

Appendix A

Response to Issues

Appendix A Response to Issues

Issue/comment	Response
Department of Planning	
Urban Design and Subdivision Layout	
The number of lots proposed on this environmentally sensitive site is considered to be excessive and would create a dense residential population in an otherwise rural residential setting. It is recommended that the total number of lots be reduced, particularly on the eastern part of the site to allow the development to better integrate with the surrounding locality. This would allow for a reduced number of lots, and dwellings to be setback further from the edge of the subdivision to facilitate a better aesthetic transition to the rural residential area that is directly adjacent to the eastern part of the site. This would also help to minimise the impacts of residential development on environmentally sensitive areas.	Section 3.2.1
The Landscape Plan shows a bush pathway and boardwalk within an area defined as SEPP 14 Coastal Wetlands. This area of the site is considered to be of high ecological value and its protection is imperative. In order to prevent degradation and irreversible damage to the wetland, and to avoid an increased human traffic in this location, the proposed pathway and boardwalk layout is required to be removed from within the conservation zone, or at least redesigned to avoid encroachment within areas of SEPP 14 Coastal Wetland.	Section 3.3.1
The 7(b) (Environmental Protection (Habitat)) Zone is proposed to contain an extensive area of active open space, including playground, picnic and BBQ facilities, and cycleways/footpaths. Active open space and the encouragement of an increased human presence within the 7(a) and 7(b) zones is not supporting. A number of threatened species were recorded in this area and natural habitats for some of these species exist in the locality. It is considered that a more environmentally sustainable outcome to incorporate active open space areas within other parts of the subdivision.	Section 3.3.1
Extensive areas of road (Road 2) and Asset Protection Zones (APZs) along the north western edge of the proposal are proposed within the 7(b) zoning. This part of the proposal is not consistent with the 7(b) zoning and is not supported by the Department.	Section 3.3.1
APZs are to be incorporated into private property if they cannot be provided within the road reserve.	Section 3.8
Active open space areas should be incorporated within the subdivision design in order to break up continual rows of residential housing.	Section 3.2.2 and 3.2.3
Infrastructure Provision	
A response from Kempsey Shire Council is required to be provided generally outlining agreement with the provisions of the Voluntary Planning Agreements (VPA) that has been prepared.	Section 3.6.1
Flooding and Stormwater	
The Engineering Services and Stormwater Management Report prepared by Martens Consulting Engineers notes that the proposed development, by design, would impact on site groundwater levels. To what extent would the groundwater be impacted upon? Further studies may be required to obtain the full extent of groundwater impacts. Outline measures that would ensure detrimental impacts on the groundwater system is appropriately managed.	Section 3.7.5
The Engineering Services and Stormwater Management Report also notes that there is potential for impacts on surface runoff volumes and water quality. Describe proposed management measures to ensure that water quality and surface runoff volumes are appropriately dealt with.	Section 3.7.2 and Section 3.7.4
The Saltwater Lagoon and its catchment area is an intermittently open and closed coastal lake/lagoon (ICOLL). ICOLLs are recognised as particularly sensitive environments and water quality within this ICOLL should not be detrimentally impacted upon by the proposed development. Outline measures to ensure stormwater flows and runoff derived from the site do not end up in the Saltwater Lagoon and Saltwater Creek catchment area.	Section 3.7.4
Flora and Fauna	
The Ecological Assessment prepared by Whelans Insites determined that ten threatened species under the NSW <i>Threatened Species Conservation Act 1995</i> were	Section 3.4.14

Issue/comment	Response
Department of Planning	
recorded on the site – primarily within the conservation zone. Consideration and justification should be given to the cumulative impacts of residential development upon these threatened species and their environment. Cumulative impacts may include, but are not limited to; increased traffic generation; noise; vegetation removal; degradation of existing habitats and movement corridors; an increased human presence; etc.	
The nearby Saltwater Lagoon and Saltwater Creek provides breeding, foraging and shelter habitat to a number of threatened species, including the Wallum Froglet. The impacts of large-scale residential development on the functioning of the nearby lagoon and creek should be considered. Mitigation measures to minimise such impacts should be provided. Further detail on the proposal in regards to stormwater infrastructure being able to provide habitat for the Wallum Froglet is required.	Section 3.4.7
The objective of the 7(a) Zone (Wetlands Protection Zone) is to protect water quality and supply so that the continuing operation of wetland ecosystems are not jeopardized. The wetland ecosystem surrounding Saltwater Lagoon is considered to be of significant ecological value and provides habitat for a number of fauna species. Provide measures to ensure that existing vegetation and water quality within the 7(a) zone – and particularly within and immediately surrounding the Saltwater Lagoon – is protected and maintained in its current condition.	Section 3.4.6, 3.4.7 and 3.4.10
Outline specific measures to ensure protection of the existing Endangered Ecological Community on the site (Swamp Sclerophyll EEC mapped as Broad-leaved Paperbark Open Forest – Fluvial Variant).	Section 3.4.4
The vegetation of the site suggests that Wallum Froglet and Squirrel Glider foraging habitat is widespread across the site. It is unclear how this proposal maintains or improves biodiversity values. Please ensure that each of the six guiding principles for threatened species assessment (at 1.2 of the Guidelines for Threatened Species Assessment- for Part 3A, DEC & DPI 2005) are explicitly addressed.	Section 3.4.2 and 3.4.5
Please provide a plan showing the hollow-bearing tree resources of the site.	Section 3.4.6

Issue/comment	Response
Rural Fire Service	
At the issue of subdivision certificate and in perpetuity a 20m APZ is to be provided to the northern elevation of the development zone and shall be managed as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of <i>Planning for Bush Fire Protection (PBP) 2006</i> and the NSW Rural Fire Services document Standards for asset protection zones.	Section 3.8
A 10m APZ to be provided from the south-eastern boundary of proposed Lots 315, 316, 317 and 318 of the development. In accordance with Section 88B of the Conveyance Act 1919 a restriction to the land shall be placed on these lots requiring the provision of this APZ which shall be maintained as outlined within Section 4.1.3 and Appendix 5 of PBP 2006 and the NSW Rural Fire Services document Standards for asset protection zones. This restriction can be extinguished upon commencement of any future proposed residential development on the adjacent lot, but only if the hazard is removed as part of the proposal.	Section 3.8
The entire development precinct shall be as a minimum managed as an outer protection zone until the completion of the subdivision. Each stage shall be provided to those edges that do not require permanent asset protection zones, a temporary 100m wide inner protection zone.	Section 3.8
At the issue of the subdivision certificate and in perpetuity, the land surrounding the existing dwelling to a distance of 20m shall be maintained as an IPA as outlined in Section 4.1.3 and Appendix 5 of PBP 2006 and the NSW Rural Fire Services document Standards for asset protection zones. This restriction can be extinguished upon commencement of any future proposed residential development on the adjacent lot, but only if the hazard is removed as part of the proposal.	Section 3.8
Water electricity and gas must comply with section 4.1.3 of PBP 2006.	Section 3.8
Road Access should comply with section 4.1.3(1) of PBP 2006.	Section 3.8

Issue/comment	Response
Rural Fire Service	
Public roads constructed within each stage that do not provide a through road shall provide a temporary 'T' turning head until such time as they are linked.	Section 3.8
Fire trails shall comply with section 4.1.3 (3) of PBP 2006.	Section 3.8
Temporary fire trails shall be provided within the temporary inner protection area for fire fighting so as to provide fire fighting access to the perimeter for the stage.	Section 3.8
Landscaping to the site is to comply with the principles of Appendix 5 of PBP 2006.	Section 3.8

Issue/comment	Response
Roads and Traffic Authority	
RTA considers that the Gregory St / Belle O'Connor St roundabout has sufficient capacity to support the development.	Noted
RTA also recognises that consideration has been made for the future connection of a link road to Phillip Drive. This construction of this future connection would ensure that any significant impact on the classified road network i.e. Gregory Street, would be mitigated.	Noted

Issue/comment	Response
Department of Industry and Investment	
Recommend that a detailed Monitoring and Adaptation Plan (MAP) be developed with respect to the stormwater management proposal for both construction and operation phase. The MAP should identify reporting mechanisms and triggers that would require a change to the stormwater management strategies. The MAP requirements should be included as a condition of approval.	Section 3.7

Issue/comment	Response
Land and Property Management Authority	
The Crown road to the south of the site (Belle O'Connor Street) is required for access as part of development. The Authority requires that the affected Crown section of Belle O'Connor Street be transferred to Council prior to any works commencing.	Section 3.5.4

Issue/comment	Response
Northern Rivers Catchment Management Authority	
NRCMA is responsible for approval process of the <i>Native vegetation Act 2003</i> . The Act applies to the 7(a) zoned land. The EA describes a future connection to Philip Drive and two proposed cycleways, all of which run through the 7(a) zone. If an exclusion does not apply, the removal of vegetation to install these features may require an offset strategy in the form of a Property Vegetation Plan (PVP) as specified under the <i>Native Vegetation Act</i> .	Section 3.4.11
The development comes close to a SEPP 14 wetland and in some places is 50m away. The Living and Working in Rural Areas handbook was developed to reduce land use conflict. NRCMA recommends the developments should comply with the recommendations and principles in Chapter 6 – Development Control. The recommendation for buffers between residential areas and wetlands is a minimum of 100m.	Section 3.4.9
The EA correctly identifies changes in groundwater levels as a potential risk to the flora and fauna communities at the site. The NRCMA commends the Proponent for the development of an innovative stormwater drainage system to manage this risk. The design and responsibility for the long-term management and ongoing upkeep of	Section 3.7

Issue/comment	Response
Northern Rivers Catchment Management Authority	
stormwater systems should be key consideration in the approval process, given the potentially critical impacts of system.	

Issue/comment	Response
Department of Environment, Climate Change and Water	
Aboriginal cultural heritage	
DECCW acknowledges that the EA provides evidence from two local Aboriginal community groups who participated in the LES. However the EA has not included copies of formal correspondence received from these groups regarding the project application. The applicant has not requested from DECC a list of local Aboriginal stakeholders in the area. Consultation with the Aboriginal community should occur in support of the development application process, prior to the exhibition of the EA. Recommend additional consultation is undertaken in accordance with the DECCW consultation guidelines to demonstrate that all local Aboriginal community groups have been provided an opportunity to contribute to the Part 3A ACH assessment process.	Section 3.10.2
Biodiversity values	
The information provided in the EA is considered inadequate in regard to flora and fauna in that the DGRs 9.1 to 9.4 has not been adequately addressed. In summary, the methods described by Fanning (2009) that were used to survey the flora and fauna on the site appear to be inconsistent with the DEC 2004a survey guidelines.	Section 3.4.2
The proposed development area has been identified as both a regional corridor and key habitat. The EA does not adequately address these regional linkages or other connective importance.	Section 3.4.3
The EA does not adequately address the issue of cumulative impacts or wildlife corridor or connective importance of the protection and management of the riparian corridor and adjacent aquatic habitats.	Section and 3.4.14
Climate change, flooding, stormwater and groundwater	
The entire area is below 5.5m AHD and is recognised as being potential floor hazard with high water table and poor drainage. The engineering report indicates that flood risk is minimal even under severe climate change scenarios. DECCW recommends that the precautionary principle is applied in terms of climate change mitigation and potential impacts such as increased sea level rise, intense storm events and flooding.	Section 3.7.6
The engineering report indicates that groundwater is a constraint that requires management both in terms of potential contamination and its shallowness. DECCW recommends that the management of groundwater be based on best practice and technology and this be included as a consent condition.	Section 3.7
To ensure there is not further reduction in water quality within Saltwater Lagoon, it is important that stormwater management and monitoring associated with this development utilise best practice and contemporary technology.	Section 3.7
Odour and noise	
The 150m buffer around the STP is narrow and although modelling indicates this is adequate, coastal towns often experience very high sewage loads in holiday periods and DECCW recommends consideration of an increased buffer width.	Section 3.9
The Proponent will need to ensure that noise, water and air quality impacts are satisfactorily managed during the construction phase and appropriate best practice measures are put in place to control ongoing impacts from the completed development.	Section 3.9
Potential impact on Hat Head National Park (HHNP)	
The proposed development adjoins HHNP. DECCW has the following concerns in regard to the potential impact on the park management:	Section 3.4.14

Issue/comment	Response
Department of Environment, Climate Change and Water	
<ul style="list-style-type: none"> increased fire, both from illegal activity and demand for increased asset protection; increased risk of pests and weeds; and increased demand for access to a park including illegal activity such as trail bikes, rubbish dumping and encroachment. 	

Issue/comment	Response
Kempsey Shire Council	
Need for a DCP prior to Determination of the Part 3A Application	
<p>Whilst Council understands that the Minister may, but is not obliged to consider Amendment 55 (Clause 66) to KLEP 1987, the Part 3A application completely ignores these provisions and it is considered that the provisions are pertinent to a proper assessment of the Part 3A application. Notwithstanding the fact that a DCP has not as yet been prepared, the Part 3A application:</p> <ul style="list-style-type: none"> Fails to provide a staging plan in relation to all the land to which Amendment 55 applies. Consequently there is no assessment that demonstrates that the staging plan provided represents the optimum rational sequencing of development for all of the land to which Amendment 55 relates. Fails to include an assessment of the relationship of the proposed road hierarchy to adjoining existing and proposed developments both in relation to all the land to which Amendment 55 applies and to other adjoining land. In this regard, the proposed intersection of Belle O'Connor Street and Steve Eagleton Drive is considered to be dysfunctional and justification of the link to the "Saltwater" development has not been demonstrated. (See "Traffic and Access") Fails to identify an overall landscaping strategy to protect remnant and riparian vegetation, including the relationship to adjoining vegetation and a consistent approach across the remaining undeveloped parts of the catchment. (See "Landscaping and Recreational Facilities") Fails to address the relationship of proposed stormwater controls with existing and future adjoining development. (See "Integrated Water Cycle Management") Fails to adequately demonstrate the means to ensure that stormwater can be adequately controlled so as not to impact on Saltwater Lagoon. (See "Integrated Water Cycle Management") Fails to address the proposed means to control mosquito breeding associated with proposed stormwater control measures as required by NSW Health. (See "Mosquito Control") Fails to adequately address the means proposed for the future management of the 7(b) land by relying on a VPA with Council to which Council has not provided any commitment. 	<p>Refer to Sections 3.5, 3.4.15, 3.7.2, 3.7.3, 3.7.4, 3.4.13 and 3.6.2</p>
Traffic and access	

Issue/comment	Response
<p>Kempsey Shire Council</p>	
<p>The Traffic Impact Study is incomplete as it does not provide the following essential information required in an assessment prepared in accordance with NSW RTA <i>Guide to Traffic Generating Developments</i>:</p> <ul style="list-style-type: none"> • The relationship of the proposed developments with the surrounding development(s) relative to the existing council road network; • The impact of traffic noise on lots located off the link road connecting Belle O'Connor Street to Phillip Drive being a future significant collector road; • Identification of existing proposals for improvement of the existing road network and hierarchy; • The impact on road safety; • The annual average daily traffic volumes and historical trends on key adjacent roads; • Safety and efficiency of proposed internal road layout; • Impact of generated traffic on key adjacent intersections, streets in the locality of the proposed development, the environment and other major traffic generating development sites in close proximity; • Safety and efficiency of access between the site and adjacent road network. • Development Traffic Calming Principles for the internal roads in the proposed development. • The impact of the development on the proposed collector road number 6 located within the 7(b) Environmental Protection Zone, having regard to the provisions contained in Clause 66 of Kempsey Local Environmental Plan 1987 and provisions contained in the Local Environmental Study (S7.8) Traffic and Transport Management. In particular, there is no assessment of the means proposed to ensure the road is designed to minimise the impact on threatened species, with the LES recommending no road be permitted through the 7(b) land. 	<p>Section 3.5</p>
<p>Road layout</p>	
<p>Attention is drawn to the following deficiencies in the proposed road layout which further highlights the need for a DCP: It is inappropriate to locate a future intersection (southern access point) off the existing made and dedicated Belle O'Connor Street at the junction of the existing right of carriageway to accommodate what will become a collector road, given the expected significant traffic volumes and adverse site constraints such as insufficient sight distance, being located on a horizontal curve. This road will service this development and a future 460 lot subdivision immediately to the north as well as the existing and future Seascape Grove development to the south, and will act as a road connecting residents in Spencerville/Jerseyville and beyond to the main beach and residents in Arakoon to the existing Bi Lo shopping centre.</p>	<p>Section 3.5</p>
<p>There is no mention in the EA of how this development intends to contribute its share to the provision of the northern link road (including intersection work at Phillip Drive). The EA has identified a future road link to the north of this site linking to existing Phillip Drive. This development will make use of any future road to the north as it will provide direct access for the residents of this development to the main beach and entertainment precinct in Livingstone Street.</p>	<p>Section 3.5</p>
<p>The existing South West Rocks Section 94 Plan Traffic and Transport component's work schedule does not contain work for provision of new roads (including intersections and ancillary work) that are shared by this and other developments in the locality, which may be appropriate to include in any VPA.</p>	<p>Section 3.5</p>
<p>Proposed lots 1 to 11 inclusive have dual access. Council has been approached by another property owner to have this existing right of carriageway dedicated as public road fronting these lots to the existing made section of Belle O'Connor Street. This again highlights the non-coordinated approach by different developers and the need for a DCP setting down principles to coordinate transport and traffic arrangements between competing developments.</p>	<p>Section 3.5</p>
<p>Whilst access is available to a future dedicated public road along the eastern frontage (proposed road 1), there is no legal access to the current right of carriageway</p>	<p>Section 3.5</p>

Issue/comment	Response
Kempsey Shire Council	
through Crown land that services Council's Sewage Treatment Works. There is nothing in the EA limiting physical and legal access to this right of carriageway.	
Inadequate provision has been made for turning of service vehicles (garbage trucks, furniture vans etc) base upon the current lot layout and provision for temporary turning where internal roads end at staged boundaries and where there is no through road access.	Section 3.5
Integrated water cycle management	
<p>Neither the Environmental Assessment nor the Martens Report addresses the impact on the proposed residential subdivision on either existing and or future developments outside the boundaries of this proposal, which are critical to the proposed stormwater control system, including:</p> <p>The proposed raised Detention Pond on the neighbouring Seascope Grove Residential Estate located south of this site immediately upstream;</p> <p>The existing stormwater drainage entering off Belle O'Connor Street immediately below the Country Energy Sub-station; and</p> <p>Existing developments west of the Golf Course Drain.</p> <p>The Saltwater Lagoon and Creek Catchment Stormwater Management Strategy prepared as a key action of the Saltwater Lagoon and Creek Estuary Management Plan recommends establishing a suite of current best practice stormwater management measures in order to achieve a net reduction of pollutants entering the estuary (from both existing development and future development) for all rain events up to the 1 in 2 year ARI event (which was estimated to accommodate approximately 99.5% of total long-term catchment runoff volume).</p> <p>Neither the Martens Report nor the EA contain a separate Integrated Water Cycle Management Plan.</p> <p>The LES recommends that wetlands and environmental protection zones shown in Amendment 55 of Kempsey Local Environmental Plan 1987 not be used to accommodate recreational facilities and/or constructed wetlands. The Douglas and Partners Report 2007 which forms part of the LES supports the position that the constructed wetland and infiltration swales should be located outside the identified wetlands and environmental protection zones and states: "...wetlands/infiltration swales are proposed to be constructed in a linear arrangement between the development and the development exclusion zones". Further, Appendix "A" of the Saltwater Lagoon and Creek Stormwater Strategy 2007 shows all stormwater structures clear of the 7(a) and 7(b) protection zones.</p> <p>An appropriate development control plan for this locality is the most appropriate means for providing detailed planning and design guidelines in support of an integrated water cycle management in order to satisfy the objectives of the Saltwater Lagoon and Creek Estuary Management Plan and Amendment 55 of KLEP 1987.</p>	Section 3.7.3
Landscaping and recreational facilities	
The EA has only addressed the needs of this development in isolation with respect to provision of Open Space. The authors of the EA have not sourced the Council's South West Rocks Open Space Strategy (Draft reference document). The is also a need to ensure that the proposed landscaping treatment is consistent across the whole of the area the subject of Amendment 55, particularly in respect to the areas proposed for the treatment of stormwater and the relationship to the recommendations of the LES in respect to management of threatened species.	Section 3.4.15
Geotechnical considerations	
<p>The soils on this site are characterised as poorly drained, high runoff, local acid sulfate soil potential and shallow water table.</p> <p>The EA and associated Hydrological Assessment by Martens rely heavy upon the Douglas and Partners Report 2007. The Douglas Assessment highlights the need to prepare a detailed Water Management System in respect to accommodating surface and sub-surface water at this site.</p> <p>The soil landscape and hence the groundwater configuration at this site is similar to the surrounding properties. The Proponent has not addressed, in the EA or associated documents, the likely impact on this development of existing adjacent groundwater movements.</p> <p>As stated in the Douglas Assessment the aim of the water management system is to closely replicate the existing natural water discharges and allow infiltration back to the groundwater system which the application fails to demonstrate.</p>	Section 3.7.10

Issue/comment	Response
Kempsey Shire Council	
State Environmental Planning Policy 71 Coastal Protection	
It is considered that the application has failed to adequately address Clause 8, with specific reference to Clause 8(j) and (m). The Douglas and Partners Hydrogeological Assessment and the Saltwater Lagoon and Creek Stormwater Management Strategy (WBM) 2007 clearly indicates that additional investigations and assessments are required at this site in the form of a detailed Water Management System including modelling of surface and groundwater and their interactions, Acid Sulfate Soils Assessment, further investigation of shallow groundwater on engineering aspects, monitoring of groundwater levels before, during and after construction. A final Integrated Water Cycle Management Plan incorporating Water Sensitive Urban Design Principles and associated Technical Guidelines are required for such a unique site and it is considered that determination of the application in the absence of these investigations may be found to be in breach of SEPP 71.	Section 3.7.9
Infrastructure Provision	
The EA has stated that all the necessary services are available to this development with sufficient capacity to cater for the anticipated new loadings. No Infrastructure Servicing Strategy has been provided with this EA in support of the author's position that all services are available to this development site. The impact on this development proposal of the surrounding existing and future development on adjacent property in this catchment has not been addressed. Any infrastructure servicing plan is to investigate providing services over the whole of the "saltwater" catchment at not at site by site so all affected landowners can have input into the strategy and the services roll out in a predictable manner for all developments. This aspect is best addressed in conjunction with the preparation of a Development Control Plan for the "saltwater" catchment as a whole.	Section 3.6
Mosquito Control	
At the request of NSW Health, Clause 66(e) of Kempsey Local Environmental Plan 1987 requires that a development control plan is to be prepared for amelioration of natural environmental and industrial hazards including mosquito breeding. The Saltwater LES recommends adopting similar guidelines associated with development of the Saltwater Catchment for incorporation into the development control plan for this catchment. In the circumstances it would be appropriate for the development to prepare a Mosquito Management Plan in consultation with NSW Health in order to development suitable management strategies. The proposed design response shown in table 2.1 of the EA does not meet the LES requirement for the management of the mosquito.	Section 3.4.13

Issue/comment	Response
NSW Office of Water (NOW)	
Groundwater and Surface Water Issues	Section 3.7
Preferred that the artificial wetland is constructed above the watertable and lined with impermeable materials.	Section 3.7.12
If construction of wetland is likely to intercept watertable, further discussion required with NOW licensing officers and hydrologists. NOW does not endorse the direct discharge of stormwater into an excavation if it intercepts the watertable.	Section 3.7.13
Proponent will be required to determine if works will intercept the watertable prior to any excavation being undertaken. If the watertable is to be intercepted, a dewatering licence is required from NOW prior to excavation of the site. If dewatering is required a dewatering plan is require by NOW.	Section 3.7.13
Current flow paths must be maintained across the site. The EA is unclear if culverts will be placed under the road to maintain current flow paths. Also, this drainage line should have appropriate vegetated buffers placed on either side.	Section 3.7.1
It is expected that all works within riparian areas are undertaken with minimal disturbance, erosion and sediment controls measures, provision of adequate drainage,	Section 3.7.15

Issue/comment	Response
NSW Office of Water (NOW)	
maintenance of hydrological flow regimes and appropriate revegetation and rehabilitation of all disturbed areas. It is important all riparian areas especially in sensitive catchments, have appropriate buffers between urban development to maintain the natural integrity of the riparian zone.	
Saltwater Creek and the SEPP 14 wetland should be protected within the conservation zones with appropriate buffers.	Section 3.4.9
An Estuary Management Study and Plan has been developed for Saltwater Creek and Lagoon. It is important developments within this catchment are consistent with this plan.	Section 3.7.16
No acid sulfate soil (ASS) testing was undertaken in the high risk area. NOW is concerned about potential contamination of groundwater if ASS are disturbed as a result of the development. It is recommended further testing be undertaken in the high risk areas if disturbance is likely to occur as part of the development.	Section 3.7.14
The SoC outlines that the Proponent will be extending the water mains to service the development. NOW supports the provision of water to the development by town water supply.	Section 3.6.3
There is currently an embargo on any further applications for sub surface water licences for 'Coastal Floodplain Alluvial Groundwater Sources and Highly Connected Alluvial Groundwater Sources of Coastal Catchments – Regional NSW'. However there are exemptions under this embargo which may be applicable to the development. Discussions to be undertaken with NOW licensing officers.	Section 3.7.7
Anomaly in relation to the overlay of land boundaries in Figure 1.2.1 in the EA. The land ownership boundary appears to be incorrect. Further, the EA refers to the Mid-North Coast Regional Strategy as a draft document. However, the Strategy is no longer in draft status and was finalised and released by the Minister for Planning in March 2009.	Noted.

Issue/comment	Response
Department of Planning – Regional Office	
Overlay of subject site land boundaries in Figure 1.2.1 Land Ownership Boundary appears to be incorrect.	Noted
The EA refers to the Mid-North Coast Regional Strategy as a Draft. Document is no longer in Draft status. It was finalised and released by the Minister for Planning in March 2009.	Noted
Consideration should be given to relocating proposed cycleways out of the SEPP 14 wetland area. The pressure applied to the wetland through the construction and use of the cycleway could lead to detrimental and/or irreversible impacts to the wetland.	Section 3.3.1
Reference to 'upgrades to water and sewer infrastructure would be required to serve the site and surrounds. Have these upgrades occurred? Would they occur prior to the release of the first stage of the subdivision? Clarification is required as to whether the STP upgrades have occurred.	Section 3.6.3
The assessment of zoning provisions references the 2(a) and 7(b) zoned land within the subject site, but does not include zoning provisions for the 7(a) zoned land which is included in the subject site.	Section 3.2
Proposed open space land use is not permissible within land zoned 7(b), however recreational areas are acceptable. A reference in the EA states that all trees and vegetation within the Conservation Area are protected as part of the proposal. However the subdivision plans shows public open space with facilities being situated in the 7(b) zone. The location of this proposal needs further consideration. Open pace areas could be situated on previously cleared areas and should not require extensive clearing of vegetation within the 7(b) zone.	Section 3.3.1
Point 2 within the Appendix G Vegetation Management Principles Plan states that the conservation area is proposed to be zoned 7(b) and 7(c) as part of the rezoning on the site. The Minister has approved the rezoning application and the approved rezoning of the conservation areas are 7(a) and 7(b). No area within the subject site is	Noted.

Issue/comment	Response
Department of Planning – Regional Office	
zoned 7(c).	
Consideration of DCP is not required under Part 3A of the EP&A Act however Amendment No. 55 of the Kempsey LEP stipulate the creation of a DCP to cover issues raised about the site. According to media reports Council has strongly objected to no DCP being prepared. However the issues that needed to be addressed have been suitably covered throughout the EA documentation.	Section 3.3.3
SKM completed an odour and noise assessment in 2005. Assessment reports are current for a period of two years. The noise assessment report should be revised to ensure it complies with any new or upgraded legislative changes or changes to circumstances surrounding the DA.	Section 3.9

Issue/comment	Response
Public Submissions	
Sea Level Rise/Flooding/Drainage	
The stormwater and groundwater modelling is inadequate as it was taken after extensive dry periods of minimal precipitation, and at the end of a prolonged drought as noted in the Douglas and Partners Pty Ltd assessment.	Section 3.7.5
The likely impact of sea level rise and flood risk on the development site has not been adequately addressed in the Environmental Assessment. The flood modelling for present day conditions should be set at a berm height of 3.0m AHD not 2.5m as is shown in the EA. 3.0m AHD can be reached during current weather conditions, and therefore should be significantly higher if it is to take in rising sea levels, as noted in the recent New South Wales Government Coastal Planning Guidelines. The Probable Maximum Flood (PMF) model only provided for the 2.0m AHD berm height, the lowest possible berm height. At this height, PMF modelling still showed that flood levels can reach 4.5m AHD, thus inundating large areas of the site. If the modelling were to be set at a greater berm height (as recommended) and take in rising sea levels, flooding could reach substantially greater levels than 4.5m AHD and potentially cover almost the entire site.	Section 3.7.6
Ecology/Biodiversity	
The Environmental Assessment did not accurately reflect the cumulative effects of the development on habitat and species loss in an environmentally sensitive area.	Section 3.4.14
The site in its entirety shows enough evidence that it could be considered a wetland, and the precautionary principle should be used.	Section 3.4
Wallum Froglet Species loss. Stormwater detention basins and swales will not help assist with the breeding of the Wallum Froglet, however will likely affect their numbers due to the changed levels of nutrients and effluent in the hydrology. There are at least five listed threatened species known to occur in the proposed development area. These are the Wallum Froglet, the Squirrel Glider, the Little Bent-wing Bat, Grey Headed Flying Fox and the Common Blossom Bat.	Section 3.4.5
There is insufficient information in the Environmental Assessment regarding provisions to control the likely increase in introduced species to the currently protected area, that is also listed in Kempsey Shire Council's Koala Study.	Section 3.4
The Environmental Protection Zone boundary is inconsistent with the LEP map.	Noted.
Buffer Zones and Environmental Protection	
There are provisions in the Environmental Assessment for large-scale ancillary development in the Environmental Protection (7b) zone . This includes recreational facilities such as playground areas, cycle tracks, barbeque facilities, as well as Asset Protection Zones (APZs) and stormwater protection. This constitutes development in the protection zone.	Section 3.3.1

Issue/comment	Response
Public Submissions	
<p>There is also the possibility of a road intruding on this zone. The provisions for hard surfaces and other built form development, is not in keeping with the objectives of the Environmental Protection Zone.</p> <p>There are provisions for stormwater detention basins and swales to be present within the Environmental Protection Zone. This seriously undermines the nature of a protection zone, and could likely increase nutrient and pollutant levels in the groundwater, greatly affecting the overall hydrology and ecology of a much larger area.</p>	
Climate Change	
<p>The EA does not sufficiently provide for increases in the likelihood of flooding drainage issues and sea level rise due to the ongoing and increasing affects of long term climate change and global warming.</p>	Section 3.7.6
Landuse/Lot Sizes	
<p>The proposed subdivision is isolated from the main township of South West Rocks. It is not contiguous with any other major subdivision or any retail or community facilities.</p> <p>There is currently over 200 vacant unsold lots in South West Rocks. The scale of development for such a large subdivision, far outweighs the actual need and demand for land in the town.</p> <p>The lot sizes are very small and dense, with consideration to the surrounding area, and there is very little provision for open space in the Residential 2(a) zone, with the vast majority of "open space" and recreational facilities to be located within the Environmental Protection (7b) zone. This is a less than satisfactory outcome, and poor example of urban design.</p>	Section 3.2.1
Soils	
<p>Part of the development site may contain high risk Acid Sulphate Soils (ASS). Satisfactory testing was not conducted in the area of the site that may contain ASS and affect the potential viability of the development.</p>	Section 3.7.14
Saltwater Lagoon (ICOLL)	
<p>The prevalence of mosquito's in the proposed development area have been understated. The EA provides for the planting of trees to act as separation barriers around the saltwater lagoon, however does not address the fact that drainage lines through the site often contain water and will encourage mosquito breeding.</p> <p>Removal of native vegetation on the site will result in an increase in nutrient and effluent runoff into saltwater lagoon that will directly affect the protected SEPP 14 wetlands area.</p> <p>The saltwater lagoon is already exceeding its natural nutrient load. An increase of development within the lakes drainage area, will seriously threaten the health and biodiversity of the SEPP 14 listed wetland.</p>	Sections 3.4.7 and 3.4.13
Air Quality	
<p>Macleay Water recommend a 400m buffer zone from the sewage treatment plant, however the proposal is for development within 150m of the site.</p>	Section 3.9
Consultation	
<p>There has been inadequate public consultation, and at the one meeting, very few of the local residents concerns were answered.</p> <p>The local community feel there has been no contact from Malbec regarding issues of the proposed development, and instead the company has only briefly consulted the community to advise of the merits of the Development.</p>	Section 3.10
Transport	
<p>A newly created northern road link to Phillip Drive is dealt with in the transport report, however it does not deal with any matters and issues related to the development of a road north of the Malbec land boundary.</p>	Section 3.5

Issue/comment	Response
Public Submissions	
Development Control Plan	
Amendment 55 of the Kempsey Shire Local Environmental Plan states that "Development consent must not be granted for development on land to which this clause applies unless a Development Control Plan (DCP) that provides for matters specified in subclause (4) has been prepared for the land and approved by the council". A DCP has not yet been prepared.	Section 3.3.3
Voluntary Planning Agreement	
The Voluntary Planning Agreement (VPA) proposes to retain part of the land zoned 7(b) under the ownership of one of the Proponents – Saltwater Developments – with a view to rezone the land later. This would further reduce and impact land zoned 7(b). The Director General's report on LEP amendment number 55 states "The draft plan must prevent urban development on the land unless suitable arrangements exist in relation to the future public ownership and ongoing long-term protection and management of the zone 7(b) land".	Section 3.6.1