

07211  
13 August 2007

Department of Planning  
Level 1  
23-33 Bridge Street  
SYDNEY NSW 2000

Attention: Mr Chris Wilson

Dear Mr Wilson

## **COASTAL SUBDIVISION AND REZONING AT SOUTH WEST ROCKS**

We are writing on behalf of Malbec South West Rocks Pty Ltd and Saltwater Developments Pty Ltd, the proponents for the rezoning and subdivision of land adjacent to Belle O'Connor Street at South West Rocks, to be known as "Saltwater". The subdivision will result in approximately 310 residential lots and 90 medium density units.

The purpose of this letter is to seek the Minister's opinion that the development proposal is a development of the kind described in Schedule 2 (specified sites – coastal areas) of State Environmental Planning Policy (Major Projects) 2005 (the Major Projects SEPP) and therefore, is a 'major project' to be determined under Part 3A of the *Environmental Planning & Assessment Act, 1979* (the EP&A Act).

Should the Minister form the necessary opinion, we request the Director General issue the requirements as to the level and scope of the necessary documentation and assessment for the preparation of an Environmental Assessment to accompany a Project Application for the proposed development.

To support the request for the Director-General's requirements relating to the environmental assessment, a Preliminary Assessment relating to the project is below. The Preliminary Assessment provides detail on the site location and an outline of the project, and identifies the key likely environmental and planning issues associated with the proposal.

### **1.0 THE PROJECT**

A preliminary and indicative layout plan for the proposed subdivision at South West Rocks, prepared by Planit Consulting, is included at **Attachment A**. The following outline of the project includes:

- Project description
- Capital investment value; and
- Site description.

### **Draft local environmental plan**

On 21 January 1997, and subsequently on 11 June 2002 (copy at **Attachment C**), Kempsey Shire Council resolved to prepare a draft Local Environmental Plan (LEP) for the subject land. Consultants were engaged in 2004 to prepare a Local Environmental Study to provide an objective analysis of the capability and suitability of the land for future development, and to ensure that any proposed rezoning is both environmentally sustainable and consistent with relevant local and regional planning strategies.

In 2006, Council adopted the Saltwater Creek and Lagoon Estuary Management Plan and Saltwater Creek Catchment Flood Study, which were commissioned to complement the LES. The studies confirmed the extent of the development, which is reflected in the Planit Consulting Draft Layout Plan at **Attachment A**.

In May 2007, Council provided an update on their strategic planning program, which included allocating the Saltwater DLEP as a “high priority” and undertaking to exhibit a draft LEP for the site in September 2007. A detailed chronology of events associated with the proposed rezoning of this land is at **Appendix 1**.

It is envisaged the preparation of the environmental assessment for the Project Application would occur concurrently with the assessment of the draft LEP in accordance with section 72J of the EP&A Act, to ensure consistency in approach and that the permissibility of the development is resolved prior to the Minister’s determination.

## **2.0 MAJOR PROJECTS SEPP 2005**

Clause 6 of the Major Projects SEPP provides that development that in the opinion of the Minister is development of a kind referred to in Schedule 1 (Classes of development) and Schedule 2 (specified sites) is declared to be a project to which Part 3A of the EP&A Act applies.

Item 1 in Schedule 2 in the Major Projects SEPP, entitled Coastal areas, identifies development for the purpose of “subdivision of land in a residential zone into more than 25 lots or in a rural/residential zone into more than 5 lots, but in the case of the metropolitan coastal zone only if the land is wholly or partly within a sensitive coastal location”.

In the context of the proposed LEP amendment, the proposed development is a subdivision of land in a residential zone into more than 25 lots as identified above.

It is therefore requested that the Director-General issue the requirements for an environmental assessment for a Project Application for the proposed development, namely infrastructure works and residential subdivision on the land. The requirements will identify the key issues to be addressed, the level of assessment required in relation to these issues and any other requirements in accordance with the environmental assessment guidelines.

The information below has been prepared to assist the Director-General in identifying the general requirements and key environmental issues associated with the project.

### **2.1 Project Overview**

The development will enable the creation of a 310 lot residential subdivision, together with 90 medium density residential units at South West Rocks. The project site is part of the proposed Council residential release area locally referred to as “Saltwater”. The release area is comprised of a number of landholdings totalling approximately 110 hectares which Council has resolved to rezone and is subject of an LES currently being carried out which is close to completion.

The proponent is seeking to obtain approval for a project application for a new subdivision, comprising approximately:

- 310 low density residential lots; and
- 90 medium density residential units.

The draft plan at **Attachment A** shows the proposed development, which is likely to be staged over a period of up to 10 years.

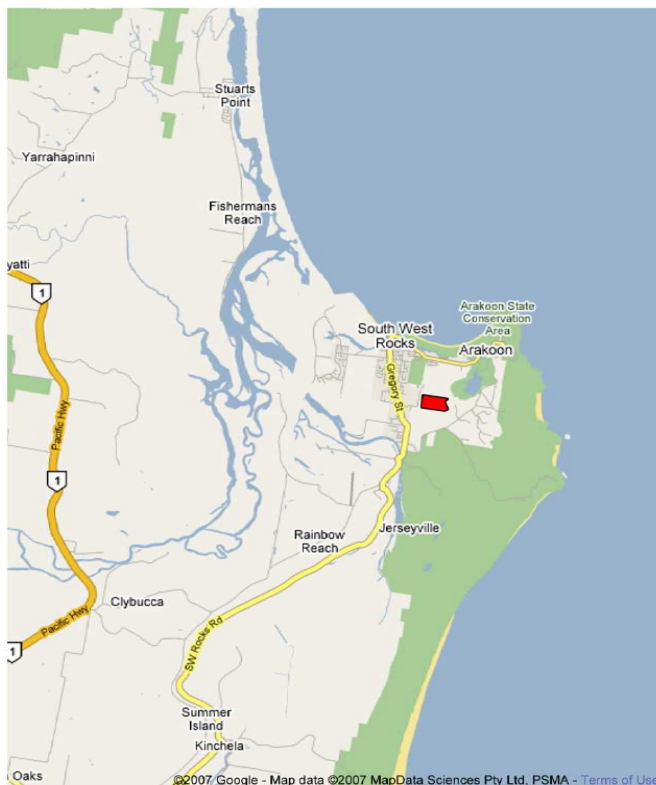
## 2.2 Construction cost

The proposed residential land development in the Saltwater Lagoon catchment area at South West Rocks has an estimated construction cost of \$10.8 million.

## 2.3 The Site

### 2.3.1.1 Site location and context

The subject site is located in South West Rocks, in the Kempsey local government area. The site is bounded generally by Belle O'Connor Street to the south, the South West Rocks Golf Club and a sewerage treatment facility to the west, Saltwater Creek to the north and the Saltwater Lagoon to the east. The site's locational context is shown at **Figure 1** and in the detailed locality plan at **Attachment B**.



**Figure 1 – site location**

### 2.3.1.2 Site description

The site comprises the following lots, which total around 39.87 hectares, as per **Table 1** below.

**Table 1** – Land ownership, description and parcel size

| Parcel description               | Ownership                                                     | Area (ha)    |
|----------------------------------|---------------------------------------------------------------|--------------|
| Lot 52 DP 831284                 | Saltwater Developments P/L (under contract to Malbec SWR P/L) | 34.89        |
| Lot 84 DP 792945 (added 24/2/04) | Malbec South West Rocks P/L                                   | 4.98         |
| <b>Total</b>                     |                                                               | <b>39.87</b> |

Parts of the site are currently used for light agriculture (rural residential) (land primarily zoned part 1(c) (Rural Small Holdings “C” Zone) and 1(d) (Rural (Investigation) “D” zone). An estuary of the Saltwater Creek and Lagoon runs along the northern edge of the site, through an area which is zoned 7(a) (Wetlands Protection Zone).

There are numerous cleared tracks traversing the entire site, providing access to adjacent land uses and forming crossings to the estuary to the north of the site.

## 2.4 Scope and Staging of the Proposal

The project application aims to facilitate the following works on the site:

- Subdivision;
- Street layout; and
- Associated capital works

## 3.0 RELEVANT PLANNING INSTRUMENTS AND CONTROLS

### 3.1 Overview of Planning Instruments applying to the site

The following planning instruments and policy documents are of key relevance to the proposed development:

- State Environmental Planning Policy (Major Projects) 2005;
- State Environmental Planning Policy No 11 – Traffic Generating Developments;
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No 14 – Coastal Wetlands;
- Coastal Protection Act 1979;
- Kempsey Local Environmental Plan 1987;
- North Coast Regional Environmental Plan 1988;
- Draft Kempsey Local Environmental Plan (not yet exhibited);
- Draft Mid North Coast Regional Strategy.

Other instruments to be considered include:

- Fisheries Management Act 1994;
- Catchment Management Authorities Act 2003;
- Coastal Protection Act 1979;
- Environment Protection and Biodiversity Conservation (Cth) Act 1999.

### 3.2 Existing Zoning Provisions

The zoning and other key relevant provisions of Kempsey Local Environmental Plan 1987 are set out in **Table 2** below.

**Table 2** – Key existing zoning provisions

| Issue          | Standard                                                                                                                                                                                                                                                                      |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zones</b>   | Part:<br>1(c) (Rural Small Holdings “C” Zone)<br>1(d) (Rural (Investigation) “D” zone)<br>7(a) (Wetlands Protection Zone)                                                                                                                                                     |
| Permitted uses | The 1(c) and 1(d) zones permit single residential dwellings. Residential flat buildings are prohibited in these zones.<br><br>The 7(a) zone permits development for the purpose of roads and utility installations (other than gas holders or generating works) with consent. |
| Subdivision    | Subdivision of land in the 1(c) and 1(d) zones is permitted with consent.                                                                                                                                                                                                     |

### 3.3 Zoning Provisions in Draft LEP

The relevant provisions of draft Kempsey Local Environmental Plan 1987 are set out in **Table 3** below.

**Table 3** – Proposed zoning provisions

| Issue          | Standard                                                                                                                                                                                                                         |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zones</b>   | Part:<br>2(a) (Residential)<br>7(a) (Wetlands Protection Zone)                                                                                                                                                                   |
| Permitted uses | The 2(a) zone permits the development for the purpose of dwelling houses.<br><br>The 7(a) zone permits development for the purpose of roads and utility installations (other than gas holders or generating works) with consent. |
| Subdivision    | Subdivision of land in the 2(a) zone is permitted with consent.                                                                                                                                                                  |

## 4.0 CONSULTATION

### 4.1 Views of councils / agencies

Residential development on this land has been foreshadowed by Kempsey Shire since Council first resolved to prepare a draft local environmental plan for the land and the release of the Kempsey Residential Development Strategy in 1997. Council has recently undertaken to exhibit a draft LEP for the site in September 2007.

A detailed chronology of events associated with the proposed rezoning of this land is at **Appendix 1**.

### 4.2 Key Environmental Impacts

A number of studies have already been undertaken for the site, in preparation of the LES and draft LEP. These studies will be reviewed and revised in light of this proposal. A list of these studies is at **Appendix 2**.

The key environmental considerations associated with the proposed development are as follows:

- Site Suitability
- Environmental sustainability
- Flora and Fauna
- Flood and Water Quality Management
- Zoning and Development Controls
- Transport and Access
- Infrastructure Provision, Staging and Funding
- Development Staging and Delivery
- Bushfire Management
- Heritage and Archaeology

#### 4.2.1.1 Site Suitability

The development is situated in an area that is zoned partly for rural residential development, and partly conservation. The area currently zoned for rural residential purposes has been identified for release in the Kempsey Residential Land Release Strategy, and the proposed rezoning of this site is consistent with this objective.

The portion of the site that is currently zoned for conservation purposes is proposed to be retained as such, and the roads intended to link this development with land to the north of Saltwater Creek are to follow the routes of the formed tracks currently traversing the site.

The Mid-North Coast Regional Strategy, which is currently being drafted by the Department of Planning following receipt of public submissions and consultation with local councils (including Kempsey) and the Department of Environment and Climate Change, proposes to accommodate over 17,000 new dwellings in the local government areas of Kempsey and Port Macquarie/Hastings over the next 25 years.

Further, as **Table 4** below shows, recent population projections for South West Rocks for the next 15 years have indicated that the town is expected to continue growing at a faster rate than the remainder of the Kempsey local government area, and NSW overall; however the rate is consistent with many regions along the NSW and Queensland coasts.

**Table 4 – Population projections for South West Rocks**

| Year | South West Rocks<br>(population) | % Increase | Kempsey Shire<br>(% Increase) | NSW<br>(% Increase) |
|------|----------------------------------|------------|-------------------------------|---------------------|
| 2001 | 4344                             | 2.0        | 0.3                           | 1.1                 |
| 2003 | 4759                             | 4.7        | 2.3                           | 0.7                 |
| 2006 | 5520                             | 5.3        | 1.6                           | 0.9                 |
| 2011 | 7045                             | 5.5        | 0.8                           | 0.8                 |
| 2016 | 9102                             | 5.8        | 0.7                           | 0.8                 |

Source: Australian Bureau of Statistics, 2001; Kempsey Shire Council, 2001; Department of Infrastructure, Planning and Natural Resources, 2004.

It is considered the subdivision of the site at South West Rocks for purposes of the development is consistent with the local and regional growth strategies for the area.

The environmental assessment will consider:

- Accessibility and suitability of the site;
- Compatibility with surrounding land uses; and
- Linkages with, and augmentation of, existing infrastructure.

#### 4.2.1.2 Environmental sustainability

To ensure the subdivision and development of land at South West Rocks for the purposes of the development is environmentally, socially and economically sustainable, the following matters will be addressed in the environmental assessment report:

- Consistency with draft Kempsey ESD Strategy (publicly exhibited in early 2007);
- Consistency with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- Consistency with State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

#### 4.2.1.3 Flora and Fauna

As identified by the Saltwater Creek Catchment – Flora and Fauna Study – South West Rocks prepared by Kendall and Kendall Pty Ltd in February 2003, part of the site contains wetlands that are identified under SEPP 14 – Coastal Wetlands and Environment Protection and Biodiversity Conservation (Cth) Act 1999. The Wallum Froglet (*Crinia tinnula*), which is listed as a vulnerable species in the *Threatened Species Conservation Act 1995* has also been located in the vicinity of the site.

To ensure that appropriate considerations for conservation of flora and fauna are made in the subdivision and development of Saltwater, the environmental assessment report will consider:

- Measures to ensure the development does not have an adverse impact on the flora and fauna of South West Rocks;
- Existing wildlife corridors;
- Location of ecological buffers;
- An assessment against SEPP 14 – Coastal Wetlands; and
- Consistency with the Saltwater Creek and Lagoon Estuary Management Plan and Flood Study.

#### 4.2.1.4 Flood and Water Quality Management

A portion of the site is inundated by the 1 in 100 year flood level as identified by the Saltwater Creek Study conducted by WBM Oceanics in 2007. The following matters will be addressed in the environmental assessment report for the development:

- Assess the requirements of relevant flooding data in relation to subdivision patterns and land uses;
- Identify impacts of the subdivision on wetlands, flood prone areas and important habitats;
- Minimise impacts on local hydrology, groundwater and ecology; and
- Consistency with the Saltwater Creek and Lagoon Estuary Management Plan and Flood Study.

#### 4.2.1.5 Zoning and Development Controls

On 21 January 1997, Kempsey Shire Council resolved to prepare a draft Local Environmental Plan (LEP) for the subject land. The environmental assessment report will address:

- Consistency with the draft Kempsey Local Environmental Plan for South West Rocks; and
- Consistency with the Mid North Coast Regional Strategy.

#### 4.2.1.6 Transport and Access

A detailed Traffic Concept Plan will be prepared, which will contain:

- Analysis of access to, and within the site;
- Arrangements for public transport to access the site;
- Details on the existing and future traffic networks and access points, including linkages to surrounding areas;
- Impact of construction and operation of proposed road network on adjoining areas;
- Pedestrian and cycle access to, and within the site.

The Kempsey and South West Rocks Pedestrian Access Mobility Plan, prepared by Cardno MBK in June 2003, will also be reviewed in light of this proposal.

#### 4.2.1.7 Infrastructure Provision, Staging and Funding

The development will necessitate the provision of a variety of community infrastructure and essential services. The environmental assessment report will consider:

- New infrastructure will complement existing facilities and services;
- Staging of new infrastructure, and augmentation of existing infrastructure is managed in an orderly manner;
- Scope of any development contributions.

#### 4.2.1.8 Development Staging and Delivery

The subdivision and development of the proposal will be staged over a period of 10 years.

To minimise impacts on local habitats and infrastructure servicing surrounding areas, the environmental assessment report will address the staging program of the development to ensure land will be released in an orderly manner and will complement land releases across the Mid North Coast.

#### 4.2.1.9 Bushfire Management

To minimise any risk of bushfires, the environmental assessment report for the development will address consistency with Planning for Bushfire Protection 2006 and section 100B of the *Rural Fires Act 1997*.

### 5.0 CONCLUSION

The information contained in this preliminary assessment is to assist the Director-General in determining the level and scope of any requirements for an environmental assessment to accompany the lodgement of a Project Application for the development, under Part 3A of the EP&A Act; and, having regard to the above and in accordance with provisions in Part 3A of the EP&A Act, it is requested that the Director-General issue the environmental assessment requirements for the Project Application.



Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962.

Yours faithfully

A handwritten signature in blue ink, reading "Gordon Kirkby". The signature is fluid and cursive, with the first name "Gordon" and the last name "Kirkby" clearly distinguishable.

Gordon Kirkby  
*Associate*

Encl.

- Attachment A** South West Rocks Residential Subdivision Project Application layout plan, prepared by Planit Consulting
- Attachment B** South West Rocks Locality Plan, prepared by Planit Consulting
- Attachment C** Kempsey Shire Council resolution of 11 June 2002
- Appendix 1** Detailed chronology of events foreshadowing the rezoning of this site
- Appendix 2** List of studies already completed for the site

## APPENDIX 1

Below is a detailed chronology of events foreshadowing the rezoning of this land by Kempsey Shire Council.

### 1997

- 21 January 1997 – Kempsey Council first resolved to rezone the subject land for residential development and other associated uses.
- The (then) Department of Urban Affairs and Planning (DUAP) required the land to be included in a land release strategy which delayed the commencement of the LEP process.
- Landowners commenced appropriate site investigations and studies.

### 2002

- 14 May 2002 – Council reports that DUAP had endorsed the Land Release Strategy including the subject land.
- Council also reports that ‘land supply calculations for South West Rocks were revised and it was calculated that this land, which was identified for medium term release, should be available for development prior to 2006’.
- 11 June 2002 – Council resolved to prepare a draft LEP supported by an LES and call for submissions from consultants to carry out the work.
- 10 September 2002 – briefs issued to three consultants, with tenders to be lodged by 29 November 2002.

### 2003

- Council appointed WBM Oceanics to carry out the Saltwater Creek and Lagoon Estuary Management Plan and Flood Study.

### 2004

- 9 February 2004 – Kempsey Council advises landowners that Connell Wagner is the nominated consultant to carry out the LES.
- 24 February 2004 – Council resolves to add Lot 84 DP 79245 to the rezoning.
- 9 November 2004 – Council commissions a Wallum Froglet habitat study.
- 15 November 2004 – Community consultation meeting held in South West Rocks chaired by Connell Wagner and Council planning staff.

### 2005

- January 2005 – first draft of Estuary Management Plan and Flood Study submitted to Council officers.
- February 2005 – weather station established adjacent to STP to collect meteorological data for 12 months for climatic monitoring.
- April 2005 – Draft LES Report submitted to Council officers.

## 2006

- 14 March 2006 – Council endorses the Saltwater Creek and Lagoon Estuary Management Plan and Saltwater Creek Catchment Flood Study to be exhibited.
- 12 September 2006 – Council adopts the Saltwater Creek and Lagoon Estuary Management Plan and Saltwater Creek Catchment Flood Study.
- October 2006 – Final Draft of LES submitted to Council officers.
- 14 November 2006 – Council resolves to add Lot 51 DP 831284 to the rezoning.

## 2007

- 8 May 2007 – Report to Council providing an update on strategic planning program. Finalising the “Saltwater” DLEP is a “high priority” for Council.
- September 2007 – Report expected to go to Council to adopt LES for exhibition.

## **APPENDIX 2**

The following studies have recently been commissioned by Kempsey Shire Council, as part of the local environmental study to inform the drafting of a new local environmental plan for South West Rocks.

Saltwater Creek & Lagoon, South West Rocks – Estuary Management Study & Plan – Final Report  
Prepared by WBM Oceanics for Kempsey Shire Council and NSW Government (Department of Natural Resources), June 2006

Saltwater Creek Flood Study – Final Report  
Prepared for Kempsey Shire Council by WBM Oceanics Australia, February 2006.

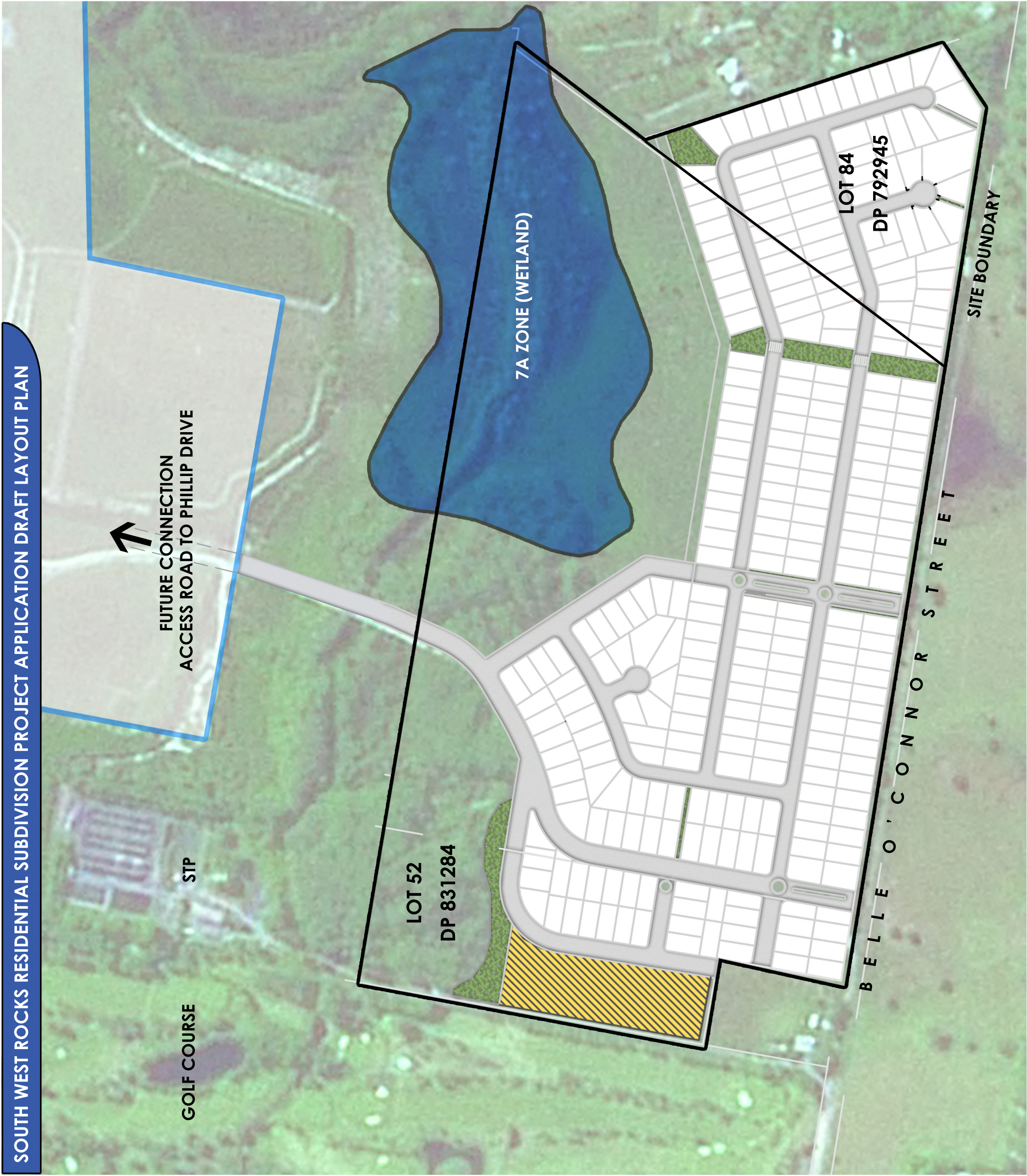
Saltwater Creek Catchment – Flora and Fauna Study – South West Rocks  
Prepared for Kempsey Shire Council Coastal & Estuary Management Committee by Kendall and Kendall Pty Ltd, February 2003.

South West Rocks STP – Odour and Noise Assessment  
Prepared by Sinclair Knight Merz, October 2005.

Kempsey and South West Rocks Pedestrian Access Mobility Plan  
Prepared for Kempsey Shire Council by Cardno MBK, June 2003.

Stormwater Management Plan  
Prepared by WBM Oceanics, 2007.





LOCATION PLAN

LEGEND



MEDIUM DENSITY RESIDENTIAL



PUBLIC OPEN PARKLAND



CONVENTIONAL RESIDENTIAL LOTS



FUTURE DEVELOPMENT



SCALE BAR

PROJECT:

SOUTHWEST ROCKS RESIDENTIAL SUBDIVISION  
LOT 52 DP 831284  
LOT 84 DP 792945

CLIENT:

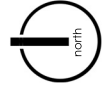
MALBEC PROPERTIES

REFERENCE NO:

9226

SCALE:

AS SHOWN



Level 2 / 38 Cavill Avenue  
Surfers Paradise  
Po Box 186 Surfers Paradise QLD

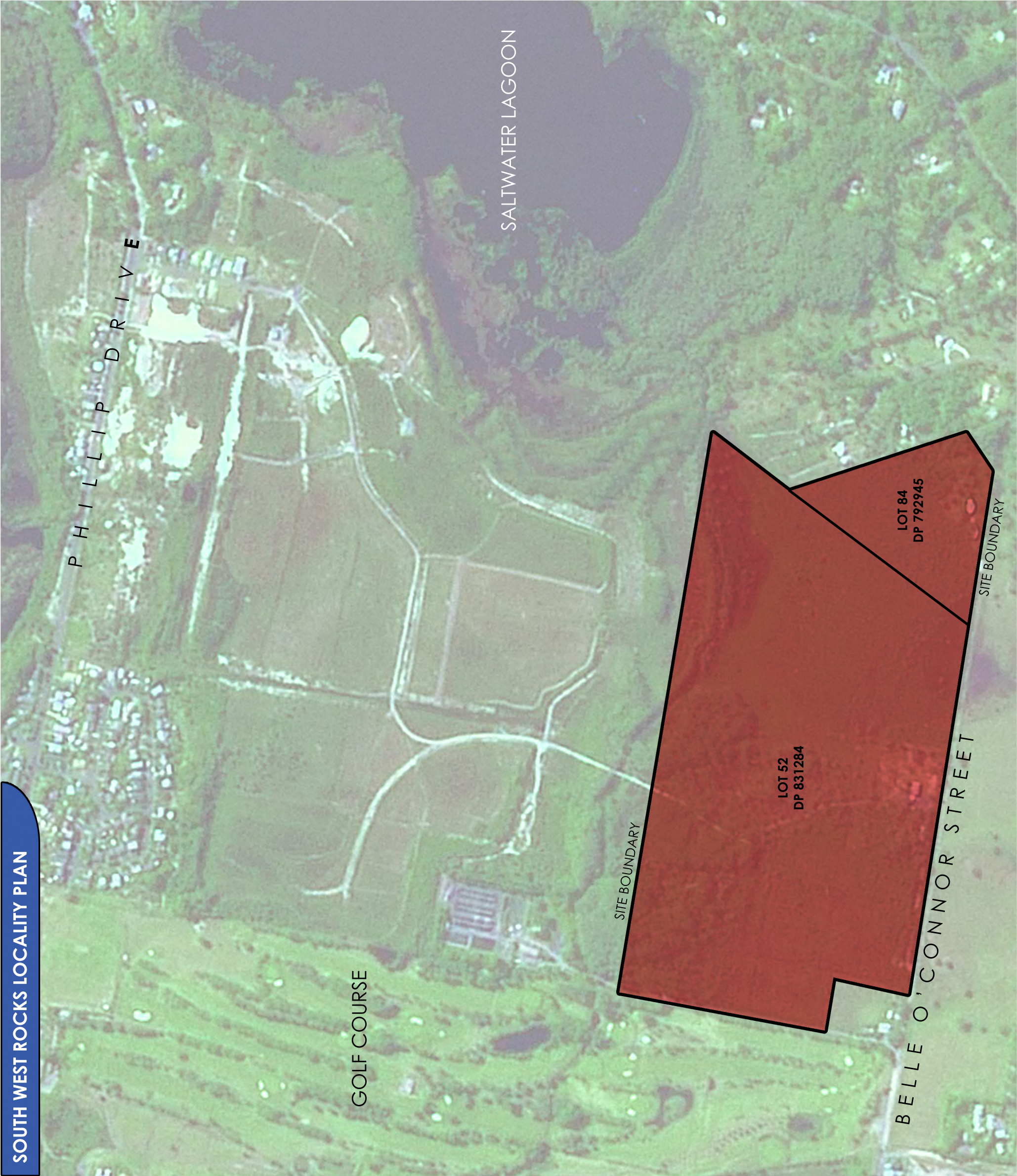
Telephone: (07) 55267725  
Fax: (07) 55267728  
admin@plantitconsulting.com.au



CONSULTING

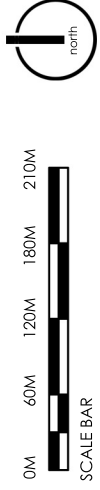


SOUTH WEST ROCKS LOCALITY PLAN



LOCATION MAP 1

|                      |                                                                                 |
|----------------------|---------------------------------------------------------------------------------|
| <b>PROJECT:</b>      | SOUTHWEST ROCKS RESIDENTIAL SUBDIVISION<br>LOT 52 DP 831284<br>LOT 84 DP 792945 |
| <b>CLIENT:</b>       | MALBEC PROPERTIES                                                               |
| <b>REFERENCE NO:</b> | 9226                                                                            |
| <b>SCALE:</b>        | AS SHOWN                                                                        |





## **Residential Development Belle O'Connor Street, South West Rocks**

### **Part 3A request**

#### **Appendix 1 - Chronology**

Below is a detailed chronology of events foreshadowing the rezoning of this land by Kempsey Shire Council.

##### **1997**

- 21 January 1997 – Kempsey Council first resolved to rezone the subject land for residential development and other associated uses.
- The (then) Department of Urban Affairs and Planning (DUAP) required the land to be included in a land release strategy which delayed the commencement of the LEP process.
- Landowners commenced appropriate site investigations and studies.

##### **2002**

- 14 May 2002 – Council reports that DUAP had endorsed the Land Release Strategy including the subject land.
- Council also reports that 'land supply calculations for South West Rocks were revised and it was calculated that this land, which was identified for medium term release, should be available for development prior to 2006'.
- 11 June 2002 – Council resolved to prepare a draft LEP supported by an LES and call for submissions from consultants to carry out the work.
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- 9 February 2004 – Kempsey Council advises landowners that Connell Wagner is the nominated consultant to carry out the LES.
- 24 February 2004 – Council resolves to add Lot 84 DP 79245 to the rezoning.
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##### **2005**

- January 2005 – first draft of Estuary Management Plan and Flood Study submitted to Council officers.
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##### **2006**

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- 12 September 2006 – Council adopts the Saltwater Creek and Lagoon Estuary Management Plan and Saltwater Creek Catchment Flood Study.
- October 2006 – Final Draft of LES submitted to Council officers.

## **Residential Development Belle O'Connor Street, South West Rocks**

### **Part 3A request**

- 14 November 2006 – Council resolves to add Lot 51 DP 831284 to the rezoning.

#### **2007**

- 8 May 2007 – Report to Council providing an update on strategic planning program finalising the “Saltwater” Draft LEP is a “high priority” for Council.
- 11 October 2007. Council unanimously endorses the LES and resolves for a s65 Certificate application to be made to Department of Planning (DoP)
- 7 December 2007 - Council submits s65 certificate application to DoP.

#### **2008**

- 27 March 2008 – s65 request considered by LEP Review Panel at DoP with additional work requested to be done to support LEP.
- 8 August 2008 – Council forwards draft LEP and report to DoP for s65 Certificate
- 18 August 2008 – DoP issues s65 Certificate to Council



**EXTRACT FROM MINUTES OF THE ORDINARY  
MEETING OF KEMPSEY SHIRE COUNCIL**11<sup>th</sup> June 2002 RESOLUTION COMPLETED ☐**DIRECTOR ENVIRONMENTAL SERVICES REPORT**

|                   |                                                                             |
|-------------------|-----------------------------------------------------------------------------|
| <b>DES 8</b>      | <b>REZONING APPLICATION FOR LAND IN PHILLIP<br/>DRIVE, SOUTH WEST ROCKS</b> |
| <b>FILE T5-55</b> | <b>MEI</b>                                                                  |
|                   | <b>{Folio No. 235826}</b>                                                   |

**SUMMARY:**

Reporting on a rezoning proposal for land at South West Rocks.



Subject land: Lot 509, DP 850963,  
Lot 19 DP 850963  
Lot 52, DP 831284 Phillip Drive, South West Rocks

Owner: Saltwater Developments – Lots 19 and 52  
J P McNiven – Lot 509

Current zoning: Lots 19 and 52 – 1(d) Rural (Investigation), 1(c)  
Rural (Smallholdings) and 7(a) Wetlands  
(Protection)  
Lot 509 – 1(c) Rural (Smallholdings)

Proposed zoning: 2(a) Residential

At its meeting of 21<sup>st</sup> January 1997, Council resolved to rezone Lot 510, DP 850963, Phillip Drive, South West Rocks for residential development. Due to subsequent subdivision this lot is now identified as Lot 19 DP 882846. Council resolved:

- 1 *That Council resolve to prepare a draft local environmental plan that aims to rezone Lot 510, DP 850963, Phillip Drive, South West Rocks for residential purposes and other appropriate uses and purposes.*
- 2 *That Council's support of the above draft local environmental plan be subject to a local environmental study pursuant to the provisions of section 57 of the Act being prepared at no cost to the Council, to support the draft plan.*
- 3 *That Council authorise the preparation and issue of a brief for the local environmental study based on the matters referred to in this report and any other matters specified by the Department of Urban Affairs and Planning; and that the brief be issued to appropriately qualified and experienced consultants."*

The applicant has now amended the application to include the additional lots identified above (see map at Appendix "F")

During Council's discussion with the (then) Department of Urban Affairs and Planning (DUAP) they advised that - see Appendix "G"

- 1 On the basis of Council's previous Land Release Strategy (LRS) it was noted that South West Rocks had sufficient zoned residential land to last until 2011; and
- 2 That this parcel should be included in the revised LRS before DUAP will consider it for rezoning.

As reported at 14<sup>th</sup> May 2002 meeting the Department has now endorsed the revised LRS which includes the subject land parcels. The land supply calculations for South West Rocks were revised and it was calculated that this land, which was identified as being for medium term release, should be available for development prior to 2006. Given the time that it is likely to take to make this land available to the market, it is considered that Council could commence the rezoning process now.

This is because:

- 1 The rezoning will require the preparation of a Local Environmental Study (LES) in accordance with the NSW Coastal Policy. This could take over six (6) months to finalise, possibly longer.
- 2 Planning and Environment factors may prevent and/or delay other land currently zoned 2(a) from being developed in full. This could alter the land supply calculations and possibly require a release of land onto the market sooner than originally envisaged.

As noted above, part 2 of the original resolution of Council stated that Council's support for the proposal be subject to a LES being prepared at no cost to Council. Council should maintain this position.

The recently adopted LRS includes a preliminary structure plan for the future development of this land. Any development proposal should be consistent with this plan unless it can be demonstrated on the basis of the findings of any future study that a more suitable layout should be adopted. The LRS details those matters which at a minimum should be addressed in the LES. Consultation with the Department will further clarify such matters.

Council should note that lot 19 adjoins Council's treatment plant. The North Coast Regional Environmental Plan (REP) recommends a minimum buffer distance around such plants of 400 metres as a hazard reduction measure from odour and aerosol pathogens. The proponent has suggested a buffer zone of 300 metres and supplied evidence in support of this. Advice from Council's Engineering Department is presently being sought on this matter. This matter will form part of the overall proposal for any re-zoning approval. Council should also note that the 7(a) area Appendix "H" is not subject to rezoning.

2002. 454

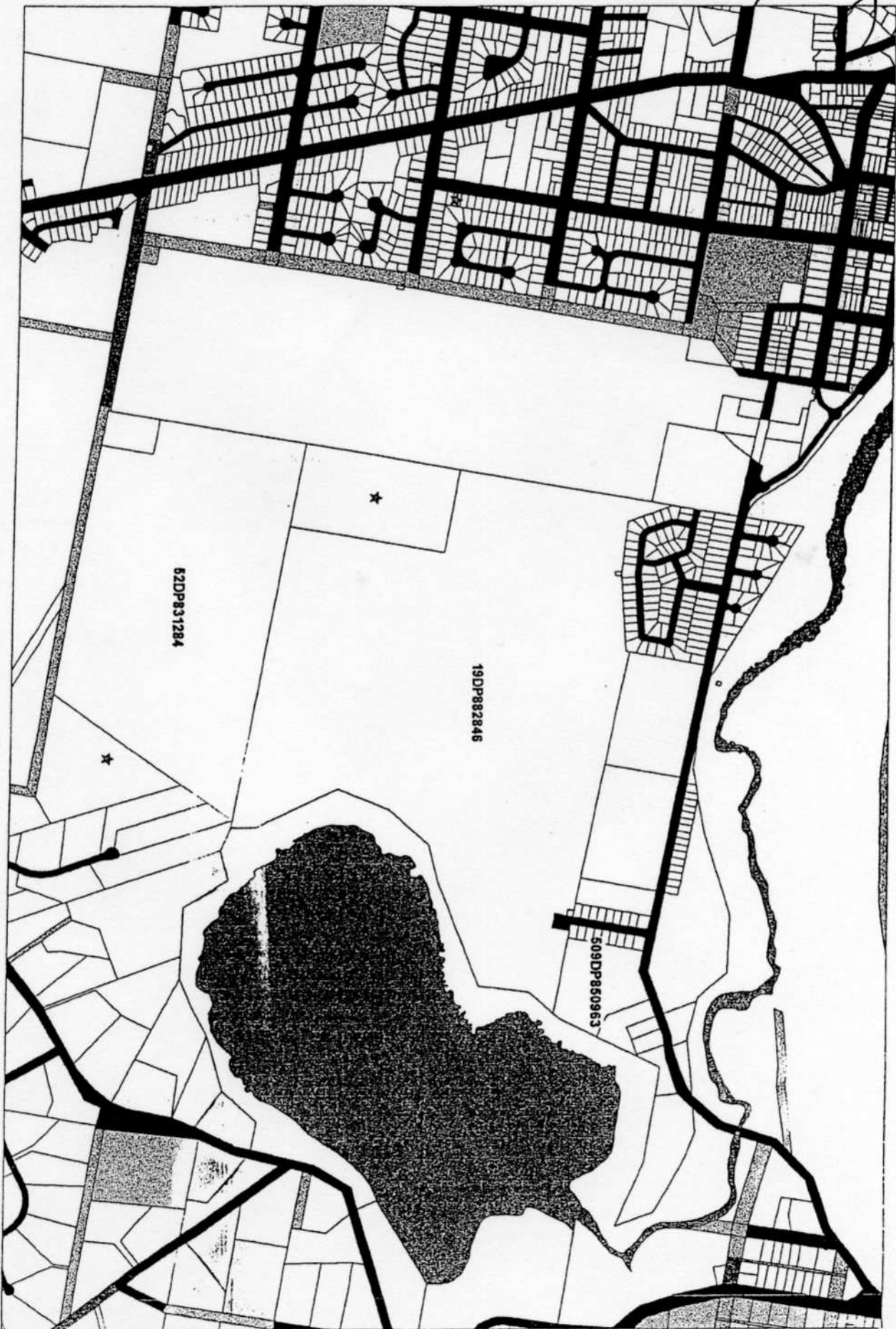
**RESOLVED:**

*Moved: Cl. Malney  
Seconded: Cl. Sproule*

**That:**

- 1 Council prepare a draft local environmental plan to rezone the land, the subject of this report for residential development.**
- 2 Council's support of the above draft local environmental plan be subject to a local environmental study being prepared at no cost to Council, to support the draft plan.**
- 3 That Council authorise the preparation and issue of a brief for the local environmental study based on the matters specified by the Department of Planning, which shall be issued to appropriately qualified and experienced consultants.**

Appendix "f"





- a) Extinguish the existing easement to drain water that was created using section 88B of the Conveyancing Act 1919, as amended; and
- b) Create a new easement to drain water from existing lots 4 and 6 DP 25187 burdening 21 Hilton Trotter Place in line with the proposal.
- c) As the proposal burdens 21 Hilton Trotter Place and will benefit existing lots 4 and 6 DP 25187, all three property owners will be required to endorse the 88B instrument creating the new private easement to drain water. The position of the owners of existing lots 4 and 6 have not been sought to date. Even if the reduced easement width benefited council and not private lots then Council would need to endorse the new instrument.
- d) The applicants provide a 150 PVC stormwater pipe and junctions, designed in accordance with Council's development control plan now to be wholly located within the proposed private easement to drain water in order to minimise future disturbance. And ensure access to council's existing interallotment drainage system.

Provided that the applicants are prepared to undertake the required process, meet all associated costs, obtain the agreement from the property owners of existing lots 4 and 6 and provide a 150 PVC stormwater pipe and junctions at no cost to Council then this proposal might be considered appropriate in the circumstances. The applicants have indicated verbally, their agreement and understanding of what is required.

Should Council decide to support this proposal then the applicants are to provide a letter of agreement demonstrating that they understand the process involved and their responsibilities in this matter.

If the applicants decide to proceed with this proposal and Council agrees to support it, then Council's seal will need to be affixed to the Withdrawal Application associated with the existing 88B instrument.

2004. P26

**RESOLVED:**

*Moved: Cl. Parkinson  
Seconded: Cl. Sproule*

That Council's advise the applicants as follows: -

- 1 That Council support this proposal subject to the applicant providing a letter of agreement.
- 2 That Council's seal to be affixed to the Withdrawal Application associated with the existing 88B instrument should the applicants decide to proceed.

**DES9**

**ADDITION OF LOT TO REZONING PROPOSAL,  
SOUTH WEST ROCKS  
FILE: T5-55 MEI**

**{Folio No. 270255}**

THIS IS PAGE 36 OF THE FULL TEXT MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 24<sup>TH</sup> FEBRUARY 2004.

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MAYOR

## SUMMARY:

Reporting on a request made to include an adjoining parcel of land, identified in Council's Land Release Strategy, in the Saltwater Developments rezoning in South West Rocks.



**Subject Land:** Lot 84 DP 79245 Arakoon Road, Arakoon (5 Ha)  
(Appendix N)  
**Owner:** Winten Property Group  
**Current Zoning:** 1(c) rural (Smallholdings), 1(d) Rural (Investigation)  
(Appendix O)  
**Proposed Zoning:** 2(a) Residential

At its meeting of 11 June 2002 Council resolved to rezone Lots 509 and 19 DP 850963 and Lot 52 DP 831284, Phillip Drive, South West Rocks, for residential purposes. (Appendix P) The proponents now wish to include the above lot in this rezoning, as it adjoins the eastern boundary of Lot 52. It is also identified in Council's Land Release Strategy as land for release, subject to the findings of the appropriate studies and investigations. As such it is reasonable to include this lot in the earlier rezoning and subsequent Local Environmental Study.

To include this lot in the rezoning it will be necessary for Council to formally resolve to amend Kempsey Local Environmental Plan 1987 to rezone Lot 84 from 1(c) Rural (Smallholdings) to 2(a) Residential and to include it in the Local Environment Study being prepared for the adjoining land. This will ensure consistency and a coordinated approach to planning the area.

2004. P27

## RESOLVED:

Moved: Cl. Sowter  
Seconded: Cl. Howell

- 1 Council amend Kempsey Local Environmental Plan 1987 to rezone the subject land from 1(c) Rural (Smallholdings) to 2(a) Residential; and
- 2 The subject land be included in the Local Environmental Study being prepared for Lots 509 and 19 DP 850963 and Lot 52 DP 831284 Phillip Drive, South West Rocks, at no cost to Council.

DES10

POINT PLOMER ROAD LEP COMMITTEE  
FILE: T5-89 RBP (NRN)

{Folio No. 270256}

## SUMMARY:

Reporting on the progress of the Point Plomer Road LEP Committee following Council's appointment of the Committee.



THIS IS PAGE 37 OF THE FULL TEXT MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 24<sup>TH</sup> FEBRUARY 2004.

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MAYOR