) if the lot is in Zone 1 (2), 2 (1) or 7 (5)—that there are more than two dwellings on the dwelling lot (counting any dwelling already on the lot).</p> <p>(6) Consent must not be granted for the erection or creation of a dual occupancy-attached or dual occupancy-detached on a neighbourhood lot in Zone 1 (2) or 7 (5).</p>		
Clause 30 Control of Pollution		
<p>Consent must not be granted to development unless the consent authority is satisfied that all reasonable and practicable control measures will be implemented to minimise pollution likely to arise from carrying out that development.</p>	Yes	<p>The proposed pollution control measures, the conditions of consent and Stormwater Management Plan will ensure the minimisation of air, noise and water pollution.</p>
Clause 31 Erosion and Sediment Control		
<p>(1) This clause applies to development that involves or that, in the opinion of the consent authority, may give rise to the exposure of the soil surface of land to the action of wind or water, whether as a consequence of:</p> <p>(a) the carrying out of earthworks, or</p> <p>(b) the destruction or removal of vegetation, or</p> <p>(c) the carrying out of any other class of development.</p> <p>(2) Consent must not be granted to development to which this clause applies unless:</p> <p>(a) the consent authority is satisfied that all reasonable and practicable control measures will be carried out to prevent or minimise the effects of erosion and sediment, and</p> <p>(b) where the area of soil surface exposure is greater than 250 square metres, but less than 2,500 square metres, the consent authority has considered an erosion and sediment control plan complying with erosion and sediment control guidelines adopted by the Council, and whether the consent</p>		<p>A Concept Sediment and Erosion Control Plan has been prepared by Northrop Engineers which adequately addresses soil and erosion matters.</p> <p>The proponent's Statement of Commitments states that a Sediment and Erosion Control Plan will be developed in accordance with the relevant guidelines prior to the commencement of construction.</p>

<p>will include a condition requiring the development to be carried out in accordance with that plan, and (c) where the area of soil surface exposure is 2,500 square metres or greater, the consent authority has considered a soil and water management plan complying with construction guidelines adopted by the Council, and whether the consent will include a condition requiring the development to be carried out in accordance with that plan.</p>		
<p>Clause 33 Bushfire Considerations</p>		
<p>(1) This clause applies to bush fire prone land. Note. Section 146 of the Act provides that bush fire prone land is land recorded by the Council as such on a map certified by the Commissioner of the NSW Rural Fire Service as a bush fire prone land map for the area of the Council. (2) A person must not carry out bush fire hazard reduction work without development consent unless the person is authorised to carry out the work without consent by or under the <u>Rural Fires Act 1997</u> or another Act. (3) Before granting consent required by this clause, the consent authority must: (a) have regard to the relevant provisions of <i>Planning for Bush Fire Protection</i>, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006, and available at the office of the Council, and (b) be satisfied that: (i) the measures proposed to avoid or mitigate the threat from bush fire, including the siting of the proposed development, the design of, and materials used in, any structures involved, the clearing of vegetation, and the provision of asset protection zones, landscaping and fire control aids (such as roads and water supplies), are adequate for the locality, and (ii) as far as possible, the potential impact on the environment of mitigation measures proposed is minimised.</p>	<p>Yes</p>	<p>The development has been designed in accordance with the recommendations made by the Rural Fire Service and a Bushfire Threat Assessment prepared by Harper Somers O'Sullivan Pty Ltd.</p> <p>Adequate Statement of Commitments proposed by the proponent have been made and included in the EA in relation to bushfire protection.</p>

Clause 34 Native Trees and Vegetation		
<p>(1) This clause applies to all land except:</p> <p>(a) State forest or other Crown-timber lands within the meaning of the <u>Forestry Act 1916</u>, or</p> <p>(b) land within Zone 8.</p> <p>(2) Except as provided by subclause (3), a person must not clear any tree or any native vegetation unless in accordance with a development consent that is in force.</p> <p>(3) Consent is not required for:</p> <p>(a) the clearing of trees or native vegetation authorised or required by or under the <u>Electricity Supply Act 1995</u>, or</p> <p>(b) the clearing of trees or native vegetation authorised or required by or under the <u>Roads Act 1993</u>, or</p> <p>(c) the clearing or harvesting of trees grown commercially or domestically for their edible fruit, or</p> <p>(d) the control of noxious weeds within the meaning of the <u>Noxious Weeds Act 1993</u>, or</p> <p>(e) the clearing of commercially grown plantation trees in accordance with the <u>Plantations and Reafforestation Act 1999</u>, or</p> <p>(f) the clearing of native vegetation without consent if authorised under the <u>Native Vegetation Conservation Act 1997</u>, any other Act or another environmental planning instrument, or</p> <p>(g) the removal of hazardous dead trees within Zone 2 (1), 2 (2), 3 (1), 3 (2), 4 (1), 4 (2), 4 (3), 5, 6 (1) or 6 (2), except where the trees provide habitat for species listed in Schedule 1 or 2 to the <u>Threatened Species Conservation Act 1995</u>, or</p> <p>(h) the removal of native vegetation on land, other than in Zone 7 (1), for the purpose of creating or maintaining landscaped and lawn areas where:</p> <p>(i) the removal, injury or destruction of trees is not involved, and</p> <p>(ii) the area to be cleared is less than 600 square metres in total and is on the same allotment as, and within the curtilage of, a dwelling for which development consent has been granted,</p>	<p>Yes</p>	<p>The development proposes the removal of trees and vegetation.</p> <p>DECC has been consulted in relation to the removal of trees and vegetation that provide habitat for species listed under the <u>Threatened Species Conservation Act 1995</u> and their recommendations have been considered in the EA.</p> <p>The majority of the intact Open Eucalypt Forest on the site is to be protected and maintained under a Vegetation Management Plan. All trees not required to be removed for subdivision, road, building envelope and asset protection zone services and services installation are to remain on-site.</p>

<p>and</p> <p>(iii) the soil surface exposed in any period of 90 consecutive days will not exceed 250 square metres, and</p> <p>(iv) the slope of the land does not exceed 15 degrees, and</p> <p>(v) the work does not involve the disturbance of native vegetation which is habitat for species listed in Schedule 1 or 2 to the <u>Threatened Species Conservation Act 1995</u>, and</p> <p>(vi) the area is not subject to a development consent that requires the trees or native vegetation to be retained, or</p> <p>(i) bushfire hazard reduction work, within the meaning of the <u>Rural Fires Act 1997</u>, that is exempted from any requirement for development consent by the operation of that Act, or</p> <p>(j) the clearing of any tree (other than any tree listed on the Council's <i>Significant Tree Register</i>) or native vegetation that is:</p> <p>(ii) within 5 metres of the outermost projection of a lawfully used building (being a building that is not exempt development), and</p> <p>(ii) on the same allotment as that building, but only if a development consent does not require the tree or native vegetation to be retained, or</p> <p>(k) the clearing of any tree (other than a tree listed on the Council's <i>Significant Tree Register</i>) or native vegetation that is:</p> <p>(i) within 1 metre of a sealed driveway to a lawfully used building (being a building that is not exempt development), and</p> <p>(ii) on the same allotment as that building, but only if a development consent does not require the tree or native vegetation to be retained, or</p> <p>(l) the clearing of any tree or native vegetation where the Council is satisfied beforehand that the tree or native vegetation ought to be cleared because it is dangerous to life or property, or</p> <p>(m) the clearing of any tree or native vegetation required by an order given</p>		
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<p>under Division 1 of Part 2 of Chapter 7 of the <u>Local Government Act 1993</u>.</p> <p>(4) Consent must not be granted for the clearing of any tree or native vegetation unless the consent authority has considered a statement of environmental effects that assesses in respect of the vicinity of the proposed clearing:</p> <p>(a) soil stability and prevention of land degradation, and</p> <p>(b) water quality and associated ecosystems such as streams, rivers, waterbodies or waterways, and</p> <p>(c) scenic or environmental amenity, and</p> <p>(d) vegetation species, vegetation communities, flora and fauna corridors and natural wildlife habitats.</p> <p>(5) Nothing in this clause affects any requirement made by or under the <u>Native Vegetation Conservation Act 1997</u>.</p>		
Clause6 Heritage Provisions		
43 Objective		
<p>The objective of this Part is to protect and conserve archaeological sites and places of Aboriginal, natural or European cultural significance. It does this by making provisions that conserve the remaining fabric, relics, settings and views, and evidence of the cultural significance of heritage items and the environment of heritage conservation areas.</p>	Yes	<p>The site was not found to contain any items of Aboriginal archaeological significance or European cultural significance. The proponent has committed to stopping site works should any items of Aboriginal heritage significance be found during the project and notify the Aboriginal stakeholders group and DECC.</p>

Lake Macquarie DCP No. 1 –

MATTERS	COMPLY	CONSIDERATION
Section 2.1 Environmental Responsibility and Land Capability		
<p>Ecological Values and Corridors</p> <p>The intent of Council's requirements is to conserve the biodiversity of the City and the Region and to protect ecological corridors and increase the connections between habitats.</p> <ul style="list-style-type: none"> Impacts of the proposal on native flora and fauna is avoided or minimised. 	Yes	<p>An ecological impact assessment was provided with the EA, which detailed significant habitat on the site, including areas of potential threatened species habitat.</p> <p>No regionally significant vegetation communities listed in LHCCREMS occur within the site.</p> <p>A corridor is identified that traverses through the adjacent</p>

<ul style="list-style-type: none"> • Native Flora and Fauna Assessments are conducted with sufficient detail. • Significant Habitat, being areas and habitat elements important for significant flora and fauna species, populations, vegetation communities and/or ecological communities, is protected and enhanced on and/or adjoining the site. • The development proposal assists in meeting regional objectives and targets set by LHCCREMS and/or the Central Coast Native Vegetation Committee in a Native Vegetation Management Plan. • Significant Habitat in and around the site is protected from external influences. • Ecological Corridors are identified, protected and enhanced on and adjoining the site. • The widths of ecological corridor/s within the site are maintained to enhance their identified functions. 		<p>property.</p> <p>The proposal protects the majority of the intact vegetation on the site, which is located in proposed Lot 3, through a protective covenant and a requirement for this vegetation to be managed in accordance with a Vegetation Management Plan.</p> <p>The protection of this vegetation also assists in the enhancement and maintenance of the integrity and function of the ecological corridor that traverses the adjacent property. All trees that are not required to be removed for the construction of the subdivision are to be protected.</p>
<p>Scenic Values</p> <p>The intent of Council's requirements is to protect and maintain the scenic values of the City, whether being viewed from land or water.</p> <ul style="list-style-type: none"> • Development is designed to complement, rather than detract from the landscape, whether it is located in an urban, rural or environmental setting. • Development visible from or adjoining the coastline, Lake Macquarie or its waterways, or on ridgelines, maintains and enhances the scenic value of these features 	<p>Yes</p>	<p>The site is located within 'Scenic Management Zone C – Moderate'</p> <p>The site is not visible from any identified prominent landscape or scenic feature and is well removed from Lake Macquarie. Tree retention on the site will assist in ameliorating visual impact of the proposal.</p>
<p>Tree Preservation and Management</p> <p>The intent of Council's requirements is to maintain a 'green' City by protecting native and culturally significant vegetation, bushland and understorey vegetation.</p> <p>Development maintains or enhances:</p> <ul style="list-style-type: none"> • The natural bushland character of the City through the protection of trees and bushland 	<p>Yes</p>	<p>Native vegetation is proposed to be protected on-site. All trees not required to be removed for the subdivision creation are to be protected. The ecological corridor will be maintained. Threatened species habitat will be protected.</p>

<ul style="list-style-type: none"> • Trees or groups of trees that have natural heritage significance and/or aesthetic values for the community, Streetscape values where trees form an essential element of the streetscape, • The integrity and quality of riparian vegetation and the littoral vegetation. • Ecological Corridors • Ecological Habitat • Significant Species and Communities 		
<p>Mine subsidence Concurrence from the Mine Subsidence Board has been obtained for the development.</p>	Y	Concurrence has been granted
<p>Contaminated Land</p> <ul style="list-style-type: none"> • The level of contamination is clearly identified and addressed. • The proposal demonstrates that the use for which the land is proposed is suitable in the site's contaminated state, or will be suitable, after remediation. • The site is remediated and the works are reviewed and validated before the land is used for its proposed purpose. • The proposal demonstrates how contaminants that are proposed to remain on the site will be monitored. 	Yes	A Preliminary Contamination Assessment has identified the need for a Phase 2 Assessment to be undertaken on specific isolated points on the site where burning of timber waste has raised arsenic levels above acceptable standards. The further assessment will recommend appropriate remediation works. The requirement for a Phase 2 assessment, remediation and validation will form a condition of approval.
<p>Energy Efficiency The subdivision of land achieves a high level of energy efficiency through lot layout design, including street and lot orientation, and Lot size and shape.</p>	Yes	The Lot layout is appropriately oriented for energy efficiency.
Section 2.2 Social Impact		
<p>Social Impact Assessment Development maintains and/or enhances social equity of the community affected by and/or likely to result from the proposed development, both now and into the future.</p>	Yes	The proposal is likely to maintain the social equity of the local community. A number of blocks are of a size capable of supporting dual occupancy housing, potentially allowing younger less affluent buyers into the local market. A recommended condition of approval requires that at least 3 lots are to be specified as for Dual Occupancy Development.

Section 2.5 Stormwater Management, Infrastructure and On-Site Services		
<p>Essential Infrastructure The intent of Council's requirements is to ensure the provision of essential infrastructure (or where appropriate alternative technologies) to all development and in a manner that minimises environmental impacts.</p>	Yes	All essential infrastructure is available to the site.
<p>Stormwater The intent of Council's requirements is to ensure stormwater systems are carefully planned, designed and located to prevent the disturbance, redirection, reshaping or modification of watercourses and associated vegetation and to protect the quality of receiving waters.</p>	Yes	<p>Adequate and well designed stormwater infrastructure will be provided to the site. The proposed stormwater system complies with Council controls for capture of nutrients.</p> <p>Appropriately sized drainage system is proposed. The Detention basin will be landscaped to Council satisfaction.</p>
Section 2.6 Transport, Parking, Access and Servicing		
<p>Movement system The intent of Council's requirements is to ensure that development reflects the Lake Macquarie Hierarchy of Roads, and contributes to quality design and modal choice outcomes.</p>	Yes	<p>The proposal reflects the local road hierarchy.</p> <p>Footpaths are provided.</p> <p>Separation to ecological habitat and corridors is provided by a road.</p> <p>All roads and intersections are to be designed and constructed in accordance with Council and Austroads guidelines.</p> <p>Road widths are acceptable and designed to enable access to comply with Planning for Bushfire protection.</p>
Section 2.1 Streetscape and the Public Realm		
<p>Streetscape and Local Character The intent of Council's requirements is the enhancement and creation of attractive, pleasant and safe streetscapes.</p>	Yes	Street and Detention Basin Landscaping is proposed to meet Council requirements. Use of locally endemic native species will be a condition of approval.
Section 3.2 Specific Principles of Development- Subdivision		
<p>Neighbourhood Design The intent of Council's requirements is to ensure subdivision is integrated into the established subdivision patterns of the City, provides a defined and positive streetscape character, enhances accessibility and safety and promotes the principles of ecological sustainability.</p>	Yes	The subdivision design is acceptable and meets Council's requirements

<p>Lot Size and Layout The intent of Council's requirements is to provide subdivision lot sizes that meet community and economic needs, while ensuring that ecological, social and scenic values are safeguarded.</p>	<p>Yes</p>	<p>Lot sizes are compliant and provide opportunity for Small Lot Housing</p>
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Lake Macquarie DCP No. 1 – Part 4 Area Plans

Lake Macquarie DCP No. 1 includes Area Plans which provide detailed place-specific requirements with statements of Desired Future Character and specific design advice. However, no such Area Plan has been prepared for Morisset Park.

Lower Hunter Regional Strategy

Morisset is identified as an "Emerging Major Regional Centre" in the Strategy. The site is also identified as part of the existing urban area. The proposed development is a logical extension of the adjacent suburban area of Windermere Park and provides additional development to meet the demand for housing in the region.

NSW Coastal Policy 1997

MATTERS	COMPLY	CONSIDERATION
<p>Protecting, rehabilitating and improving the natural environment of the coastal zone.</p>	<p>Yes</p>	<p>The project proposes the protection of the majority of intact vegetation and trees which provide habitat for threatened and potentially threatened species on the site. Native vegetation and trees that will be lost will be compensated for by the proponent.</p>
<p>Recognising and accommodating the natural processes of the coastal zone.</p>	<p>Yes</p>	<p>This site is not affected by coastal processes.</p>
<p>Protecting and enhancing the aesthetic qualities of the coastal zone.</p>	<p>Yes</p>	<p>The design of the proposal has attempted to preserve highly visually exposed areas including the Morisset Park Road frontage and Chifely Road frontage by planting trees and retaining existing trees along these frontages and retaining intact vegetation on the site.</p>
<p>Protecting and conserving the cultural heritage of the coastal zone.</p>	<p>Yes</p>	<p>No items of Aboriginal archaeological significance or European cultural significance were identified on the site. The developer has committed to ensuring work on the site discontinues should any items of Aboriginal heritage significance be found during the project and notify</p>

		the Aboriginal stakeholders group and DECC.
Providing for ecologically sustainable development and use of resources.	Yes	The proposal provides for ESD through the protection of the majority of the areas of ecological significance on the site and through a stormwater management system based on water sensitive urban design.
Providing for ecologically sustainable human settlement in the coastal zone.	Yes	The proposal allows for ecologically sustainable settlement through designing the proposal around the site's environmental constraints. A detention basin will be provided in the north-eastern corner of the site, in accordance with the existing natural drainage patterns across the site.
Providing for appropriate public access and use.	Yes	An internal road network in the form of a loop structure as part of the development will ensure public access and movement throughout and from the site.
Providing information to enable effective management of the coastal zone.	Yes	The proposed development has contributed to existing information regarding threatened species (including the Glossy Black Cockatoo and two species of microchiropteran bats), as well as a variety of potentially threatened species and their habitat. This will contribute to the effective management of the coastal zone.
Providing for integrated planning and management of coastal zone.	Yes	The proposal is consistent with Council's development controls and guidelines relating to subdivision including neighbourhood design and lot size and layout.

Coastal Design Guidelines

MATTERS	COMPLY	CONSIDERATION
Part 1 – Determining a Hierarchy of Settlements		
Inland Coastal Centres	Yes	The site is in Morisset Park which is identified as an inland coastal centre.
Relationship to the environment	Yes	Any potential environmental impacts have been minimised through amendments to the design, commitments and conditions of approval.
Visual sensitivity	Yes	<p>The proposed development responds to visual impacts by preserving highly visually exposed areas including the Morisset Park Road frontage and Chifley Road frontage by planting trees and retaining existing trees along these frontages and retaining intact vegetation on the site.</p> <p>The proposal is consistent with Council's development controls and guidelines relating to subdivision including neighbourhood design and lot size and layout.</p>
Edges to the water and natural areas	Yes	The proposal provides public access and movement through the site towards the foreshore.
Streets	Yes	The street layout responds to the topographical and ecological constraints of the site. The proposed road network provides good connectivity throughout the site.
Buildings	Yes	<p>The form of future buildings will be guided by Council's development controls and guidelines relating to subdivision including neighbourhood design and lot size and layout.</p> <p>The future development will result in a mix of 1 and 2 storey detached dwellings in accordance with Council's planning controls.</p>

Heights	Yes	The future development will result in a mix of 1 and 2 storey detached dwellings in accordance with Council's planning controls.
Part 2 Design Principles for Coastal Settlements		
Defining the footprint and boundary	Yes	The site is within the identified boundary of Morisset Park.
Connecting open spaces	Yes	The site has links to surrounding open spaces, including the Conservation Area on the opposite side of Morisset Park Road.
Protecting the natural edges	Yes	The site is not directly adjacent to the coastal foreshore and will therefore not impact on protecting the natural edges.
Reinforcing the street pattern	Yes	The street pattern proposed for the site responds to the site's topography and will allow connectivity throughout the site.
Appropriate buildings for a coastal context	Yes	The proposal does not seek approval for building construction. Future building form will be guided by Council's planning controls.

APPENDIX C. SUMMARY OF SUBMISSIONS

Project description MP08_0014

Summary of all submissions received for this application

NB. Because of the varying degree of detail provided in public authority submissions from DGRs stage to exhibition stage (ie. some agencies submitted detailed comments at DGRs stage yet did not respond during exhibition), this summary seeks to record all matters raised by agencies as well as provides a Departmental response.

Date	Stage of process	Agency comment	Department's response
Roads and Traffic Authority (RTA)			
20 May 2008/ 16 December 2008	DGRs (letter) & Adequacy of EA / Exhibition	The RTA requires a contribution of \$3,000 per lot at the subdivision stage of development, prior to the release of the linen plans to fund the upgrade of the intersection at Fishery Point Road and Macquarie Street.	This has been agreed upon by the proponent in the Deed of Agreement between the proponent and the RTA and has been addressed in the EA.
Department of Primary Industries (DPI)			
7 May 2008/ 30 January 2009	DGRs (letter) & Adequacy of EA / Exhibition	No objection. The DPI required the proposal to be referred to the Mine Subsidence Board for approval. The DPI is satisfied that the issue of mine subsidence and the referral requirement has been adequately addressed.	The Mine Subsidence Board granted approval for the subdivision. The Department is satisfied this requirement has been met.
Rural Fire Service (RFS)			
8 May 2008	Adequacy of EA / Exhibition	Asset protection zones (APZs) to be provided in accordance with the recommendations contained within the Bushfire Threat Assessment. The APZs to be managed as outlined in section 4.1.3 and Appendix 5 of <i>Planning for Bushfire Protection</i> and <i>Standards for Asset Protection Zones</i> . Where the required APZ to the west of proposed Lots 4, 47, 48, 57 & 58 falls within proposed Lot 3, a restriction to the land use pursuant to section 88B of the <i>Conveyancing Act 1919</i> will need to be placed on proposed Lot 3 requiring the provision of the APZ. Water, electricity and gas are to comply with section 4.1.3 of <i>Planning for Bushfire Protection</i> . Public road access shall comply with section 4.1.3(1) of <i>Planning for Bushfire Protection</i> .	The Department is satisfied that these issues have been adequately addressed in the recommendations made in the Bushfire Threat Assessment and the proponent's Statement of Commitments outlined in the EA.

New construction shall comply with Australian Standard AS3959-1999 *Construction of buildings in bush fire-prone areas*.

Department of Environment and Climate Change

29 January
 2009

The DECC requires a Vegetation/Habitat Management Plan to be developed and implemented for the retained area of vegetation along the western boundary (i.e. Lot 3). The management plan should document how this area will be managed and funded. DECC prefers the recommendations from the Vegetation/Habitat Management Plan be incorporated into the proponent's Statement of Commitments. Alternatively, conditions as outlined in their submission (attachment 2) can also be incorporated into the consent.

The Department is satisfied that this issue has been adequately addressed by requiring a Vegetation/Habitat Management Plan to be developed prior to construction for proposed Lot 3 and including the recommendations made in the Plan as a condition of consent.

Adequacy
 of EA /
 Exhibition

DECC was concerned the Environmental Assessment did not address the issue of displaced hollow-dependent fauna during the pre-clearing phase which can impact upon resources and can have potential disease implications.

The Department is satisfied that this issue has been adequately addressed by including a condition of consent stating that if fauna need to be translocated then this activity must be conducted in accordance with DECC translocation policy.

DECC considered the proposed trees (i.e. non-endemic native and exotic street trees) that will line the streets attract species that are not native to the local area, and hence lack habitat value to locally occurring threatened species and other wildlife.

The Department is satisfied that the loss in vegetation and trees that provide known and potential habitat for threatened species will be offset by the retention of the vegetation and trees existing on proposed Lot 3 along the western boundary.

Lake Macquarie City Council (LMCC)

30 January
 2009

Adequacy
 of EA /
 Exhibition

Demolition of 2 dwellings not included in application
 No splay corner on lot 25
 No provision for small lot housing as required under LMCC LEP
 Deficient landscaping for detention basin
 No staging program
 Easement over neighbouring property appears to only benefit one of the lots making up the site.
 Additional catchment that requires inclusion
 SE corner of site does not drain to basin and will require detention and water quality treatment

Demolition is mentioned
 Provided in PPR
 A number of lots are capable
 Provided in PPR
 No staging intended
 Neighbour agreement reached
 Provided in PPR
 Provided in PPR

	Basin requires redesign to cater for Q100 ARI flow.	Provided in PPR
	Covenants required to ensure overland flow path is not blocked	Neighbour agreement reached
	Owners consent required for works on neighbouring land	Neighbour agreement reached
	300mm pipes to be resized to 375mm pipes as per Council guidelines	Provided in PPR
	Council will not support basin being discharged directly to Chifley Street table drain. It may require that a piped drainage system be installed in Chifley Street.	Resolved in PPR
	Basin batters are too steep	Resolved in PPR
	Basin maintenance access needs to be considered	Resolved in PPR
	Basin safety devices require discussion	Resolved in PPR
	Nutrient capture not adequately addressed	Resolved in PPR
	Piped low flow through basin required	Resolved in PPR
	Council believe a larger basin footprint will be required	Resolved in PPR
	Landscaping drawings to incorporate LMCC details	To be conditioned
	Application to RTA for a lower speed limit is requested	A wider Council/RTA consideration
	Morisset Park Road for the frontage of the development to be widened to 13m.	Resolved in PPR
	Kerb, gutter, footpath and drainage to be provided to facilitate ultimate carriageway width of 8m along Morisset Park Road frontage.	Resolved in PPR
	Internal carriageway widths need to be RFS compliant, meaning parking would need to be restricted to one side of road or provision of wider roads or parking bays.	Resolved in PPR
	Intersection treatment of new access road and Morisset Park Road needs to be assessed and in accordance with Austroads guidelines.	Resolved in PPR
	Bus company to be consulted with about provision of bus stops.	Resolved in PPR
	Covenant required over Lot 3 to protect native vegetation.	Resolved in PPR
	<i>Tetratheca juncea</i> surveys required	DoP/DECC inspection resolved this issue
	Potential breeding trees for large forest owls to be inspected prior to removal	Resolved in PPR
	S.94 contributions required for Open Space and recreation facilities, community facilities and s.94 system management, additional contribution required for traffic light upgrade at Station Street.	Resolved in PPR
	Further assessment required of intersection upgrades to be funded by proponent.	Resolved in PPR
	Inaccuracies pointed out.	Noted
6 February 2009	Adequacy of PPR	Resolved in PPR
	Further detail on infrastructure provision, traffic and access, hazard management and mitigation and water cycle management provided as part of consultancy agreement between Department and Council.	This is a decision for Council at DA stage.

21 May	<p>Although a number of lots are capable of small lot housing there is no guarantee of their construction.</p> <p>Preliminary designs for proposed AUR intersection works at new access road should be submitted to see if utility services and drainage can fit into road reserve. Water-main to be relocated during carriageway widening.</p> <p>Council unlikely to police No Stopping zones within subdivision so that carriageways can comply with RFS standards. Stormwater Plan requires a detailed revision, previous Council comments not satisfactorily addressed. Council supports proposal to extend underground drainage to Frederick Street.</p> <p>Table drain capacity likely to be less than assumed in PPR. Specific design will be required for inflow to high level outlet structure from Basin. Basin design appears to spill over weir in the 1 in 100 year event. This is undesirable. Council water quality concerns have been adequately addressed. Council maintain opinion that basin design is too small. Contributions outside of s.94 plan have been revised to \$580 per lot.</p>	<p>Previous advice to proponent by Council had been that the provision of lots capable of dual occupancy was sufficient. A condition has been recommended to reserve 3 lots for Dual Occupancy development.</p> <p>Preliminary designs show that services can fit into road reserve. This will form a recommended condition of approval. Noted</p> <p>Subsequent amendments have addressed this issue. Noted</p> <p>Subsequent amendments have addressed stormwater issues.</p> <p>Noted, to form recommended condition of approval.</p>	<p>Council comments incorporated into DG Report and recommended conditions of approval</p>
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Department of Water and Energy (DWE)

3 February 2009	<p>Adequacy of EA / Exhibition</p> <p>No objection. The DWE considers the EA to be adequate and there are no statutory approval requirements for legislation administered by DWE for the proposal.</p>	<p>The Department is satisfied that the EA is adequate and raises no issues in relation to water and energy.</p>
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APPENDIX D. RESPONSE TO SUBMISSIONS

To be provided on disk.

APPENDIX E. ENVIRONMENTAL ASSESSMENT

To be provided on disk.