Appendix F

MALBEC
PROPERTIES

Level 5, 280 George Street
Sydney NSW 2000
GPO Box 2641
Sydney NSW 2001

T +61 2 9233 4144
F +61 2 9233 3282
www.malbec.com.au

Monday 17th August 2009

The General Manager
Kempsey Shire Council
PO Box 78
West Kempsey NSW 2440

Dear Sir,

Re: Draft LEP Amendment No. 55 - Saltwater Southwest Rocks Rezoning Principals Outline - Voluntary Planning Agreement

Kempsey Council Officers met with representatives of Saltwater Developments (Saltwater) and Malbec Properties (Malbec) on the 26th August 2008 to discuss the principles of a Voluntary Planning Agreement (VPA) between the parties to deal with the management of the land to be rezoned to Conservation Zone as part of the adoption of Draft LEP 55.

Saltwater and Malbec propose that they enter into a VPA with Kempsey Council in line with the following principles.

The conservation areas are separately identified in the attached plan into Areas A, B, C respectively.

Area A – Part Lot 2, DP 11228633, Part Lot 1, DP 11228633 and Part Lot 2, DP 792945 to be zoned to 7a and 7b as per the Draft LEP. This land is currently owned by Malbec Southwest Rocks Pty Ltd and Saltwater Developments (Saltwater). A Voluntary Planning Agreement can be entered by Council, Malbec and Saltwater in respect to the land

Area B – Part Lot 2, DP 11228633 to be zoned to 7a and 7b as per the Draft LEP. This land is currently owned by Saltwater Developments (Saltwater). A VPA can be entered by Council and Saltwater in respect to the land.

Area C – This area is to be zoned 7b as a buffer to the Sewerage Treatment Plant. Area C will be subdivided as a separate lot and remain in the ownership of Saltwater Developments. This may be subject to a future rezoning application by saltwater in the future. A VPA is unnecessary on this land at this time.

VPA in relation to Area A

Malbec and Saltwater enter into a VPA with Council for the term of the development of the land to the south of Area A.

The essential terms of that agreement will be as follows:

1. Malbec and Saltwater will retain ownership of Conservation Area A until the registration of the last stage of the Development. At that time the Conservation Area A will be dedicated to Council.

2. Malbec and Saltwater will be responsible for the management of Conservation Area A until the land transfer in accordance with a Vegetation Management Plan (VMP) agreed between the Department of Planning (DOP) and Council

3. Passive recreation facilities such as BBQ's, walking tracks, timber board walks and viewing platforms, constructed wetlands and picnic areas if incorporated into a comprehensive landscaping design will be permissible within the Conservation Area. These uses will be subject to development consent.

4. At the time the land is dedicated to Council, Malbec and Saltwater will provide a capital sum of $15,000 Council for the management of the Conservation Area being the amount calculated for the management of the Conservation area for a period of three (3) years

5. Malbec and Saltwater will include the requirements of this VPA in its Statement of Commitments for the Part 3A application for the development

6. Malbec and Saltwater agree to prepare and implement any such other management plans that may be required for the Conservation Area as agreed with Department of Planning as a condition of the Part 3A approval whilst the Conservation Area is in Malbec and Saltwater ownership.

7. The dedication of the land to Council will include an offset to Malbec and Saltwater as 'land in kind' from the s94 Contributions Plan for the amount of a market valuation of the Conservation Area being dedicated

8. Council will maintain these facilities once they are dedicated to Council as part of the standard s94 Contributions Plan charges

9. Council consent to a North-South Connecting Road shown on Dwg No. attached will be permissible in the Conservation Area subject to development consent. The connecting road design will incorporate fauna underpasses if necessary.

10. Malbec and Saltwater will cooperate with and provide access to Council over its land to access the Conservation Area once it is dedicated to Council.

VPA in relation to Area B

Saltwater enter into a VPA with Council for the term of the development of the land to the north of Area B.

The essential terms of that agreement will be as follows:

1. Saltwater will retain ownership of Conservation Area B and C until the registration of the last stage of the Development. At that time the Conservation Area B will be dedicated to Council. Conservation Area C will remain in the ownership of Saltwater Developments.

2. Saltwater will be responsible for the management of Conservation Area B until the land transfer in accordance with a Vegetation Management Plan (VMP) agreed between the Department of Planning (DOP) and Council

3. Passive recreation facilities such as BBQ's, walking tracks, timber board walks and viewing platforms, constructed wetlands and picnic areas if incorporated into a comprehensive landscaping design will be permissible within the Conservation Area. These uses will be subject to development consent.

4. At the time the land is dedicated to Council, Saltwater will provide a capital sum of $15,000 to Council for the management of the Conservation Area being the amount calculated for the management of the Conservation area for a period of three (3) years

5. Saltwater will include the requirements of this VPA in its Statement of Commitments for the Part 3A application for the development

6. Saltwater agree to prepare and implement any such other management plans that may be required for the Conservation Area as agreed with Department of Planning as a condition of the Part 3A approval whilst the Conservation Area is in Saltwater ownership.

7. The dedication of the land to Council will include an offset to Saltwater as 'land in kind' from the s94 Contributions Plan for the amount of a market valuation of the Conservation Area being dedicated

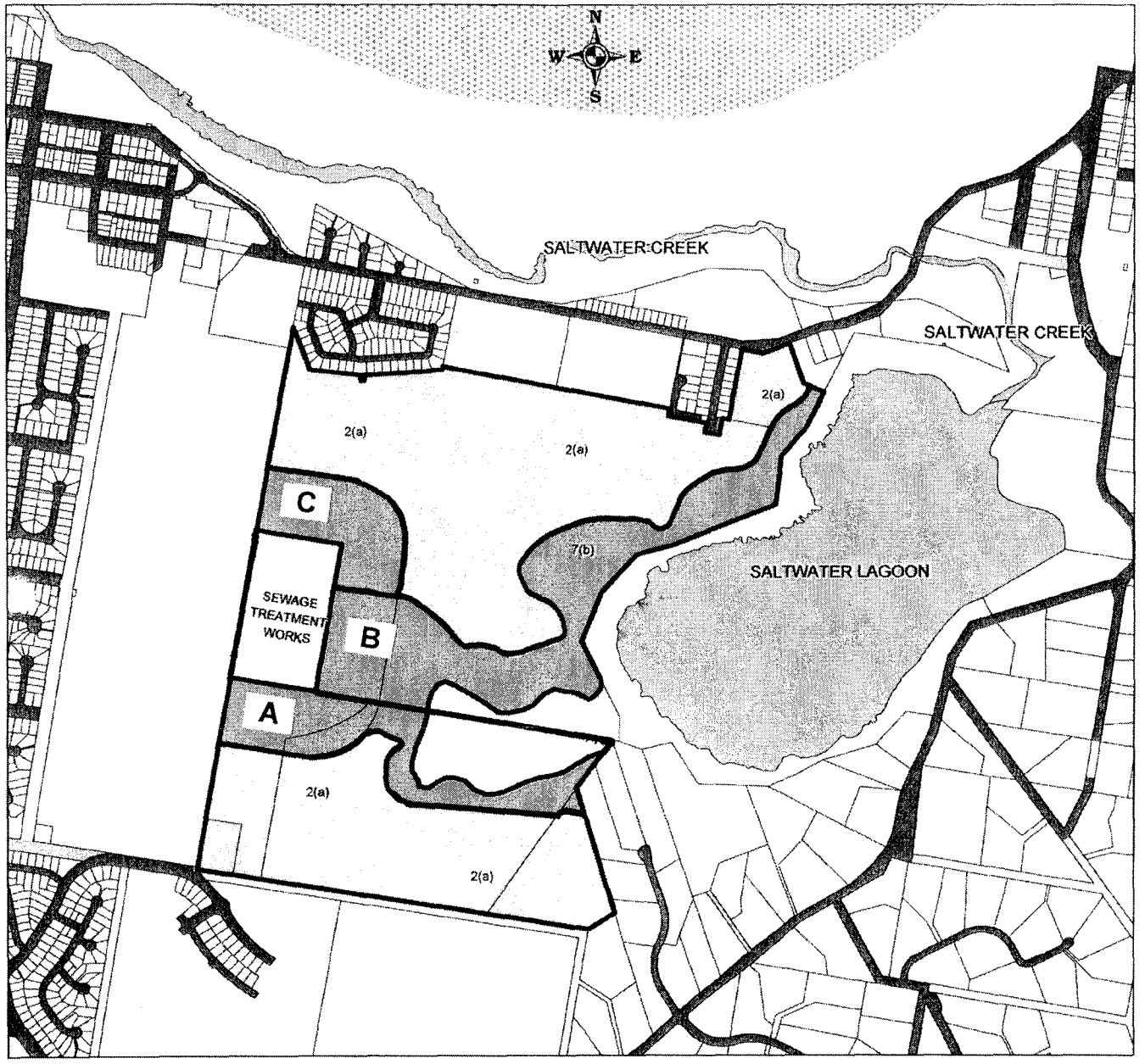
8. Council will maintain these facilities once they are dedicated to Council as part of the standard s94 Contributions Plan charges

9. Saltwater will cooperate with and provide access to Council over its land to access the Conservation Area once it is dedicated to Council.

We look forward to entering into discussions to finalise this matter.

Yours faithfully

Ian Coleman
Director



LEGEND

Zone 7(b)
Environmental Protection Habitat Zone

Zone 2(a)
Residential "A" Zone

SCALE BAR

LOCATION :

Lot 29 DP 1100740, Lot 51 DP 831284
Lot 52 DP 831284, Lot 84 DP 792945
Lot 509 DP 850963, SOUTH WEST ROCKS

PROJECT TITLE: SOUTH WEST ROCKS

DRAWING TITLE: AMMENDED DRAFT LEP PLAN

BASE PROVIDED BY: KEMPSEY LOCAL ENVIRONMENTAL PLAN - IEP

NO	DATE	REVISION	BY

SCALE:

DATE: MAY 2008

DESIGN: PLANIT

CHECKED:

DRAWN:

DRAWING NO:

CLIENT: SALTWATER DEVELOPMENTS PTY LTD

NORTH

PLANIT CONSULTING