



NSW GOVERNMENT
Department of Planning

**RESIDENTIAL SUBDIVISION OF
LOT 172 DP 755923 & LOT 823 DP 247285
BERRINGER ROAD, CUNJURONG POINT
ROAD AND SUNSET STRIP, MANYANA**

*Proposed by Allen, Price & Associates on behalf
of Malbec Properties and Manyana Estates Pty
Ltd*

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

March 2008



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EXECUTIVE SUMMARY

This is a report on an application seeking approval for subdivision and related works pursuant to Part 3A of the *Environmental Planning and Assessment Act, 1979* ("the Act"). The report recommends that the Minister withdraw the concept plan authorisation prior to determining whether or not project approval should be given for the project.

Allen, Price & Associates (the Proponent) is proposing a 182 lot Torrens Title residential subdivision of Lot 179 DP 755923 & Lot 823 DP 247285 Berringer Road, Cunjurong Point Road and Sunset Strip, Manyana ("the proposal").

The site has an area of 20.4ha and is located to the north-west of the village of Manyana on the New South Wales south coast. The subdivision will be implemented in 6 stages and each stage will provide approximately 30 lots. The proposed lots range in size between 505m² and 1015m². The development provides an area of 4.3 ha of passive open space and a native vegetation reserve which contains an Endangered Ecological Community (EEC).

The estimated project cost of the development is \$5.2 million. The proposal will create 12 full time equivalent construction jobs.

During the exhibition period, the Department received a total of 10 submissions from public authorities and the Shoalhaven Local Traffic Committee and 43 submissions from residents including 4 residents' groups. Key issues considered in the Department's assessment included:

- Need for a strategic plan for the Manyana area;
- Cumulative impacts on facilities, amenities and social infrastructure;
- Impact on flora and fauna in particular the EEC and wildlife corridor;
- Traffic impacts;
- Threat of bushfire;
- Density;
- Design layout and lot size;
- Visual impact and future character of the area;
- Land clearing and construction impacts; and,
- Contributions for public facilities.

Preferred Project Report

The proponent modified the proposal resulting in the submission of an amended Preferred Project Report on 20 November 2007 to address issues raised by the Department and submissions. The PPR proposes a total of 182 lots (from 179) and an increase in size of the proposed passive recreational area and enlargement of buffer/reserve around and to the north of the EEC to a total area of 4.3ha (from 2.83ha). The PPR also includes a modified Statement of Commitments and provision for the retention of trees in a newly identified 'tree preservation zone' adjacent to existing properties to the east and south of the site.

The Department has assessed the merits of the application and is satisfied that the impacts of the proposed development have been addressed via the Preferred Project Report, 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 concept will provide environmental, social and economic benefits to the region.

The Department recommends that the Major 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 is located at Lot 172 DP 755923 and Lot 823 DP 247285 Berringer Road, Cunjurong Point Road and Sunset Strip, in the village of Manyana within the Shoalhaven local government area on the south coast of NSW. The site is owned by John and William Bertram.

Vehicular access to Manyana is via Inyadda Drive and Bendalong Road which intersects with the Princes Highway approximately 12km to the west. The nearest major town is Ulladulla, located to the south and approximately 35km by road. The site is located to the north-west of the existing village and approximately 600m from the foreshore. Residential development in the village is predominantly modest single storey detached dwellings of light weight construction, though modern two-storey detached dwellings are found closer to the foreshores. The site context plan is shown in **Figure 1**.

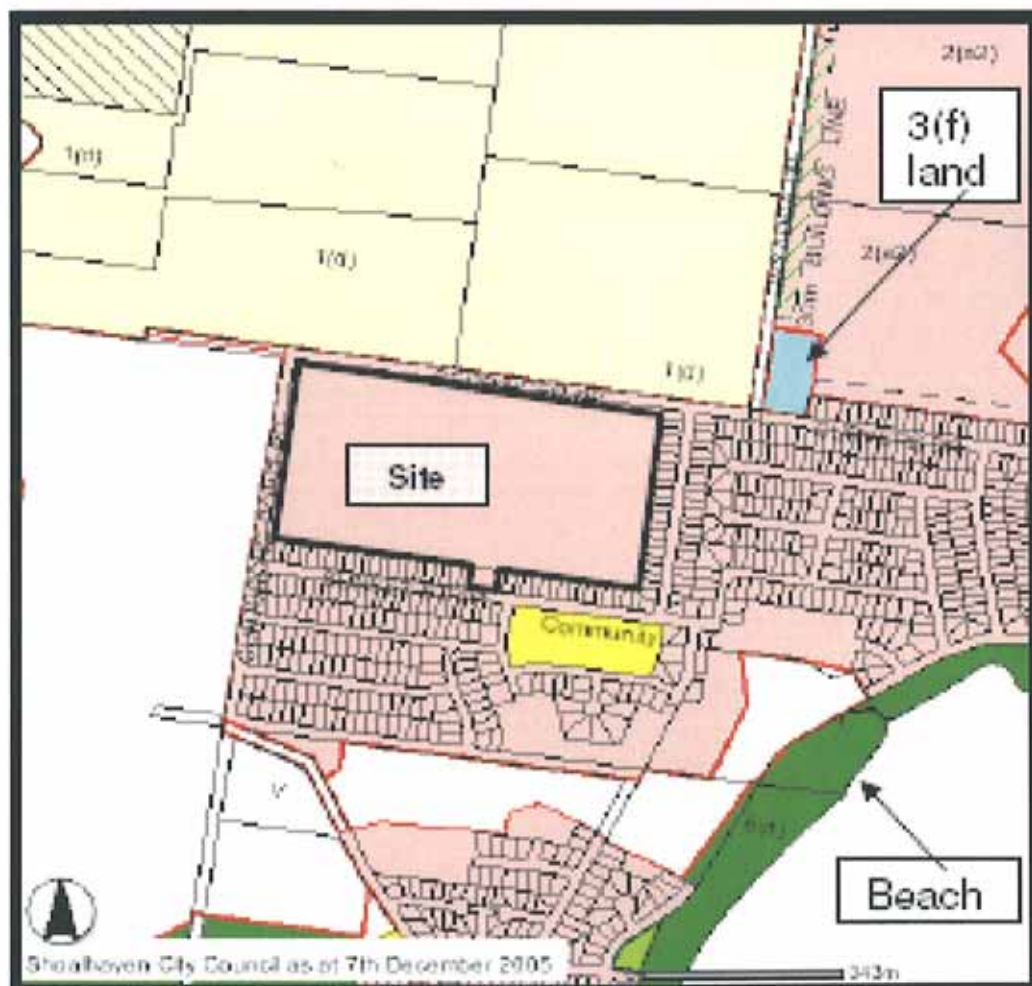


Figure 1: Site Context

1.1.2 Existing Site Features

The generally rectangular-shaped site comprises two titles with a total area of 20.4ha. It is bounded by Berringer Road (630m frontage) to the north, Cunjurong Point Road (322m frontage) to the west and has residential properties along the eastern and southern boundaries. The site also has a relatively small frontage of 45m to Sunset Strip. The site is heavily vegetated and views of the site are illustrated at **Figure 2** and **Figure 3** overleaf.

A timber cabin is located in the northern section of the property near Berringer Road. However, the site is predominantly covered with native vegetation.

The site has a 5-7% slope, from Cunjurong Point Road and Berringer Road frontages to Sunset Strip. Two intermittent drainage lines run through the property, meeting at the centre of the southern boundary adjacent to the intersection of the Sunset Strip and The Barbette.

Flora surveys carried out by the Proponent identified a total of 184 flora species on the site, comprising 164 native and 20 exotic species. The flora species fall into three vegetation communities, namely Northern Coastal Sands Shrub/Fern Forest, Bangalay Moist Woodland/Open Forest and Bangalay Paperbark Woodland. The Northern Coastal Sands Shrub/Fern Forest occurs over the majority of the site. It comprises an open forest dominated by Sydney Peppermint, Blackbutt and Red Bloodwood. The canopy height is approximately 25m. There is a sub-canopy dominated by Turpentine (*Syncarpia glomulifera*) which grows to a height of approx 14m.



Figure 2: View East Along Sunset Strip from the Intersection with Cunjurong Point Road
NB: the Site is Located Behind the Existing Houses Illustrated

The Bangalay Moist Woodland/Open Forest occurs on the eastern and north-eastern part of the site. The vegetation is dominated by Bangalay but also includes Blackbutt, Thin-leaved Stringybark, Grey Ironbark and Rough-barked Apple. They grow to a height of approximately 20m. There is a moist sub-category comprising Sweet Pittosporum, Scentless Rosewood, Black She-oak, Lilly Pilly and Coastal Banksia.

The Bangalay Paperbark Woodland occurs primarily along the drainage on the western part of the site. It is dominated by Bangalay and also contain the Endangered Ecological Community (EEC) *Swamp sclerophyll forest on the coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions* and listed on the *Threatened Species Conservation Act 1995*. **Figure 4** shows the distribution of the vegetation communities on the site.



Figure 3: View East Along Berringer Road from the Intersection with Cunjurong Point Road



Figure 4: Vegetation Communities on the Site

Fauna surveys conducted by the Proponent resulted in the detection of 69 fauna species on the site including four threatened species, the greater Broad-nosed Bat, Gang-gang Cockatoo, Powerful Owl and Square-tailed Kite, which are listed in the schedules of the *NSW Threatened Species Conservation Act 1995* and two migratory species, the Black-faced Monarch and Rufous Fantail, listed in the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

1.1.3 Surrounding Development

To the north of the site is vegetated rural land zoned Rural 1(d) under the provisions of the Shoalhaven LEP 1985. To the west is the Berringer Lake/Manyana Crown land under the management of the Department of Lands. This land was subject to a review by an Independent Review Panel which recommended that land within the Lake Berringer catchment is generally considered unsuitable for development due to its potentially adverse impact on the ecology of the Lake and should be rezoned for environmental conservation (South Coast Sensitive Urban Lands Review p.69).

Community facilities, comprising a community hall, tennis courts, a basketball court and an oval, are located in Yulunga Reserve to the south-east of the subject site. Undeveloped commercial and low density residential lands are located to the north-east of the site, at the corner of Berringer Road-Inyadda Drive-Curvers Drive intersection.

1.1.4 Zoning

The site is zoned Residential 2(a1) under the Shoalhaven LEP 1985. The proposed subdivision is permissible in the zone pursuant to clause 10. DCP 100 (Subdivision Code) prescribes a minimum residential lot size of 500m². All proposed lots are above this minimum area requirement.

The site was zoned "Village" in 1972 under Amendment No. 3 of the Shire of Shoalhaven IDO No. 1.

1.2 SITE HISTORY

1.2.1 Previous Applications

There are no previous applications for development on the site.

2. PROPOSED DEVELOPMENT

2.1 THE PROPOSED DEVELOPMENT

The approval originally sought consent for:

- Subdivision of the site into 179 lots under Torrens Title scheme. The lots range in size between 485m² and 1520m²;
- Construction of internal public road network to Berringer Road (2 access points), Cunjurong Point Road (3 access points) and Sunset Strip (1 access point);
- Construction of 2 internal roundabouts;
- Construction of pedestrian and bicycle network with one access each to Berringer Road, Cunjurong Point Road and Sunset Strip;
- Construction of 4 water quality control ponds and drainage infrastructure, including two 4m wide drainage easement cum pedestrian pathway from Berringer Road, to manage stormwater prior to discharge from the site;
- Construction of physical infrastructure and services (reticulated water and sewerage, electricity and telephone);
- Construction of on-site detention for all proposed lots;
- Provision of a 3,320m² playground area. The playground will be embellished with play equipment and dedicated to Council;
- Retention of the EEC with variable width and a 10m buffer. The EEC has an area of 2.5ha and is proposed for dedication to Council;
- Provision of 30m Asset Protection Zone (APZ) to the north and west of the site and 20m APZ to the EEC;
- Site landscaping with planting of street trees and landscaping of the playground; and
- Development in 6 stages with approximately 30 lots per stage.

Figure 5 overleaf shows the proposed subdivision layout as originally submitted.



Figure 5: Originally Proposed Subdivision



Figure 6: Amended Subdivision (February 2007)

2.2 PROJECT AMENDMENTS

A Preferred Project Report (PPR) 20 November 2007 incorporates the following amendments:

- reduction in lot yield by 2 lots, from 179 lots to 177 lots;
- increase in size of the playground area to 5,300m² (from 3,320m²);
- provision of one "bus stop" along Berringer Road frontage;
- provision of interallotment drainage to rear of lots, along proposed Road No. 4, which back onto existing residential development;
- provision of a 10m tree preservation zone to the rear of lots, along proposed Road Nos. 4 and 6, which back onto existing residential development; and
- commitment to maintain the EEC and water quality control ponds for three years from date of completion of construction.

Figure 6, previous page shows the amended development.

2.3 FINAL AMENDED PPR

Following the advice of the Department's ecology consultant, discussions were held with the Proponent to increase the size of the buffer around the EEC to minimise its long term degradation. An amended PPR and associated subdivision layout plan was submitted on 20 November 2007. The amendments included in the PPR are:

- enlargement of the buffer to east and west of the EEC, with variable width to 41m;
- creation of a 64m wide and 150m long corridor to the north of the EEC linking to Berringer Road;
- commitment to maintain the EEC and surrounding reserve for 3 years post dedication to Council;
- increase in the area of total open space to 4.3ha (from 2.83ha);
- increase in lot yield by 3 lots to 182 lots;
- identification of a 10 metre tree preservation zone to the rear of proposed lots to the east and south of the site (i.e. those proposed lots that abut existing properties);
- minor adjustments to proposed road layout, in particular the truncation of proposed Road 3 due to the new open space corridor;
- pedestrian and cycle link as an extension of Road 3;
- removal of 2 roundabouts;
- inclusion of a bus-stop on Berringer Road;
- inclusion of 4 speed control devices;
- construction of one (instead of 2) 4m wide drainage easement/pedestrian pathway from Berringer Road;;
- inclusion of inter-allotment drainage; and,
- construction of 3 water quality control ponds instead of 4. The ponds are enlarged.

Figure 7, over shows the final PPR submitted on 20 November 2007.

2.4 STAGING

Six stages are proposed. The six stages are likely to be implemented over a ten year period. Figure 7 illustrates the staging of the subdivision proposed. Details of construction proposed for each stage are detailed below.

Stage 1

- 30 lots, part Roads 1, 2, 4 and 5, water quality facility and portion of open space.

Stage 2

- 32 lots and part Roads 4 and 5.

Stage 3

- 29 lots and part Roads 3 and 4.

Stage 4

- 31 lots, part Roads 1 and 3, central open space area (3412m²) and water quality facility.

Stage 5

- 33 lots, part Roads 2, 3 and 6, bulk of open space (including the EEC) and water quality facility.

Stage 6

- 27 lots and part Road 6 and all of Road 7.



Figure 7: Final PPR Subdivision Layout (November 2007)

2.5 DEVELOPMENT DATA

The Shoalhaven LEP 1985 does not provide development standards for subdivision in the Residential 2(a1) zone. A minimum allotment size of 500m² is prescribed in DCP 100 (Subdivision Code). Other key criteria are outlined in the development data table below and a detailed assessment against the provisions of DCP 100 is provided at Appendix B to this report.

Issue	Existing	Proposed	DCP 100	Compliance
Lot size	Lot 172 - 20.23ha Lot 823 - 1688m ² Total - 20.39ha	505m ² - 1015m ²	500m ²	Yes
Carriageway Width	None existing within site.	New internal local roads have 18 m road reserves and 7-8m carriageways.	Local Road - 7-9 metres Collector - 9 metres	Yes
Intersection Separation	None existing within site.	Separation <60m Separation >40m	Same side of street - 60m Opposite side of street - 40m	Yes No ¹

1. Where Road 2 intersects with Road 1, on the opposite side Roads 4 and 5 intersect with Road 1 and the separation distances are 25 metres and 30 metres respectively. This is not significant as the resulting intersections are clearly T-Junctions and not de-facto cross-intersections and the design provides adequate staggering although not meeting the 40 metres specified.

2.6 PROJECT CHRONOLOGY

The following is a summary of the chronology of the application:

- On 24 October 2005 a request for a clause 6 opinion was lodged with the Department for subdivision of the property.
- On 9 November 2005 the Director-General, as a delegate of the Minister, formed the opinion on the proposal is a Project and that Part 3A of the *Act* applies.
- On 22 December 2005 a Preliminary Assessment was lodged with the Department and a request for to submit the Project as a Concept Plan.
- On 7 February 2006 the Minister for Planning authorised the lodgement of the Project as a Concept Plan.
- On 6 March 2006 the Director-General's Environmental Assessment Requirements (DGRs) were provided to the Proponent.
- On 28 September 2006 the Proponent advised by letter that they wished the application to be treated as a Project Application.
- On 10 October 2006 the Environmental Assessment (EA) was lodged with the Department.
- From 20 October to 18 December 2006, the EA was placed on public exhibition (note: the notification period was extended).
- On 11 January 2007 a site inspection and meeting with representatives of residents' groups in Manyana was held.
- On 15 January 2007 a summary of public submissions and full submissions of public authorities were provided to the Proponent for a response.
- On 22 January 2007 a draft response to submissions was received from the Proponent.
- 22 February 2007 a Preferred Project Report, response to submissions, draft Statement of Commitments and related documents was received from the Proponent.
- On 9 March 2007 a submission was received from Shoalhaven City Council (SCC) for s94 contribution over and above contributions in the s94 Contribution Plan.
- On 9 March 2007 the response of the Proponent to Council's submission was received.
- On 11 April 2007 a meeting was held with the Proponent to discuss protection of the EEC.
- On 1 May 2007 a further meeting was held with Proponent to discuss protection of the EEC.
- On 29 May 2007 a further meeting was held with the Proponent to provide feedback on a draft amended plan
- On 20 November 2007 an amended Preferred Project Report was submitted by the proponent.
- On 22 November 2007 the Preferred Project Report was referred to SCC, RFS and DECC for comment.
- On 24 January 2008 a set of draft conditions of approval was forwarded to the Proponent, Council and DECC for comment.
- On 8 February 2008 a meeting was held with Council and the Proponent at the Department's Wollongong Office to discuss the draft conditions of approval.

3. STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION

The proposal is subject to assessment under Part 3A of the *Environmental Planning and Assessment Act 1979* (the *Act*) and the approval of the Minister for Planning is required to carry out the project. Under delegation of the Minister, the Director-General formed the opinion on 9 November 2005 that the project is one to which Part 3A of the *Act* applies. Consequently, the Proponent sought the Minister's approval for the proposal under Section 75J of the *Act*.

The *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP) identifies development for subdivision of land in a residential zone into more than 25 lots in the coastal zone as a project to which Part 3A of the *Act* applies (Schedule 2, clause 1(1)(i) – Coastal areas). The proposal achieves the Major Project criteria in the Major Project SEPP, being the subdivision of land in a residential zone creating more than 25 lots in the coastal zone.

3.2 PERMISSIBILITY

Under the Shoalhaven LEP 1985, the site is zoned Residential 2(a1), permitting subdivision of the land pursuant to clause 10, which stipulates that subdivision requires the development consent of Council. The Proposal is consistent with the objectives of Residential 2(a1) zone and is permissible subject to the Minister's approval.

3.3 MINISTER'S POWER TO APPROVE

The Department has exhibited the Environmental Assessment in accordance with Section 75H(3) of the *Act* as described in section 4. The project is permissible and meets the requirements of the Major Projects SEPP. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

3.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

The DGRs issued on 6 March 2006 required the following issues to be addressed:

- Statutory and Other Requirements
- Cumulative Impacts
- Traffic Impacts (Construction and Operations)
- Bushfire
- Urban Design, Visual Impact and Sustainability
- Impact on Threatened Species
- Impact on Infrastructure (Sewerage and Water)
- Impacts on Water Quality and Drainage
- Aboriginal and Cultural Heritage
- Contamination, and
- Matters of National Environmental Significance

The DGRs are attached at **Appendix A**.

3.5 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 backdrop 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) (iv), (vi) and (vii). Relevantly, the Objects stipulated under section 5(a) and (c) are significant factors informing the determination of the application. The project does not raise significant issues with regard to the objects listed in section 5.

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 application. ESD is considered in more detail in the following Section 3.6 of this report.

3.6 ECOLOGICALLY SUSTAINABLE DEVELOPMENT 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 proposal in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – the proposal will provide economic benefits of the Manyana area. The environmental impacts are addressed through the proponent's EA report, and amended Preferred Project Report including the Statement of Commitments, and recommended conditions of approval. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval does not compromise a particular stakeholder or hinder the opportunities of others.

- (b) **Precautionary Principle** – Following an assessment of the proponent's EA it is considered that there is no threat of serious or irreversible environmental damage as a result of the proposal. The EEC has suffered degradation in its biota and ecological value because of its size and loss of connection to a large part of its catchment as a result of past development, such as construction of Berringer Road to the north, Council's piping downstream of the EEC and regular burning and clearing to reduce fire hazard at the western part of the site. The amended PPR and its new 64 metre wide corridor running north from the EEC to Berringer Road will retain existing connectivity and ensures the EEC is not isolated. The EEC will benefit from active management as specified in the recommended conditions of approval.
The site is not located adjacent to the coast or coastal waterways and is 12 metres above sea level at its lowest point. Given a likely predicted maximum sea level rise of 0.91 metres by 2100, the site is not at risk of inundation or increased coastline hazards within this timeframe.
- (c) **Inter-Generational Principle** – It is considered that the proposed development represents a sustainable use of a site which provides residential sites to accommodate population growth. The development of the site at the north-western fringe of Manyana is a logical expansion of the village. The development of this site will have positive economic benefits and the environmental impacts are ameliorated with appropriate measures and conditions of approval.
- (d) **Biodiversity Principle** – The amended Preferred Project Report significantly enlarged the buffer which bounds the east and west sides of the EEC. In addition, a significant (64m by 150m) component of the reserve to the north of the EEC, which extends to Berringer Road, is retained. These proposed measures will minimise the long term degradation of the EEC.
- (e) **Valuation Principle** – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

3.7 SECTION 75I OF THE ACT

Section 75I(2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director-General's report is to address a number of requirements in the Director General Report. These matters and the Department's response are set out as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and Preferred Project Report are located on the assessment file.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out at Appendix C and Section 4 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the project, is identified and assessed immediately below.
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	An assessment of the development relative to all environmental planning instruments is provided in section 3.8 of this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proponent's EA addressed the DGR requirements and is considered to have satisfied those requirements as addressed in this report. Refer to the Conclusion in Section 6 of this report for a statement relating to this requirement.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal

	is discussed in section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Section 5 of this report.
The suitability of the site for the project	The site is identified in the Shoalhaven Local Environmental Plan 1985 to be developed for residential uses.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 and Appendix C. The Proponent's response to submissions is provided in Appendix D of this report.

3.8 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

3.8.1 Application of EPIs to Part 3A projects

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project. A summary of compliance with the relevant EPIs is at **Appendix B**.

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:

3.8.2 State Environmental Planning Policy (Major Projects) 2005

The Major Projects SEPP applies to the site. The proposal achieves the Major Project criteria in the Major Project SEPP, being the subdivision of land in a residential zone creating more than 25 lots in the coastal zone. This is discussed in more detail in Section 3.1 of this report.

3.8.3 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies to the land and development within the coastal zone (clause 4) as defined by the *Coastal Protection Act 1979*. The subject site is located within the coastal zone. SEPP 71 provides aims of the Policy (clause 2) and matters for consideration (clause 8) when assessing development proposals. The Policy has been made to ensure that development in the NSW coastal zone is appropriate and suitably located, there is a consistent and strategic approach to coastal planning and management and there is a clear development assessment framework for the coastal zone. The major themes of SEPP 71 include retention of visual amenity, protection of the coastal foreshore in relation to amenity, public access, wildlife corridors, water quality, views, items of heritage and suitability of development within the area. The proposal is considered to be generally consistent with the provisions of SEPP 71 and this is discussed in more detail at **Appendix B**.

3.8.4 State Environmental Planning Policy No. 11 – Traffic Generating Developments (SEPP 11)

Schedule 2 of SEPP 11 applies to subdivision of land into 50 lots or more. The Policy aims to provide the RTA an opportunity to make representations in respect of developments which are significant generators of traffic. In this regard, the proposal was referred to the Local Traffic Committee in which the RTA is represented. The application was also referred directly to the RTA and their response is discussed in more detail in Section 4 of this report.

3.8.5 State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

The aims of SEPP 44 are to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline by requiring the preparation of plans of management, identification of areas of core koala habitat and the inclusion of areas of core koala habitat in environment protection zones. The

site does not contain tree species listed as koala feed trees on Schedule 2 of the SEPP therefore, no further consideration is required.

3.8.6 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The aim of SEPP 55 is to provide for remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment and requiring that any remediation work meets certain standards and notification requirements. There is no evidence that the site is contaminated.

3.8.7 Illawarra Regional Environmental Plan No. 1

The broad aims of the Plan are to meet individual and community economic and social needs as they are related to the allocation, availability, accessibility and management of the region's land resources. Specifically, the objectives of the Plan as they apply to development of "living areas" are to ensure that urban expansion is orderly and efficient having regard to the constraints of the natural environment; sufficient land is available to prevent price rises resulting from scarcity of land, and new residential land is only developed where there are adequate utility and community services available or there is a commitment from the relevant authorities or developer to provide those services; and to provide for a range of lot sizes, to ensure that residential development does not take place on hazard-prone lands, and to minimise bush fire risks to urban development. The issues are discussed in more detail at **Appendix B**.

3.8.8 Shoalhaven Local Environmental Plan 1985 (SLEP 1985)

The SLEP 1985 sets the broad planning framework for development in the Shoalhaven City local government area and establishes permissible forms of development and land use which will be permitted in the area. The SLEP 1985 zones the site as Residential 2(a1). The objectives of the zone are "to provide an environment primarily for detached housing and to ensure that the range of development permitted in a residential area is compatible with the residential environment." Soil, Water and Effluent Management (clause 26); Bushfire Prone Land (clause 28); and Items of Environmental Heritage (clause 31) are relevant considerations for the proposal. The issues are discussed in more detail at **Appendix B**.

3.9 OTHER PLANS AND POLICIES

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

3.9.1 Development Control Plan 100 – Subdivision Code (DCP 100)

DCP 100 applies to subdivision in the Shoalhaven Local Government Area. Among the aims of the DCP is to encourage high quality urban design and residential amenity, to provide a design approach for residential subdivision, and to provide for the ecologically sustainable subdivision of land. The DCP outlines "Performance Criteria" and "Acceptable Solutions" that could be used to achieve the objectives of various controls of a subdivision. The relevant controls of the DCP include public open space (Element RE7), street design (Element RE8), stormwater (Element RE11) and allotment layout (Element RE14). Although not an EPI, the objectives and relevant planning controls of the DCP are considered relevant to the current assessment. The issues are discussed in more detail in **Appendix B**.

3.9.2 South Coast Regional Strategy

The primary purpose of the Regional Strategy is to ensure that the significant natural and scenic assets that define the region's character and underpin its economy are not compromised by growth. It will do this by ensuring that land is available in appropriate locations to sustainably accommodate the projected population growth and associated housing, employment and environmental needs over the next 25 years. The Strategy sets 'Outcomes' and 'Actions' for various components including the natural environment, natural hazards, housing and settlement, economic development and employment growth, rural landscape and rural communities. The issues are discussed in more detail at **Appendix B**.

3.9.3 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development and addresses

a number of key coastal themes including population growth, coastal water quality issues and establishing a comprehensive and representative system of reserves. The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. The coastal policies and guidelines are relevant legislation and planning provisions applying to the site. The issues are discussed in more detail at **Appendix B**.

4. CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited from 20 October to 18 December 2006, and was published in the Milton Times, South Coast Register and Nowra Chronicle. The EA was made available to the public in the Department's Information Centre and at the Department's Southern Regional Office, Wollongong and Shoalhaven City Council at Bridge Road, Nowra and Deering Street, Ulladulla.

A Preferred Project Report, draft Statement of Commitments and Response to Submissions were lodged on 22 February 2007. Following discussion with the Department, these documents were further amended and an amended Preferred Project Report was lodged on 20 November 2007. The changes arise primarily from the requirement to increase the width of the buffer to the east and west sides of the EEC and the need to retain the top of its catchment to minimise long-term degradation of this threatened vegetation and ecological community.

The amended plans and final Preferred Project Report were placed on the Department's website in November 2007. The PPR was forwarded to DECC, Council and Rural Fire Service in December 2007 for their comment. The 'Save Manyana Alliance' was advised of the PPR being placed on the Department's website on 9 January 2008 and they subsequently made a submission which is discussed in detail in Section 4.3 below.

4.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

The Department received a total of 53 submissions comprising 43 submissions from the public (including 4 residents' groups) and 10 submissions from public authorities as part of the exhibition of the originally submitted application from 20 October to 18 December 2006. Public submissions were received from Shoalhaven City Council, Shoalhaven Local Traffic Committee, Department of Environment and Climate Change (separate submissions from the former Department of Environment and Conservation, and Department of Natural Resources), Roads and Traffic Authority, Rural Fire Service, Shoalhaven Water, Integral Energy, NSW Department of Education and Training, Department of Health and Department of Planning Southern Regional Office.

The 43 submissions from the public included 42 letters of objection from local residents and 1 letter of support from a local resident.

4.3 PUBLIC SUBMISSIONS

4.3.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Need for a strategic plan for the Manyana area and cumulative impacts on facilities, amenities and social infrastructure
- Traffic and access
- Threat of bushfire
- Density
- Subdivision layout and lot size
- Visual impact and future character of the area
- Impact on flora and fauna in particular the Endangered Ecological Community and wildlife corridor
- Land clearing and construction impacts
- Stormwater
- Impact on heritage items
- Section 94 contributions

Discussion on the key issues which include those raised in submissions is in section 5 of this report. A summary of all submissions received is in **Appendix C**. The proponent responded to these submissions on 20 February

2007. Amendment was made to the response following alterations of the plans to better protect the EEC. The amended Response to Submissions is in **Appendix E**.

A further public submission was received from the Save Manyana Alliance in response to the PPR placed on the internet. The letter dated 16 January 2008 acknowledges that the developer, in undertaking to utilise recycled water in the development has moved in a positive direction. The letter raises particular concerns regarding the inadequate nature of the developer contributions to be levied. This issue is discussed in more detail in Section 5 of this report. The proposed levies are in line with the provisions of the Section 94 Plan and additional levies have been agreed to by the Proponent through a Voluntary Planning Agreement. Concern was also expressed regarding the provision of the bus-stop as part of Stage 5 of the development as this would be constructed late in the overall scheme of the project, and pointless given a lack of public transport in the area. Given the scale of the development and the chosen location serving a catchment, its provision at an earlier date, say as part of Stage 4 or 5 would be pointless, as the catchment would not yet exist.

4.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities to the exhibition which occurred from 20 October to 18 December 2006:

4.4.1 Shoalhaven City Council (SCC)

Key issues raised by Council include the following:

- Lack of interallotment drainage and flooding;
- Noise and dust during construction;
- Sediment impact on water quality;
- Storage and disposal of green waste;
- Tree protection;
- Traffic impact;
- Inadequate buffer to EEC and impact on threatened species, population and ecological communities
- Cumulative impacts on roads, social infrastructure and community facilities;
- Size of playground area inadequate;
- Dedication of EEC;
- APZ is inadequate; and,
- Section 94 contributions.

The issues are discussed in Section 5 of this report.

4.4.2 Shoalhaven Local Traffic Committee (STC)

Key Issues raised by the LTC include the following:

- The need for the closure of proposed Road 7 at its intersection with Cunjurong Point Road;
- The need for the provision of signage and safety measures for proposed roads;
- Provision of bus stops and bays;
- Need to widen the drainage easement;
- The need for the provision of speed control facilities and pedestrian crossing at Sunset Strip;
- Provision of pedestrian footpath along frontage of Berringer Road and Cunjurong Point road;
- Widen pedestrian/cyclist pathway;
- Provision of street lighting; and
- Provision of a fully channelised left-turn lane at the Berringer Road-Inyadda Drive-Curvers Drive intersection.

The issues are discussed in Section 5 of this report.

4.4.3 Department of Environment and Climate Change

Key Issues raised by DECC include the following:

- Changes in hydrology and nutrient regimes of the EEC resulting in significant reduction in genetic integrity

- Isolation of EEC from adjoining vegetation resulting in significant impacts including reduction in the diversity and population size of fauna; and,
- Decline in regional habitat connectivity with the narrowing of the habitat corridor linking the Berringer Lake/Manyana Crown land in the west to the Conjola National Park to the north.

The issues are discussed in Section 5 of this report.

DECC were forwarded the amended Preferred Project Report and provided comment by letter dated 14 December 2007. DECC advised that although the subdivision layout will impact upon the EEC, it is a significant improvement over the originally submitted design and layout. DECC also specify certain requirements for a Vegetation Management Plan for the EEC which are reflected in the conditions of approval at **Tag A**.

DECC also requested that the EEC be managed in perpetuity and suggests that a mechanism be implemented which ensures all cost associated with such management are able to be levied from the "appropriate accountable parties". The EEC is intended to be dedicated to Council and managed by the proponent for 3 years from dedication. The bulk of the EEC is located within Stage 5 of the subdivision and Stage 6 (the final stage) abuts the open space forming part of the broader EEC. It is considered reasonable that the EEC area be dedicated to Council at the completion of Stage 5 and that the 3 year management period should be linked to the completion of the final stage of the subdivision (i.e. Stage 6), as adjoining works are likely to impact upon the quality of this area. This will ensure the EEC area is managed by the proponent for the life of the project and then for a further 3 years. This issue is reflected in the conditions of approval at **Tag A**. The dedication of the area to Council is considered to be the best outcome in terms of long term management.

4.4.4 Department of Water and Energy

DWE did not raise any issues.

4.4.5 Roads and Traffic Authority

Key issues raised by the RTA include the following:

- suitability of the Bendalong Road – Princes Highway intersection to accommodate increase in development in particular the level of service for the right turn movement out of Bendalong Road to sustain further development;
- safety of pedestrian and cyclists from development crossing Sunset Strip to the beach and community facilities.

The issues are discussed in Section 5 of this report.

4.4.6 Rural Fire Service (RFS)

The RFS has reviewed the proposed development under the Planning for Bushfire Protection 2006 and recommended appropriate conditions. On 14 December 2007, the RFS provided comment and conditions on the amended PPR and these are reflected in the conditions of approval at **Tag A**.

4.4.7 Shoalhaven Water (SW)

Shoalhaven Water raised no objection to the proposed development in respect of provision of reticulated water supply. The proposed development has been included in the planning and design of the Conjola Regional Sewerage Scheme. The issue is discussed further in Section 5 of this report.

4.4.8 Integral Energy

Integral Energy raised no objection to the proposed development.

4.4.9 Department of Education and Training

The Department of Education and Training raised no objection to the proposed development.

4.4.10 Department of Health

The Department of Health raised no objection to the proposed development.

4.4.11 Department of Planning Southern Regional Office

The Department of Planning Southern Regional Office commented that the South Coast Regional Strategy has recognised the residential zoning of the subject site.

5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

In addition to the EPIs and planning policies addressed in Section 3 of this report, key issues considered in the Department's assessment of the Environmental Assessment, assessment of the amended Preferred Project Report and consideration of the proponent's amended draft Statement of Commitments include the following:

5.1 NEED FOR A STRATEGIC PLAN FOR THE MANYANA AREA

Concerns were raised regarding the need for a strategic plan for the Manyana, Bendalong and Cunjurong Point area to provide a framework to guide future development prior to consideration of the proposed development and other applications in the area.

The site was zoned "Village" in 1972 under Amendment No. 3, Shire of Shoalhaven IDO No. 1 where development for urban purposes were permissible. It is currently zoned Residential 2(a1) under the Shoalhaven LEP 1985. The planning, design and construction of the Conjola Regional Sewerage Scheme recognised the residential zoning of the land. The site is not listed as sensitive urban land in the South Coast Regional Strategy. The South Coast Urban Lands Review Panel recommended that there was scope for limited additional development between the villages of Manyana and Cunjurong, however this was a low priority. Figure 8 below illustrates the potential growth area located to the south of the subject site.

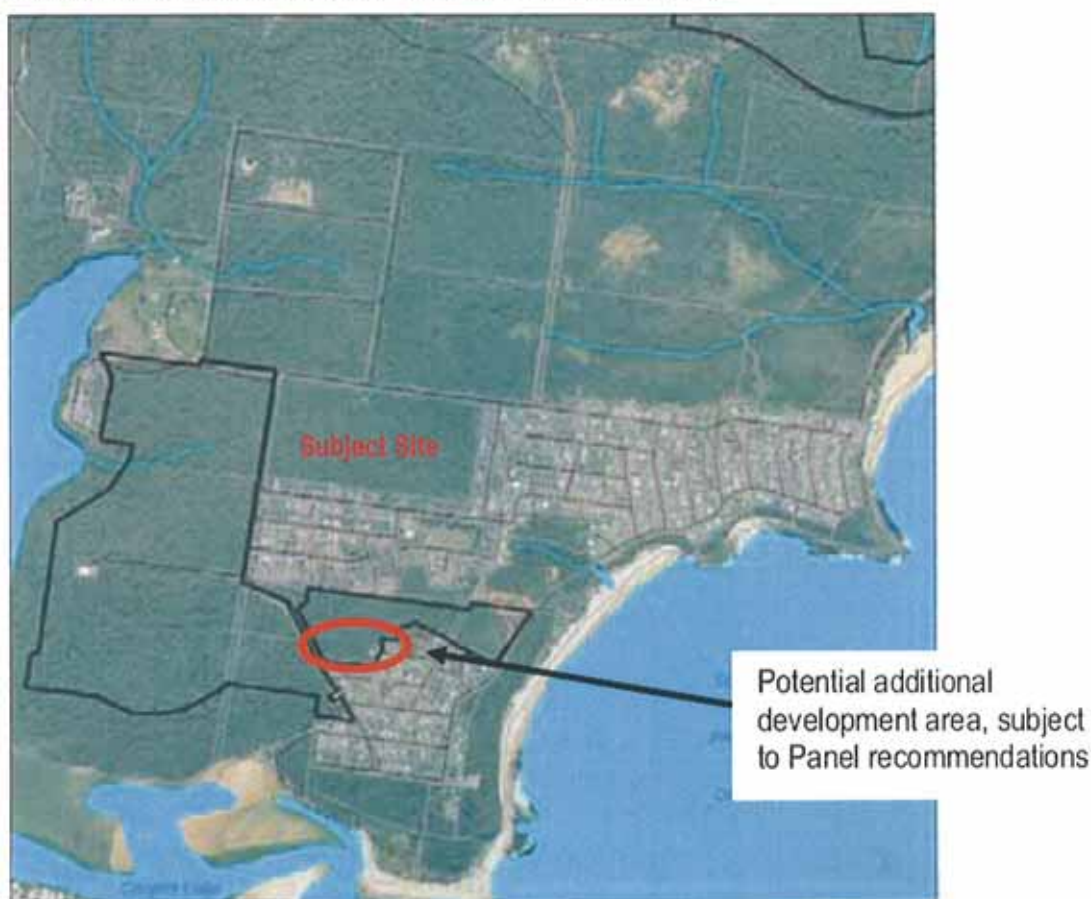


Figure 8 - South Coast Urban Lands Review Panel Findings

The development proposal represents a significant increase in the village footprint of Manyana and nearby Cunjurong. There was some concern expressed in submissions that there is an oversupply of residential land in the Manyana area and that the release of the lots forming part of this development will result in the lowering of property value.

This issue also needs to be considered in the context of a number of other smaller developments proposed for the Manyana area. In this regard, the cumulative impacts of this development in its broader context have been given due consideration in the assessment as well as in the material lodged.

The EA and the Preferred Project Report outlines that the development will be implemented in 6 stages. Each of these stages will have approximately 30 lots. The development is envisaged to be completed between 7 and 10 years and the pace of each stage will be dependent on the buoyancy of the residential market and the take up rates of lots placed on the market.

Shoalhaven City Council is currently preparing the Citywide Growth Management Strategy which is expected to commence exhibition shortly with 3 community workshops scheduled for February 2008. The Strategy is partly funded by the NSW State Government under the Planning Reform Program. The Strategy is likely to be finalised later in 2008 and will provide the basis for preparation of the Council's Principal Local Environmental Plan which is scheduled for completion by March 2009.

The site is appropriately zoned for the land uses proposed (i.e. Residential 2(a1) under the Shoalhaven LEP 1985) and the proposal is considered a suitable use of this land. The proposal is for an additional 182 dwellings in the village of Manyana, albeit with staged implementation over a 10-year period and this will be in the context of some existing 877 dwellings in the Manyana/Cunjurong/Bendalong area. In this context, the proposal is considered to be an acceptable staged extension to the existing village framework.

The strategy being prepared by Council and any subsequent changes to the current local environmental plan do not fetter the Minister's consideration of the subject application.

5.2 CUMULATIVE IMPACTS ON AMENITIES AND PHYSICAL AND SOCIAL INFRASTRUCTURE

Concern was raised that the cumulative impacts on facilities, amenities and social infrastructure in the Manyana area and surrounds have not been adequately addressed. Concerns are raised that the Conjola Regional Sewerage Scheme currently under construction will not have the capacity to support the development; the proposed development will reduce pressure on reticulated water supply in the area; and concern on capacity of electricity supply to support the development. Concerns are also raised on the lack of social infrastructure – school and health services; public transport and community and recreational facilities to support the development. These issues are addressed in turn below:

Water and Sewer. Shoalhaven Water has advised that the proposed development has been included in the design and construction of the Conjola Regional Sewerage Scheme which is expected to be completed this year. Shoalhaven Water has required that the Proponent extend sewer mains to the proposed development from the sewer gravity mains which will be constructed along Sunset Strip and to connect to a reclaimed water reticulation system.

Shoalhaven Water also advised that the existing reticulated water supply system is capable of supporting the proposed development. The Proponent is required to extend the existing water mains to the proposed lots from the existing water main located along Cunjurong Point Road. Shoalhaven Water has also advised that a hydraulic modelling for water supply system in Manyana and surrounds are currently being undertaken to determine specific areas where low water pressure occur and where augmentation of the system is needed.

Electricity. Integral Energy has advised that the proposed development will require a load of 1.3MVA. There is spare capacity in the network to supply this increase in load with the upgrade of the Yatte Yattah Zone Substation and the installation of a voltage regulator south of Fisherman's Paradise village.

Schools. Students living in Manyana are zoned to attend Milton Public School and Ulladulla High School. The Department of Education and Training has advised that both schools are currently undergoing major capital works upgrades. The development is expected to generate the need for approximately 30 primary school and 30 high school student places when fully developed. This will require the construction of one additional primary home base and one secondary general learning space. The student numbers are likely to be significantly less as the 2006 Census reveal that occupied dwelling rate in Manyana and Cunjurong is approximately 30%.

Health. Health services for residents of Manyana are provided once a week, operated out of the Community Hall at Yulunga Reserve; and the Milton-Ulladulla and Shoalhaven District Memorial Hospitals. The Department of Health's South Eastern Sydney & Illawarra Area Service (SESAHS) has advised that the proposed development will result in an estimated 50 overnight admissions per annum and it considers that the health infrastructure can adequately service the proposed development. SESAHS's Clinical Services Strategic Plan 2006-2009 has made provision for the enhancements of clinical services at both hospitals.

Transport. Currently there are no dedicated commuter bus services in the Manyana area. However, the general public are allowed to use the school bus services for a fare. There is one service, using two rigid 12.5m long buses, to and from Milton and Ulladulla during school days.

The Shoalhaven Traffic Committee has noted that the proposed development could be served by the existing public transport through Berringer Road and Cunjurong Point Road. The Committee recommended that three bus bays and associated signage to Austroads standards at three bus stop locations be constructed, two along Berringer Road and one along Cunjurong Point Road. Taking into account existing bus stops in the vicinity of the site, the Proponent has demonstrated that the construction of one additional bus stop will result in all lots within the development falling within 500m walking distance to a bus stop. This will comply with the Council's DCP 100 – Subdivision Code which states that "at least 85% of dwellings are within 500m safe walking distance from an existing or potential bus route."

Under the Shoalhaven City Council's Section 94 Contribution Plan 1993, a sum of \$4,957.85 is levied for each additional lot, to provide for public amenities and infrastructure. In addition, the Council has requested contributions, over and above that provided in the Contribution Plan for extension of the Community Hall, provision of new toilets and embellishment of Yulunga Reserve, upgrade of foreshore facilities including provision of car parking, rehabilitation of Bendalong Road and Inyadda Drive, construction of roundabout at the Bendalong Road-Inyadda Drive intersection, upgrade of Princes Highway-Bendalong Road intersection, and provision of active recreation facilities. This issue is discussed in Section 5 of this report.

Appropriate conditions are recommended to connect the proposed development to the Conjola Regional Sewerage Scheme, reclaimed water reticulation system and reticulated water supply. The amended plans have indicated the provision of one bus bay along Berringer Road.

5.3 TRAFFIC, ACCESS AND PEDESTRIAN SAFETY

According to information contained within the EA traffic report, the proposal is likely to generate 180 two-way trips during the morning and afternoon peaks and the road network will be able to cater for this traffic growth. There is some concern that traffic surveys were carried out mid-week and failed to consider peak traffic periods which occur over the weekends and public holidays and that the impact of internal traffic has not been adequately addressed. The proposed development will also have an impact on the Bendalong Road; and Princes Highway-Bendalong Road, Bendalong Road-Inyadda Drive and Berringer Road-Inyadda Drive-Curvers Drive intersections, which requires detailed consideration.

RTA and the Proponent's consultant, Colston Budd Hunt & Kafes Pty Ltd, employed the SIDRA model to analyse the operational capacity of the Princes Highway-Bendalong Road intersection. However, both adopted a different "gap acceptance" criteria, resulting in different outcomes. The RTA uses the default value in the SIDRA model of seven seconds for gap acceptance and four seconds for follow up headway while Colston Budd Hunt & Kafes Pty Ltd adopted six and three seconds respectively. The consultant pointed out that the values they selected were based on observation of traffic behaviour in the area and experience on other projects that are consistent with those suggested in Austroads Guide to Traffic Engineering Practice – Part 5: Intersections at Grade and those suggested in the SIDRA manual for the geometry of this intersection.

The RTA's analysis indicates a reduction in the level of service for the right turn movement out of Bendalong Road from D (near capacity) to F (unsatisfactory) during the holiday periods as a result of the development while the consultant's analysis indicates a deterioration from A/B (good/acceptable) to B (acceptable) with average delays of less than 25 seconds per vehicle during the peak periods.

The application was considered at the Shoalhaven Traffic Committee (STC) and the RTA is a member. Shoalhaven City Council, on behalf of the STC undertook an analysis of the Princes Highway-Bendalong Road intersection using the Council's raw data with appropriate factors to estimate traffic conditions equivalent to the 120th highest hour condition (RTA recommended performance standards for recreational peaks). The analysis indicates that the level of service for right turn movement out of Bendalong Road deteriorates from C (current situation) to D (near capacity) in 2016 without this development and to E (at capacity) with the development at the 120th highest hour condition.

The STC concluded that the reduction in service from D to E in 2016 at the 120th highest hour condition is not significant to warrant requiring the Proponent to upgrade the intersection. The STC further concluded that any upgrade of the intersection should be carried out as part of broader upgrade work addressed through a Section 94 Contributions Plan.

To minimise the impact of internal traffic, the STC has made a number of recommendations including provision of a fully channelised left-turn slip lane at the Berringer Road-Inyadda Drive-Curvers Drive intersection, street lighting for all internal roads and Berringer Road and Cunjurong Point Road, "Stop" signage on Road No. 1 at its

intersection with Sunset Strip, speed control/traffic calming devices on Sunset Strip and internal roads within the proposed development and pedestrian crossing at Sunset Strip.

The STC is satisfied that the proposed development will have minimal impact on the Bendalong Road-Inyadda Drive intersection. However, STC has concluded that the proposed development will have impact on the Berringer Road-Inyadda Drive-Curvers Drive. The Committee recommended the construction of a fully-channelised left turn lane to Austroads standards at the intersection to improve safety and efficiency for traffic approaching the intersection from the west. It is recommended that the lane be constructed at Stage 4 of the development.

Shared cyclist/pedestrian and dedicated pedestrian pathways are proposed for the development. The STC is satisfied with the proposed pathway links. It recommended that the shared pathways be 2m wide and the dedicated pathways be 1.2m and be constructed of concrete. The STC also recommended that 1.2m wide pathways be constructed along the site's frontage to Berringer Road and Cunjurong Point Road. To minimise traffic conflict at the point where the proposed cyclist/pedestrian pathway intersects with Sunset Strip and with The Barquette, the STC recommended that a pedestrian pathway, with kerb ramp and grab-rails for cyclists and 2m wide pathway linking to Road No. 1, be constructed at Sunset Strip. It is recommended that the facility be constructed during Stage 1 of the development.

To further improve safety for pedestrians and cyclists, the STC recommended the construction of two speed control facilities along Sunset Strip, one at 100m to the east and the other at 100m west, of The Barquette. It is recommended that the facility be constructed during Stage 1 of the development.

The Shoalhaven Section 94 Contributions Plan has provided a levy of \$108.99 per additional lot for the improvement and maintenance of Bendalong Road and Inyadda Drive (05 ROAD 2020).

Conditions of approval are recommended (refer to **Tag A**) requiring works relating to traffic, access and pedestrian safety to be carried out. The issue of traffic and access works funded via levies, by the Proponent is discussed in more detail in Section 5.12 below.

5.4 SUBDIVISION DESIGN, DENSITY, LOT SIZE AND SETBACK

The subdivision as originally submitted and subsequently amended in February 2007, was considered to be unsatisfactory and provided for an over-development of the site, an isolation of the EEC and small lots which did not comply with Council standards and raised questions over the character of the resulting development. There were also no buffers or physical breaks provided with existing residential development on The Companionway and Sunset Strip which back onto the proposed development.

The Preferred Project Report submitted in November 2007 provided for an extension of the bushland reserve extending north from the EEC and connecting this area to Berringer Road and the bushland to the north. This extension to the north is 64 metres in width and increases the overall quantum of open space in the development to 4.3 hectares (up from 2.83ha in the originally submitted EA). The proposed lot size and lot configuration in the Preferred Project Report are comparable with existing development in the area. All lots now meet the minimum lot size of 500m² as prescribed in DCP 100. In this regard, it is considered that the layout design is in character with development in the locality.

The Preferred Project Report has removed the 2 proposed roundabouts and the associated cross-intersections contained in the earlier layouts. This is considered to be a good outcome and the modified layout only provides for t-Junction intersections, thereby reducing conflict points and removing the need for the roundabouts. The extension of the bushland reserve to Berringer Road has also resulted in changes to the road layout, most notably the truncation of Road 3, which is considered to be acceptable in design terms. The modified design includes the provision of three traffic calming devices, two on Road 3 and one on Road 2 and these have been provided in response to concerns from Council. These devices are considered to be appropriate, particularly for Road 3 which is the longest and straightest road in the subdivision layout. The road layout is a satisfactory solution and is considered to be legible, permeable and in keeping with the character of the adjoining neighbourhood.

The Preferred Project Report provides for modified asset protection zones in response to bushfire risks and changed layout and design.

The RFS have reviewed the design and provided recommended conditions of approval which basically reflect the conditions provided for in the modified design. The RFS conditions have been included in the Determination at **Tag A**.

The modified design in the November 2007 Preferred Project Report proposes 182 lots, an increase on the 179 lots originally proposed. This increase in lot yield of 3 lots is considered to be satisfactory given the dramatic increase in the area of open space and bushland reserve and that all of the lots now satisfy Council's numerical controls. The design and layout of the modified proposal is considered satisfactory overall having regard to these matters and the inclusion of a tree preservation buffer to existing residences.

5.5 VISUAL IMPACT AND CHARACTER OF THE AREA

The visual impact of the removal of bushland and vegetation on the site is a significant concern for this development given the heavily vegetated nature of the site and its location on the edge of the Manyana village. Concern was expressed in submissions and through the assessment process that it will be out of character with development in the locality and detract the existing village atmosphere.

Given the site's topography, its lack of prominence when viewed from the foreshore and its location over 500m from the coastline, any impact on visual amenity of the coastline will not be significant.

However, there will be a more localised visual impact, particularly from Berringer Road and Cunjurong Point Road and surrounding residential properties as a result of removal of vegetation. A 10m setback is proposed to the frontage of all lots along these two roads. This will allow the retention of vegetation and significant trees along these existing streets. A 10 metre tree preservation zone is also proposed to the rear of lots adjoining existing development fronting Sunset Strip and The Companionway and this will provide for the retention of a significant number of trees. The extended bushland corridor to Berringer Road will also lead to preservation of additional bushland and reduce the amount of development on this frontage of the site. In addition, as discussed in Section 5.9, clearing of vegetation will only be permitted which commensurate with each stage of the development. These ameliorative measures and modifications will result in the retention of vegetation and overall will lessen the impact on visual amenity of the locality.

The layout design and lot size of the proposed development is presented in Section 2 of this report. It is considered that the layout design, site configuration and lot size will be in character with development in the Manyana area. As discussed in more detail in Section 5.11, the Proponent has prepared Design Guidelines which were prepared to illustrate that dwellings constructed on the lots would be consistent with the character of existing development in the Manyana area.

Tree Preservation. To protect the amenity of existing residents, the PPR includes the provision of a 10m wide tree preservation zone, to be reinforced via a Section 88B covenant on these sites, from the rear boundary of proposed lots which back onto existing residential development on Sunset Strip and The Companionway. The PPR contains a drawing illustrating the significant trees to be retained in this buffer zone that is those having a trunk diameter greater than 400mm. **Figure 9**, over illustrates the trees to be retained (i.e. shown in green) and a schedule of the trees is also provided. Certain trees have been identified as requiring an arborist's inspection to determine their long term viability and stability prior to any removal. This issue is addressed in the recommended conditions of approval at **Tag A**.

There will be no unacceptable visual impact having regard to the relevant objectives of SEPP 71 and the Coastal Policy. The visual impacts of the development on a more local level can be guided and controlled to ensure that future housing and landscaping will enhance the character of the area and not detract from it. This issue is discussed in more detail in Section 5.11.

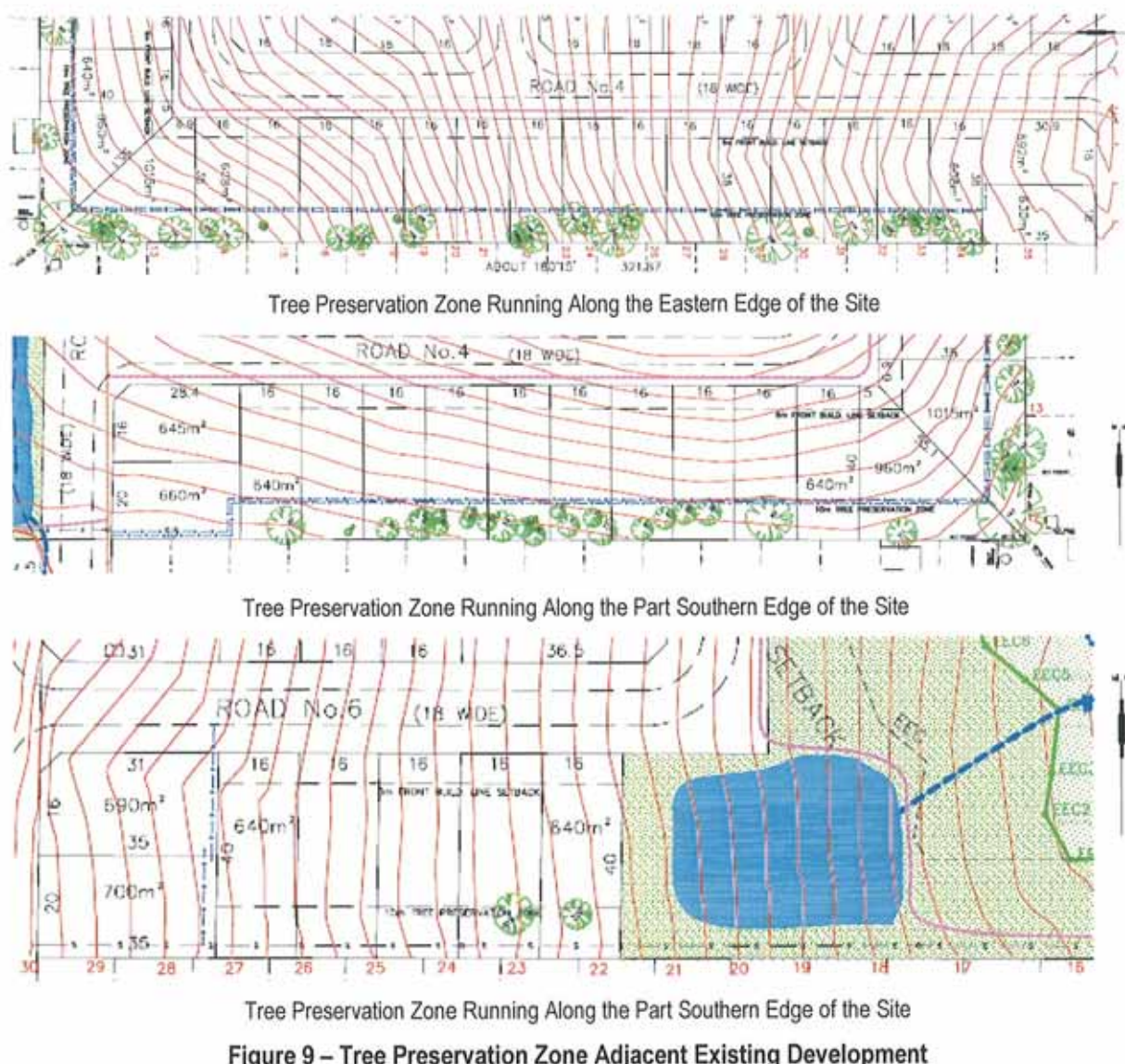


Figure 9 – Tree Preservation Zone Adjacent Existing Development

5.6 IMPACT ON FLORA AND FAUNA

Endangered Ecological Community. The development site supports approximately 0.92 hectares of partly disturbed Bangalay Paperbark Woodland, a form of the endangered ecological community (EEC) known as Swamp Sclerophyll Forest. The EEC is located to the south of the site and adjacent existing properties fronting Sunset Strip (refer to the wedged shape area coloured orange in **Figure 4**). The originally submitted proposal provided for development on all sides of the EEC, thus resulting in its isolation from existing bushland areas and further separation from natural hydraulic processes. Specifically, concerns were raised regarding development being allowed on the western side of the EEC. The following issues are of relevance when considering the isolation of the EEC:

- The disconnection of the EEC from its surrounding forest will have profound impacts on its ecological integrity;
- The likely reduction in influx of organic material into the *Swamp sclerophyll forest* EEC as a result of changes to the hydrology (ground water and surface flow) to the EEC caused by the development and the movement of thousands of species of micro organisms that move with organic surface layers and soil in these systems; and
- Storm Consulting (Proponent's consultant) understated the movement of nutrients into the EEC especially during major rainfall events (1:1 year storms up to PMF intensities). During these high flow storms, despite the stormwater treatment systems, many kilos of nutrients and other contaminants including pesticides, fertilizers, herbicides and other household chemicals are washed from urban gardens and roads into wetlands. As a result persistent elements and molecules of contaminants will move through the EEC.

In addition, introduced plant species used in landscaping for the development will, over time impact on the genetic integrity of the EEC. There was some concern that these factors may lead to demise of the EEC in a few decades.

The originally submitted proposal provided for the retention of the EEC (0.92ha) with a variable width, but generally 10m wide buffer, surrounding it. To minimise impacts, the Proponent's consultant STORM Consulting proposed the construction of 4 wetlands, the use of swales and infiltration trenches to treat runoff and collect pollutants and sediment. STORM Consulting advised that the discharge through the final wetlands will result in water quality meeting the best management practices guidelines.

DECC recommended that the EEC and the part of the subject site to the west of the EEC be left undeveloped to prevent isolation of the EEC. This would also provide a greater ecological integrity to both the EEC and the corridor values to the west of the site. However, DECC also advised that if the EEC is not of local conservation status, then the principle of maintenance or improvement should be used to determine an appropriate offset.

The Department commissioned an independent ecologist, Mr Geoff Sainty, to review the matter. Mr Sainty concluded that the ameliorative measures proposed by STORM Consulting will not protect the EEC in the long-term from the multiple impacts of nutrient flows, changes to hydrology, fire regimes, clearing, loss of biodiversity and road construction resulting from residential development in the wider catchment. However, to minimise the long-term degradation of the EEC, Mr Sainty recommended that the buffer to the EEC be increased generally to over 30m wide having regard to the size, height and canopy of trees in the EEC. In addition, the part of the subject land to the north, between the EEC and Berringer Road, should also be left undeveloped. The wetlands should be redesigned to reflect the change in the layout.

Following the recommendation of Mr Sainty, the Proponent was advised to amend the subdivision layout. The Preferred Project Report submitted in November 2007 provided for this corridor of land north of the EEC as recommended by Mr Sainty. This modified layout means the EEC is no longer fully isolated from surrounding bushland areas. DECC have advised by letter dated 14 December 2007 that although the modified layout will still impact upon the EEC, it is considered to be a significant improvement over the original design.

Hollow Bearing Trees. The issue of hollow bearing trees on the site was addressed and mapped in the flora and fauna assessment contained in the EA for the project. Four hollow bearing trees identified with large hollows are located within the EEC and associated buffer area and bushland reserve and will be conserved as part of the project. A further two trees with medium hollows are also within this area and thus conserved.

Further trees with hollows have been incorporated into the tree preservation zone (i.e. one tree with a large hollow) and in the central playground area (i.e. two trees with medium hollows and one with a large hollow).

Despite the conservation of a number of hollow bearing trees, particularly those with large hollows, the proposal will result in the removal of in excess of 20 trees with small to large hollows over the life of the project. As mitigation for the removal of these trees, it is proposed to require the placement 3 nest boxes in the EEC, associated buffer area and bushland reserve for each tree removed. This requirement is contained within the recommended condition of approval for the Vegetation Management Plan for the EEC. The nest boxes are to be managed and maintained for the life of the project and for a further 3 years following the registration of the plan of subdivision for the final stage of the subdivision. This is addressed in the recommended conditions of approval at Tag A.

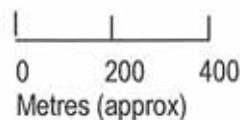
5.7 IMPACT ON WILDLIFE CORRIDOR

An issue raised by DECC as part of its submission to the originally submitted proposal was that the proposed development may impact on the long-term sustainability of the Berringer Lake/Manyana Crown land by narrowing the linkage with Conjola National Park. At present the subject site forms part of this linkage which is 400-500m wide at its narrowest point. The proposal will reduce the choke point in the corridor to approximately 250m and double the amount of urban edge along its eastern side. **Figure 10** illustrates this reduced corridor when the subject site is fully developed. There is concern that urban development and associated clearing for bushfire protection will lead to a diminution of the ecological values of this link.

DECC contends that post development, the proposed corridor width is inadequate and that the area to the west of the EEC on the subject site should remain undeveloped to maximise the linkage between Berringer Lake/Manyana Crown land to the west and the Conjola National Park to the north. DECC considers the corridor as 'sub-regional' which generally requires a width of greater than 300 metres. The Proponent's consultants, Cumberland Ecology and BES Bushfire + Environmental Services contend that the 250m corridor is adequate in the context.



Figure 10 – Conjola National Park Wildlife Corridor



The Department engaged the independent ecologist, Mr Geoff Sainty to assess this issue as well the EEC issue previously discussed. Mr Sainty advised that corridor width has not been specified by regulation given that there are site specific issues that make a prescribed width problematic. Provided there is no further loss of corridor width in future developments, the reduced corridor width is consistent with that broadly recommended by published papers. It is noted that the South Coast Urban Lands Review Panel has recommended that the Berringer Lake/Manyana Crown land to the west of the subject site is unsuitable for development due to its potentially adverse impacts on the ecology of the Berringer Lake and therefore should be rezoned for environmental conservation. In this regard, the width of the corridor is unlikely to be further reduced in the future. DECC provided no further comment on this issue in their response to the PPR forwarded to them in December 2007. Given the advice of Mr Sainty and the unlikely scenario that the corridor will be reduced further in the future, the corridor width is considered to be adequate and will allow for the passage of fauna in a north/south direction.

5.8 STAGING AND LAND CLEARING

In order to minimise impact on residential amenity, it was suggested in public submissions that the early stages of the development should occur furthest away from existing residential development. Similarly, clear-felling of vegetation should not occur over the entire site but should be in tandem with the construction of each stage of subdivision.

Having regard to the location of existing utilities and services, the Proponent has advised that the early stages will occur adjacent to Sunset Strip, in the south east corner of the site (i.e. Stages 1 and 2), therefore it is more logical to stage the development as an extension of the existing neighbourhood. To minimise visual, noise and dust impacts and impacts on fauna, it is reasonable to require that removal of vegetation be permitted commensurate with each stage of the development rather than broadly over the entire site. This issue has been addressed in the Determination at **Tag A** and an appropriate condition of approval is recommended.

5.9 STORMWATER IMPACTS

The originally submitted proposal provided a lack of inter-allotment drainage or overland flow paths to arrest surface water runoff and runoff from the proposed infiltration and rainwater tanks. There was some concern that the stormwater runoff will impact on downstream properties including the proposed lots located at the southern part of the development.

The site generally has a 5-7% fall from north to south, from Berringer Road to Sunset Strip. Two intermittent drainage lines traverse the site, meeting at the centre of the southern boundary, adjacent to the Sunset Strip-The Barbette intersection, where the runoff is piped via a 1m diameter pipe to another watercourse downstream of Manyana Drive. The Proponent has submitted amended plans showing the construction of inter-allotment drainage located to the rear of lots along proposed Road No. 4. The proposed drainage will be connected to the existing system, thus minimising any potential impact on downstream properties. The Preferred Project Report has adequately addressed the issue of stormwater and general water cycle management on the site.

With respect to the two lots adjacent to Sunset Strip, the Proponent has advised that Road No. 1 will be drained to Sunset Strip. This will involve some minor filling (maximum 200mm) in the front and centre of the two lots. The Proponent has discussed this with Council, and Council has confirmed that drainage from the subdivision will allow the two lots to be approved subject to some lot minor filling. An additional condition has been included to ensure the containment of major flows within the road reserve with minor encroachment only on the two lots, as recommended by Council.

5.10 IMPACTS ON ABORIGINAL HERITAGE

The Proponent has submitted a Heritage Impact Assessment of the site and a Sub-Surface Archaeological Investigation undertaken by South East Archaeology Pty Limited. These reports were referred to DECC which raised no objection to the study/investigation subject to the imposition of conditions requiring the preparation of an Aboriginal Heritage Management Plan and reporting to DECC the findings on Aboriginal sites and objects.

The development site has a recorded site of Aboriginal archaeological significance, including flakes and flake fragments and potential archaeological deposits. This site is described as 'Manyana 1'. Site 'Manyana 1' is located in the south-east corner of Lot 172 and is comprised of 13 artefacts, which includes several flakes, flake fragments and 2 flakes that may have been used as tools. Further artefacts were uncovered during test excavations. Site 'Manyana 1' has been assessed as being of low to moderate scientific significance within the local context and low significance within a regional context.

Site 'Manyana 1' is located where subdivision works are planned to occur. The recommended course of action is to relocate the items comprising 'Manyana 1' away from the development area or repositioned within the development area in consultation with the Aboriginal community. This is addressed in the conditions of approval (see **Tag A**). A further condition of approval is recommended regarding the on-going management of the sites potential archaeological values during the construction process and includes those that will be impacted by construction works and those that remain in place. The preparation of an Aboriginal Heritage Management Plan is proposed to deal with on-going management and is addressed by recommended conditions of approval (see Schedule 2 **Tag A**).

Recommended conditions of approval at **Tag A** satisfy the requirements of DECC and are considered to adequately address the Aboriginal archaeology issue. A further condition has also been included requiring notification of the Aboriginal Land Council prior to commencement of work on each stage of the subdivision and providing them the opportunity to view the works on the site.

5.11 SITE DESIGN GUIDELINES

The Proponent has prepared design guidelines for the site, entitled, "Cunjurong Point Road – Design Guidelines August 2006" to encourage appropriate house designs which are consistent with the character of the Manyana area. The guidelines cover built form, external wall finishes, roof profiles, landscaping, solar access and energy efficiency and other architectural elements.

The Design Guidelines are useful in providing an overall vision for the intended nature and character of future housing on the site, and photographs included in the document assist in this regard. The Design Guidelines provide general information on the nature of built form desired for the site and assist in illustrating how future development on the site can enhance the character of the Manyana area. The Guidelines however, lack specifics on how this is to be achieved and more importantly, specifics objectives relating to built form and how it will be controlled and respond to differing contexts within the site. The specific details and development controls relating to setbacks, building envelopes and built form are contained within Council's development control plan (DCP) for the site, DCP No.91.

The Design Guidelines should be used as a basis to guide the specifics of development on the site into the future.

The Design Guidelines should be embellished by the Proponent in consultation with Council. In terms of timing, it is considered that the revised Design Guidelines should be prepared and submitted for the approval of Council prior to the release of the Subdivision Certificate for the first stage of the development. This issue is addressed as a recommended condition of approval at **Tag A**.

5.12 SECTION 94 CONTRIBUTIONS

The proposal has been assessed under the requirements of the relevant Section 94 Contributions Plan for the site and separate consideration has been given to contributions outside of the scope of the contributions plan framework. The proposal also attracts contributions for water and sewerage headworks under Section 64 of the Local Government Act, 1993. This assessment report addresses each of the contributions separately and under the respective headings below.

Section 94 Contributions Plan

Council's Section 94 Contributions Plan 2004 Amendment No. 75 identified for acquisition 8,305m² of land from the site for passive open space based on estimates of 297 lot subdivision. Council has advised that based on a pro-rata reduction in the size of the subdivision, the acquisition required will be for 5,005m². Excluding a detention pond, the proposed development has provided the required land area for the open space in the form of a park 3,320m² in area, plus informal open space in the buffer area to the EEC. Council has advised that this provides sufficient usable open space to not require any section 94 contributions for passive open space contribution (for Project 05 OREC 004).

The monetary contribution under Council's Contributions Plan is \$3,306.39 per additional lot. This includes open space and other facilities and traffic works. The calculation is based on 180 new lots being created, with 2 credits being provided for the 2 existing lots (i.e. Lot 172 and Lot 823). Details of the contributions are as follows:

Amount of Contribution under Section 94 Contribution Plan

Project	Description	Rate	Qty	Total
CW FIRE 0001	City Wide Fire and Emergency Services	\$146.53	180	\$26,375.40
CW FIRE 0002	Shoalhaven Fire Control Centre	\$191.84	180	\$34,531.20
05 AREC 0001	Tennis, Football, Cricket & Netball (Area 5)	\$1,206.75	180	\$217,215.00
05 AREC 0002	Leisure Centre Heated Indoor Swimming Pool	\$138.69	180	\$24,964.20
05 CFAC 0010	S94 CP AMENDMENT No.67: Southern Shoalhaven Branch Library	\$236.93	180	\$42,647.40
05 ROAD 2020	Bendalong Road + Inyadda Drive	\$108.99	180	\$19,618.20
CW AREC 0003	Hockey Facilities	\$192.64	180	\$34,675.20
CW CFAC 0001	S94 CP AMENDMENT No.67: Stage 1: Shoalhaven City Library Extensions	\$264.43	180	\$47,597.40
CW CFAC 0001	S94 CP AMENDMENT No.67: Stage 2: Shoalhaven City Arts Centre	\$23.92	180	\$4,305.60
CW CFAC	S94 CP AMENDMENT No.67: Stage 3: Shoalhaven Mobile Children's Services	\$7.84	180	\$1,411.20

CW CFAC 0002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$236.41	180	\$42,553.80
CW MGMT 2001	Section 94 Administration	\$398.10	180	\$71,658.00
CW OREC 0001	Embellishment of Icon and District Parks and Walking Tracks	\$153.32	180	\$27,597.60

Total: \$595,150.20

Contributions for 1 of the projects will be spent directly in the Manyana area - Bendalong Road-Inyadda Drive (05 ROAD 2020). The Council further advised that contributions expended on sporting facilities in Ulladulla (05 AREC 001) is under review and "additional facilities at Manyana could be authorised by amendment to the Contributions Plan." At the time of writing this report, the amendment was still under preparation and had not yet been exhibited.

A condition of approval is recommended (refer to **Tag A**) that requires contributions pursuant to the Section 94 Contributions Plan as specified in the table above.

Additional Contributions

In addition to the contributions under the Section 94 Contributions Plan, Council has identified a need for a range of other works related to the development, and these are:

- Extend and embellish the existing community hall and community land at Yulunga Reserve;
- Upgrade foreshore facilities including the provision of car parking;
- Rehabilitation of Bendalong Road and Inyadda Drive;
- Construction a roundabout at the Bendalong Road-Inyadda Drive intersection;
- Upgrade of the Princes Highway-Bendalong Road intersection; and,
- Provision of active recreation facilities.

The additional contributions requested by the Council amount to a total of \$420,950. Council discussed its request directly with the Proponent. Following the discussion, the Proponent submitted a response to the Department offering a contribution of \$34,686 (\$20,000 as goodwill to upgrade the community hall and adjoining land, \$3,432 for provision of car parking at the foreshores and \$11,254 for upgrade of the Bendalong Road-Inyadda Drive intersection).

The Department was of initially of the view that it may be possible to apply a Section 94B(2) condition, if an argument of nexus and reasonableness could be established. Section 94B(2) allows the Minister to impose a contribution even though it is not authorised by a Contributions Plan. To this end, the Department reviewed the Council's request and applied a rationale to arrive at a reasonable contribution amount based on a strategic overview of the area and an apportionment of the costs across the likely development to occur. Through that process, a contribution that was reasonable to both parties and the community at large was calculated. The results of this consideration are as follows:

Extend and Embellish the Existing Community Hall and Community Land at Yulunga Reserve

This request included extension of the community hall by 90m², improved lighting, landscaping, a new toilet block and upgrade of car park. With the exception of extension of the community hall, the other items suggested by the Council were works associated with maintenance of the community hall and the reserve.

The extension of the community hall is needed to meet the expected demand arising from population increase from the development and other future development in the Manyana area. SCC has provided some details of the extension – it will be 6m x 15m in dimension with a total area of 90m² and will cost \$1,200 per m² (in accordance with Rawlinsons' Construction Guide).

Based on existing zoning, it is estimated that there is potential for an estimated 538 new residential lots in the Manyana/Cunjurong Point/Bendalong area (180 lots from this development, 252 from Kylor, 71 lots from the

Vacanta site and 35 lots from Crown lands). It is, therefore reasonable to apportion the cost to these future developments, and the Proponent's share will be **\$36,134.00**.

Upgrade Foreshore Facilities Including the Provision of Car Parking

This request includes the provision of car parking of 30 spaces in 3 foreshore areas, site preparation, road works and upgrade of toilet blocks. Details have not been provided on road works. Upgrade of the toilet blocks appears to be works associated with maintenance of the facility.

SCC has estimated that the cost of constructing the car parking spaces and site preparation to be \$120,000. It is reasonable that the cost be apportioned to future population in the Manyana/Cunjurong Point/Bendalong area as well as the existing population. The 2006 Census indicates 877 dwellings in the Manyana/Cunjurong Point/Bendalong area giving a total of 1,415 dwellings when future development in the area is taken into account. The Proponent's contribution will be **\$15,265.00**.

Rehabilitation of Bendalong Road and Inyadda Drive

SCC has advocated that the proposed development will damage existing main roads arising from the movement of trucks into and out of the site. The estimated cost to rehabilitate the road is **\$56,160** based on 1800 heavy vehicle movements over a length of 13km (x2) and at \$1.20 per km per trip. It is considered reasonable to support this contribution.

Construction of a Roundabout at the Bendalong Road-Inyadda Drive Intersection

SCC has requested that the Proponent contributes to the construction of a roundabout at this intersection. The Proponent has advocated that the level of traffic will only support the construction of a Type B rural road intersection. The Council was requested to provide justification of the estimated traffic at the intersection. The figures provided indicate that at peak period in year 2016 and taking into account all future development based on existing zoning, the level of service for both the left and right turns at this intersection is a B (acceptable delays and space capacity). In this regard, it is reasonable to support the construction of a Type B rural road intersection.

The estimated cost of the construction is \$100,000. Apportioning the cost to existing and future development in the Manyana/Cunjurong Point/Bendalong area, the Proponent's contribution will be **\$12,721**.

Upgrade of the Princes Highway-Bendalong Road Intersection

This request includes the construction of a bus interchange near the intersection. The Council is unable to provide details of the upgrade and the cost estimates.

The Local Traffic Committee provided the following comment: "...the Malbec subdivision reduces the level of services at the Princes Highway from D to E (which is unacceptable) this is not significant reduction alone, particularly considering this is existing zoned land and that no current Section 94 plan exists. ... it is considered that it would be more appropriate for broader upgrade work (ultimately on the Princes Highway, subject to RTA concurrence and commitment) to be addressed through a Section 94 plan."

As no details are provided for the upgrade, this request could not be supported.

Provision of Active Recreation Facilities

This request is not specific. The Council indicated that should the Proponent dedicate land suitable for sporting facilities, the Council is prepared to negotiate for an offset in monetary contributions.

The contributions proposed are summarised in the table below.

Amount of Additional Contribution		
Item	Description	Amount
1.	Extension of the Community Hall, Yulunga Reserve.	\$36,134.00
2.	Upgrade Foreshore Facilities, Including the Provision of Car Parking.	\$15,265.00
3.	Upgrade Works to Bendalong Road and Inyadda Drive.	\$56,160.00

4.	Construction of a Rural Road Type B Intersection, Bendalong Road and Inyadda Drive.	\$12,721.00
Total		\$120,280.00

By the calculations outlined above, a sum of **\$120,280.00** is to be paid to Council by the Proponent in addition to the contributions provided in the Shoalhaven City Council's Section 94 Contributions Plan 1993. This is considered to be a reasonable request as the need for the four additional items listed is related to the subject development and the apportionment exercise has ensured that it is a fair proportion of the total cost of the works. Where justification for Council's additional contribution is unclear, such as the provision of active recreation facilities, the contribution has not been included. The Proponent has agreed to pay the additional contribution amount.

Subsequent to this approach, the Department's Legal Branch advised that it would be more appropriate to achieve the contributions via a Voluntary Planning Agreement (VPA) and not through Section 94B. The Proponent has agreed to make the contribution and has now included the offer of a VPA in the Statement of Commitments.

Section 64 Contributions

Works are required to be carried out by Shoalhaven Water in order to provide the site with water and sewerage services. The following contributions are required based on an ET of 182 for sewerage headworks due to there currently being no service to the site; and

an ET of 180 for water headworks which provides for an allowance for the two existing land parcels which are currently provided with reticulated water supply along Cunjurong Point Road and the Sunset Strip. The site will be supplied with recycled water from the Conjola Sewerage Scheme, which will be used for toilet flushing and garden irrigation and future housing will be required to provide a third pipe to accommodate this supply. The required contributions for water and sewerage are outlined in bold type below.

- (a) Section 64 (Water Headworks – 44WATR0002) contribution of \$5,274.00 per ET (01/07/07-30/06/08) is payable for this application and is based on 180 ET's with a total contribution payable of **\$949,320.00**;
- (b) Payment for 20mm metered service for each lot. The cost for a 20mm service is \$560.00 per lot (01/07/07-30/06/08) with a total contribution payable of **\$101,920.00**. The connection fee for a 20mm metered service is \$100.00 (01/07/07-30/06/08) and is paid by the person making application for connection; and,
- (c) Section 64 (Sewerage Headworks – 73SEWR0001) contribution of \$5,274.00 per ET (01/07/07-30/06/08) is payable for this application and is based on 182 ETs with a total contribution payable of **\$959,868.00**.

A condition of approval is recommended (refer to **Tag A**) that require payment of the above contributions.

5.13 CLIMATE CHANGE

The site is not located adjacent to the coast or coastal waterways, being approximately 500 metres from Manyana Beach and is 12 metres above sea level at its lowest point. Given a likely predicted maximum sea level rise of 0.91 metres by 2100, the site is not at risk of inundation or increased coastline hazards within this timeframe.

Climate change and associated predicted temperature rises will lead to an increase in the average number of days when the Forest Fire Danger Index (FFDI) rating is very high to extreme. The combined frequency of days with very high and extreme FFDI ratings is likely to increase from 4-25% by 2020 and 15-70% by 2050, with the increase in fire weather risk being greater away from the coast.

These estimates are from a CSIRO study of climate change impacts on fire weather in south-east Australia carried out in 2005. The study also highlights a number of uncertainties when assessing the impacts of fire weather risk associated with climate change, such as:

- Changes in rainfall thresholds;
- Changes in ignition and fuel loads; and,
- Changes in El Nino-Southern Oscillation events under climate change.

There is an increased risk of fire weather associated with climate change, as indicated by the FFDI predictions mentioned, however at this stage the regional impacts cannot be as easily quantified with any certainty. The coastal location would appear to be an advantage, with a lesser risk than inland areas. Given the uncertainties, the application of current requirements embodied in Planning for Bushfire Protection, 2006 is a logical response and the requirements from the Rural Fire Service and those within the PPR Bushfire Protection Assessment should provide an adequate level of protection within the 2050 horizon. The recommended conditions of approval at **Tag A** contain a number of requirements from the Rural Fire Service relating to the provision of Asset Protection Zones and requirements regarding construction standards in different parts of the site depending on fire hazard and risk.

5.1.4 THE PUBLIC INTEREST

The proposal is considered to be in the public interest for the following reasons:

- The development plans provide for a range of lot sizes and potential future housing types and choices and two well sized and located open space areas with a total area of 4.3 hectares;
- The subdivision represents a suitable and orderly development of appropriately zoned land contiguous to an existing residential neighbourhood;
- The subdivision responds well to the constraints and opportunities presented by the site and the surrounding context;
- The areas of identified environmental qualities are preserved as part of the development and specifically the proposal provides adequate buffers to the EEC and a corridor to Berringer Road; and,
- Future generations will benefit from the setting aside of areas of natural conservation values and significance and from associated public ownership and planned active management strategies.

It is considered that this assessment of the public interest benefits of the proposal is sound. The proposed building is subdivision is in accordance with the zoning for the site, the proposal will result in a significant economic contribution to the area and a significant residential development within the Manyana area. Therefore, the proposal is considered to be within the public interest.

6. RECOMMENDED CONDITIONS OF APPROVAL

6.1 COMMENTS ON DRAFT STATEMENT OF COMMITMENTS

The application contains a Statement of Commitments and the Preferred Project Report contains some additional commitments. The commitments are considered acceptable with the exception of the following commitments, which need to be altered or augmented by way of recommended conditions, detailed as follows:

Commitment No. 38 is amended by the recommended condition No.B27 as a landscape plan has now been submitted and is considered acceptable.

Commitment Nos. 43-45 is amended by the recommended condition No.B28 as the Proponent has agreed to enter into a Voluntary Planning Agreement with Council and this is considered acceptable.

6.2 COMMENTS ON DRAFT CONDITIONS OF APPROVAL

The draft conditions of approval were forwarded to the Proponent for their comment on 24 January 2008. The draft conditions were also forwarded to Council and DECC for their comment on the same day. This action was taken due to the role of Council in specific conditions, most notably in terms of future ownership and management of the EEC and in relation to DECC, in order to obtain their views on draft conditions relating to vegetation management and Aboriginal archaeology.

A meeting was held on 8 February 2008 between representatives of the Proponent, Council and the Department to discuss specific details of the draft conditions. This meeting was held in order to progress discussion on the draft conditions and to resolve outstanding issues between the 3 parties. The involvement of DECC was not considered necessary as written response to the draft conditions had been obtained which raised only 2 issues of concern, the long term management of the EEC and means to quarantine the EEC. The proposed means to quarantine the EEC was discussed at the meeting on 8 February 2008 and is outlined below. The long term management has been satisfactorily addressed by dedication of the area to Council and management and maintenance arrangements. This matter was previously raised by DECC (refer to Section 4.3.3).

The meeting on 8 February 2008 was held at the Wollongong office of the Department and specifically addressed and effectively resolved the following matters:

- Vegetation management and specifically hollow bearing trees;
- Effective means to quarantine the EEC;
- The requirement for the provision of a channelised left turn lane at the Berringer Road,/Curvers Drive/Inyadda Drive intersection;
- Interallotment drainage for 4 lots, 2 in the south-east corner of the site and 2 adjacent to Sunset Strip;
- The nature of enforcement of the Design Guidelines; and,
- Additional contributions and a Voluntary Planning Agreement.

General agreement was reached on each of these issues and valuable technical input was received from Council. The respective conditions have been redrafted where necessary. In terms of the requirement for the provisions for nest boxes as mitigation for the loss of hollow bearing trees, the Proponent agreed to their provision. The means to quarantine the EEC was discussed at length, in response to an issue raised by DECC and it was agreed that the means specified in the draft conditions (i.e. copper logs) was inappropriate and more suitable means are available. It was also agreed that additional measures such as signage could be utilised to increase awareness of residents and visitors of the nature and special requirements of the EEC.

The initial requirement for a fully channelised left turn lane (Type B Austroads Standard) at the Berringer Road,/Curvers Drive/Inyadda Drive intersection was objected to by the Proponent as being overly onerous and unnecessary. Following discussion and suggestion from Council, it was agreed that a 'Type A' left turn lane was adequate for the village environment. Council concerns regarding interallotment drainage in the two specified locations were satisfied following discussion and advice from the Proponent.

The proposed Design Guidelines are not intended to replace the requirements of Council's DCP 91 and this was clarified during discussions. The implementation mechanism is clarified in the Statement of Commitments and the Proponent agreed to bolster the requirements of the Design Guidelines.

The discussion regarding the Department's intention of utilising a voluntary planning agreement (VPA) to levy additional contributions not contained in the respective Section 94 Plan was resolved after the meeting and both the Council and the proponent have agreed to enter into a VPA for the contribution items over and above those identified in the s94 Contributions Plan.

6.3 CLARIFICATION OF FORM OF APPROVAL

The project was originally to be a concept plan, and the Minister's authorisation for lodgement of a concept plan was given in February 2006. It was thought that a concept plan was required to replace the need for a master plan for the site under State Environmental Planning Policy No. 71 – Coastal Protection. However, through later legal advice it was clarified that whereas SEPP 71 had required a Master Plan for subdivision applications above a nominated threshold, it did not mean that these applications, now subject to the Major Projects SEPP, required a concept plan under Part 3A of the Act.

In September 2006, the proponent advised that they no longer wished to lodge a concept plan but wanted the matter to be treated as a project application. The project application was lodged in October 2006.

The Proponent has provided information to a level of a project application and to a level that the next step would be the issue of staged subdivision certificates.

The level of assessment of the project has been undertaken such that no further information and assessment is required in relation to the staged subdivision of the site. This justifies approval the project under Section 75J of the EP&A Act, without the need for a concept plan.

The Department's Legal Branch has advised that in these circumstances, the Minister's authorisation for a concept plan should formally be revoked to provide greater certainty to the project approval. The proponent on 10th March 2008 made a request for the Minister to withdraw the concept plan authorisation.

it is therefore recommended that the Minister withdraw the concept plan authorisation, and acknowledge that the concept plan is no longer necessary for the subject project plan approval.

7. CONCLUSION

The Department has assessed the EA and considered the submissions in response to the proposal. The key issues raised in submissions related to need for a strategic plan for the Manyana area and cumulative impacts on facilities, amenities and social infrastructure; traffic and access; threat of bushfire; density; subdivision layout and lot size; visual impact and future character of the area; impact on flora and fauna in particular the Endangered Ecological Community and wildlife corridor and Section 94 contributions. The Department has considered these issues and a number of conditions are recommended to ensure the satisfactory addressing of these issues and minimal impacts as a result of the proposal.

The application has largely demonstrated compliance with the existing environmental planning instruments, and relevant plans and policies.

On these grounds, the Department considers the site to be suitable for the proposed development and that the project is in the public interest. The Department recommends that the application be approved under section 75J of the Act. As no further environmental assessment is required for the project under section 75P(1)(c) of the Act, it is recommended that approval be granted under Section 75J, and subject to conditions to the project application.

8. RECOMMENDATION

It is recommended that the Minister:

- (A) consider the findings and recommendations of this report;
- (B) revoke the authorisation of a Concept Plan made on 7 February 2006;
- (C) approve the project application, subject to conditions, under Section 75J of the *Environmental Planning and Assessment Act, 1979*; and
- (D) sign the Determination of Major Project (Tag A).

Prepared by:
Alan Bright/Jane Flanagan
Planner Coastal Assessments



Heather Warton
Director
Coastal Assessments