

**Environmental Assessment
for
Stage 1C - Seascape Grove
56 Lot Residential Subdivision at
Lot 124 DP1097510, Belle O'Connor Street,
South West Rocks**

14777

March 2009

Environmental Assessment for
Stage 1C - 'Seascape Grove'
Lot 124 DP1097510
Belle O'Connor Street, South West Rocks

Prepared for:

Waldel Park Pty Ltd

Prepared by:

King & Campbell Pty Ltd

1st Floor, Colonial Arcade

25-27 Hay Street

Port Macquarie

PO Box 243

Port Macquarie 2444

Ph: (02) 6586 2555

Fax: (02) 6583 4064

info@kingcampbell.com.au

Date: March 2009

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Authors Statement

Environmental Assessment for Stage 1C Project Approval

This Environmental Assessment has been prepared under Part 3A of the Environmental Planning and Assessment Act, 1979 in relation to Lot 124 DP 1097510, Belle O'Connor Street, South West Rocks.

The information contained in the Preliminary Assessment has been compiled from site inspection, correspondence and reports prepared by qualified consultants and is neither deliberately false nor misleading.



Terrance Stafford

BSc, GDURP

Town Planner,

King & Campbell Pty Ltd



Paul Rowlandson

B Surv (Hons), MIS Aust, Registered Land Surveyor

Director,

King & Campbell Pty Ltd

Date: March 2009

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Environmental Assessment for Stage 1C Project Approval

56 Lot Residential Subdivision - 'Seascape Grove' at Lot 124
DP1097510, Belle O'Connor Street, South West Rocks.

Issue Date	Revision No.	Issued To	Quantity
10 March 2009	B	NSW Department of Planning	1 + CD
10 March 2009	B	Waldel Park Pty Ltd	1
10 March 2009	B	King & Campbell Pty Ltd	1

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** These plans have previously been granted approval under Major Project 05_0018.

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Site specific

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Executive Summary

Proposal

This Environmental Assessment has been prepared by King & Campbell Pty Ltd on behalf of Waldel Park Pty Ltd pursuant to Part 3A of the *Environmental Planning & Assessment Act 1979* and the Director General's Environmental Assessment Requirements issued 12 June 2008.

This Environmental Assessment has been prepared for the application of project approval for the subdivision of land at Belle O'Connor Street, South West Rocks. The proposal forms the final stage, **Stage 1C**, of the residential subdivision known as 'Seascape Grove', which was originally approved under **Master Plan 38-9-2004**. This stage of the proposal shall establish 56 Residential allotments, including two future development allotments, in the residual 2(a) Residential zone, within the northern corner of the site, and along the fringes of the 7(d) Scenic Protection zone within the south-west corner of the site.

Stage 1C is a direct continuation of **Master Plan 38-9-2004** and those stages of the Master Plan approved previously. Whilst this proposal is required to be considered separately for approval purposes, it is important to note that **Stage 1C** forms a part of a larger development which has previously been granted *concept approval*. Careful consideration therefore, needs to be taken to ensure that **Stage 1C** is considered in the context of the entire Master Planned development.

Overall, the proposal is consistent with the Master Plan approval, the previously approved stages and is considered suitable to accommodate the residential growth rate anticipated within the South West Rocks locality and wider Kempsey Shire as identified by the Kempsey Shire Council's *Residential Land Release Strategy 1997*.

The preparation of the proposal included input from a number of specialist disciplines including ecology, heritage, bushfire management, Geotechnical assessment, traffic engineering, stormwater management and planning. All of which have been considered in the design and layout of the proposal.

The Subject Site and Locality

The subject site is identified as Lot 124 DP1097510, Belle O'Connor Street, South West Rocks. The site is located south-east of the township of South West Rocks and is situated adjacent to the South West Rocks Golf Course.

South West Rocks is located approximately 430km north of Sydney on the New South Wales Coast, in the Kempsey local government area. Locally, South West Rocks is located approximately 40km from the Kempsey town centre and is accessible from the Pacific Highway via either South West Rocks Road or Smithtown Road.

The site itself is characterised by vegetated upper slopes in the south-west of the site which is zoned 7(d) Environmental Protection and low-lying areas in the north that link to the wetland areas of the Saltwater Lagoon / Creek catchment. Although the vegetated area in the south-west corner is fairly steep, the remainder of the site is reasonably flat.

To the north and east of the site exists rural land identified within Kempsey Shire Council's *Residential Land Release Strategy* as 'medium-term' residential release area. To the west occurs a 20 metre wide road reserve and the residential subdivision known as 'Oceanside Estate'.

Master Plan Approval

Schedule 3 of the Master Plan approval (**MP 38-9-2004**) outlined the matters required to be addressed in any future development application under the *Environmental Planning and Assessment Act 1979*. These matters have been incorporated and addressed in this **Stage 1C** application and included the following:

- *Visual Amenity* - A visual Impact Assessment has been completed in the preparation of this environmental assessment and details the anticipated visual impacts associated with the proposal. The visual assessment is included as Section 5.3 of this report.
- *Pedestrian and Cycleway Provisions* - **Stage 1C** incorporates pedestrian access into the road treatment via the installation of footpaths.
- *Integrated Housing Precincts* - Lot 700 is proposed to accommodate integrated housing. Whilst approval is being sought for the civil works and servicing of this allotment the integrated housing component and built form will be subject to a future application.
- *Staging of Development* – The Staging of the **Stage 1C** proposal shall be altered from that outlined within the Preliminary Environmental Assessment to the following order of construction:

- **E1:** Lots 623-628 and Lot 700 (7 Lots);
- **E2:** Lots 601-613 (13 Lots);
- **E3:** Lots 614-622 (9 Lots);
- **F1:** Lots 629-637 (9 Lots);
- **F2** Lots 638-654 (17 Lots); and,
- **G:** Lot 800 (1 Lot)

This change in staging is related to the existing provision of infrastructure and proposed Lots 623 to 628's frontage to the existing Belle O'Connor Street.

- *Zoning Matters* – The LEP amendment relating to the two-strips of 6(a) zoned land at Belle O'Connor Street was originally envisaged by Kempsey Shire Council to be completed in 2006/07. King & Campbell Pty Ltd have been liaising with KSC regarding the re-commencement of the LEP amendment process with regard to these strips of land. It is noted that these strips do not form part of this **Stage 1C** application.
- *Heritage Value* – An Aboriginal Heritage Assessment was undertaken by ERM in May 2007 for the entire subject site. The assessment concluded that there is minimal to no potential or undetected Aboriginal Heritage material located within the study area (subject site).

History

In 2004, Lot 2 DP645213 (Waldel Park), was granted approval by Kempsey Shire Council under the provisions of SEPP No.71 for a 23 Lot Residential Subdivision. The Construction Certificate was issued by KSC in February 2006 and the approved lots have since been completed, with many now occupied by residential dwellings.

Further subdivision of Lot 124 DP1097510, the subject site, was approved under **Major Project 05_0018** – '108 Lot residential subdivision of Lot 124 DP1097510 with associated bushfire protection, stormwater measures and access on Lot 22 DP1071657 Belle O'Connor Street, South West Rocks'. This application was approved under section 75J Clause 2 of the *Environmental Planning & Assessment Act 1979* by the Minister for Planning on 12 June 2007.

Stage 1C forms part of the abovementioned Master Planned 178 Lot Residential Subdivision. Of these concept approved allotments, **Stage 1C** includes 56 allotments, including two future development lots, those

being proposed Lot 700 and Lot 800. Proposed Lot 700 has been set aside for a future integrated housing development in accordance with the Master Plan approval. Proposed Lot 800 was initially set aside for future eco-tourism cabins however, this has been rescinded, due to bushfire reasons, for a future residential dwelling. Proposed Lot 800 is proposed to encompass the entire existing environmental protection zone.

Key Issues

Flora & Fauna

Environmental Impact Assessments (EIA's) have been completed by Umwelt in 2004 and 2006 in regard to the subject site and previous development approvals. Darkheart Eco-consultants have also undertaken an EIA in conjunction with Stage 1C specifically in December 2007. This EIA considered all relevant statutory requirements including the Native Vegetation Act 2003, the Threatened Species Conservation Act 1995, State Environmental Planning Policies, The Environmental Protection & Biodiversity Conservation Act (including matters of national environmental significance) and the Environmental Planning and Assessment Act 1979.

Stage 1C proposes to remove approximately 70 trees, mostly from the identified agricultural woodland. This woodland has been derived from the adjacent (sclerophyll) forest and has been subject to long-term clearing, under-scrubbing, grazing and cultivation and therefore predominately consists of younger regrowth. These significant disturbances mean that the site does not contain an endangered ecological community or population, and does not fall within a regional or sub-regional corridor.

The assessment did however, identify a Squirrel Glider on site within the 7(d) zone, and a survey of the remainder of the site verified the presence of the Grey Headed Flying Fox, Eastern Freetail Bat and the Little and Common Bent Wing Bats. The assessment also noted that a significant number of threatened species have been recorded in the surrounding South West Rocks locality.

Whilst it is recognised that the proposal shall remove approximately 23 primary preferred Koala browse species, the limited quality of the habitat, due to the properties extensive disturbance history, ensures that the proposal '...is not considered likely to result in an impact that may significantly affect the lifecycle of the local population of any of the subject species'. This is also related to the presence of alternative, and generally better quality, foraging/nesting habitat adjacent to the study site.

Bushfire

A bushfire risk assessment report has been undertaken by Australian Bushfire Protection Planners Pty Ltd (ABPP) with regard to **Stage 1C**, the provisions of the *Rural Fires Act 1997*, the *Environmental Planning and Assessment Act 1979* and *Planning for Bushfire Protection 2006*.

The report notes that the land within **Stage 1C** contains open grassland vegetation and scattered patches of remnant forest predominately located on the ridge-slope within the south-western corner of the site.

The proposed subdivision design has incorporated concepts to manage bushfire risk, namely Asset Protection Zones (APZ's), access and water supply arrangements. Given the properties disturbance history, the land to the south-west of proposed Lots 614 to 617 consists of grazed and cleared 7(d) land and therefore provides a natural APZ to those properties. Lots 618 to 622 however, are located adjacent to 7(d) land which, due to its slope, has predominately remained unmanaged and therefore these lots require the provision of 8 metre wide APZ's within the rear of each lot.

In conclusion, the ABPP report notes that the proposed subdivision is consistent with the requirements of the *EP&A Act 1979*, the *RF Act 1997* and the provisions of *Planning for Bushfire Protection 2006*, including the deemed-to-satisfy provisions set out in Chapter 4.

Visual Impact

A Visual Impact Assessment was undertaken by King & Campbell Pty Ltd in the completion of this environmental assessment report. The primary objective of the visual assessment was to determine if any public areas would be detrimentally impacted by way of visual amenity as a result of the development proposal.

Following the four steps to assessing view sharing outlined by Senior Commissioner Roseth in his ruling in the case *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140*, the assessment noted that the proposal is not considered to detrimentally affect or obscure existing views from surrounding public localities, including existing residential areas, the surrounding headlands and the existing town centre.

The predominant views of the subject site occur to the east of the subject site within those areas located in the Arakoon State Recreation Area and adjoining residential localities based at the feet of the elevated Smoky Cape Range.

Acid Sulfate Soil

A Geotechnical investigation was undertaken by Chandler Geotechnical Pty Ltd in September 2003. This investigation also tested for the presence of potential acid sulphate soils within the proposed 2(a) Residential areas of the site, with analytical results indicating '*...soils are not potential acid sulphate soils*'.

Therefore, whilst it is identified that parts of the subject site are mapped as containing Acid Sulphate Soils, the development area of the residential allotments relating to **Stage 1C** do not contain potential acid sulphate soils.

The excavation and civil works associated with the **Stage 1C** works will not exceed 0.5 metres below the natural ground surface which is significantly less than the 3 metres ASS depth identified on Kempsey Shire Council's Acid Sulphate Soils mapping.

Overall, no constraints to development are posed by soil conditions or Acid Sulphate Soils within the **Stage 1C** development envelope.

Traffic

The proposed 56 allotments require the provision of one local road within the sites north-western corner. This road shall include two access points off Burrawong Drive. The proposed road layout is consistent with that approved under Master Plan 38-9-2004 and Major Project 05_0018, as shown in **Exhibit 9**.

Environmental Resources Management (ERM) prepared a Traffic Impact Assessment (TIA) regarding the entire 'Seascape Grove' Residential subdivision. The purpose of the TIA was to address the internal and external impacts of the Master Planned '108 Lot' development and to ensure that the proposed overall road design would cater for the future development requirements, including **Stage 1C**. The Master Plan application was reviewed by the Regional Traffic Committee and their commitments were adopted by the Department of Planning in the approval of the Master Plan.

In total, the entire Seascape Grove is anticipated to result in a maximum number of 1,404 additional daily vehicle movements to Gregory Street via Belle O'Connor Street. This increase, according to ERM, is not anticipated to alter the level of service experienced within the local road network. The internal road network has been established as per the *Coastal Design Guidelines for NSW* and the Council standards. The overall design makes provision for future bus routes and also accommodates cyclists.

Project Justification

The proposal is considered acceptable within the locality for the following reasons:

- The site is currently zoned 2(a) Residential 'A' under the provisions of the Kempsey Local Environmental Plan 1987 and subdivision is permissible with consent in the 2(a) zone;
- The proposed subdivision proposes to develop the residue portions of the subject site;
- The subject site has been identified as a potential land release area within Kempsey Shire Council's South West Rocks Structure Plan 1995 and Residential Land Release Strategy 1997;
- South West Rocks is identified as the fastest growing urban area in the Kempsey Shire Council area;
- Shortfalls of residential land are anticipated within the Kempsey and South West Rocks localities; and,
- The proposed design and layout minimises environmental, social and ecological impacts.

The Director-General's Requirements issued 12 June 2008 in relation to the proposal have been summarised in the following table:

Table i - Director Generals Environmental Assessment Requirements for Major Project 07-0129 – Proposed Residential Subdivision of Belle O'Connor Street, South West Rocks, Kempsey.

Table i – DGR's Summary Table			
D-G REQUIREMENTS	ISSUES	REPORT	PAGE
General Requirements	Executive Summary	-	1-7
	Scope of Project	Sections 1 and 3	12, 20-21
	- Any development options;		
	- Justification for the project taking into consideration the environmental and social impacts;		
	- Outline of the staged implementation of the project;		
	Site Analysis	Section 2	14-20
	Statutory & Non-Statutory Provisions;	Section 3	23-43
	Consistency with the EP&A Act 1979;	Section 4.4	25
	Matters of National Environmental Significance;	Section 4.1	23
	Assessment of the potential impacts of the project & draft statement of commitments;	Sections 2.5, 4 and 5	18
Key Issues	Signed statement from the author of the Environmental Assessment certifying the report as neither false nor misleading;	-	iv
	Strategic Planning	Section 5.1	43
	Subdivision Design, Layout and Desired Future Character	Section 5.2	44-46
	Visual Impact	Section 5.3	46-53
	Infrastructure Provision	Section 5.4	53-55
	Traffic & Access	Section 5.5	55-57
	Hazard Management & Mitigation	Section 5.6	57-59
	- Contamination	Section 5.6.1	57
	- Acid Sulfate Soils	Section 5.6.2	57
	- Bushfire	Section 5.6.3	58
	- Geotechnical	Section 5.6.4	59
	- Flooding	Section 5.6.5	59
	Water Cycle Management	Section 5.7	60
	Heritage & Archaeology	Section 5.8	60
	Flora & Fauna	Section 5.9	61
	Consultation	Section 5.10	62
Plans & Documents	Existing Site Survey Plan	Exhibit5	After 19
	Aerial Photograph	Exhibit 4	After 19
	Site Analysis Plan	Exhibit 6	After 19
	Locality/Context Plan	Exhibits1 and 2	After 19
	Subdivision Plans	Exhibit7	After 19
	Stormwater Concept Plan	Exhibit 11	After 61
	Erosion & Sediment Control Plan	-	-
	Landscape Concept Plan	Appendix K	App K
	Construction Management Plan*	*	-
Specialist Advice	View Analysis	Exhibits 13, 14 & 15	After 61
	Planning	This report	-
	Flora & Fauna	Appendixes B & G	-
	Arborist	Appendix H	-
	Bushfire	Appendix A	-
	Landscaping	Appendix K	-
	Geotechnical and or hydro geological (groundwater)	Appendix I	-
	Stormwater / drainage	Appendix F	-
	Urban Design / Architectural	See Master Plan	-

*It is noted that a Construction Management Plan (CMP) is requested to be submitted as a part of this application. Although no CMP has been submitted as a part of this application a CMP shall be lodged with the relevant

consent authority in conjunction with a Construction Certificate application and as required as part of the Stage 1B Major Project Approval conditions.

Consistent with previous approvals, including Master Plan 38-9-2004 and the Stage 1A approval, the proposed Stage 1C subdivision shall comply with the traffic and pedestrian management requirements outlined in the issued conditions of consent. In this regard, during the construction phase appropriate mitigation measures shall be implemented to ensure that any potential noise, dust and sediment and erosion matters are minimized.

The submitted construction management plan shall address, but not be limited to, the following matters (where relevant):

- Hours of work;
- Contact details of site manager;
- Waste Management, in accordance with the requirements of Council;
- Erosion and sediment control designed in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1 (2004)* by Landcom; and,
- Flora & Fauna Management.

Section 1

Introduction

1.1 Introduction

This project application for '**Stage 1C** of Seascape Grove' at South West Rocks (within the Kempsey Shire Local Government Area) is submitted pursuant to Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act).

'**Stage 1C** - Seascape Grove' in continuation of the approved Master Planned Development (MP 38-9-2004 – 178 Lot Residential Subdivision) will include the provision of 54 Torrens titled residential allotments and two (2) super allotments.

The purpose of this submission is:

- To confirm that a 'project approval' is sought in relation to the proposed **Stage 1C** development;
- To provide an 'Environmental Assessment', including a description of the proposal, a legislation review and an identification of the 'key issues';
- To address the matters outlined in the Departments 'Draft Adequacy Assessment' issued 12 November 2008; and,
- To address the Director-Generals Environmental Assessment Requirements (DGR's) outlined in the Departments letter dated 12 June 2008.

1.2 Background / History

In 2004, the subject site was granted approval, under the provisions of SEPP No.71, for a 23 lot residential subdivision. The site at this time, was referred to as Lot 2 DP645213, Walde Park. The approval for the 23 lot subdivision was granted by Kempsey Shire Council (KSC) under development application T6-03-593 on the 16 February 2004 (as amended 4 August 2004, 18 July 2005 and 21 April 2006). The Construction Certificate (CC) for this development was issued by KSC under CC 05-05 on the 24 February, 2006.

This approved subdivision development was identified as Stage 1A of Master Plan 38-9-2004 (178 Lot Residential Subdivision) and was described as the first stage of 'Seascape Grove'. Stage 1A implemented

Kempsey Shire Councils Integrated Water Cycle Management Strategy (IWCMS) and included a dual reticulation scheme incorporating potable and recycled water mains.

Further subdivision of Lot 124 DP1097510, the subject site as described after Stage 1A, was approved under **Major Project 05_0018** - 108 Lot residential subdivision of Lot 124 DP1097510 with associated bushfire protection, stormwater measures and access on Lot 22 DP1071657 Belle O'Connor Street, South West Rocks, was approved under section 75J Clause 2 of the Environmental Planning & Assessment Act 1979 by the Minister for Planning on the 20 June, 2007. This residential subdivision is yet to be constructed.

The approved stages for subdivision and associated infrastructure works associated with Major Project 05_0018 were:

- Stage 1 – Part Precinct B: Lots 301, 328, 329, 330 and 331 – Rosedale Avenue;
- Stage 2 - Precinct A1: Lots 201- 204, 207-215;
- Stage 3 – Remainder Precinct B: All other lots in Precinct B, except for those identified above.
- Stage 4 - Precinct C1: Lots 421 to 435;
- Stage 5 - Precinct D: Lots 501 to 519;
- Stage 6 – Precincts A2 and C2 (subject to rezoning being gazetted): Lots 205-206, 216-225 (Precinct A2) and Lots 401- 409 and 412-420 (Precinct C2).

Exhibit 8 details the approved Master Plan (38-9-2004) including the above-mentioned staging.

The draft LEP amendment relating to land at Belle O'Connor Street has been progressing through the rezoning process as a part of the KSC's Draft Shire Wide Amendment process. However, this Shire Wide amendment process has ceased and KSC, as per the Department of Planning's advice, have been concentrating on the completion of the Comprehensive LEP Amendment process. KSC have advised King & Campbell (see **Appendix N**) that the progress of the Belle O'Connor Street rezoning proposal can only '*...be afforded a medium priority and will be progressed once other matters having higher priority status are achieved. This may mean that the matter will not be resolved in the short term*'. King & Campbell Pty Ltd have requested (23 December 2008) that KSC re-commence the LEP Amendment process. It is understood that a report to Council will be issued to the elected Council in February 2009 in relation to this matter.

The approved documentation associated with Major Project 05_0018

contains a vast amount of information relevant to **Stage 1C**. In this regard, many of the assessments submitted with MP 05_0018 included assessment of the future **Stage 1C** development. The completed assessment with relevance to **Stage 1C** includes:

- (1) *Seascope Grove, Belle O'Connor Street, South West Rocks - Environmental Assessment Report* prepared by ERM Australia on behalf of WB & ME Walls, dated August 2006;
- (2) Geotechnical Investigation prepared by Chandler Geotechnical Pty Ltd and dated 30 May 2003 (see **Appendix I**);
- (3) *Flora and Fauna Assessment and Bushfire Risk Assessment, Waldel Park Subdivision Lot 21 DP 560726 Belle O'Connor Street, South West Rocks*, prepared by Umwelt (Australia) Pty Limited and dated May 2004;
- (4) *Addendum to UMWELT (2004) Ecology Report* prepared by ERM Australia and dated August 2006 (see **Appendix G**);
- (5) *Water Management Plan – Seascope Grove Estate, South West Rocks, Part 3A DGEAR Report* prepared by King & Campbell Pty Ltd with Craig Teasdell Architect and dated July 2006 (see **Appendix E**);
- (6) *Bushfire Hazard Assessment* prepared by ERM Australia and dated August 2006 (see **Appendix J**);
- (7) *Traffic Impact Assessment* prepared by ERM Australia and dated August 2006 (see **Appendix D**);
- (8) *Tree Assessment Report* prepared by Trevor Bailey, Arborist and dated 3 April 2006 (see **Appendix H**);
- (9) *Hollow Bearing Tree Assessment* prepared by ERM Australia and dated;
- (10) *Stormwater Drainage Report for Seascope Grove, South West Rocks* prepared by King & Campbell Pty Ltd and dated August 2006.

A detailed list of the approved plans can be seen in the *Determination of Major Project 05_0018*, which is attached as **Appendix L**.

The previous submission relating to the development of **Stage 1C** was made to the Department of Planning (DoP) in November, 2007. The submission sought information that the Director Generals Requirements (DGR's) issued with Stage 1B were also applicable to **Stage 1C**. It was resolved by the DoP, following various discussions with the Department's Nathan Wort, that a further preliminary assessment was required to enable consultation with the relevant agencies to confirm the currency of the existing DGR's.

In accordance with these discussions **Stage 1C** was amended to

include two future development Lots, those being proposed Lot 700 and Lot 800. Proposed Lot 700 has been set aside for a future integrated housing development in accordance with the Master Plan approval. Proposed Lot 800 was initially set aside for future eco-tourism cabins however, this has been rescinded, due to bushfire reasons, for a future residential dwelling. Proposed Lot 800 is proposed to encompass the entire existing environmental protection zone.

The Director-General's Environmental Assessment Requirements in relation to **Stage 1C** (Major Project 07_0129) were issued 12 June 2008.

1.3 Project Description

It is proposed to subdivide Lot 124 DP1097510, Belle O'Connor Street, South West Rocks (the subject site) into 54 residential allotments (Lots 601 to 654 inclusive) and two (2) super Lots, Lots 700 & 800, which shall be the subject of future planning applications.

The aim of the development will therefore be to accommodate future residential population growth within the South West Rocks and wider Mid North Coast Region of NSW.

In summary, this stage, **Stage 1C**, of the 'Seascape Grove' residential estate will include the provision for the following:

- 55 Residential 2(a) allotments (total) to be constructed in 6 stages, as follows;
 - Precinct E1: Lots 623-628 and Lot 700 (7 Lots);
 - Precinct E2: Lots 601-613 (13 Lots);
 - Precinct E3: Lots 614-622 (9 Lots);
 - Precinct F1: Lots 629-636 (8 Lots);
 - Precinct F2: Lots 637-654 (18 Lots); and,
 - Precinct G: Lot 800 (1 Lot).
- One (1) Scenic Protection 7(d) allotment, proposed Lot 800, which is earmarked to contain a single residential dwelling, subject to future environmental assessment. The low density, single residence allotment will contain the entire environment protection zone and manage the bushfire asset protection zone;
- One (1) of the Residential 2(a) allotments, proposed lot 700, is earmarked to contain integrated housing, subject to a future environmental assessment. The inclusion of Lot 700 in this

Stage 1C application is to undertake civil works and servicing of the future building footprint to facilitate the lot filling;

- A small extension of the public road network to service the subdivision with access to Burrawong Drive which feeds into Belle O'Connor Street;
- Construction of physical infrastructure and services;
- Landscaping of the proposed public spaces;
- Removal of the existing residential dwelling from the site in the longer term;

The proposal can be seen in **Exhibit 7**, after page 19.

1.4 Land Ownership & Project Team

Landowner:	
Lot 124 DP 1097510	Waldel Park Pty Ltd
Project Team:	
Proponent	King & Campbell Pty Ltd
Planning, Urban & Landscape Design, Overall Co-Ordination	King & Campbell Pty Ltd
Ecological	Darkheart Eco-Consultancy
Bushfire	Australian Bushfire Protection Planners Pty Ltd

Section 2

Site Details

2.1 Site Description

The subject site, Lot 124 DP109750, is situated south-east of the township of South West Rocks and is accessed from Belle O'Connor Street via Gregory Street, which provides direct access to the town centre.

The site is situated adjacent to the South West Rocks Golf Course (to the north-west of the site), an existing residential subdivision to the west and rural and rural residential land to the south, east and north-east.

The majority of the site has historically been cleared for agricultural purposes. An area of remnant vegetation is located on the upper slopes of the ridgeline in the sites south-western corner.

The majority of the site is moderately to gently sloped, ranging between 1 degree and 8 degrees. A relatively small part of the site is located on the south-western side of a ridge line which extends from Arakoon Road to the south-east of the site. The highest elevation of the ridgeline is 50m AHD. That part of the site which exists on the south-western side of the ridgeline falls at a relatively steep grade down to Gregory Street at an approximate slope of 12 degree. This portion of the site is proposed to remain as Environmental Protection 7(d) and shall be contained in proposed (super) Lot 800.

Exhibit 2 identifies the existing community facilities in the vicinity of the subject site and **Exhibits 6 and 7** provides details of the sites terrain/contour.

2.2 Zoning

The current land use zoning in the vicinity of the site and surrounds, based on Kempsey Local Environmental Plan 1987 (as amended) is illustrated in **Exhibit 3**.

The subject site is currently zoned Residential 2(a) and Environment Protection 7(d) under the provisions of the Kempsey LEP 1987;

The surrounding land uses include:

- East - land zoned 1(c) Rural Small Holdings, which is currently utilised for rural purposes. This land is also identified within the Kempsey Shire Councils *Residential Land Release Strategy*,

1997, as a 'medium term' residential release area (see **Exhibit 10**);

- South – land zoned 7(d) Environment Protection and 2(a) Residential. Much of this land however, is vegetated and links to the Hat Head National Park;
- West – A 20 metre wide road reserve (unformed extension of South West Rocks Road) adjoins the site, beyond which is a residential subdivision known as 'Oceanside Estate' which also contains access to Belle O'Connor Street; and,
- North – A 20 metre wide road reserve is located along the northern boundaries entirety. To the north-west exists the South West Rocks Golf Course (6(a) Open Space). To the north and north-east exists rural and rural residential (1(c) rural small holdings and 1(d) rural investigation) allotments. This land is also identified within the Kempsey Shire Councils *Residential Land Release Strategy, 1997*, as a 'medium term' residential release area (see **Exhibit 10**).

Along the eastern boundary of the site there are two (2) strips of land zoned 6(a) Open Space, divided by a strip of land zoned 1(d) Rural (investigation). This zoning anomaly was the subject of a draft LEP which reached section 69 stage. This LEP Amendment was subsequently ceased by the Department of Planning (DoP) as a part of the Council's necessity to focus on the Comprehensive LEP based on the Standard Template. It is advised however, that a report to Council requesting the Council's concurrence for the progression of the LEP Amendment under the provisions of Section 73A(b) of the EP&A Act, or, if the DoP do not concur with the use of this section, to re-commence the rezoning process as per the standard procedure requirements outlined under the EP&A Act. This zoning anomaly and LEP Amendment process shall not affect this proposal as none of the lots identified in this stage occur within the identified 6(a) or 1(d) land.

The zoning anomaly can be seen in **Exhibit 3** and **Figure 1** overleaf.

The Director-Generals Environmental Assessment Report (May 2007, pp.14) noted the following in regard to the zoning anomaly:

Although subdivision is not permissible on the 6(a) Open Space and 1(d) Rural Zones, the proposal is partly permissible due to the majority of the proposed subdivision occurring on the area zoned Residential 2(a). As such, under section 75J(3)(b), it is considered in the interest of orderly development to allow the proposal to proceed however, with the restriction that subdivision certificates cannot be issued for the lots that are not appropriately zoned. The intention therefore is to ensure that the zoning is formalised prior to any lots being purchased for dwelling houses.

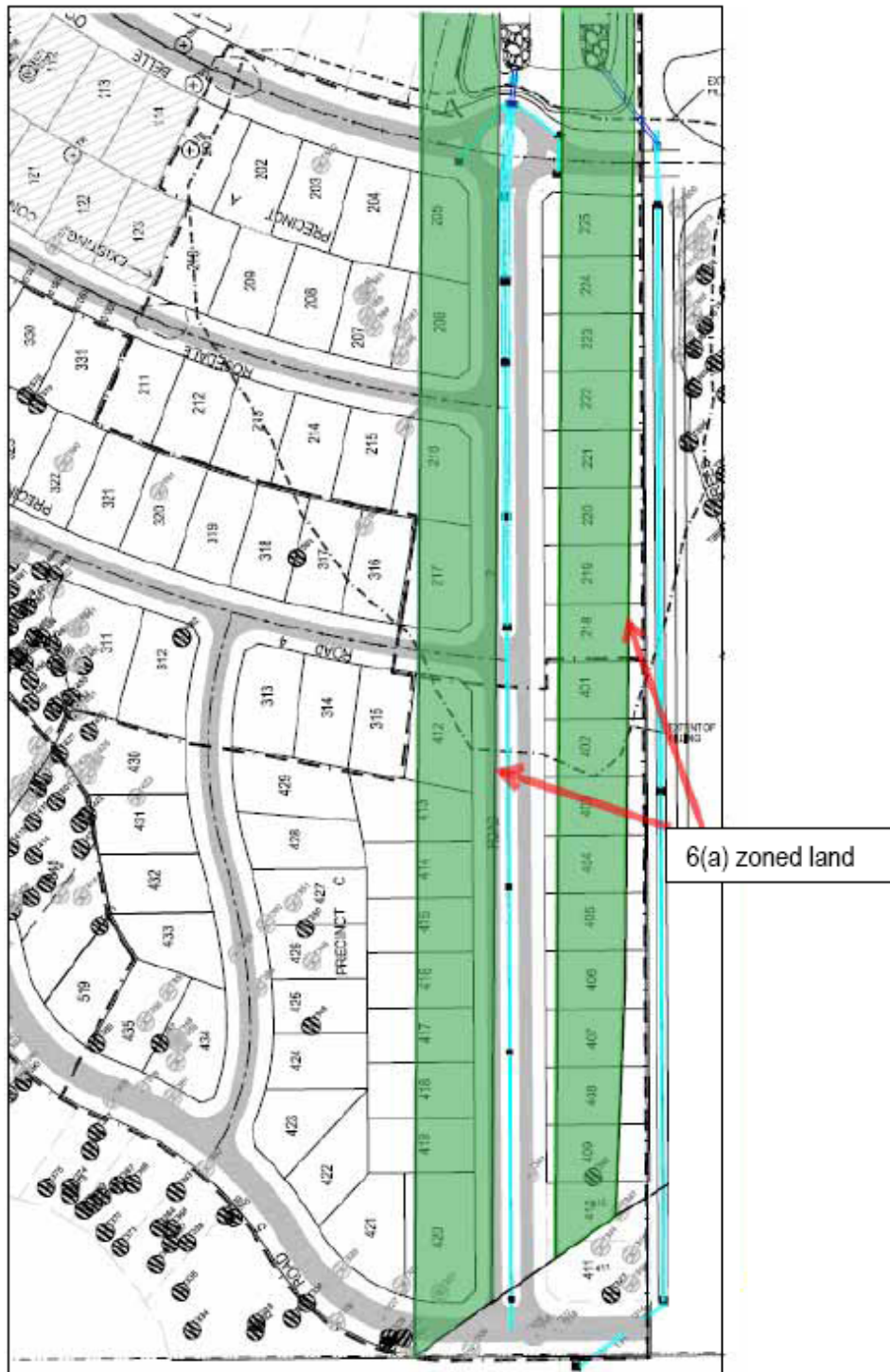


Figure 1: Overlay of Existing zoning with development. Note: **Stage 1C** is not affected by the above land zonings. The area affected forms part of Precinct A2 and C2, and has previously been granted project approval as a part of Major Project 05_0018.

It was previously considered likely that this land would not be rezoned until such a time as the comprehensive LEP for the Kempsey Shire be completed in accordance with the Standard Template Order 2006. Council advice received from Ms Georgia Rayner (Area Planner, Kempsey Shire Council) notes that Kempsey Shire Council is currently completing this comprehensive review and is scheduled for completion in mid to late 2009. A copy of the Council's advice is included at **Appendix N**. It is noted however, that this LEP review process does not detrimentally affect **Stage 1C** as proposed.

2.3 Site context

The site is located within South West Rocks, which is approximately 430km north of Sydney on the New South Wales Coast, in the Kempsey local government area. South West Rocks is physically constrained by the Pacific Ocean to the north (approximately 2km), Hat Head National Park to the east, Spencers Creek and wetlands to the south and the Macleay River to the west.

South West Rocks is located approximately 40 kilometres (ACF) from the Kempsey Town Centre and is accessible via either South West Rocks Road or Smithtown Road, both of which are accessible from the Pacific Highway.

The town has had relatively strong residential growth in recent years, with the permanent population rising from 1,947 (1986) to approximately 5,000 in 2003. The rate of annual population growth has been approximately 5% and it is estimated that the population will reach 9,100 persons by 2016. This population is comprised of a relatively high proportion (36%) of persons aged 60 or more, a proportion that is expected to increase to 44% of the resident population in 2016.

Local industries are primarily recreational and 'lifestyle' based, catering for a large number of tourists and retired residents. The shopping mall, 'The Rocks' Shopping Village, on Gregory Street, provides retail services for general shopping while retail in the town centre offers a range of 'lifestyle' and tourist-related services. Commercial development has historically concentrated on the foreshore attributes of the locality.

Historically, the main urban growth within South West Rocks has centred around Gregory Street and is comprised predominately (71%) of private dwellings. The growth and development of South West Rocks has therefore been characterised by detached residential neighbourhoods with a seaside setting.

Overall, the existing characteristics of the South West Rocks area are very much tied to the existing topography, road access and natural features. Historically, urban and residential development within the area has been slow due to the lack of, and high cost of, providing infrastructure. However, in recent times South West Rocks has experienced strong population growth as a result of improved property

yields and the pressures associated with the tourism industry.

Exhibit 1 explains the site locality.

2.3.1 Strategic Context

Land uses immediately surrounding the subject site to the east, west and south have largely remained unchanged during the period preceding the Stage 1B proposal.

An application has been lodged over land directly adjoining the subject site to the north, referred to as 'Saltwater'. It is understood that Council identified the Saltwater site (Lot 52 DP831284 and Lot 84 DP792945) for future residential development in January 1997 commencing the preparation of an LES, Estuary Management Plan and Flood Study sometime thereafter.

JBA Urban Planning Consultants have lodged a Part 3A application (MP 08_0167) with the Department of Planning for 310 low density lots and 90 medium density residential units as a part of the Saltwater Major Project. These residential allotments are identified to be staged over 10 years at an estimated cost of \$10M.

MP 08_0167 preliminary assessment has been considered by the Department and the Director-General's requirements have been issued (17 October 2008).

A Part 3A application has also been lodged with the Department of Planning for land at Lot 223 DP754396, Gregory Street and Trevor Judd Road, South West Rocks, for a 38 Lot Residential Subdivision known as Settlers Hill. The Settlers Hill site is located approximately 350 metres west of the Seascope Grove Site. The project is identified as Major Project 05_0207. The Director-General has issued the Environmental Assessment Requirements in relation to the application (18 July 2008).

A further residential subdivision of note has been approved 500 metres to the south of the Seascope Grove site. Major Project 05_0058 approved 'Rosarii' a 45 lot residential subdivision located at 334-356 Gregory Street, South West Rocks. The Part 3A Major Project was determined by manner of approval on 12 December 2007. Construction is believed to have commenced on this development.

Other projects of note in the Kempsey Shire include the Pacific Highway upgrade which runs from the intersection of the Oxley Highway and the Pacific Highway to the southern arm of the Maria River at Kempsey. A Part 3A application (MP 07_0090) has been lodged with the Department of Planning and the Director-General has released the Environmental Assessment Requirements (28 August 2008).

2.4 Existing Site Features

The site is characterised by vegetated upper slopes in the south-west of the site which is zoned 7(d) Environmental Protection and low-lying areas in the north that link to the wetland areas of the Saltwater Lagoon / Creek catchment. Although the vegetated area in the south-west corner is fairly steep, the remainder of the site is reasonably flat.

Two water reservoirs owned by Council are located on the vegetated upper slopes within existing Lot 1 DP560276 and Lot 1 DP645213, which is surrounded by proposed Lot 800. This part of the site links to the Hat Head National Park and wetlands classified under *State Environmental Planning Policy No. 14 – Coastal Wetlands*, to the east of the site.

Exhibit 4 provides an aerial view of the site detailing the existing vegetation and **Exhibits 6 and 7** include detail of the sites contours.

2.5 Potential Impacts of the Project

From a visual perspective, the development of the subject site has the potential to impact on the following:

- The visual qualities of the ridgeline from the east, including those views from the Smoky Cape range (the vegetation on the existing ridgeline effectively screens the two water reservoirs from the south, west and east);
- The development of the subject site has the potential to impact on the existing mature vegetation located on the upper slopes of the sites south-western ridge;
- The development of the site could, if inadequately presented/designed, detrimentally affect the coastal character of the South West Rocks area and the sites gateway locality.

Given the above potential impacts, it is important to retain the elements of the subject site which provide an environmental, social, cultural, economic or visual benefit. In this regard, the abovementioned implications of the development have been considered in the context of the following:

- Analysis of the study site and its context with regard to the surrounding natural and built environment including its visual context;
- The desired future character of the subject site, that being low density residential, and the consistency of this with the surrounding locality; and,
- The context of the existing South West Rocks locality including

existing character, landscape features, community values and anticipated growth rates.

In the context of the above, the proposed **Stage 1C** development of the subject site is considered suitable for the proposed development. Potential soil, stormwater and flooding issues can be mitigated through adequate development design by adopting practices such as filling and stormwater controls.

The ecological and visual benefits offered by the vegetated ridgeline have been recognised. The **Stage 1C** design has ensured that maximum mature vegetation is maintained and that the vegetated ridgeline is adequately protected under an environmental protection zoning.

Review of the submitted technical documentation accompanying this report reveals that there are no constraints to development within the existing residential zone with regard to ecology, acid sulphate soils, bushfire, visual impacts or infrastructure services delivery. Development outside of the 2(a) Residential zone, including that associated with the future development of Lot 800 shall be subject to future specialist studies and is not considered to pose a constraint to the development of the existing 2(a) zone.

Section 3

Project Justification

As stated earlier in the report, the Department of Planning confirmed on 12 June 2008, that the project was a Major Project to which Part 3A of the *Environmental Planning & Assessment Act 1979* applies. In accordance with the D-GR's, this section of the report provides justification for the subject site, the proposed subdivisions design, layout and character.

3.1 Suitability of the Site

The site is currently zoned 2(a) Residential 'A' under the provisions of the Kempsey Local Environmental Plan 1987. The objective of this zone is '*...to provide areas for low density residential development*'. Subdivision is permissible with the consent of Council in the 2(a) zone.

The proposed subdivision proposes to develop the residue portions of the subject site which have been left over from the subdivisions approved under T6-03-593, which approved 23 residential allotments on the subject site, and **Major Project 05_0018** which approved 108 residential allotments on the subject site. These approved residential subdivisions are detailed in **Exhibits 7, 8 and 9**.

In 1995 the subject site was identified in the Kempsey Shire Council's '*South West Rocks Structure Plan*' as a potential residential land release area due to the sites suitability to accommodate for urban/residential uses in accordance with Council's standard policies and guidelines present at the time.

3.2 Suitability of the Locality

The existing residential subdivisions within South West Rocks have formed along the edges of Gregory Street which is the 'Gateway' to the South West Rocks town centre. Rural and residential properties are located to the south and west of the site and surrounding rural lands to the north and east have been identified within Kempsey Shire Council's *Residential Land Release Strategy 1997* (the *Strategy*) as 'medium-term' residential land release areas (see section 4.10.2 of this report, and **Exhibit 10**).

South West Rocks is also identified under the *Strategy* as '*...the fastest growing urban area in the Kempsey Shire*' and that shortfalls of residential land, shire wide, have been anticipated to occur around 2008, with particular shortfalls anticipated to occur within South West

Rocks.

The site is suitably located within South West Rocks to ensure that the proposed residential subdivision is consistent with the traditional and existing character of the South West Rocks locality and is suitable to accommodate the anticipated population growth within the Kempsey Shire. Existing trends within South West Rocks demonstrate that the established residential areas of South West Rocks are dominated by single residential dwellings. Therefore, the proposal is consistent with the traditional housing stock prevalent in the South West Rocks area yet shall also allow for a variety of housing options for existing and future residents.

3.3 Variations to the Provisions of the Masterplan 38-9-2004

The Master Plan consisted of several components, including conceptual road, stormwater and access components. These components were based on the key design principles arising from the constraints analysis and background material (specialist studies) undertaken as a part of the Master Plan application.

The key design issues included:

- Desired future character;
- Form and scale;
- Relationship to the environment;
- Bushfire risk minimisation;
- The road network;
- The open space network;
- Access to infrastructure;
- Lot size and orientation;
- The nature and staging of development; and,
- The consideration of future land use options.

Stage 1C is consistent with the approved Master Plan (38-9-2004, see **Exhibit 9**) and no variations to the layout of the residential allotments, road network or desired future character shall be amended as a result of this proposal.

3.4 Public Interest

The proposal is considered to be in the public's interest because of the environmental, social and economic benefits resulting from the proposed subdivision and the opportunity the proposal provides for future residential development.

According to Australian Bureau of Statistics 2006 data, 65% of South West Rocks family households are occupied by only two people and 93% of the remaining non-family households are occupied by a sole individual. It is also noted that 78% of the households within South West Rocks are 'separate houses' and contain approximately 84% of the South West Rocks population. Given that the proposal provides for low density detached dwellings, which would appeal to traditional family types it is therefore considered that the proposal would contribute to a greater 'family' diversity within the South West Rocks population.

The proposal shall also provide greater housing choice for current and future South West Rocks residents without posing a significant environmental or social impact within the locality. The proposal shall utilise those areas which have been primarily cleared of vegetation through past agricultural pursuits.

It is anticipated that the construction phase of the development will generate employment for a minimum of five (5) full-time workers and generate other spin off expenditures within the local community.

Section 4

Legislation Review

4.1 Environment Protection and Biodiversity Conservation Act 1999

This Commonwealth legislation concentrates upon those matters of national environmental significance (NES) identified in the Council of Australian Governments Agreement 1997, namely:

- World Heritage Areas;
- Wetlands protected by international treaty (the RAMSAR convention);
- Nationally listed threatened species and ecological communities;
- Nationally listed migratory species;
- All nuclear actions;
- The environment of Commonwealth Marine Areas; and,
- National Heritage.

The proposal is considered to be consistent with the EPBC Act for the following reasons:

- There are no World heritage properties (as listed under the World Heritage Convention (ss.12,13)) identified on-site;
- There are no Ramsar Wetlands (as listed under the Ramsar Convention (ss.16, 17)) identified on-site;
- No nationally listed threatened species or ecological communities, as listed under the EPBC Act and identified on the Department of Environment, Water, Heritage and the Arts website (www.environment.gov.au/biodiversity) were recorded during the conducted flora and fauna survey by Darkheart Eco-Consulting;
- No nationally listed migratory species as listed under the EPBC Act and identified on the Department of Environment,

Water, Heritage and the Arts website (www.environment.gov.au/biodiversity) were recorded during the conducted flora and fauna survey by Darkheart Eco-Consulting;

- There are no National Heritage places (s.15B) identified on-site;
- No nuclear actions, as identified by s.21, are proposed as a part of this application;
- No action is proposed as a part of this application to occur within the Commonwealth Marine Area

4.2 Native Vegetation Act 2003

This Act sets the legislative framework for protecting land, rivers and wildlife and is based on voluntary planning agreements between landholders and Catchment Management Authorities. The Act applies to rural zoned lands.

The Environmental Assessment carried out by Darkheart Eco-Consultants did not identify any Endangered Ecological Communities (EEC) in the vicinity of the development.

4.3 Threatened Species Conservation Act 1995

This Act provides for the protection of native plants and animals identified as threatened in New South Wales. The Act also provides for the listing and protection of 'endangered populations' and endangered ecological communities'.

The Seven (7) part test of significance, required by Section 5A of the *EP&A Act*, as amended by the *Threatened Species Conservation Legislation Amendments Act 2002*, is applicable to listed species, populations and communities listed under the *Threatened Species Conservation Act 1995*, when they are recorded during surveys, or where potential habitat occurs.

Darkheart Eco-Consultancy undertook a statutory ecological assessment in December 2007, including a seven part test. Darkheart's assessment (p. 86) revealed that *'...no threatened flora species, EEC's or populations were detected on site by the survey...hence no threatened flora, EEC's or endangered populations are considered in the seven part test'*.

The survey did uncover the presence of the threatened Squirrel Glider (*P. norfolcensis*) and previous studies of the area were noted to have recorded the little-bent wing bat, the eastern freetail bat, the common bent-wing bat and the grey headed flying fox. All were subject to the requirements of the statutory seven part test.

Darkheart note (p.87), in relation to the Squirrel Glider, that the proposed habitat reduction is *'...considered relatively insignificant. This is due to the retention of the majority of known or potential habitat together with links to surrounding land; and the retention of most of the key habitat components i.e. tree hollows are most abundant in the 7(a) zone'*.

Overall, Darkheart (p.87) state that *'...the proposal is not considered likely to result in an impact that may significantly affect the lifecycle of the local population of any of the subject species to the point of increasing extinction risk, especially given the extent of alternative known/potential (and generally better quality) foraging and/or roosting/nesting habitat available to the local population of the subject species on the property and interlinked to adjacent habitat'*.

4.4 Environmental Planning & Assessment Act 1979

The *Environmental Planning & Assessment Act 1979* (the *Act*) and the *Environmental Planning & Assessment Regulations 2000* set out the procedures for carrying out Major Projects with the intent of streamlining the approval process.

In order for a project to be considered a Major Project under Part 3A of the EP&A Act, it must first be declared as such by a State Environmental Planning Policy (SEPP, see section 4.6). In this regard, the proposed development is described in Schedule 2 of the *'Major Projects'* SEPP to be a project to which Part 3A of the *Act* applies:

The development has been declared a Major Project to which Part 3A of the *Act* applies and the Director-General issued his Environmental Assessment Requirements on 12 June 2008 under Major Project 07_0129. The Minister for Planning is the consent authority for the project.

This Environmental Assessment considers the likely impacts of the proposal on the environment and has been prepared in accordance with Clause 75(F) of the *Act*.

Under the provisions of Clause 75U of the *Act* the following authorisations are not required for a Part 3A approved project:

- (a) the concurrence under Part 3 of the [*Coastal Protection Act 1979*](#) of the Minister administering that Part of the Act,
- (b) a permit under section 201, 205 or 219 of the [*Fisheries Management Act 1994*](#),
- (c) an approval under Part 4, or an excavation permit under section 139, of the [*Heritage Act 1977*](#),
- (d) a permit under section 87 or a consent under section 90 of the

National Parks and Wildlife Act 1974,

(e) an authorisation referred to in section 12 of the Native Vegetation Act 2003 (or under any Act to be repealed by that Act) to clear native vegetation or State protected land,

(f) a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948,

(g) a bush fire safety authority under section 100B of the Rural Fires Act 1997,

(h) a water use approval under section 89, a water management work approval under section 90 or an activity approval under section 91 of the Water Management Act 2000.

The proposal is permissible within the existing zoning and is consistent with all other environmental planning instruments applicable to the project. The proposal is therefore permissible under the provisions of Clause 68B of the *Act* and the Minister can therefore wholly approve of the project.

4.4.1 Part 1, Section 5 of the EP&A Act 1979

The objects of the *Environmental Planning and Assessment Act 1979* 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,

The subject site has previously been utilized for agricultural purposes and contains minimal vegetation of ecological value. Those areas of the site containing vegetation are to be maintained as a part of the 7(d) scenic protection zone.

The subject site has been identified by Kempsey Shire Council as a 'medium-term' land release area (see Section 4.10.2) and the subdivision is considered to cater for the localities growth rate and required housing stock.

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The staging of proposed **Stage 1C** demonstrates the applications

promotion and coordination of the 'orderly and economic use of the land'.

(iii) the protection, provision and co-ordination of communication and utility services,

Communication and infrastructure services shall be provided throughout the residential subdivision. The submitted Draft EA outlines the infrastructure to be provided as a part of the subdivision under Section 5.4 'Infrastructure Provision'

This **Stage 1C** application provides for the subdivision of a further 55 residential allotments and one scenic protection 7(d) allotment, all of which shall be essentially serviced by both the existing constructed subdivision Stage 1A and the future works in the approved subdivision Stage 1B.

(iv) the provision of land for public purposes,

Advice received from Kempsey Shire Council during the design of the Master Plan and Stage 1B noted that the provision of land for public open space was not required to be provided as a part of this development.

The roads created as a part of **Stage 1C** (that being the circuit located between proposed lot 608 and 629) shall be dedicated to Council upon completion of construction and acceptance by Council.

(v) the provision and co-ordination of community services and facilities, and

The following community services and facilities are provided with the development:

Bus links have been considered as a part of the overall Master Planned development and the staging of the development includes the opening of bus-loops to ensure that no reversing is required within Seascape Grove;

Cycle links were covered during the Master Plan in conjunction with Kempsey Shire Council and include level designated access paths to Gregory Street, including the existing shopping centre, via Belle O'Connor Street. The facilities include The pedestrian/footpath network was approved with the Stage 1B Major Project approval and is detailed on **Exhibit 9** which was submitted with the draft EA;

The site is also located within close proximity to the South West Rocks town centre and 'The Rocks Shopping Fair' which is located on Gregory Street.

Kempsey Shire Council's open space provisions do not include any

designated open space areas within the Seascope Grove locality and therefore the development is restricted to paying the applicable Section 94 developer contributions in relation to Open Space as per the Council's current Section 94 plans.

(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

As a part of the development process undertaken, a Flora and Fauna assessment was completed by a suitably qualified ecologist. This assessment was completed on an objective basis to fulfil the stated legislative obligations. The report included the results of a seven-part-test, SEPP 44 assessment, consideration of the EPB&C Act 1999, a habitat evaluation, consideration of any endangered populations and ecological communities and their habitats. This Statutory Ecological Impact Assessment was submitted as Appendix B of the submitted draft EA.

(vii) ecologically sustainable development, and

The proposal promotes the principles of ecologically sustainable development (ESD) including the conservation and protection of the sites flora and fauna and scenic attractions. The site is not identified by the Department of Planning (DoP) in their draft Farmland Mapping Project as agricultural lands and the DoP's draft Mid North Coast Regional Strategy identifies the site as a 'committed urban use' (see Section 4.5).

(viii) the provision and maintenance of affordable housing, and

The proposed subdivision provides the framework for the installation and development of a variety of dwelling types to accommodate the South West Rocks/Kempsey LGA growth rate. The proposed allotments average 778m², and are therefore considered suitable to accommodate low-density detached dwellings, including those single detached dwellings most prevalent in the South West Rocks locality (see Section 3.4).

The subdivision, through proposed Lot 700, provides the opportunity for the development of medium density housing.

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

King & Campbell Pty Ltd, on behalf of the proponent, have been liaising with Kempsey Shire Council (KSC) and the Department of Planning throughout the development process associated with **Stage 1C** and the entire Seascope Grove residential development. To King & Campbell's knowledge no comment regarding **Stage 1C** has been provided by KSC

to the Department.

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The provisions and requirements of the Part 3A development process provided under the EP&A Act are considered acceptable in relation to public involvement.

4.5 NSW Coastal Policy 1997

The Coastal Policy provides a framework for the management of the coastal zones unique physical, ecological, cultural and economic attributes. The overriding vision for the policy is the ecological sustainability of the NSW coast. Therefore the policy is goal oriented and based on the principles of ecologically sustainable development (ESD).

Table 1 – Consistency with the NSW Coastal Policy 1997

Part / Clause	Consideration	Comment
1	Protecting, rehabilitating and improving the natural environment of the coastal zone;	The proposal is ecologically sensitive in that it protects the environmentally valuable portions of the site, including those on the southern ridge and is consistent with the zoning of the land and the strategic framework for the residential development of the South West Rocks locality (see Section 4.9.2);
2	Recognising and accommodating the natural processes of the coastal zone;	The physical and ecological processes and hazards have been considered in the design of this residential development, including Acid Sulfate Soils, the effects of climate change, flooding, flora and fauna and water management. None of these processes are considered to detrimentally affect the proposal;
3	Protecting and enhancing the aesthetic qualities of the coastal zone;	The site does not adjoin the coastal foreshore and therefore the development shall not have a detrimental impact on the aesthetic or scenic qualities of the Coastal zone. The proposal is also consistent with the North Coast Design Guidelines;
4	Protecting and conserving the cultural heritage of the coastal zone;	Aboriginal cultural and heritage values have been considered and addressed as a part of this proposal. In this regard, an Aboriginal Heritage Assessment was undertaken by ERM in May 2007. This report covered the entire subject site and concluded that '...there is minimal to no potential or undetected Aboriginal heritage material to be located within the study area (subject site)'.
5	Providing for ecologically sustainable development and use of resources;	The proposal promotes the principles of ecologically sustainable development (ESD) including the conservation and protection of the sites flora and fauna and scenic attractions. The site is not identified by the Department of Planning (DoP) in their draft Farmland Mapping Project as agricultural lands and the DoP draft Mid North Coast Regional Strategy identifies the site as a 'committed urban use'.
6	Providing for ecologically sustainable human settlement in the coastal zone;	<p>The proposal also includes a tree retention plan and landscaping concept plan (Appendix K) which shall ensure that the future development of the site contributes to the aesthetics of the surrounding locality and South West Rocks area.</p> <p>There are a small number of trees required to be removed from within the 7(d) zone. The removal is related to proximity to boundaries and can be seen in Exhibit 8. The removal of these trees has been examined by an ecological consultant (Appendixes B & G) and removal is not considered to have any significant detrimental impact on any threatened flora or fauna species occurring within the locality.</p> <p>Furthermore, the Master Planning of the site previously undertaken as a part of MP incorporates an effluent re-use scheme as a part of an Integrated Water Cycle Management Strategy adopted by Kempsey Shire Council.</p>

		<p>The scheme has been accepted by the DoP and has been registered on the Basix compliance tool. The benefits of the scheme include:</p> <p>Reduced deposits of nutrient laden runoff from the Sewer Treatment Works. The effluent is currently disposed of, into the sandhills along the coastal fringe.</p> <p>Reduced requirement for additional water supplies by making better use of existing potable water supply.</p> <p>Reduced pressure on groundwater sources and rivers. Reduction of occurrence of algal blooms.</p> <p>Whilst not strictly included in the modeling of the water quality measures on the site it is important to highlight the benefits of this aspect of the water cycle.</p>
7	Providing for appropriate public access and use;	The subject site is located approximately 2km from Trial Bay (Front Beach) and is therefore not considered to affect any existing public access to and along the coastal foreshore. Vehicle and pedestrian networks through the site provide access to Belle O'Connor Street and Gregory Street. The existing road network provides access to the foreshore areas by vehicle, bicycle and foot;
8	Providing information to enable effective management of the coastal zone; and,	The site does not adjoin the coastal foreshore.
9	Providing for integrated planning and management of the coastal zone.	The proposal is located in close proximity to Gregory Street and the local Bus route and bus stop which shall provide future residents with the option of public transport. The proposal is also in close proximity to the 'Rocks' Shopping Village on Gregory Street;

4.6 State Environmental Planning Policies

State Environmental Planning Policy No.44 – Koala Habitat

This policy applies to land in the Kempsey local government area and as the site has an area greater than 1ha; further investigation was required to determine if the land qualified as potential koala habitat.

In this regard, the Ecological Assessment undertaken by Darkheart Eco-Consultants noted that '*...no Koala population has an association with the site*' and the site does not contain '*suitable koala habitat*'.

Furthermore, the Darkheart ecological assessment states that '*...the site and study area contains Scribbly Gums and Tallowwoods which are listed in SEPP No.44 as primary preferred forage species. These occur in sufficient abundance to qualify the site as potential Koala habitat. This survey and previous survey of most of the remainder of the property however, failed to detect Koalas*'.

Although it is recognised that the subject site lies in close proximity to an area of potential Koala habitat, the connection to this potential habitat has been effectively isolated by recent residential development and therefore the current potential for Koala's to occur within the subject site is at best, very low.

State Environmental Planning Policy No.71 – Coastal Protection

SEPP 71 applies to the proposed development as the site is located within the Coastal Zone. Clause 8 of the policy details the matters to be taken into consideration, these matters are addressed in the following table:

Table 2 – Consistency with SEPP No.71		
Part / Clause	Consideration	Comment
a	The aims of this Policy set out in clause 2,	The proposal is consistent with the aims of the policy.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	The site does not adjoin the coastal foreshore and therefore development of the site will not impede coastal access. The site is located approximately 2km from Trial Bay (Front Beach).
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	The need to establish additional housing and infrastructure at the site has been recognised in the draft Mid North Coast Regional Strategy (Map 6). Appropriate and detailed studies have been undertaken to ensure that the proposed development of the study site can be achieved whilst ensuring the protection and preservation of the natural environment;
d	The suitability of development given its type, location and design and its relationship with the surrounding area,	The vegetated backdrop of the proposed residential area on the ridgeline shall be retained, and appropriate asset protection zones are to be provided between the proposed residential area and the existing ridge vegetation. The estate occupies generally cleared rural land adjacent to existing urban (residential) development.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	Overshadowing of the coastal foreshore or the loss of view for any existing development will not occur as a result of the proposed development;
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	The proposed development is not considered to have a detrimental impact on the scenic qualities of the coastal foreshore. The results of the visual analysis also demonstrate that scenic qualities from existing public vantage points are also not likely to be detrimentally affected as a result of the proposal.
g	Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats,	The protection and conservation of the existing flora and fauna will be ensured through a combination of preservation, regeneration and protection manners.
h	Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	The site does not adjoin the coastal foreshore and therefore development of the site shall not detrimentally affect marine vegetation and their habitats.
i	Existing wildlife corridors and the impact of development on these corridors,	The protection and conservation of the existing flora and fauna will be ensured through a combination of preservation, regeneration and protection manners.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal	The site does not adjoin the coastal foreshore and therefore development of the site shall not detrimentally

	hazards,	impact on coastal processes.
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities,	The site does not adjoin the coastal foreshore and therefore development of the site shall not impede water based coastal activities;
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	<p>Inspections of the site by the Kempsey Local Aboriginal Land Council indicated that there are no significant Aboriginal artefacts, features or deposits located on the subject site. No structures of greater than 50 years of age are present.</p> <p>In addition ERM's 2007 Aboriginal Heritage Assessment undertaken as a part of the Master Plan application relating to the site also revealed that no Aboriginal sites were identified on the site and that there was minimal potential for subsurface heritage material. It is therefore considered that the Aboriginal and archaeological integrity of the site shall not be jeopardised as a result of the proposed development;</p>
m	Likely impacts of development on the water quality of coastal waterbodies,	The site does not adjoin the coastal foreshore and therefore development of the site shall not impede water based coastal activities;
n	The conservation and preservation of items of heritage, archaeological or historic significance,	See comments in (L) above.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	The site is adjacent to an existing urban development.
p	<p>Only in cases in which a development application in relation to proposed development is determined:</p> <p>(i) the cumulative impacts of the proposed development on the environment, and</p> <p>(ii) measures to ensure that water and energy usage by the proposed development is efficient.</p>	<p>Cumulative impacts are relative to the water (catchment) impacts, for which a Water Management Plan has been prepared to provide mitigation measures. Potential water quality impacts will be minimised through the adoption of water sensitive urban design features and design of stormwater quality controls.</p> <p>The proposal incorporates water sensitive urban design and promotes ESD principles to reduce water and energy consumption. One main feature in this regard is the proposed reticulated recycled water supply system.</p> <p>Housing within the subdivision would be designed to maximise water and energy efficiency. All houses would be in accordance with <i>Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX)</i> which became effective within the Kempsey Local Government Area in July 2005.</p>

State Environmental Planning Policy 'Major Projects'

This SEPP is intended to conform with Part 3A of the EP&A Act and identify those developments to which the development assessment and approval process under Part 3A of the EP&A Act apply. In this regard, if the site or development is described in schedule 1, 2, 3 or 5 of this SEPP it is generally declared to be a project to which Part 3A of the EP&A Act applies.

In this regard, the site is considered to satisfy the criteria listed in clause 1(j)(i) to Schedule 2 for the following reasons:

- The site is located within the Coastal Zone of New South Wales;
- The proposed development is for the purpose of a residential subdivision
- The site will be subdivided into 55 Residential lots and one 7(d) future development lot;

4.7 Draft Mid North Coast Regional Strategy

This strategy, once finalised, shall guide local planning in eight Mid North Coast local government areas including the Kempsey Shire. The Strategies main goals are to ensure the maintenance of the regions natural assets and to guide the Mid North Coasts prosperity over the next 25 years.

The strategic directions outlined within this document include:

- Protect high value environments, including significant coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that new urban development avoids these important areas and their catchments;
- Cater for a housing demand of up to 58,400 new dwellings by 2031 to accommodate the forecast population increase of 91,000 and any anticipated growth beyond this figure arising from increased development pressures in the southern part of the Region;
- Ensure that new housing meets the needs of smaller households and an ageing population by encouraging a shift in dwelling mix and type so that 60 percent of new housing will be in greenfield locations and 40 percent in existing urban areas;
- Ensure an adequate supply of land exists to support economic growth and the capacity for an additional 47,000 jobs in the Region by protecting existing commercial and employment areas and securing sufficient land to support new employment opportunities;

- Encourage the growth and redevelopment of the Region's four major regional centres and six major towns through urban design and renewal strategies as a means of protecting sensitive coastal and natural environments and strengthening the economic and administrative functions of these centres as well as meeting increased density projections;
- Protect the coast by limiting urban sprawl, by focusing new settlement in areas identified on local strategy maps and restricting unplanned new urban or rural residential settlement;
- Only consider additional development sites outside of agreed local strategies if they can satisfy the Sustainability Criteria;
- Limit development in places constrained by coastal processes, flooding, wetlands, important farmland and landscapes of high scenic and conservation value; and,
- Protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes.
- The subject site is identified within the draft Mid North Coast Regional Strategy (Map 6) as a 'growth area' and 'proposed future urban release area'. The subject site and proposal are consistent with the requirements of the *Strategy* for the following reasons:
- The flora and fauna assessment completed by Darkheart Eco-Consulting (December 2007) demonstrates that the subject site does not occur within a 'high-value' environmental area and does not contain any threatened species, vegetation community or habitat corridor which may be detrimentally affected as a result of the proposal;
- The proposal shall provide additional housing opportunities in an area of the mid North Coast experiencing significant population growth and an increased demand for housing;
- The proposal shall provide a number of varying allotments which shall be suitable to accommodate both the growing and ageing population of the Mid North Coast region. The development of the site is consistent with the growth patterns identified by the Kempsey Shire Council 'Residential Land Release Strategy' (see Section 4.9.2);
- The proposal is located within close proximity to the South West Rocks town centre and local shopping village located on Gregory Street, directly east of the site;
- The proposal is consistent with the provisions of State

Environmental Planning Policy No.71 (Section 4.5) and the NSW Coastal Policy (Section 4.3);

- The site is identified within the *Strategy* and the Kempsey Shire Council as an area for 'future residential growth';
- The site and proposed development envelopes are not constrained by issues such as flooding, wetlands, valuable farmland, or landscapes of high scenic or conservation value; and,
- The site and the proposal does not contain any Aboriginal heritage values or items and shall not detrimentally affect the 'village' character of the coastal town that is South West Rocks.

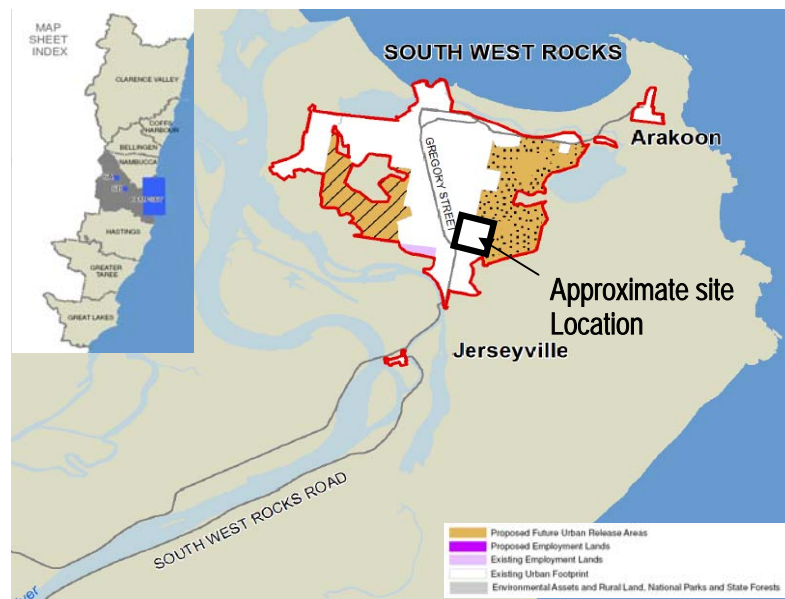


Figure 2: South West Rocks Growth areas as adapted from the Mid North Coast Regional Strategy.

4.8 North Coast Regional Environmental Plan

The North Coast Regional Environmental Plan (NCREP) applies to the Kempsey Shire Council Local Government Area. The plan sets the basis for new urban and rural development with its aim being to encourage the development of regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally friendly sound future. It also aims to provide a basis for growth in the region, optimising the economic/social benefits to the local community and visitors.

The following clauses of the NCREP are considered to apply to the proposal:

Clause 34 - Heritage

(a) To conserve the environmental heritage (including the historic, scientific, cultural, social, archaeological, architectural and aesthetic heritage) of the North Coast Region,

(b) To promote the appreciation and understanding of the North Coast Region's distinctive variety of cultural heritage items and conservation areas including significant buildings, structures, works, relics, towns and precincts, and

(c) To encourage the conservation of the Region's historic townscapes which contain one or more buildings or places of heritage significance or which have a character and appearance that is desirable to conserve.

No European or Aboriginal heritage items or sites were identified on the subject site. The results of the Aboriginal Heritage Assessments are included in full at **Appendix C** and are discussed further in section 5.8 of this report.

Clause 41 of the NCREP sets out the objectives relating to housing. The objective is to '...promote the provision of a range of adequate, affordable and suitable housing to meet the needs of the region's population'.

Section 4.9.2 of this report analyses the *Kempsey Residential Land Release Strategy 1997*. This Strategy notes that South West Rocks is the fastest growing region within the Kempsey LGA and predicts that 74.1ha of residential land will be required between 2006 and 2018 to meet the localities housing demand. This project is considered to satisfy part of the regions demand in regard to housing provision by providing the opportunity for 54 new dwellings and two super-development lots earmarked for future medium density residential development.

Clause 43 – Residential Development

(a) It is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,

(b) It is satisfied that the proposed road widths are not excessive for the function of the road,

(c) It is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location

of dwellings such as access to services and physical suitability of land have been met,

(d) It is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and

(e) It is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

The proposal provides for low density detached dwellings and building envelopes which are consistent with the environmental constraints of the site and the road widths are consistent with the requirements of Kempsey Shire Council's DCP No.36 'Guidelines for Engineering and Subdivision'. The *Residential Land Release Strategy* (1997) details that private vehicle ownership is the most common form of personal transport in the South West Rocks area and wider Kempsey LGA. Travel distances between urban centres may be over 20 kilometres and the relatively low number and density of people within the region limits the availability of economical public transport within the LGA and between the local villages. The site is however, located within walking distance of the main South West Rocks bus route which runs along Gregory Street to the sites west.

4.9 Kempsey Local Environmental Plan

The site is zoned Residential 2(a) and Environmental Protection 7(d) pursuant to the Kempsey LEP 1987 (see **Exhibit 3**). A 'residential subdivision' is permissible with consent within this zone and therefore the Minister is able to give approval for the proposal, pursuant to sections 75J and 75O of the Act.

The following table identifies the relevant clauses of the Kempsey LEP 1987 applicable to the development proposal:

Table 3 – Consistency with Kempsey Local Environmental Plan 1987		
KLEP Clause	Requirement	Compliance
cl.9 Zone Table 2(a) Residential 'A' Zone 7(d) Scenic Protection Zone	<p>To provide for low density residential development.</p> <p>Conserve the environmental and scenic quality of visually significant land by controlling development so that it will accord with the appearance of the landscape.</p>	<p>Subdivision is permissible with the consent of Council.</p> <p>Dwelling Houses are permissible with the consent of Council.</p>
cl.11 Subdivision - Generally	Consent required for the subdivision of land within the Kempsey LGA.	
cl.12 Subdivision – Flood Prone Land	Each lot should maintain a minimum of 500m ² and be outside the limit of the 1 in 100 year flood and not subject to localised flooding (1 in 20 ARI)	The allotment sizes for the proposed subdivision shall all exceed the minimum size requirements. Sizes on the range from 621.9m ² to 1241m ² with an average of 778m ² . All proposed allotments are free of the 1 in 100 ARI and are not subject to localised flooding.
cl.13 Subdivision – Connection of Water Supply	Each lot proposed within a 2(a), 2(b1), 2(b2), 2(c) or 2(v) zone, must contain a reticulated water supply connection, or maintain satisfactory arrangements to ensure its provision.	The subdivision shall connect to the reticulated water supply connection and also includes connection to the reticulated water supply.
cl.14 Subdivision – Connection to Sewerage System	Each lot proposed within a 2(a), 2(b1), 2(b2), 2(c) or 2(v) zone, must contain a reticulated sewerage connection, or maintain satisfactory arrangements to ensure its provision.	The subdivision shall connect to the reticulated sewerage system.
cl.16 Subdivision – Minimum Lot Sizes	Within the 2(a) Residential 'A' Zone land shall be a minimum 0.05ha (500m ²).	<p>All allotments exceed the minimum size requirements.</p> <p>All lots exceed the minimum lot size requirements for residential areas, that being 500m², as set by Clause 16 of the Kempsey Local Environmental Plan, 1987.</p> <p>The lot sizes range in size from 621.9m²(proposed Lot 634) to 1,241m² (proposed Lot 617). The average Lot size (excluding Lot 700 and Lot 800) is 778m². All lot sizes are detailed in Exhibit 5.</p>
cl.19 Land Clearing in zones 7(a), 7(d), 7(f1) and 7(f2)	A person shall not cut down, top or lop any tree which has a height of 3m or more, or alter the ground level of the land, except with the consent of the	There are a small number of trees required to be removed from within the 7(d) zone. The removal is related to proximity to boundaries and can be seen in Exhibit 8 . The removal of these

	Council.	trees has been examined by an ecological consultant (Appendix H) and removal is not considered to have any significant detrimental impact on any threatened flora or fauna species occurring within the locality.
cl.56 Acid Sulfate Soils	Works, including landform alteration, must not be carried out in areas identified as containing ASS unless approved by Council	A Geotechnical report was completed by Chandler Geotechnical and is addressed in Section 5.6.4 of this report and is included in full at Appendix I.

4.10 Local Planning Instruments

4.10.1 Development Control Plans

DCP No.9 – South West Rocks & Spencerville

This DCP provides guidelines and objectives in relation to development within the South West Rocks and Spencerville locality so as to ensure the maintenance of the existing character.

The plan identifies the necessity to ensure that the Spencerville locality develops slowly and with great caution, given that the Spencerville area is and always will be the main and only entrance to the town of South West Rocks.

The plan does not provide any specific requirements for the subject site outside of the provision of satisfactory arrangements regarding sewerage.

DCP No.22 – Local Housing Strategy

This DCP was adopted by KSC in November 2003 and provides guidelines and objectives in relation to subdivision design including lot size, layout, access, landscaping and new dwelling houses. The plan applies to all urban areas, excluding Crescent Head.

The aims and objectives of the DCP are:

- a) One of the aims of the Development Control Plan (DCP) is to achieve a balance between maximising lot and dwelling yields for more efficient and effective use of land, infrastructure and services, whilst making our residential areas desirable places to live.
- b) An aim is also to provide a degree of certainty to developers and existing residents with regard to the density of housing development throughout Council's urban areas.

c) Towards achieving these aims, the objectives of the DCP are:

- i) to provide areas within Council's principle towns and villages for varying levels of residential density;
- ii) to ensure that development densities are not beyond the capacity of the infrastructure, services and topographical constraints of each area;
- iii) to ensure that lands identified for higher density development are not developed for low density developments;
- iv) to provide for wider housing choices in general residential zones where there are minimal development constraints;
- v) to encourage innovative building design and site usage;
- vi) to encourage a more efficient and effective use of land and minimise the cost of providing urban infrastructure and servicing; and,
- vii) to encourage the design of energy efficient housing.

The DCP also states that where subdivisions are proposed, lots are to have appropriate area and dimensions to enable the siting and construction of a dwelling or dwellings, whilst providing for:

- i) Useable private outdoor space;*
- ii) Convenient vehicle access and parking;*
- iii) Adequate solar access in accordance with DCP No.31- Energy Smart Homes; and*
- iv) Access to cooling breezes and other relevant siting and design considerations.*

It is also noted that Section 11 of this DCP includes specific requirements for development within South West Rocks which include:

- i) To encourage buildings and landscaping that reflect the community's expectations of an area where the unspoilt beauty of the natural environment and relaxed country lifestyle are both preserved and complemented by an economy of high productivity*

and employment.

ii) To facilitate development and implement plans to manage land use and to control development, having regard to the protection of the environment and the need to encourage economic expansion.

iii) To examine development proposals taking into consideration the principals of ecological sustainable development.

Overall, the proposal is considered consistent with the aims and objectives of this DCP for the following reasons:

- The average lot size is 735m²;
- The proposal is located within close proximity to the South West Rocks town centre, the main public transport route along Gregory Street and is located within close proximity to the main shopping centre (see **Exhibit 2**);
- The development densities are consistent with the surrounding residential and initial investigations reveal that the proposal is not considered to exceed the capacity of the existing infrastructure, services or topographical features of the locality;
- The proposed subdivision provides for a choice of allotments with minimal development constraints;
- The proposed subdivision provides for efficient and effective use of land to minimise the cost of providing urban infrastructure and servicing;
- The layout of the proposed allotments and the average lot size allows for a number of energy efficient housing designs, including adequate private open space areas, convenient access points, adequate car parking areas and access to cooling sea breezes;
- The layout has been designed to provide opportunities for future development to contribute to the Burrawong Drive streetscape and to retain mature trees where appropriate;

DCP No.30 – Acid Sulphate Soils

This DCP specifies measures to be considered when developing on potential acid sulphate soils.

It is noted that approximately 8ha of the subject site are identified as containing 'low risk' acid sulphate soils however, this area is isolated to

the low lying land situated in the north of the subject site outside of the **Stage 1C** locality. No constraints to development are posed by soil conditions or Acid Sulphate Soils within the **Stage 1C** development envelope.

DCP No.36 – Guidelines for Engineering and Subdivision

This DCP identifies the engineering standards applicable within the Kempsey Shire during the development process.

All lots shall be constructed in accordance with the requirements of this DCP and Kempsey Shire Council's Auspec Design Guidelines and Construction Specifications.

4.10.2 Residential Land Release Strategy

Kempsey Shire Council's '*Residential Land Release Strategy 1997* (the *Strategy*) aims to satisfy the requirements of the *North Coast Regional Environmental Plan 1988* (NCREP) and seeks to guide future land use decisions in an integrated manner. The *Strategy* proposes to address Residential (urban) land needs within the Kempsey Shire.

The Strategy relates to all residential zones identified under the *Kempsey Local Environmental Plan 1987* and endeavours to protect the village character of many of the existing coastal settlements in accordance with Clause 38(3)(e) of the NCREP, including South West Rocks.

The Strategy identifies South West Rocks as the '*...fastest growing urban area in Kempsey Shire*' and that shortfalls of land, shire wide, have been anticipated to occur around 2008 with particular shortfalls occurring in South West Rocks.

In this regard, the Strategy notes that South West Rocks was growing strongly and that 2011 census figures show that the South West Rocks township is growing faster than any of the other areas in the Kempsey Shire. The Strategy also notes that by 2011 South West Rocks will contain a shortfall of 29.8ha of land available for residential purposes and by 2016, this will have increased to a 63.7ha shortfall.

It is noted that the subject site, then identified as Lot 2 DP645213 is identified within the Strategy as a *Medium Term Land Release area* and was also identified previously within the South West Rocks Structure Plan (1995). The site was identified due to the fact that it was generally suitable for urban/residential uses in accordance with Council's standard policies and guidelines. The site and surrounds, as identified by the Strategy can be viewed in **Exhibit 10**.

In light of the above, and given the growth rate of the South West Rocks

locality, this proposed residential subdivision is considered consistent with this Strategy and acceptable within the proposed locality.

4.10.3 Tree Preservation Order

The aim of this Order is to prevent unnecessary removal or damage to Australian native vegetation and any trees identified as being a significant asset to the Kempsey Shire.

This Order applies to the subject land as it is identified in a Residential 2(a) zone where the lot has an area greater than 1000m².

An arborist report has been completed by Trevor Bailey (April 2006) and a Tree Retention Plan (**Appendix H**) has been developed with regard to the aim of this Order.

4.10.4 Saltwater Creek Estuary Management Study and Plan

The aim of the Estuary Management Plan (EMP) is to ensure ecological sustainability of the estuary, whilst balancing the demands on the system by human uses.

Saltwater Creek itself is a small intermittently open and closed coastal creek connecting Saltwater Lagoon to the ocean at Trial Bay adjacent the Surf Club at South West Rocks. Because of its small catchment, the entrance closes to the ocean during the drier months with the seasonal build up of beach sand deposits.

Saltwater Creek / Lagoon waterway lies totally within National Park and Crown Reserve land dedicated for recreation and access. The water body and fringing vegetation is totally within a designated SEPP 14 Wetland No 439.

The specific objectives of the Saltwater Creek Estuary Management Study (SWCEMS) and Plan have been covered in Section 4 of the Stormwater Management Plan (SMP) completed by King & Campbell Pty Ltd in 2006 (**Appendix E**).

At the time of submission of the above report (June 2006), the SWCEMS was being finalised. The key matters relevant to the proposal (which included **Stage 1C**) were addressed, and are detailed under Section 4 of the SMP.

In this regard, geotechnical testing was undertaken to determine the existence of Acid Sulphate Soils, work method statements were implemented regarding the maintenance of drainage structures as fire buffers zones (including the installation of fire hydrants, the use of indigenous flora species and the implementation of weed management measures). The entire development was also designed to ensure that stormwater would not place any additional stress on the existing natural environment of Saltwater Creek and Lagoon, including ensuring that

peak discharges shall not exceed pre-development conditions.

Section 5

Key Issues

This Section of the draft Environmental Assessment addresses those 'key issues' identified within the Director-General's Environmental Assessment Requirements issued 12 June 2008 arising from the proposed subdivision.

The design of the proposed subdivision has evolved in response to the findings of the various environmental assessments undertaken by specialist consultants. The specialist technical reports undertaken in the completion of this Environmental Assessment are included in full within the Appendices.

5.1 Strategic Planning

5.1.1 Local, Regional & State Planning Strategies

The Kempsey Shire Council's *Residential Land Release Strategy* (section 4.10.2), the *North Coast Regional Environmental Plan* (section 4.8) and the *draft Mid North Coast Regional Strategy* (DMNCRS, section 4.7) have been addressed elsewhere in the body of this report.

The proposal is consistent with all three of these strategies. The subject site is identified with the Residential Land Release Strategy as a 'medium-term' *Residential Land Release Area* (see **Exhibit 10**) and is identified within the DMNCRS as a 'committed urban use'. Notably resultant from the Masterplan approval (38-9-2004) and the surrounding residential land release areas approved under separate application (MP 05_0018).

Overall, the proposal shall accommodate the anticipated residential growth of the South West Rocks area whilst maintaining the seaside 'village' character of the locality. The proposal shall also provide additional housing opportunities within the locality to ensure the economic prosperity of the Kempsey and wider Mid North Coast Region.

5.1.2 Masterplan 38-9-2004

The proposed Stage 1C subdivision layout and design has not been altered from the concept design approved under Masterplan 38-9-2004 (**Exhibit 9**). Consistency with the provisions of Master Plan 38-09-2004 are detailed in the following table:

Requirement	Comment
<p>Part A – Master Plan Document</p> <p><i>A1 – Master Plan</i></p> <p>The Master Plan adopted shall be generally consistent with the draft Master Plan drawing entitled "Residential Master Plan, Waldel Park South West Rocks as it relates to Stage 1(b) only as prepared by King and Campbell Pty Ltd for the subdivision of Lot 21 DP Belle O'Connor Street South West Rocks prepared by ERM on behalf of WB & ME Walls.</p>	<p>Stage 1C is consistent with the approved Master Plan as adopted and prepared as a part of Stage 1B.</p>
<p>Part B – General Requirements</p> <p><i>B1 – Nature of Consent</i></p> <p>This consent is for a Master Plan only. Future land subdivision, infrastructure provision and residential development are subject to separate approval.</p> <p><i>B2 – List of Required Variations to Draft Master Plan</i></p> <p><u>Water Quality Objectives and Principles</u></p> <p>A Water Management Plan must be submitted with any future application for development of the subject site. This Water Management Plan is required to address the objectives of water quality and stormwater management. This Plan is to consider, but is not limited to, the draft Saltwater Estuary Management Plan prepared by WMB Oceanics Australia and Australian and New Zealand Guidelines for Fresh and Marine Water Quality, current State Government endorsed water quality objectives applicable to the water body and the Natural Resource Commission's proposed State wide targets for water quality. The Water Management Plan will be required to demonstrate the ability of the proposed stormwater measures to achieve the identified objectives and requirements for water quality and stormwater runoff in relation to the impact on Saltwater Estuary.</p> <p>The Water Management Plan will be required to provide details of the implementation of lot based stormwater management, details of the monitoring of</p>	<p>The lodgement of the Stage 1C application with the Department provides consistency with this requirement.</p> <p>A Water Management Plan (WMP) has been submitted in support of this application. The WMP is included as Appendix E.</p> <p>The WMP addresses the water quality and stormwater management techniques and devices proposed.</p> <p>The water management plan was prepared in accordance with the draft Saltwater Estuary Management Plan and was subsequently updated in accordance with the issue of the final document. In general the WMP addresses all of the relevant objectives in the management plan and also complies with Kempsey Shire Council is DCP 36 in terms of water management design guidelines. Kempsey Council have indicated that they are willing to accept the structures to be dedicated as a public asset. We note however that the applicant is to maintain the structures for an extended period based on the life of the development. Based on the approval of this system in previous consent and that the plan allows for all Runoff from this stage there would appear to be no additional requirements.</p> <p>The implementation of the measures outlined in the plan will ensure that the impact on Saltwater Estuary is ameliorated to the point where it is consistent with the objectives of the management plan.</p>

<p>the water quality and stormwater management throughout the life of the development, proposed community education programs and measures to implement in the event of the failure of the system.</p>	<p>The Stormwater quality control measures proposed have been refined via various discussions with Kempsey Shire Council and rely on five (5) broad treatment options consistent with Council's resources and technical experience. The techniques proposed include buffer strips, median swales, gross pollutant traps, infiltration structures and sediment ponds.</p> <p>The development proposes to include a brochure outlining water saving tips and strategies to reduce the opportunities for water based pollutants, such as nitrogen and phosphorous, to enter the receiving waters of the Saltwater Lagoon. The home based activities that will be covered by the educational material are detailed under section 3.5 of the Water Management Plan and include proper disposal of oils, minimising the use of garden chemicals and fertilisers and reduction of water usage in line with BASIX objectives.</p> <p>The water management measures have been designed in accordance with the major/minor approach which ensures that major storm events are carried around built up areas, residences and major structures. This involves the allocation of the Gully as the central drainage corridor.</p> <p>The basin wall has been assessed as not being a notifiable dam structure and given the relatively large outlet pipes and small detention times it is not considered that the basin wall will be under any serious long-term pressure. In general the system will adequately cater for normal stormwater flows within the pipe drainage system and any extra ordinary storm events can be catered for by the designated overland flow paths.</p>
<p><u>Asset Protection Zones</u></p> <p>The provision of Asset Protection Zones are to be made wholly within the proposed residential allotments to ensure the maintenance of these areas is solely the responsibility of the future landholders.</p> <p>A Bush Fire Safety Authority under section 100B of the Rural Fire Act 1997 is required to be obtained for the future subdivision.</p> <p><u>Road Design & Traffic Management</u></p> <p>The provision of road infrastructure to service the proposed residential subdivision are to be made in accordance with the requirements of the Regional Advisory Committee of the RTA as detailed in their letter dated 16 August 2005.</p>	<p>Proposed Lot 800 shall include a 20m asset protection zone measured from the rear (& side) boundaries of Lots 605-617, which shall be provided by way of a positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919).</p> <p>Refer to comments under Section 6.3.</p> <p>All significant roads shall be provided prior to the development of any of the allotments associated with Stage 1C. No variations to the road layout are proposed as a part of this application and are therefore considered consistent with the Regional Advisory Committee of the RTA requirements.</p>

<p>Schedule 3 <i>Matters to be addressed in any application under the Environmental Planning & Assessment Act, 1979</i></p> <p><u>Visual Assessment</u></p> <p>A visual impact assessment is to be provided with any future subdivision application for approval. The assessment will be in the form of photomontages showing the development when completed for any public areas likely to be visually impacted.</p> <p>The limitations on roof colour need to be clearly specified in the requirements for housing design within the proposal. Details of these limitations and the implementation of these requirements need to be provided.</p> <p><u>Pedestrian & Cycleway Provisions</u></p> <p>The revised subdivision layout will be required to detail the provision of appropriate pedestrian and cycleway infrastructure to be provided within the development.</p> <p><u>Integrated Housing Projects</u></p> <p>Details regarding the proposed integrated housing precincts are to be provided to demonstrate the appropriateness of the design in regard to residential amenity, urban design, parking and traffic management, private open space provision and privacy.</p> <p><u>Staging of Development</u></p> <p>Details of the staging of the development are to be provided in future applications for the subdivision of the subject site.</p> <p><u>Zoning Matters</u></p> <p>Details are to be provided with the future application for development demonstrating the gazettal of the draft LEP covering the strips of 6 (a) and Rural 1(d) within the site.</p>	<p>A visual assessment has been completed as a part of this development application and is included as Section 5.3.4 of this report.</p> <p>The colours of external building materials and finishes are to be selected to be subdued in colour intensive and be non-reflective.</p> <p>It is also advised that the building covenants associated with Seascape Grove require that all materials are subject to approval by Walde Park Pty Ltd and are to be shown on the approved drawings.</p> <p>The proposed cycleways are detailed in Exhibit 9. Exhibit 9 was approved as a part of the Master Plan application and Stage 1C proposes no modification to the pedestrian and cycleway infrastructure.</p> <p>This application does not seek consent for the development of the identified integrated housing precincts.</p> <p>This application does however, seek approval to undertake the necessary civil works, filling and servicing to enable lot 700 to become a stand alone development lot and to be marketed to a specialist builder/developer for the purposes of integrated housing (subject to further consent).</p> <p>The staging details associated with this proposal are detailed under Section 1.3 of this report and are also shown on Exhibit 7.</p> <p>It is King & Campbell's understanding that a report to Council shall be issued to the elected Council in early February 2009 in relation to the 6(a) and 1(d) strips of land.</p>
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<p><u>Heritage Value</u></p> <p>Details regarding the heritage value of any building either being retained or removed as part of the future subdivision are to be provided as well as any measure to be implemented to address any issues regarding heritage significance or value.</p>	<p>Section 5.8 of this report details the Heritage & Archaeological assessments completed as a part of this environmental assessment. It is noted that there are no identified items or objects within the subject site identified as aboriginal or European items of heritage significance.</p>
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5.2 Subdivision Design, Layout & Desired Future Character

5.2.1 Coastal Design Guidelines

Coastal Design Guidelines for NSW

South West Rocks is identified as a Coastal Town under the provisions of the Coastal Design Guidelines.

The proposal is focused on addressing the growth anticipated within South West Rocks and the Wider Kempsey Shire whilst not compromising the existing ecosystem and ecological values of the locality.

Relevant themes from the Coastal Design Guidelines include:

- *Relationship to the surrounding environment:* the proposed residential subdivision forms part of an existing residential subdivision and adjoins land used for urban purposes;
- *Visual Sensitivity:* A visual Assessment was completed as part of this report. The Visual Assessment concluded that the proposal shall not have a significant detrimental impact on public views to or from the subject site. In this regard, given the surrounding localities undulating topography and the predominant easterly view points, such as Little Smokey and big Smokey (headlands), the subject sites central location and vegetated surrounds, means that limited impacts are anticipated as a result of the proposal.

The Visual Assessment is included in full at Section 5.3 of this report.

- *Streets:* the street pattern provided is sympathetic to the existing topography, builds on the historic structure prevalent in the surrounding locality, utilises T-intersections and provides a logical, permeable and flowing two-way street pattern without cul-de-sacs;
- *Building Types:* the proposed residential subdivision shall provide allotments consistent in size with those in the surrounding locality

and shall therefore enable the provision of an adequate mixture of housing types including town houses, semi detached dwellings and detached dwellings;

NSW Coastal Policy 1997

Section 4.5 of this report details the proposals consistency with the NSW Coastal Policy 1997. Overall, the proposal is consistent with the nine goals adopted by the policy due to the proposals recognition of the principles of ecologically sustainable development.

SEPP No. 71 – Coastal Protection

Clause 8 of SEPP No.71 outlines the matters to be taken into consideration when developing within the Coastal Zone. Section 4.6 of this report details the proposals consistency with the requirements of Clause 8. Overall, the site does not adjoin the coastal foreshore, and the proposal itself endeavours to protect the existing flora and fauna through a combination of a number of preservation, regeneration and protection measures.

5.2.2 Subdivision Type & Size

All proposed development lots are to be Torrens Title allotments as per the requirements of the *Real Property Act 1900*.

It is noted that proposed Lot 700 is identified to contain future integrated housing which shall be subject to a separate future application.

All lots exceed the minimum lot size requirements for residential areas, that being 500m², as set by Clause 16 of the Kempsey Local Environmental Plan, 1987.

The lot sizes range in size from 621.9m²(proposed Lot 634) to 1,241m² (proposed Lot 617). The average Lot size (excluding Lot 700 and Lot 800) is 778m². All lot sizes are detailed in **Exhibit 5**.

5.2.3 Building Envelopes & Design Quality Control

No building envelopes have been identified on the subject allotments due the fact that none are considered necessary. In this regard, all bushfire Asset Protection Zones are accommodated in addition to the proposed allotments apart from the 8m and 20m wide APZ's included within the rear of proposed allotments adjoining proposed Lot 800.

Furthermore, the design and lot layout has carefully considered the

existing vegetation and has been designed to ensure that minimal vegetation is required to be removed in order to accommodate the proposed development envelope.

Design controls will be prepared by Seascaple Grove and implemented for the residential lots through the use of positive covenants on the titles to the lots.

All residential dwellings shall be subject to the satisfaction of the neighbourhood scheme for Seascaple Grove and shall be required to demonstrate compliance prior to the lodgement of plans with Kempsey Shire Council.

Designed controls were reviewed and adopted as part of Stage 1B. The applicable design controls relevant to Seascaple Grove shall be submitted as a part of the final Environmental Assessment. As in stage 1B these will be attached to each new residential lot.

It is noted that indicative building envelopes and issues relating to urban design and solar orientation were addressed at the Master Plan Stage. The comprehensive Master Plan site analysis reviewed all of the built form issues associated with the Project application. Plans submitted as a part of the Master Plan analysis are included as **Appendix Q – Urban Design Principles Plan**.

5.2.4 Consistency of the proposal with the surrounding locality

The proposal is considered consistent with the surrounding locality for the following reasons:

- Land to the west of the subject site on Belle O'Connor Street consists of residential development consistent with that proposed to occur on the subject site (see Figures 2 and 3);
- Land to the north and east is identified for future urban release purposes;
- As Figures 2 and 3 demonstrate, South West Rocks has typically developed lineally along Gregory Street and the proposal is therefore consistent with the typical growth pattern of the locality;
- The proposed allotments are comparable in size to those of the existing allotments located in the surrounding residential subdivisions within South West Rocks;
- The proposed road network adequately links in to the existing road network and has been designed to accommodate the anticipated peak demands;

5.2.5 Long-term Management of Open Space

No open space is proposed as a part of **Stage 1C**. This is consistent with the Master Plan approval.

An area of open space was proposed as a part of MP 05-0018 between approved Lot 518 and 519. However, Kempsey Shire Council stated that no open space was to be dedicated to Council as a part of this subdivision.

Stage 1B provides 2 hectares of land to be dedicated to on-site stormwater treatment and detention, with a portion of this area provided for passive recreation purposes. Council has agreed to accept this as a drainage reserve dedication and to take over maintenance of the facility upon completion of all lots in the subdivision.

Stage 1B provides 2 hectares of land to be dedicated to on-site stormwater treatment and detention, with a portion of this area provided for passive recreation purposes.

The open space area shall be dedicated to Council as a part of Precinct A of Stage 1B as a drainage reserve.

The parcel of land between proposed lots 617 and 618 shall form the commencement of the drainage system. It will be used to collect stormwater Runoff from the upper reaches of the catchment to the South. This strategy was submitted and established as part of stage 1B.

The area between Lot 617 and 618 forms part of Lot 800 and shall be maintained by manner of a covenant burdening Lot 800. It will have an appropriate easement to cover the drainage infrastructure. It also provides a secondary access point to maintain lot 800.

The development of Lot 800 shall be subject to a separate future development application. Residential dwellings are permissible with consent in the 7(d) zone. The creation of lot 800 is appropriate given its ability to, with development approval, sustain a dwelling. The lot will be fully serviced.

5.2.6 Lot 700

On 20-03-06, a master plan was adopted by the Minister for Planning for the subject site (MP38 -- 09 -- 2004). The original site analysis for the approved master plan identified that the proposed residential densities whilst consistent with the existing settlement patterns and market demands, did not reach the identified department growth target of 15 dwellings per hectare. In this regard, an area of the subject property was identified to allow a higher density of development. This area was therefore nominated in the Master Plan as an Integrated Housing Precinct which is consistent with the aims of NSW SEPP No.71 in providing a range of housing options.

The positive benefits to the location of integrated housing in this precinct are:

- Location to Community facilities via the pedestrian links of Belle O'Connor Street;
- Location along a proposed bus route;
- View lines to the north and east of prominent cadastral landmarks – Big and Little Smokey;
- Location adjacent to a large, but managed dual use of open space area containing the water quality control system for the development; and
- Proximity to recreational activities of South West Rocks Country Club Golf Course approximately 300m to the north.

The Master Plan did not seek to provide details of the building layout or built form; rather it sought to create a development lot that could form the basis of a future detailed application for Integrated Housing approval.

The purpose of this application is to seek approval to undertake the necessary civil works, filling and servicing to enable this lot to become a stand alone development lot and to be marketed to a specialist builder/developer for the purposes of integrated housing (subject to further consent).

In order to complete the servicing the following is required:

- Connection to the proposed sewer main to be constructed as part of the Stage 1B Precinct A works;
- Connection to the proposed stormwater main to be constructed as part of the Stage 1B Precinct A works;
- Water Main connection to existing main in Belle O'Connor Street;
- Extension of electricity and telecommunication services; and
- Undertake lot filling works to provide a level building platform that is above the influence of any adjoining water detention basin level.

Proposed Lot 700 has been set aside for a future integrated housing development in accordance with the Master Plan approval. Development for the purposes of integrated housing shall be the subject of a separate development application.

The only works sought for approval under this project application in relation to proposed Lot 700, includes the filling of the Lot 700 area. This filling is required to ensure that the site is raised above the current 1 in 100 year flood level, which is currently 3.5m AHD for the subject site (Lot 124 DP1097510). The filling plan associated with Lot 700 is attached to this response.

The volumes of fill required in relation to proposed Lot 700 are detailed in the attached Filling Plan. The bulk of the area requires between 0.5m and 1.5 of fill, with some areas requiring 1.5m plus.

5.2.7 Landscape Design

A Landscape Principles Plan (**Exhibit 9**) has been submitted as a part of this application. It is noted however, that this Landscape Principles Plan has been approved as a part of the Stage 1B Major Project (05_0018). No approval is therefore sought for this plan, it is however, submitted as background information and to provide the Department with some clarity as to proposed landscape design as it relates to **Stage 1C**.

5.2.8 Cycleways

The circulation of cycle paths and pedestrian access ways was dealt with in the Master Plan and subsequent Stage 1B approval. Generally, given the Road classification of the majority of the roads they can be considered to accommodate 'on road' cycleways. In addition, there are a network of pathways approved as part of the Master Plan approved under MP 38-9-2004. These pathways are detailed in Exhibit 9 (shown in red) and will be in place before any of the lots within **Stage 1C** are created.

5.3 Visual Impact

5.3.1 Visual Analysis

Visual impact analysis is a process for assessing the impact of a development proposal on the character of the landscape. It is an assessment of the impacts of a proposal on the general public when viewed from public places.

On 16 November 2007, a site inspection was undertaken by Paul Rowlandson of King & Campbell Pty Ltd. The primary purpose of the visual assessment was to determine if any public areas would be detrimentally impacted by way of visual amenity, as a result of the proposed 56 Lot residential subdivision.

5.3.2 Landscape & Visual Character

South West Rocks itself is a small coastal town on the NSW Mid North Coast and is physically constrained by the Pacific Ocean to the north, Hat Head National Park to the east, Spencers Creek and Wetlands to

the south and the Macleay River to the west. Due to these natural constraints, and the undulating topography of the area, the town is widely vegetated. Major features of the South West Rocks landscape are the ocean, beach, Arakoon recreation area, and the various headlands and points located within the Hat Head National Park.

The site itself is located adjacent (west) to the main entrance (Gregory Street) of the South West Rocks town centre. The site is also located directly west of an existing shopping complex and existing residential development located in Belle O'Connor Street. Directly north of the site exists the South West Rocks Golf Course and the Sewage Treatment works. To the north-east and east lies rural land identified for residential purposes.

Seascape Grove is located on the north-eastern side of a prominent vegetated ridge. A significant portion of the site has been zoned as Environmental Protection 7(h) on the crest of the ridge. Two water reservoirs are located in this area but are substantially hidden from view because of the surrounding vegetation. Any panorama to the development will be framed by the vegetated ridgeline above the future residential development

Given that the site is located on the north-eastern side of a prominent vegetated ridge it is considered that views of the site from the west shall not be impeded as a result of this proposal. In this regard, views of the site were considered from numerous elevated vantage points, of which, are expressed in Table 1.



Figure 2: View of the subject site (foreground) from the south-west looking towards Arakoon State Recreation Area and Little Smokey.



Figure 3: Views of the subject site (foreground) and South West Rocks, looking north-west.

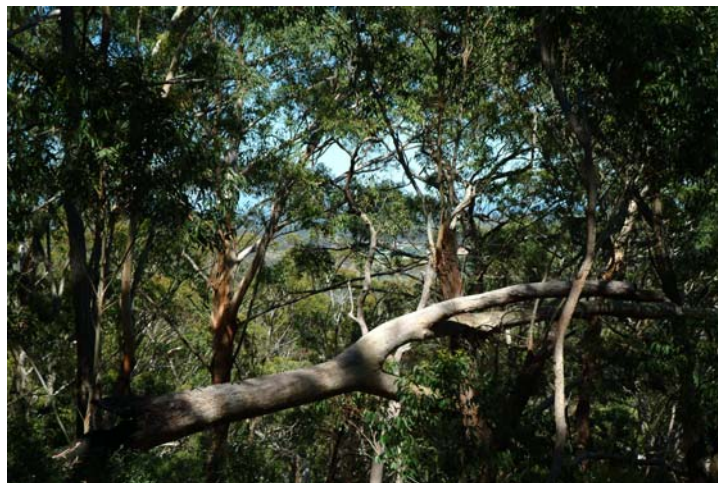


Figure 4: View of the subject site from North Gap Beach Fire Trail (looking west).



Figure 5: Views of proposed Lots 610-614 as viewed from the existing Belle O'Connor Street round-a-bout, looking south west.

5.3.3 Identification of Impact

The following table provides a summary of visual analysis components from 5 sites considered to be the most significant view points of the proposed development. The sites were selected following overview of the 1:25,000 series topographical map and an inspection of the locations.

The headlands dotted throughout the Hat Head National park such as Big Smoky, Little Smoky and Monument Hill are visited by many people specifically for the views available from these vantage points. Access to these points is restricted however, with the predominant mode of access being the existing walking trails. Given that these higher vantage points form part of the National Park they are also scarcely populated. These headlands are frequented randomly by tourists and locals however, the views to the proposed development are considered as follows:

Monument Hill – Monument Hill is located approximately 3.5km north-east of the development site and is separated by the Hat Head National Park, Saltwater Lagoon and Arakoon residential area. Due to the distance between the two sites and the undulating topography between the two sites, Monument Hill is not considered to maintain a view point of the development site.

The North Gap Beach Fire Trail - with the Smoky Cape Range, consists of a gravel, off-road walkway from the end of Gap Beach Road and meanders north-east to Gap Beach. This path has infrequent usage and the view to the proposed development is highly fragmented due to the existing dense vegetation occurring throughout the Cape area (see **Figure 4**).

Viewer Location	Character	Vividness	Intactness	Unity	Sensitivity	Exposure	Purpose/Duration	Size/Extent
1. Francis Diamond Street, Arakoon	Urban Residential background	Memorable	Fragmented	Mostly coherent	Moderate concern	Limited viewers	Medium	Slight – distant background, relates to landform
2. North Gap Beach Fire Trail, Smoky Cape Range	Vegetated landscape, Natural foreground	Not memorable	Highly Fragmented	Less coherent	Low concern	Very Limited viewers	low	Low – filtered views through vegetation
3. Belle O'Connor Street Roundabout,	Urban Residential Foreground	Highly memorable	Well defined edges	Coherent	Moderate Concern	Many viewers	High	High – foreground adjoining residential development
4. Trail Bay Gaol, Arakoon	Natural foreground, natural background	Not Memorable (none)	Not visible	Not visible	No concern	Not visible	Extremely Low	Not visible (Topography does not afford views)
5. Prince of Wales Avenue, South West Rocks Town Centre	Urban, Commercial	Not Memorable (none)	Not visible	Not visible	No concern	Not Visible	Extremely Low	Not visible (existing development does not afford views)

Table 4. Identification of Impact by Viewer Location. The locations are shown on **Exhibit 13**.

5.3.4 Impact on Views

Senior Commissioner Roseth in his ruling in the case of *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140* stated that there are four key steps to assess view sharing. These are described below:

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to

retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Applying these four steps to the current proposal, the most affected properties, those being elevated points to the north-east of the site are assessed below, these views include the view from Francis Diamond Street and the surrounding headlands.

a) Views to be Affected

No water views are considered to be affected by the proposals location. In this regard, views from Francis Diamond Street take in the subject site however, the proposal is not considered to detrimentally affect or obscure the existing view for the following reasons:

- The water views from Francis Diamond Street and the surrounding headlands will not be altered as a result of the proposal. In this regard, the subject site is located south-west (inland) of Francis Diamond Street and generally west of the easterly water views from the surrounding headlands;
- The south-westerly views from Francis Diamond Street towards the subject site shall not be affected as a result of the proposed development. In this regard as **Exhibits 13, 14 and 15** outline, whilst the development site is visible, it does not exceed the existing skyline and shall be of a similar nature to that already visible (see **Exhibit 15**).

b) Views from Subject Site

The views of the subject site are predominately maintained from the rear of the residential dwellings within Francis Diamond Street, and would be visible from both sitting and standing positions (see **Exhibit 15**). Whilst this is considered to be of moderate concern, the development site is located approximately 3.2km to the south-west and is located within the distant background. The cross section shown at **Exhibit 14** provides a comparison of the line of sight from the first floor of a residential dwelling within Francis Diamond Street. The line of sight is not considered to be detrimentally affected as a result of the proposal. This is predominately related to the elevated position of the residences within Francis Diamond Street and the higher topography located to the rear (west) of the development site which raises the horizon above the development area and maintains a strong presence of natural vegetation blocking out the existing residential subdivisions occurring on the western side of Gregory Street.

The existing views to the development site from the surrounding headlands are similar to the above. However, given that the headland locations are densely vegetated themselves, the views towards the development site are filtered, incoherent and not memorable (see **Figure 4**).

c) Extent of Impact

Views from Francis Diamond Street take in a large expanse ranging from the Trial Bay coastline in the north-west to the Hat Head National Park in the south.

d) Reasonableness of the Proposal

The proposal is considered to comply with all planning controls. In terms of location, the proposal is considered to have minimal visual impact on the surrounding area. In terms of alternate design or layout having a reduced impact, it is considered that any variation to layout or design would have minimal to no reduction in visual impact. This is predominately due to the distance between the vantage points available to the general public and the development site.

5.3.5 Conclusion

The proposed development is not considered to detrimentally impact on available views. In this regard, given that the proposal shall maintain existing vegetation within the south-western corner of the development site and the available development envelope is located below that of the surrounding vantage points. The proposal is considered to have a minor impact on views and no public areas are considered to be detrimentally impacted as a result of the proposal.

5.4 Infrastructure Provision

This application provides for the subdivision of a further 54 lots that are essentially serviced by both the existing constructed subdivision Stage 1A and the future works in the approved subdivision Stage 1B. During the construction phase for the initial 23 lots, known as Stage 1A the development comprised lots in Belle O'Connor Street and Burrawong Drive and significant consultation was undertaken with all relevant service authorities in regards to both the provision of local reticulation and more importantly the overall master plans for each of the services in relation to the entire Seascope Grove development. These arrangements were put in place based on the original Master Plan lot yield and remain unchanged with this application.

It is advised that the detailed engineering plans included as **Appendix F** were approved under previous applications relating to the Seascope Grove development. These plans have been submitted in conjunction with this application so as to provide sufficient background information in relation to the entire Seascope Grove development including **Stage 1C**. The plans included within **Appendix F** confirm that all significant roads shall be constructed prior to the creation of any allotments within **Stage 1C**.

It is noted that the development of **Stage 1C** cannot logically occur without the development of Stage 1B occurring. The design of the Master Planned subdivision requires that the provision of all services (sewer, electricity, telecommunications and water) shall be provided as a part of Stage 1B.

All services shall be provided within the dedicated road reserve and all lots within **Stage 1C** shall be connected to the infrastructure provided as a part of Stage 1B.

Specifically the arrangements with regard to individual service types are as follows:

Road

The determination associated with Stage 1B (issued 20 June 2007. Major Project 05_0018) included the following conditions relevant to the provision of infrastructure, including roads:

B9 Road Design

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All roads shall be designed in consultation with the relevant requirements of DCP No. 36. Final road design plans shall be submitted

and approved by Council prior to the issue of a Construction Certificate.

B10 Internal Roads

The internal roads shall be constructed and dedicated for the full frontage of all of the lots in the development, within each Precinct, to the characteristics defined in Table D1.5 of DCP No. 36, or as otherwise approved by Council.

Sewer

During Stage 1A development a major leadin sewer main was provided from the estate to the existing sewer treatment works in the South West Rocks Country Club golf course. This main was sized and located to provide service to the entire precinct. The main has been fully constructed and accepted by Council. The only additional infrastructure is a reticulation main which is required to service each individual allotment. As previously discussed any work of this type will be in accordance with Council's DCP 36 relating to public works infrastructure and will be provided as the development proceeds.

Water

During both the construction of Stage 1A and the approval process of Stage 1B the developer has undertaken to participate in a scheme that connects to a proposed recycling system to be located in the nearby sewer treatment works. During the construction of Stage 1A all pipes and fittings relating to this dual reticulation system were constructed and are currently in place. The dual system is awaiting finalisation of the treatment facilities prior to commissioning. Stage 1B was conditioned to extend and connect to this scheme. It is proposed to ensure that the lots within this application are also connected to this scheme.

In regards to potable water supply, there are further reticulation mains required and there will also be an additional connection to the adjoining reservoirs required to supplement the water pressure and ensure continuity of supply. This overall water supply management concept was approved in conjunction with the Stage 1A construction certificate.

Electricity

The property adjoins an existing high-voltage electricity line which has been augmented to allow all lots to be serviced with electricity. Additional house service connections will be provided in accordance with normal Country Energy requirements.

Waste disposal

Waste disposal will be undertaken by the existing Kempsey Shire Council service which has sufficient capacity to service the additional lots proposed. All road access is suitable for garbage trucks.

Telecommunications

Stage 1A and stage 1B provided sufficient infrastructure to allow the proposed additional lots to be serviced. The normal reticulation requirements will be provided during the subdivision construction phase.

Gas

Reticulation gas supply is not available in South West Rocks. Individual lot owners have the option of connecting to bottled gas. No other arrangements are proposed in this regard.

5.4.1 Developer Contributions

Developer contributions shall be paid in accordance with the applicable rates at the time and in accordance with Kempsey Shire Council's applicable Section 94 plans.

5.4.2 Civil Infrastructure to be provided

In accordance with Kempsey Shire Council's DCP No. 36, road, stormwater, sewer and water mains will be provided to service the proposed allotments. The majority of the road frontages have been approved in Stage 1B. These roads include Belle O'Connor Street and Burrawan Drive. The local road between proposed Lots 641 to 608 will be designed in accordance with Council requirements with a road reservation consistent with the category 1 known as 'Access Place' as shown in Auspec design guideline Table D1.5. This shall include a reserve width of 15 metres and a pavement width of 7 metres.

The infrastructure required for residential lots fronting the roads constructed as part of the previously approved Stage 1B is limited to sewer reticulation, water service connections (mains will be in place) and service connections to electricity to electricity and Telstra (mains will be in place).

All allotments which form part of **Stage 1C** shall be fully serviced with direct connection to electricity, water, sewer and road. All necessary infrastructure services shall be provided within the proposed public road reserve and no easements are considered necessary.

Given that they are currently in common ownership the future development of all the **Stage 1C** lots will be considered in any and all infrastructure constructed as part of Stage 1B. This is common practice and a requirement of the Council when approving construction

certificates.

5.5 Traffic & Access

The proposed 55 residential allotments require the provision of one local road within the sites north-western corner. This road shall include two access points off Burrawong Drive. The first access point is proposed from the intersection (round-a-bout) of Burrawong and Rosedale Drive and the second is proposed to come from further west along Burrawong Drive. This road layout is consistent with the Master Plan approval 38-9-2004 and the Stage 1B approved under Major Project 05_0018 as shown in **Exhibit 9**.

In this regard, Environmental Resources Management (ERM) prepared a traffic impact assessment to address the internal and external impacts of the Master Planned development. As part of the assessment, traffic generation estimates for **Stage 1C** and Stage 2 of the development were assessed to ensure that road design would cater for any likely future development scenarios.

The Traffic report completed by ERM considered the traffic related impacts for the entire Master Planned 178 Lot subdivision including Stage 2 which lies to the east of the subject site and does not form part of this application. In this regard, the ERM report states (page 15):

*'...Development of the entire site was considered (i.e. existing Stage 1a plus new Stages 1b and 1c) so as to allow for a maximum level of traffic generation and a conservative assessment. It is assumed **Stage 1c** (currently subject to concept approval) would provide a further 66 allotments. Therefore the sum of Stage 1 development would be 201 allotments.*

The potential future development of land to the east was also considered as part of this traffic assessment. This is labelled as 'Stage 2' and it is estimated that this will possibly provide up to 250 low-density residential allotments'.

The Traffic Impact Assessment accompanied the master plan application for the 178 lot Seascope Grove residential subdivision. The ERM Traffic report was reviewed by the RTA and the regional traffic committee and their comments were incorporated into that version of the report submitted as **Appendix D**.

This report considered the relevant AUSTROADS standards, RTA guidelines and the provisions of the Kempsey DCP No. 36 'Guidelines for Engineering and Subdivision'.

The report also considered population projections for the South West Rocks locality and developed base data for year 2016 traffic flows. This assessment noted that in all cases 2016 traffic volumes are capable of being accommodated by the proposed road network.

No variations to the Master Plan or the road design or layout are proposed as a part of **Stage 1C** and the ERM traffic report submitted as a part of the draft EA is considered adequate to accompany this stage of the master planned development.

To separate the exact volumes generated by **Stage 1C** would not be possible given the nature and manner in which the report was written. That being, considerate of the entire Seascapes Grove 178 lot residential development and the future development of Stage 2 to the east of the site.

Given the concept approval granted by the **Master Plan 38-9-2004** and the fact that the traffic impact assessment completed by ERM is consistent with this approval, further analysis of the **Stage 1C** section of the development is not considered necessary.

The Traffic Impact Assessment completed by ERM is attached in full to this report as **Appendix D**. The following table demonstrates the proposals consistency with traffic matters as outlined in the DGR's.

5.5.1 Internal Road Network

The ERM Traffic Impact Assessment completed for the entire Seascapes Grove residential estate (existing Stage 1A, Stage 1B and **Stage 1C**) stated the following with respect to the proposed internal road network:

'... To promote residential amenity and reduce unnecessary hard-paved areas to meet stormwater objectives, it is proposed to provide a 7 metre sealed carriageway and 16 metre wide road reserve.

In this regard, it is noted that the proposed internal road (Road 8) extending off Burrawong Drive (Road 3) is proposed to maintain a 16 metre wide road reserve and a 7 metre wide bitumen seal. The proposed widths are consistent with the Master Plan approval 38-9-2004 (**Exhibit 9**) and are also consistent with the internal road network approved by the Department under the provisions of Major Project 05_0018 (Stage 1B).

Whilst this differs from the Type 1 Access Place provisions described under Table D1.5 of Kempsey DCP No.36, it is considered that the modification is considered acceptable as the Road reserve is 1m wider than that required by DCP No.36 and the road dimensions proposed are consistent with the approved plans (that being Master Plan 38-9-2004 and the Stage 1B approval).

It should also be noted that Road 8, extending off Burrawong Drive, shall be constructed in three stages, as per the staging outlined under Section 1.3. In this regard, the southern extension of Road 8 shall be constructed in conjunction with Precinct E2 (lots 601 to 613) and the northern extension shall be constructed as a part of Precinct F1 (lots

629 to 636). The final extension of Road 8 (running north-south) shall be constructed in conjunction with Precinct F2 (lots 637 to 654).

The staged construction shall ensure that the land is released in an economical and logical manner with minimal disturbance to existing and future residents. Road 8 has been designed to incorporate this staging approach and includes widened turning heads to accommodate the traffic generated within the individual precincts.

5.5.2 Construction Traffic

All significant roads shall be constructed prior to any of the lots in **Stage 1C** being created. The previous approval (Stage 1B, Major Project 05_0018) put in place requirements to submit these plans before construction commences.

The proposal shall not require import of a significant quantity of material and therefore shall not create large amounts of construction traffic. The fill required in relation to **Stage 1C** is detailed under Section 5.6.5 of this report.

To minimise disturbance to existing and adjoining residents, it is proposed to deliver the imported material to the site as a part of Stage 1B. That being, via the secondary emergency access gate off Arakoon Road in the subject sites south-eastern corner. This is an existing collector road that carries heavy traffic, including traffic that uses the existing Waste Disposal Facility. The trucks would then enter the site in the general vicinity of the proposed secondary bushfire access gate also within the sites south-eastern corner.

This access arrangement is considered acceptable. The land which is utilised to access Lot 124, that being Lot 22 DP1071657 is currently owned by William Barry Walls and Margaret Elaine Walls (the proponents of the subject application). It is therefore suggested that whilst no Right of Carriageway is currently in place, if, by any chance the land was to be offered for sale, it is considered that the necessary right of carriageway could be put in place prior to the sale of the land. This arrangement would also apply to the fire access trail over lot 22 required as a part of the Stage 1B application. The temporary access will be converted to the alternative emergency bushfire egress following completion of construction.

It is considered that a suitable condition of consent could be placed on any consent issued in relation to **Stage 1C** to ensure that the land is not sold prior to a suitable easement being put in place.

Table 5 – Consistency with Traffic Matters		
Traffic Matter	Consideration/Assessment	Appendix D Section
The capacity of the road network to safely and efficiently cater for the additional traffic generated;	The capacity of the internal and external road network was assessed by ERM in 2006 as a part of the Stage 1B Major Project application. This assessment noted that in all cases, 2016 traffic volumes are capable of being accommodated by the proposed road network	Section 2
Access to and within the site with particular justification provided for including the number of site access points to residential and commercial areas;	Access to the site is gained via Belle O'Connor Street which is a standard collector road. ERM's traffic assessment assessed the sufficiency of the proposed road network for all of Stage 1 and Stage 2. The ERM assessment noted that the proposed road network allows a medium to long-term link through to Arakoon Road and adequately services the proposed residential areas.	Section 2.2
Servicing and parking arrangements including internal traffic movement / hazards;	The road layout is sympathetic to the topography of the site, utilises T-intersections and maintains a logical, permeable and flowing two-way street pattern without cul de sacs. Internal traffic movement numbers and calculations are demonstrated in the ERM report attached as Appendix D (see Figure 2.2, and Sections 2.3 and 4.2).	Sections 2.3 and 4.2
Intersection site distances;	The proposed road network is consistent with the requirements of Kempsey Shire council DCP No. 36, the Coastal Design Guidelines for NSW and the applicable RTA requirements.	Sections 3.2 and 4.4
Connectivity to existing developments;	The existing four way round-a-bout which forms the intersection of Belle O'Connor Street and Gregory Street is the primary link road for the surrounding residential development areas and the proposed development. The ERM assessment of this major access point, using aaSIDRA modelling, noted that the highest average delay is 9.4 seconds and that the intersection shall operate at a Level of Service A during peak hours. Ultimately, the ERM assessment notes that <i>'...the proposed development would not alter this level of service'</i> .	Sections 2.2 and 4.4
Impact on Public Transport (including school bus routes);	The existing bus routes along Gregory Street are serviced three times daily and the nearest existing bus stop is located adjacent to the Gregory Street shopping centre. The approved Master Plan provided 4 bus stops, 2 of which are located adjacent to Stage 1C outside proposed Lots 601 and 622.	Section 2.5
Provision of access for pedestrians and cyclists to, through and within the site; and,	Pedestrian facilities are proposed throughout the estate and shall compliment the existing footpaths constructed as part of Stage 1A and 1B. The footpath constructed as a part of Stage 1A along Belle O'Connor Street links to footpaths existing in Gregory Street. There are however, no designated pedestrian crossings, other than a raised median, in Gregory Street providing pedestrian refuge for pedestrians wishing to gain access to 'The Rocks Shopping Fair'.	Sections 2.5 and 3.2
Identify suitable mitigation measures, if required to ensure the efficient functioning of	No other measures outside of those proposed are considered necessary to ensure that the road network functions efficiently.	Section 4

the road network.		
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5.6 Hazard Management & Mitigation

5.6.1 Contamination

A Geotechnical investigation was undertaken by Chandler Geotechnical Pty Ltd in September 2003 (**Appendix I**). This investigation tested the subject sites subsurface conditions and found that there are no soil contamination issues which would likely pose constraints to development.

5.6.2 Acid Sulfate Soils

The Chandler Geotechnical report completed in September 2003 (**Appendix I**) also tested for Acid Sulphate Soils (ASS).

The results of the Chandler report in regard to ASS notes that the '*...material to be NOT potential acid sulphate soil*' within the vicinity of the proposed detention basin. The report also noted that the soils in the **Stage 1C** area consisted of sandy topsoil, sandy clay residual soils and weathered siltstone/sandstone at depth.

From **Figure 7** (below) it is estimated that approximately 8ha of the subject site is identified within a 'low risk' acid sulphate soils area. This area is located in low lying land situated in the north of the subject site outside of the **Stage 1C** residential locality and forms part of the proposed drainage area.

Overall, no constraints to development are posed by soil conditions or Acid Sulphate Soils within the **Stage 1C** development envelope.

Excavation for **Stage 1C** will not exceed 0.5 metres below the natural ground surface which is significantly less than the 3 metres ASS depth shown on the enclosed figure.

The following Figure details the subject sites existing areas of Acid Sulphate Soil as identified by ERM in September 2004.

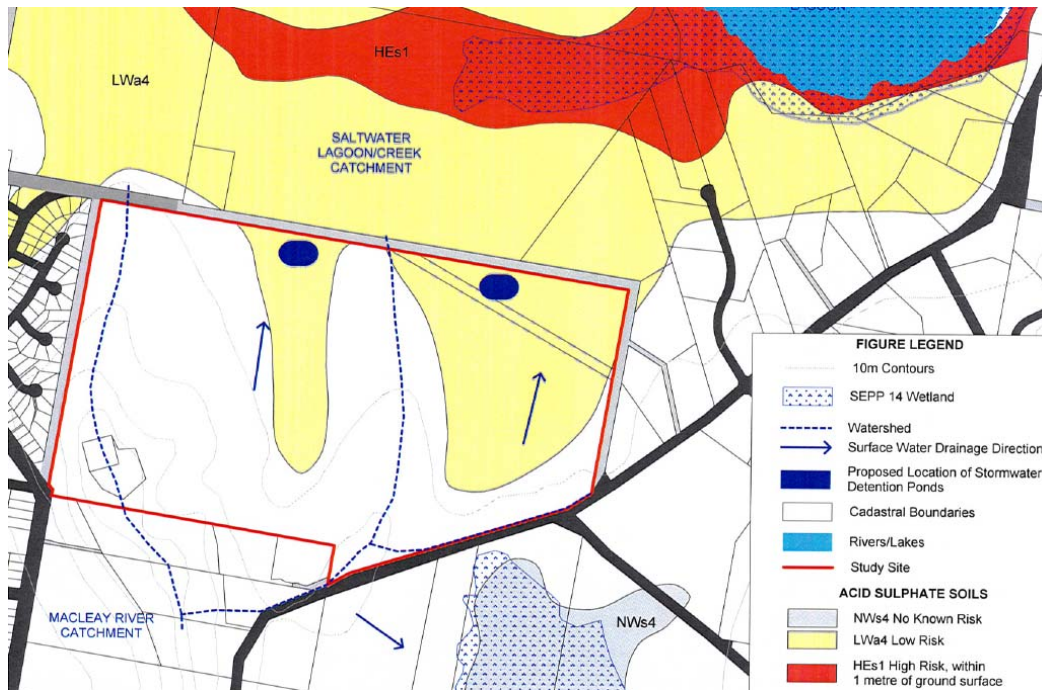


Figure 7: Acid Sulphate Soils

5.6.3 Bushfire

A bushfire risk assessment report has been undertaken by Australian Bushfire Protection Planners Pty Ltd (ABPP, Mr. Graham Swain) with regard to the **Stage 1C**, the provisions of the *Rural Fires Act 1997*, the *Environmental Planning and Assessment Act 1979* and *Planning for Bushfire Protection 2006*. The ABPP Report is included as **Appendix A**.

The report notes that the land within **Stage 1C** contains open grassland vegetation and scattered patches of remnant forest predominately located on the ridge-slope within the south-western corner of the site.

The proposed subdivision design has incorporated manners to manage bushfire risk, namely Asset Protection Zones (APZ's), access and water supply arrangements. Given the properties disturbance history, the land to the south-west of proposed Lots 614 to 617 consists of grazed and cleared 7(d) land and therefore provides a natural APZ to those properties. Lots 618 to 622 however, are located adjacent to 7(d) land and which, due to its slope, has predominately remained unmanaged and therefore these lots require the provision of 8 metre wide APZ's within the rear of each lot.

The Management of Lot 800, including the proposed APZ's detailed in Exhibit 8, have been considered by Mr. Graham Swain of ABPP. Mr. Swain has stated (email dated 24 November 2008) that in order to ensure that Level 1 construction can occur over proposed Lots 605-617

a 20 metre asset protection zone '*...should be provided by way of a positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) over Lot 800, measured from the 'rear' (& side) boundaries of Lots 605-617*'.

Mr. Swain also stated that '*...the management of the easement shall rest, in perpetuity, with the owner/s of Lot 800. Management shall be undertaken by regular slashing of the grass and removal of combustible material (i.e. leaves and tree branches etc). In its present state this would not place an onerous burden on the owner/s of Lot 800 as the vegetation predominately consists of grazed grassland*'.

In conclusion, the ABPP bushfire risk assessment notes that the proposed subdivision is consistent with the requirements of the *EP&A Act 1979*, the *RF Act 1997* and the provisions of *Planning for Bushfire Protection 2006*, including the deemed-to-satisfy provisions set out in Chapter 4.

5.6.4 Geotechnical

With the exception of future development lot 700, there is no site filling required within the proposed **Stage 1C** development area. However, some excavation and stripping of top soil may be necessary.

The Chandler Geotechnical report (**Appendix I**) noted that the **Stage 1C** area of the site ('the remainder of the site') is '*...associated with higher and better drained parts of the site. Subsurface conditions comprise topsoil to depths of around 200mm to 300mm thickness overlying orange/brown residual sandy clay. Slopewash material of up to 0.4 metre thickness was encountered between these two layers in some of the test pits. The orange/brown sandy clay layer tends to be underlain by extremely to highly weathered siltstone/mudstone at varying depths*'.

The Acid Sulfate Soils Testing undertaken by Chandler Geotechnical in May 2003 indicated that the proposed north-eastern detention basins location did not contain potential Acid Sulfate Soils.

The gradient change between Lot 700 and the drainage swale are detailed in the cut and fill plan included as **Exhibit 16**.

5.6.5 Flooding & Filling

Information provided by Kempsey Shire Council to ERM as a part of the Master Plan application stated that the '*... 1 in 100 year flood level in the Macleay River valley indicates the nearest flood-prone land to the study site in this catchment is located adjacent to Spencers Creek, approximately 600 metres to the south-west of the study site*'.

Therefore, it is noted that the only part of the subject site which is potentially subject to flooding is the area of low-lying land in the north-east corner of the subject site, identified to contain the proposed

drainage reserve. Flooding is therefore not considered to pose a potential constraint to development within **Stage 1C**. Proposed Lot 700 however, will require filling to ensure that it is above the current 1 in 100 year flood level, which is currently 3.5 metres AHD for the subject site.

The filling and stormwater systems to be constructed on site were assessed in the Water Management Plan for pre and post development flows and was based on the draft 'flood study for Saltwater Lagoon' prepared by Kempsey Shire Council in 2004.

The proposed filling ensures that all allotments are above the 3.5m AHD 1 in 100 year flood level. The filling ensures that all allotments are in fact above 5.3m AHD. These measures therefore ensure that the proposal is protected from both the 1 in 100 year storm event and also the 1 in 100 year flood level from the Saltwater Creek, which is located to the sites south-west.

Exhibit 6 demonstrates the location of the 1 in 100 year flood affected area and details the portion of the subject site which is identified for filling.

In order to raise the surface level of lot 700 from the existing RL 4.5 m AHD to be proposed RL 5.5 to 5.9 m AHD as shown on the attached filling plan there is a need to import suitable fill material and undertake civil works. In this regard the application seeks approval to undertake the filling works to allow them to be completed in conjunction with the civil works proposed as part of Stage 1B. In completing all earthworks simultaneously the development minimises the disruption and allows the use of more efficient earthmoving equipment and allows for minimal disruption to any adjoining properties.

The details of the fill required are as follows:

- Total fill requirement: 16,700 m³
- 417 truckloads (based on Truck and Dog of 40 m³) (total truck movements 834)

It is proposed to complete the works over approximately 16 working days which would require 27 truckloads per day with approximate intervals of 20 minutes.

One of the key concerns in trying to undertake this work in conjunction with the Stage 1B works is that the filling can be transported to the site via Arakoon Road and the proposed bushfire access track that will be in place. This will eliminate the need for any of the truck movements to pass through residential portions of South West Rocks. The transport route would be via Gregory Street and then Arakoon Road. Arakoon Road is a known commercial vehicle route as immediately adjacent to the entry point for the filling is the current location of the town's waste disposal facility.

By undertaking the filling simultaneously with the Precinct A of Stage 1B civil works there can be a consistent level of monitoring, a consistent level of environmental attenuation as regards dust and noise and the entire exercise is completed as efficiently and quickly as possible.

The volumes of fill required in relation to proposed Lot 700 are detailed in the attached Filling Plan. The bulk of the area requires between 0.5m and 1.5 of fill, with some small areas requiring slightly above 1.5m depth.

The likely sources of fill are currently unknown. Given the regional nature of the locality it is considered likely that fill may be required to come from outside of the South West Rocks area. However, it is our client's intention to ensure that the fill is sourced from the local area where available. All fill to be imported to the site will be either VENM (virgin excavated natural materials) or suitable for classification as 'inert' under NSW DECC guidelines. Ideally with a lengthy development time it may be possible to utilise any large excavation within South West Rocks.

To minimise disturbance to existing and adjoining residents, it is proposed to deliver the imported material as per the delivery of material delivered to the site as a part of Stage 1B. That being, via the secondary emergency access gate off Arakoon Road in the subject sites south-eastern corner. This is an existing collector road that carries heavy traffic, including traffic that uses the existing Waste Disposal Facility. The trucks would then enter the site in the general vicinity of the proposed secondary bushfire access gate also within the sites south-eastern corner.

In regard to flooding, the overall Seascope Grove development was tested against the relevant objectives of the Saltwater Creek Management Plan in the Stormwater Management Plan Annexure 11. In particular the Flood planning levels set out in the Saltwater Creek management plan were reviewed in relation to the proposed development. The Stage 1B major project application specifically dealt with the potential for any impact on the floodplain of the Saltwater Creek lagoon.

The identified 1:100 year flood level for the site is RL 3.2m AHD. The PMF level is RL 4.5 AHD. These levels are derived from Saltwater Creek Flood Study (WBM Oceanics 2006).

The proposed road vertical geometry is dictated by the adoption of a stormwater level of 3.6m AHD at the outlet and the pipe sizes of 1.05m diameter. This outlet level has been chosen to ensure that there is no requirement for deep drainage outlet paths in the adjoining property to the north. The result of these constraints is a minimum road level of approximately 5.7m AHD. The adjoining lots are above this level and are therefore well above both the 1: 100 year flood and the PMF.

It is considered that the appropriate planning level for flooding is the 1:100 year level of 3.2m AHD. Kempsey Shire Council requires a freeboard above this level of 0.5m making a minimum floor level of RL 3.7m AHD.

The proposed lot 700 has an approximate existing level of RL 4.5 m AHD. It is proposed to undertake filling works to raise this level to the approximate adjoining level of Belle O'Connor Street which is RL 5.9 to RL 5.5 AHD.

There is no impact from the proposed or future development or the proposed stormwater detention and quality control measures on the 1:100 year floodplain.

The PMF contour of 4.5m AHD extends onto the existing natural surface of the development by a very small margin. The impact on the PMF floodplain is approximately 0.02% of the 8.7 square kilometre catchment.

Given that the Saltwater Creek Flood Study WBM Oceanic 2006 describes the PMF as:

"Extreme Flood/PMF – A hypothetical flood or combination of floods which represents an extreme scenario. It is only used for special purposes (eg. Design of a dam spillway) where a high factor of safety is recommended."

It is submitted that this area of encroachment is sufficiently minuscule as to be inconsequential.

As previously stated this matter was reviewed in the Stage 1B assessment. The proposed design natural surfaces and arrangement are in accordance with the previous assessment.

The filling and stormwater system to be constructed on the site as part of the development was assessed in the Water Management Plan (King & Campbell 2006, Appendix E) as a Part of the Stage 1B Major Project, and considered pre-and post development flows. This was based on the Draft Flood Study for Saltwater Lagoon (Kempsey Shire Council 2004). The 1:100 year ARI flood level at the site is approximately 3.5 metres, with the PMF flood approximately 4.5 metres. The filling dictated by the drainage measures ensures that all allotments are above 5.3m AHD. The extent of the filling is shown on Sheet 13 of the Engineering Plans (Appendix E).

It was found that the proposed measures provide protection for the 1:100 year storm event from the site and also the 1:100 year flood level from Saltwater Creek. The proposed detention basin limits discharges from the site to pre-development flows for a range of storms up to and including the 1:100 year event.

5.6.6. Erosion and Sediment Control

With the exception of Precinct F2 (Lots 638 - 654), lots within this application will have all necessary roadworks and earthworks constructed as part of the previous Major Project approval. The significant erosion and sediment controls will therefore form part of the plan for that stage.

Given that all major earth and roadworks are completed, the sources of erosion and sediment removal are significantly reduced. For example, there will be no stockpiles created as part of this stage. The focus of control measures for this stage will be on service trenches and the protection of erosion from trench backfill. The majority of controls will involve sediment fencing around the open trench and the provision of bunting around stormwater pit inlets. In addition, to these measures the early re-establishment of the grass cover will be an important measure to attenuate the effects of siltation.

The small new road will be undertaken with similar provisions. This area has no upstream catchment and can be adequately protected using standard lot management construction techniques, including restriction of construction traffic away from established grassed areas, to minimise site disturbance.

As part of the previous Major Project approval a siltation and erosion control management plan is to be prepared prior to the issue of the Construction Certificate. This plan will also include the works involved in the subject stage. The works will also be carried out in accordance with Kempsey Shire Council's existing policies and specifications regarding sedimentation and erosion control.

Given the implementation of these measures we believe any adverse impacts can be properly ameliorated

5.7 Water Cycle Management

No water cycle management measures will be implemented as part of **Stage 1C**. All the measures proposed will already be in place as part of the Stage 1B approval (refer **Exhibit 11** and **Appendix E**). These include:

- Dual water reticulation.
- Water quality control system
- Stormwater detention facilities.
- Exemption from the Basix requirements based on dual water reticulation.

The SMP was submitted by ERM as a part of the Stage 1B Part 3A application. The SMP sets out the strategies for the management of stormwater on the site and for design of stormwater control measures that address issues relating to stormwater quantity and stormwater quality. The SMP details the water quality control factors and devices proposed to ensure that the development has no net increase in pollutant loads or peak discharges into receiving waterways.

The stormwater quality approach relies on five (5) broad treatment techniques which are described in detail in the SMP, the techniques include:

- Buffers Strips – plantings between the concrete footway and the road pavement;
- Median Swales – centre draining separated carriageway located over existing gully;
- Gross Pollutant trap – installation of a gross pollutant trap into the stormwater discharge pipeline immediately prior to discharge into the infiltration basin;
- Infiltration Structures – proposed at the end of the discharge pipes to strip dissolved pollutants from the runoff; and,
- Sediment pond

The stormwater system was designed in accordance with Kempsey Shire Council's development specification D5, with a pipe capacity for a 1:5 year storm with overland flow routes to cater for the 1:100 year storm.

As part of the overall stormwater runoff model a wet detention basin was included immediately upstream of the existing discharge point at the north eastern corner of the site. The pond will have a permanent water level of RL 3.5 with a maximum height of RL 5.02 in a 1:100 year event. The pond has a low level outlet comprising four 750 diameter pipes and a high level overflow weir for major storm events. Details of the stormwater detentions basin controls are as shown on sheet 16 of the engineering plans.

An objective of the design is to satisfy the DGEAR requirement that the proposal demonstrates compliance with the 1:100 year flood.

The SMP also includes the implementation of the Integrated Water Cycle Management Strategy (IWCMS) that has been adopted by KSC. This strategy includes the implementation of a dual use scheme which has previously been accepted by the Department of Planning and registered as a Basix compliance tool.

The SMP also addresses the Saltwater Creek & Lagoon Estuary

Management Plan which is addressed earlier in this report under Section 4.10.4.

5.7.1 Water Sensitive Urban Design

The WSUD measures have been previously implemented in Stage 1B. The approval of the water management plan in that stage satisfies the requirements for **Stage 1C**. The comments in relation to Stage 1B as provided in the Environmental Assessment submitted by ERM in August 2006 states the following:

A water recycling scheme is proposed which provides dual water reticulation throughout the development. This is a key element of the Integrated Water Cycle Management Strategy (IWCMS) adopted by Kempsey Council. Stage 1a allotments have implemented the dual-reticulation scheme, with the potable and recycled water mains in place.

The subdivision will also accommodate re-use distribution mains by allowing the flow of recycled water from the South West Rocks Sewage Treatment Plant into an existing disused Council reservoir on the ridge to the south of the site.

This allows the use of recycled water to be extended into other parts of South West Rocks, including existing sporting grounds and future residential areas. The scheme has been registered by the NSW Department of Planning as part of the BASIX compliance tool. The benefits of the water reuse scheme are:

- A reduction in the nutrient-laden loads from the South West Rocks Sewerage Treatment Works for disposal into the sandhills along the coast;
- A reduced demand for non-potable water supply;
- Reduced pressure on the groundwater sources from which water extraction currently takes place; and
- Promoting awareness of the water cycle via the dissemination of educational material to residents.

Stormwater Management and Water Quality were also considered as a part of the Stage 1B application and included consideration of the lots proposed as a part of **Stage 1C**. In this regard, the comments provided in the Environmental Assessment submitted by ERM in August 2006 state the following:

The piped stormwater system was modelled using "Drains" simulation software for the entire catchment. The system is indicated in the enclosed engineering plans. The pipe capacity has

been designed for a 1:5 year storm with overland flow routes to cater for the 1:100 year storm in accordance with the established major/minor approach to urban stormwater design. A wet detention basin has been included immediately upstream of the existing discharge point in the north eastern corner of the site. The pond will have a permanent water level of RL 3.5 with a maximum height of RL 5.02 in a 1:100 year event. The pond has a low level outlet comprising four 750mm diameter pipes and a high-level overflow weir for major storm events.

5.7.2 Stormwater & Stage 1C

Isolating the measures that are unique to **Stage 1C** cannot be achieved without considering the entire Master Planned (178) lot development within which the stormwater management measures were developed.

The Water Management Plan (**Appendix E**), completed by King & Campbell Pty Ltd (July 2006) was approved as a part of MP_05-0018 and addressed the entire Seascope Grove Master Planned estate.

It is not possible to separate the water that discharges from **Stage 1C**. It is therefore appropriate and in fact has been included in Stage 1B. All of the stormwater quality measures will be constructed as part of the stage 1B approval. The appropriate measures will be established and functioning before any work can proceed on the **Stage 1C** lots. This is based on the approved staging arrangement of Stage 1B. This approval is a natural and orderly process to provide the additional lots. We cannot, and in fact will not, separate **Stage 1C** from the main (master planned) strategy because they are considered on an overall basis. One purpose of the Stage 1B approval was to effectively approve the necessary strategies for **Stage 1C**.

The reason the **Stage 1C** lots were not included in the first approval was twofold. The first of these reasons was the requirement for a visual assessment and the second was the exceptionally onerous requirements of the Planning for Bushfire Regulations 2001. The 2006 changes to the bushfire regulations have made asset protection measures more realistic in terms of the production of the **Stage 1C** lots.

The Department specifically should be aware of the previous history of approvals. We understand that the individual staff have changed however, the assessment of the Stage 1B approval was basically made knowing full well that a subsequent application would be lodged for **Stage 1C** at some time in the immediate future. We do not believe it is appropriate to review the measures approved in Stage 1B that are wholly consistent with the **Stage 1C** application.

5.8 Heritage & Archaeology

During the preparation of the Master Plan application, searches were undertaken by ERM, of the following resources to determine the

presence of any known items of heritage significance on or near to the subject site:

- NPWS register of Aboriginal significant sites;
- State Heritage Inventory (NSW Heritage Office);
- Kempsey Shire LEP 1987; and,
- Register of National Estate (Australian Heritage Commission).

The above searches revealed that there are no sites of Aboriginal or non-aboriginal heritage significance known to occur on the subject site. In addition to the above searches a site inspection was undertaken by the Kempsey Local Aboriginal Land Council on 13 August 2004. No artefacts were observed on the ground surface during this inspection.

An Aboriginal Heritage Assessment was also undertaken by ERM in May 2007 over the entire subject site (**Appendix C**). The assessment concluded that '*...there is minimal to no potential or undetected Aboriginal Heritage material located within the study area*' (subject site).

In addition to the above, consultation was undertaken in accordance with the *Draft Guideline for Assessment of Impacts on Aboriginal Heritage*. In this regard, the following consultation was undertaken:

- An advertisement was placed in the Macleay Valley Argus on 18 November 200; and,
- Letters were sent to the Department of Environment & Climate Change, Kempsey Local Aboriginal Land Council, Kempsey Shire Council, NSW Department of Aboriginal Affairs and the Native Title Services Corporation.

The Advertisement, as it appeared in the Macleay Valley Argus (18 November 2008) is included as **Appendix O**.

5.9 Flora & Fauna

Darkheart Eco-Consultancy undertook a statutory Ecological Impact Assessment of the subject site in December 2007 (**Appendix B**). The report fulfils the legislative obligations associated with a project of this nature and includes consideration of the following:

- The provisions of Clause 5 of the *Environmental Planning & Assessment Act 1979* (seven part test);
- The provisions of the Environment Protection Biodiversity Conservation Act 1999;

- The provisions of State Environmental Planning Policy No. 44 – Koala Habitat Protection;
- The provisions of the Threatened Species Conservation Act 1995; and,
- The provisions of the Native Vegetation Act 2003.

The Darkheart flora and fauna survey did uncover the presence of the threatened Squirrel Glider (*P. norfolcensis*) and previous studies of the area were noted to have recorded the little-bent wing bat, the eastern freetail bat, the common bent-wing bat and the grey headed flying fox. All were subject to the requirements of the statutory seven part test.

Darkheart note (p.87), in relation to the Squirrel Glider, that the proposed habitat reduction is '*...considered relatively insignificant. This is due to the retention of the majority of known or potential habitat together with links to surrounding land; and the retention of most of the key habitat components i.e. tree hollows are most abundant in the 7(a) zone*'.

Overall, Darkheart (p.87) state that '*...the proposal is not considered likely to result in an impact that may significantly affect the lifecycle of the local population of any of the subject species to the point of increasing extinction risk, especially given the extent of alternative known/potential (and generally better quality) foraging and/or roosting/nesting habitat available to the local population of the subject species on the property and interlinked to adjacent habitat*'.

No Endangered Ecological Community or population as identified under the Threatened Species Conservation Act 1995 was identified on site, nor have any areas of critical habitat been identified.

The Darkheart report noted that the site has a substantial disturbance history predominately related to previous agricultural pursuits which were undertaken on the site and surrounding rural lands. Some ecological values have however been retained and incorporated into the proposed design and layout of the proposed residential development.

5.9.1 Threatened Species (7 Part Test)

Darkhearts Flora and Fauna Assessment also completed a seven part test on the site with regard to potential impacts of the development on Koala's.

Part 9(f) of the summary of the report notes that '*...no koala population has an association with the site*' and that the '*...relatively marginal quality of the habitat to be affected, the minor area of habitat to be removed, the extent of habitat to be retained on the property, and the abundance of similar habitat on adjacent land and in the direct locality; the loss is considered to be insignificant to the long-term recovery of the*

species'. No preventative measures are therefore considered necessary.

Darkhearts report also considered previous ecological assessments of the locality, including Umwelt 2004. The report notes that whilst the site is recognized as potential Koala habitat it is '*not core Koala habitat*'. Furthermore, no Koala's were recorded on site despite utilization of spot assessment and the use of call back equipment during the spring period, which is typically a period of high activity for most fauna.

5.9.2 Design Restrictions

Specific design restrictions formulate part of the Seascope Grove Building Covenants, these include:

Fencing onto parkland – Where allotments back or abut parkland the fencing for these lots shall be black looped pool fencing.

Waldel Park Pty Ltd will construct the fencing along specified boundaries throughout Seascope Grove – this fencing is not to be tampered with, removed or added to in any way.

Animals - No animal, livestock, or poultry shall be brought onto, raised, bred or kept on the Land without the prior approval of the local authority, other than a domestic cat or dog registered with the local authority. Cats are to be restrained on the property/allotment from sunset to sunrise to prevent wandering/creating nuisance.

The Seascope Grove design restrictions are detailed in **Appendix P**.

5.9.3 Vegetation Loss

It is noted that 43 trees of the 70 trees identified by Darkheart (p.6 of Summary) are identified for removal as a part of Stage 1C. 104 trees within the **Stage 1C** area are identified to remain. Our calculations find that this equates to an approximate loss of vegetation of 810m² (or 0.081ha). This calculation will be confirmed with Darkheart and submitted with the final EA.

The majority of vegetation occurring on site is contained on the existing ridge which shall be retained within proposed Lot 800 and the 7(d) scenic protection zone. As stated above, the proposal requires the removal of a minimum number of trees. The trees were selected for removal based on their existing condition and potential conflict with building envelopes, proposed utility services, sewer and stormwater pipes.

The protection of this vegetation as a part of proposed Lot 800 shall ensure that the foraging capacity of the property shall not be reduced detrimentally and that the majority of habitat components shall be retained, therefore maintaining the property's current connectivity and

carrying capacity. This is evidenced in Darkhearts report (p.90) which notes that the '...overwhelming majority of key habitat components will be retained and overall the property's current connectivity and carrying capacity for all of the known/potentially occurring threatened species should be largely retained'.

It is also noted that the Stage 1B approval included mitigation and protective measures which relate to the development as a whole, including **Stage 1C**. These measures included the preparation of Tree Plan of Management prior to issue of the first Construction Certificate. This Tree PoM is required to include measures to protect existing trees during felling and excavation works, the provision of nest boxes, and the provision of buffers around trees identified to remain.

In this regard, nest boxes are required to be provided at a ratio of 3 nest boxes for every hollow tree removed and the ongoing requirements associated with vegetation protection are to be detailed within the Tree PoM.

The Tree PoM is also required to include provisions to ensure the management and protection of the 7(d) zone including the provision of nest boxes as described above and the provision of suitable fencing to ensure that fauna movement is not restricted.

Overall, there is no direct offset measure considered necessary as a part of **Stage 1C**.

5.10 Consultation

The DECC document 'Interim Community Consultation Requirements Guideline (2004)' for Aboriginal consultation sets out the process of inviting Aboriginal groups to register interest as a party to consultation seeking responses and comment on the proposed assessments and recommendations associated with an application under Part 6 of the *National Parks and Wildlife Act 1974*.

The original Master Plan assessment undertaken by ERM involved local press advertisement and written correspondence to various Aboriginal groups including the Kempsey Local Aboriginal Land Council (KLALC).

An inspection of the site was undertaken by representatives of KLALC on 13 August 2004. A letter report dated 17 August 2004 was produced by KLALC and is included as **Appendix M**. The report stated that there were '*...no finding of artefacts on top of the properties*'. The report also recommended representatives of the KLALC be present whenever any soil is turned '*...especially for the first six inches of the soil*'.

In addition to the above, consultation was undertaken in accordance with the *Draft Guideline for Assessment of Impacts on Aboriginal Heritage*. In this regard, the following consultation was undertaken:

- An advertisement was placed in the Macleay Valley Argus on 18 November 200; and,
- Letters were sent to the Department of Environment & Climate Change, Kempsey Local Aboriginal Land Council, Kempsey Shire Council, NSW Department of Aboriginal Affairs and the Native Title Services Corporation.

The Advertisement, as it appeared in the Macleay Valley Argus (18 November 2008) is included as **Appendix O**.

Section 6

Draft Statement of Commitments

The commitments listed in this draft Statement of Commitments have been derived from the findings of the Environmental Assessment and associated specialist reports.

The aims of the draft Statement of Commitments are to ensure that the proposal satisfies the following aims:

- To ensure that the development satisfies all applicable statutory requirements;
- To ensure that the development is consistent with all non-statutory policies and guidelines applicable to the proposal;

The proponent is committed to responsible management of the project and to minimising potential adverse impacts that may arise from the proposed works. The following table outlines the commitments the proponent makes in relation to the project application:

Proponent	King & Campbell Pty Ltd
Proponents Address	PO Box 243, Port Macquarie, NSW
Owner	Waldel Park Pty Ltd
Owners Address	4/1 River Road (west), Parramatta, NSW, 2150
Subject Site	Lot 124 DP1097510, Belle O'Connor Street, South West Rocks, NSW
Proposal	56 Lot Residential Subdivision

Table 6 – Draft Statement of Commitments			
No.	Issue	Commitment	Timing
1	General	The development will be carried out in accordance with Environmental Assessment Report (EAR), prepared by King & Campbell Pty Ltd 2008, and supporting reports, except where amended by other items of this Statement of Commitments.	For the duration of the subdivision
2	Staging	Completion of the development in accordance with the staging set out on the Project Application plan.	For the duration of the subdivision
3	Construction	<p>Works shall not commence until such a time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Kempsey Shire Council upon application being made or from an accredited certifier.</p> <p>Construction work shall be confined to 7:00am to 6:00pm, Monday to Fridays and 7:00am to 12:00 noon Saturdays.</p> <p>Clearance of hollow-bearing trees within the identified survey area shall be completed in accordance with the procedures identified by Umwelt (2004) to minimise the impacts to any arboreal fauna present.</p> <p>All heavy vehicles shall enter the site from Belle O'Connor Street.</p> <p>Any fill required to be imported to the site shall be either '<i>virgin excavated natural materials</i>' or suitable for classification as inert under the Department of Environment & Climate Change Guidelines.</p> <p>Provide AS2870 (Residential slabs and footings) classification of all lots created.</p> <p>Completion of the civil work shown in the engineering plans and in accordance with Kempsey Shire Council's AusSpec Construction Specifications.</p>	For the duration of the subdivision
4	Statutory Requirements	<p>The following approvals will be obtained and maintained for the residential subdivision:</p> <ul style="list-style-type: none"> Construction Certificate from Kempsey Shire Council or other Accredited Certifier; Subdivision Certificate issued from Kempsey Shire Council; Section 138 Consent for roadwork under the Roads Act 1993; Country Energy certification; Telstra certification; Macleay Water Compliance certification; Department of Land and Property Information registration; <p>Two days prior to commencing work Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Kempsey Shire Council in accordance with the Environmental Planning and Assessment Act/ Regulations.</p> <p>A final plan of subdivision and Section 88B instrument will be prepared for the development. The Section 88B instrument will provide easements for utility services that encroach onto private land or public reserves.</p>	For the duration of the subdivision
5	Landscaping	<p>Local plant species shall be utilised to rehabilitate public areas as specified in the Landscape Principles Plan prepared by King & Campbell (July 2006).</p> <p>Flammability of vegetation chosen – avoidance of continuity of vegetation to ensure minimal flammable fuels present.</p> <p>All trees to be planted within the proposed public roads and reserves shall be identified on engineering plans submitted to Kempsey Shire Council with the Construction Certificate application.</p>	Prior to the release of the subdivision certificate.

		<p>All trees that are unsuitable for retention, or have been identified for removal due to the provision of services or infrastructure shall be removed and mulched on site.</p> <p>Timber will be recycled as mulch throughout the landscape strategy.</p>	
6	Soil Erosion	Seascapes Grove will prepare a soil and water management plan to control runoff during construction in accordance with the principles of the Landcom publication <i>Managing Urban Stormwater (MUS): Soils and Construction Volume 1, 4th Edition</i> and Construction Certificate plans approved by Kempsey Shire Council.	Prior to the release of the construction certificate.
7	Public Open Space Dedication	Public open space, including areas containing stormwater management facilities, will be dedicated to Kempsey Shire Council.	Prior to the release of the subdivision certificate.
8	Ecological Management	Timber will be recycled as mulch throughout the landscape strategy.	For the duration of the subdivision
9	Archaeological	<p>If any artefacts or sites of Aboriginal significance are uncovered during site works, all work shall cease immediately and the NSW Department of Environment and Climate Change shall be notified immediately to advise of the requirements prior to re-commencing works.</p> <p>Local Aboriginal Land Council representatives shall be present during disturbance of the upper 20cm of natural soil during earthworks on the site.</p>	During construction.
10	Bushfire	<p>Asset protection zones shall be provided to the western boundaries of proposed Lots 618 to 622 inclusive. An 88B instrument shall ensure that proposed Lots 618-622 inclusive and proposed Lot 700 adequately manage the nominated Asset Protection Zones and combustible fuels within the landscaped gardens.</p> <p>Seascapes Grove will install fire hydrants in accordance with Australian Standard S2419.1-1994. Hydrants will be made accessible and located so that a tanker can park within a distance serviceable by a 20 metre hose and so that all houses are within 70 metres of a hydrant</p> <p>Fuel management within the Asset Protection Zones shall be in accordance with the recommendations of Appendix 5.4 & 5.5 of <i>Planning for Bushfire Protection 2006</i> and the Rural Fires Service 'Standards for Asset Protection Zones'.</p>	Prior to the release of the subdivision certificate.
11	Public Utilities	<p>Seascapes Grove will provide reticulated potable and non-potable water supply, sewerage and underground electricity to each residential allotment.</p> <p>Seascapes Grove will provide a reticulated water connection to any public reserve.</p> <p>Seascapes Grove shall make satisfactory arrangements with Telstra for the provision of underground telephone plant to each allotment. A letter from Telstra stating that satisfactory arrangements have been made for the provision of telephone plant supply to this development shall be provided to Kempsey Shire Council.</p> <p>Seascapes Grove shall make satisfactory arrangements with Country Energy for the supply of electricity to each lot. A letter from Country Energy stating that satisfactory arrangements have been made for the provision of electricity supply to this development shall be provided to Kempsey Shire Council.</p> <p>Seascapes Grove shall bear the cost of the relocation of utility services required as a result of construction of the development.</p>	Prior to the release of the construction certificate.
12	Water Supply and Quality Management	Seascapes Grove will create all easements to the satisfaction of Kempsey Shire Council to cover all stormwater assets.	Prior to the release of the subdivision certificate.
13	Noise	Hours of construction shall be limited to 7:00am to 6:00pm, Monday to Fridays and 7:00am to 12:00 noon Saturdays.	For the duration of the subdivision
14	Roads	Street signs (Kempsey Shire Council and RTA requirements)	Prior to the

		<p>Internal Roads (DCP No.36 '<i>Engineering Guidelines for Subdivision and Development</i>').</p> <p>Footpaths / Cycle-paths (pedestrian access and mobility plan under DCP No. 36 <i>Engineering Guidelines for Subdivision and Development</i>).</p>	release of the subdivision certificate.
15	Contributions	<p>Seascape Grove will pay Section 94 contributions in accordance with Kempsey Shire Councils Section 94 plans on an 'ET' basis. There are no credits sought for any works completed.</p> <p>Seascape Grove will pay Section 64 water and sewer developer contributions in accordance with the development servicing plan applicable at the time of payment.</p> <p>Seascape Grove will submit an application for a Certificate of Compliance pursuant to Section 305 of the <i>Water Management Act 2000</i> and the lodgement of a Certificate of Compliance indicating the requirements of Section 306 of the <i>Water Management Act 2000</i> have been met.</p> <p>Payment of a contribution towards <u>District Water Supply</u> at the applicable rate shall be paid prior to the issue of the Subdivision Certificate.</p> <p>Payment of a contribution towards the <u>Augmentation of Sewerage Headworks</u> at the applicable rate per tenement shall be paid prior to the issue of the Subdivision Certificate.</p> <p>Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plan and calculations are to be submitted for approval prior to the issue of the Construction Certificate.</p> <p>Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans and calculations are to be submitted for approval prior to the issue of the Construction Certificate.</p> <p>Provision of a reclaimed water reticulation main in addition to the potable main to service all the proposed allotments in this stage of the development and designed in accordance with the supplement to the Water Supply Code of Australia WSA 03-2002 and having consideration any additional requirements specified by Kempsey Shire Council's Macleay Water. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.</p> <p>The applicant is to pay a contribution towards <u>Outdoor Recreation</u> for each additional allotment after the first allotment in accordance with Kempsey Shire Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid <u>prior to the release of the Subdivision Certificate</u>, at the rate prevailing at that time.</p>	Prior to the release of the subdivision certificate.
16	Design	<p>Design controls will be prepared by Seascape Grove and implemented for the residential lots through the use of positive covenants on the titles to the lots.</p> <p>All residential dwellings shall be subject to the satisfaction of the neighbourhood scheme for Seascape Grove and shall be required to demonstrate compliance prior to the lodgement of plans with Kempsey Shire Council.</p>	Prior to the release of the subdivision certificate.

Section 7

Concluding Comments

The subject site is considered acceptable to accommodate the residential growth of the South West Rocks and wider Kempsey area due to its coastal location and adjoining natural features. The development footprint and allotment layout has been carefully considered to ensure the development is ecologically sustainable and within the environmental capacity of the land. Furthermore, the development will enable appropriate public access, create a functional and desirable residential estate whilst ensuring consistency with the approved Master Plan.

This draft Environmental Assessment has been prepared having regard to the provisions of the Director-Generals Requirements issued 12 June 2008, the Kempsey Local Environmental Plan 1987 and s.79C(1) of the Environmental Planning and Assessment Act 1979. It is submitted that the granting of consent to the proposal is consistent with the aims and objectives of these documents for the following reasons:

- The proposed development satisfies the Director-Generals Requirements issued 12 June 2008;
- The proposed development is consistent with the approved Master Plan 38-9-2004;
- The proposed development satisfies the development standards as set out by Kempsey LEP 1987;
- The proposed development satisfies all other applicable statutory requirements;
- All environmental and other constraints applicable to the site have been addressed and suitable measures have been implemented to ensure that the proposal can be completed in a manner that is ecologically sustainable;
- The proposal will have minimal impacts on neighbouring residents, including noise, amenity and traffic;
- Appropriate land and water management devices and techniques will be employed thereby minimizing any likely environmental impacts; and,
- The proposal will improve water quality through a comprehensive stormwater management system.

In summary, the proposed development fully complies with the Director-Generals Requirements, the provisions of Kempsey LEP 1987 and all related Policies. In this regard, it is respectfully recommended that the 56 Lot Residential Subdivision be favourably determined at its earliest opportunity.