ARDILL PAYNE & PARTNERS

Civil & Structural Engineers - Project Managers - Town Planners - Surveyors

ABN 51 808 558 977



WE Payne BE, MIE Aust ET Elford L&ESD TJ Cromack B.Tech (Eng), TMIE Aust PM Snellgrove BTP

5926 Planning Proposal cover letter (Sept 2012).doc

18 September 2012

The General Manager Richmond Valley Council Locked Bay 10 CASINO NSW 2470

Attn: Mr Tony McAtteer

Dear Tony

re: Planning Proposal – Proposed rezoning of Approved Lot 4 (per DA 2011.0243), Lot 91 & 92 DP 755603 and Lot 3 DP 1081829, Reardons Lane, Swan Bay to R5 – Large Lot Residential Zone

I refer to recent communications in respect of the subject matter and confirm that APP has been requested by Messrs Murrell and Wade to prepare a planning proposal seeking to reactivate the proposed 2006 rezoning of the subject land to enable its future subdivision and development for rural residential purposes.

Provided herewith is the following:

- 2 x paper copies of the Planning Proposal
- 1 x CD copy of the Planning Proposal
- cheque for \$3500.00 payable to Richmond Valley Council as detailed in your email dated 25th July 2012, being the rezoning processing fee

You will be aware that formal owners' consent was provided to Council with the prior (2006) rezoning proposal.

Should you have any questions in respect of this matter, please contact me on 6686 3280.

Yours faithfully

Paul Snellgrove ARDILL PAYNE & PARTNERS

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79 Tamar Street PO Box 20 BALLINA NSW 2478 Phone: 02 6686 3280 Fax: 02 6686 7920 e-mail: info@ardillpayne.com.au



Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



Submission to Richmond Valley Council

To rezone land to permit future rural residential subdivision

Lot 13 DP 1128557, Lot 1 DP 1107254 and Lots 81, 91 & 92 DP 755603, Reardons Lane, Swan Bay

> for: Greg Murrell and Charlie Wade

> > September 2012

Document Control Sheet

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1 Introduction

1.1 Introduction

This Planning Proposal currently relates to 5 separate lots which are described in real property terms as follows:

- Lot 13 DP 1128557 199.7ha
- Lot 1 DP 1107254 (closed road) 1.74ha
- Lot 3 DP 1081829 14.6ha
- Lot 91 DP 755603 17.2ha
- Lot 92 DP 755603 17.2ha

It should be noted that Lot 13 DP 1128557 and Lot 1 DP 1107254 have been approved to be re-subdivided into 1 x 40.18ha, 1 x 41.69ha, 1 x 46.71ha and 1 x 71.66ha lots under the terms and conditions of DA 2011.0243 (endorsement date of consent – 16^{th} November 2011). These approved lots have not yet been registered.

As a consequence of the above, the planning proposal relates to the following:

- approved Lot 4 (per DA 2011.0243) 71.66ha
- Lot 3 DP 1081829 14.6ha
- Lot 91 DP 755603 17.2ha
- Lot 92 DP 755603 17.2ha

Provided at **Appendix A** is a copy of the stamped approved plan (per DA 2011.0243) which contains an aerial photograph, an overlay of the rezoning area and a conceptual subdivision layout plan.

The land proposed to be rezoned does not comprise the whole of the subject lots, having an approximate area of 78ha and a frontage to Reardons Lane, Swan Bay.

The land has been heavily disturbed as a consequence of prior and existing agricultural pursuits. The land is currently being utilised for a combination of agricultural pursuits, being sugar cane and tea tree on the lower land with beef cattle grazing on unimproved pastures on the more elevated land. The land has been subject of prior detailed strategic planning investigation and consideration by Council under the provisions of a prior rezoning proposal (Council File No. T.310.14), details of which are provided in **Section 1.2** of this Planning Proposal.

The land that is subject of this planning proposal is currently zoned RU1 – Primary Production Zone under the provisions of the Richmond Valley Local Environmental Plan 2012. The land is proposed to be zoned R5 – Large Lot Residential Zone under the RVLEP 2012.

This planning proposal has been prepared in support of the proposed rezoning of the land and has been done so in accordance with the following Department of Planning guidelines:

- 'A guide to preparing planning proposals' (July 2009)
- 'A guide to preparing local environmental plans' (July 2009)

1.2 Background

Ardill Payne & Partners (APP) was commissioned by Messrs Murrell and Wade in 2004 to prepare a rezoning submission to rezone certain land from Zone No. 1(a) – Rural (Prime Agricultural Land) to Zone No. 1(c) – Rural Residential Zone under the provisions of the Richmond River LEP 1992.

A rezoning submission was prepared by APP (dated June 2006) and was lodged with Council on the 23rd June 2006.

The land to which the original rezoning submission related was described as Lots 2 & 3 DP 187701 and Lots 81, 91 & 92 DP 755603 Reardons Lane and Boggy Creek Road, Swan Bay.

A report on the rezoning was presented to Council's Ordinary Meeting on the 19th December 2006. Council resolved to support the proposal by way of preparing a Draft LEP and forwarded a s.54 Notice to the Director-General of the Department of Planning.

Council by letter dated 6th February 2007 advised of the above and identified a number of issues that had been raised during the assessment (including comments from the DoP LEP Review Panel dated 15 February 2007) which required further assessment and/or modification particularly in respect of:

• agricultural capability and Farmland Protection

- on-site effluent management
- acid sulfate soils
- flooding
- adjacent extractive industry
- bushfire protection
- heritage
- stormwater

A further detailed submission was provided to Council by letter dated 21 July 2008 which addressed all issues raised in Council's 6th February letter and resulted in a consequential reduction in the area of the land proposed to be rezoned.

Detailed investigations have been undertaken thus far in support of the rezoning and future rural residential subdivision of the land, which were contained in the Rezoning Submission prepared by APP (June 2006) which was supported by the following specialist investigations/reports:

- Flora and fauna assessment Peter Parker (November 2005)
- Agricultural assessment Wilkie Fleming (August 2005)
- Bushfire risk assessment APP (December 2005)
- Bushfire hazard assessment APP (July 2008)
- Cultural heritage assessment Bonhomme Craib (August 2005)
- Preliminary contamination site investigation APP (December 2005)
- On-site sewage management investigation APP (September 2005)
- Preliminary stormwater management strategy APP (September 2005)

Council by letter dated 7 May 2009 advised that had suspended processing of the rezoning application until after the completion of the comprehensive LEP. The Richmond Valley LEP 2012 commenced operation on the 21st April 2012.

Provided at **Appendix A** is a copy of the stamped approved plan (per DA 2011.0243) which contains the aerial photograph and an overlay of the rezoning area and conceptual subdivision layout plan.

Provided at **Appendix B** is *"Figure 2.5b – Detailed plan of suitable rural residential land in the western sector of the western catchment district"* of Council's Rural Residential Development Strategy 1999, which identifies the land the subject of this planning proposal as being "available rural residential land".

As a consequence of prior preliminary investigations over the subject land, the following have been identified as possible constraints/issues which have already been subject of detailed investigation and assessment and were considered by Council and the DoP in the part processing of the prior rezoning application:

- flora and fauna/threatened species
- flooding
- acid sulfate soils
- stormwater, drainage and WSUD
- bushfire
- cultural heritage
- adjoining land uses/land use conflicts (including adjacent extractive industry)
- agricultural land capability and farmland protection
- contamination (SEPP 55)
- visual impacts
- site access and internal roads
- water supply
- wastewater and on-site effluent management
- electricity and telephone
- community services and facilities, employment, public transport and open space/recreation

2.1 Objectives

The application seeks to rezone that part of the subject land identified on Figure 2.5b of Council's Rural Residential Development Strategy 1999 (RRDS) as being suitable for rural residential land (refer **Appendix B**), from an RU1 – Primary Production Zone to an R5 – Large Lot Residential Zone under the RVLEP 2012. The proposal also seeks to change the minimum lot size mapping for the proposed R5 land to 1ha.

The purpose of the rezoning is to enable the subdivision of the land pursuant to Clause 4.1 of the RVLEP 2012 into minimum 1ha lots and the subsequent erection of a dwelling house on each lot.

The objectives of this planning proposal are to:

- rezone part of the land to R5 Large Lot Residential Zone under the RVLEP 2012
- map the land proposed to be zoned R5 on the minimum lot size map under the RVELP 2012 as Y – 1ha
- provide land stocks to meet the demand for dwelling houses in rural localities
- provide greater housing choice and affordability in the area
- ensure that future development of the land for rural residential purposes does not adversely affect the rural environment of the area
- develop the land in a manner that recognises the constraints and opportunities of the site
- ensure that all requisite and essential infrastructure servicing is available to the land
- take advantage of the site's locational attributes and opportunities (ie close proximity to a number of reasonably sized larger urban centres and towns)

Provided at **Appendix C** is the following:

- map showing proposed rezoning area and site constraints
- plan showing conceptual lot and road layout

2.2 Outcomes

The outcomes of this planning proposal will be to enable the land to be subdivided and developed for rural residential purposes in accordance with the provisions of Richmond River Rural Residential Development Strategy 1999.

The proposal will enable the subdivision of the land into minimum 1ha sized lots, the construction of roads to service the new lots and the construction of future dwelling houses and ancillary improvements and structures.

3 Explanation of Provisions in RVLEP 2012

The land that is subject of the planning proposal is currently zoned RU1 – Primary Production Zone under the provisions of the RVLEP 2012. The land is mapped as Y - 1 ha on the minimum lot size mapping of the RVLEP.

This Planning Proposal seeks to rezone the land as shown on the plans at **Appendix C**, as detailed below.

- 78ha of the land to be zoned R5 Large Lot Residential Zone (Land Zoning Map – Sheet LZN_009)
- remainder of the subject land to retain the RU1 Primary Production Zone (Land Zoning Map – Sheet LZN_009)
- the land proposed to be zoned R5 to be mapped as Y 1ha on the minimum lots size map (Lot Size Map – Sheet LSZ_009)

4 Justification

4.1 Need for Planning Proposal

The purpose of the Richmond River Rural Residential Development Strategy 1999 is "To provide a comprehensive reasoned approach by which the Council can meet its goal of providing cost effective long term sustainable rural residential development of the Richmond River Shire in a manner which can act as a model for other rural Councils to follow."

Part of the scope of the Strategy was to identify potential rural residential areas in the LGA and determine their suitability for development after considering the physical, social and service catchments in which they are located.

In order to rezone the land as proposed, a Planning Proposal is required to be prepared pursuant to the provisions of the EP & A Act 1979.

4.1.1 Is the planning proposal a result of any strategic study or report?

The Richmond River Rural Residential Development Strategy 1999 (RRDS) applies to that part of the subject land that is proposed to be rezoned. The RRDS was adopted by Council on the 15th December 1998 (File No. 20/4/44) and was approved by the Director-General of the Department of Urban Affairs and Planning on the 4th March 1999 (File No. G96/00096).

The land that is subject of this planning proposal is mapped on *Figure 2.5b – Detailed plan of suitable rural residential land in the western sector of the western catchment district* as being "Available Rural Residential Land", as shown on the plan at **Attachment B**.

Section 6.1.3(iii) of the Strategy states that:

".. the area to the west of Woodburn, on Reardons Lane, has the potential to be developed immediately.

Consideration of the following issues is required to be addressed in any application for rural settlement within the Woodburn catchment:

- link to Woodburn village without impacting upon the Pacific Highway;
- retention of scenic elements and habitats;
- flooding; and
- impact on cane land, pine plantations and forest vegetation."

4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objectives and intended outcomes of the Planning Proposal are best achieved by amending the RVLEP 2012 so that the land is rezoned so as to enable its subdivision into rural residential lots (minimum 1ha in area) and its future development for rural residential purposes, on land and in a manner that is consistent with the Rural Residential Development Strategy.

4.1.3 Is there a net community benefit

There will be significant positive community benefits resulting from the following:

- provision of increased stocks of rural residential zoned land which will increase choice and competition in the local market place
- provision of rural residential land to service the local and broader community
- protection of environmental and ecologically sensitive areas
- multiplier effect on the local community resulting from increased development and building activity (during subdivision and house construction) and increased demands for goods and services from increased population base

4.1.4 Sustainable Considerations

4.1.4.1 Environment

Having regard to the detailed environmental investigations that have been undertaken in support of the original amended rezoning proposal, it is evident that the proposed rezoning and future development of the land can be undertaken in a manner that will not have significant adverse environmental impacts.

Preliminary planning investigations into the land have revealed that there are a number of potential constraints, however these are such that will be able to be reasonably and practically managed and mitigated.

The land that is proposed to be rezoned to R5 is appropriate having regard to such constraints and opportunities.

4.1.4.2 Social

The rejection of this gateway proposal will potentially delay the provision of additional rural residential land which will enable future development that will stimulate and have multiplier effects on the economy and increase employment opportunities.

The proposed rezoning is consistent with a long-standing Council strategy document (1999) and has already been generally supported by Council and the DoP LEP Review Panel (subject to a number of changes which have been incorporated into this proposal).

4.1.4.3 Economic

The rejection of the gateway proposal will potentially delay the economic benefits that would be associated with the development of the land, particularly the subdivision and construction of future dwelling houses and ancillary improvements and structures.

There will be a multiplier effect on the local community resulting from increased development and building activity (during subdivision and house construction) and increased demands for goods and services from an increased population base which will benefit the local and broader regional economy.

4.2 Relationship to Strategic Planning Framework

4.2.1 Far North Coast Regional Strategy 2006-31 (FNCRS)

The purpose of the FNCRS is to manage the Region's expected high growth rate in a sustainable manner. The Strategy aims to protect the unique environmental assets, cultural values and natural resources of the Region whilst ensuring that future planning maintains the character of the Region and provides for economic opportunities.

The Strategy provides that for land that is in the non-coastal area, rural residential land release will occur in accordance with existing rural residential strategies.

The proposed rezoning and future rural residential development of the land is thus consistent with the Strategy. Detailed investigations have been undertaken into the constraints and opportunities of the site and will inform and support any rezoning proposal

4.2.2 Richmond Valley Local Environmental Plan 2012

The land that is subject of the planning proposal is currently zoned RU1 – Primary Production Zone under the provisions of the RVLEP 2012. The land is mapped as Y – 1ha on the minimum lot size mapping of the RVLEP.

4.2.3 Northern Rivers Farmland Protection Project (NRFPP)

The NRFPP does not apply to the subject land due to the fact that the subject land is identified for rural settlement in a currently enforced rural settlement strategy approved by the Director-General of the DoP under Clause 20 of the North Coast REP, being the Richmond River Rural Residential Development Strategy 1999.

4.2.4 State Environmental Planning Policies (SEPPs)

A number of SEPPs apply to the local area. The following identifies each and provides brief comment in regards to such.

SEPP 14 – Coastal Wetlands

There are no mapped SEPP 14 wetlands on the subject land or in the immediate locality.

SEPP 26 – Littoral Rainforests

There are no mapped SEPP 26 littoral rainforests on the subject land or in the immediate locality.

SEPP 44 – Koala Habitat Protection

The land is subject to the provisions of the policy as the land is greater than 1ha in area. A detailed flora and fauna assessment (including of SEPP 44 assessment) was prepared in 2005 to support and inform the rezoning.

This assessment concluded that Koala food trees listed under Schedule 2 of the Policy do not comprise greater than 15% of the total number of trees in the upper and lower strata of the tree component.

SEPP 55 – Remediation of Land

A Preliminary Contaminated Site Investigation was prepared in 2005 to support and inform the rezoning to assess the likelihood of the site being contaminated and establish the need for further investigations.

The site history investigation revealed that the bulk of the site was used for cattle grazing and dairying purposes for more than 40 years and that more recently, an attempt was made to cultivate sugar cane on a small area of land adjoining Reardons Lane. There was no evidence of prior industrial or commercial uses at the site.

The investigation concluded that further detailed investigations were not required.

SEPP 71 – Coastal Protection

The subject land is not contained within the coastal zone and is thus not subject to SEPP 71 – Coastal Protection.

SEPP (Rural Lands) 2008 (RLSEPP)

The land is subject to the provisions of the RLSEPP. The SEPP contains a number of rural subdivision principles and matters to

be considered in determining applications for rural subdivisions or rural dwellings.

The proposed planning proposal is not considered to be contrary to the provisions of the SEPP, particularly as a consequence of the land being contained within a long-standing rural residential development strategy and is within an area that is characterised by a number of other rural residential estates.

4.2.5 Local Planning Directions

A number of Ministerial Directions made under Section 117 of the Environmental Planning and Assessment Act 1979 apply to the land. The following identifies each of the key local planning directions which are relevant to the land and planning proposal and makes brief comment in regards to each.

Direction 1.2 – Rural Zones

That part of the subject land that is subject of the planning proposal is identified in Richmond River Rural Residential Development Strategy (March 1999) as "available rural residential land" which was adopted by RVC on the 15th December 1998 and approved by the Director-General of the DoP on the 4th March 1999.

The proposed rezoning of the land for rural residential purposes is therefore consistent with this strategic planning document and thus with the provisions of Direction 1.2.

Direction 1.5 – Rural Lands

That part of the subject land that is subject of the planning proposal is identified in Richmond River Rural Residential Development Strategy (March 1999) as "available rural residential land" which was adopted by RVC on the 15th December 1998 and approved by the Director-General of the DoP on the 4th March 1999.

The proposed rezoning of the land for rural residential purposes is therefore consistent with these strategic planning documents and thus with the provisions of Direction 1.5.

Direction 2.1 – Environment Protection Zones

The proposed zoning of the land will not compromise the continued protection of any high conservation vegetation in the locality. The proposed rezoning does not seek to modify or reduce any environmental protection zones or standards applying to the land.

Direction 2.3 - Heritage Conservation

The subject land is not identified in the RVLEP 2012 or North Coast REP 1988 as comprising/containing items, areas or objects of environmental heritage significance.

A detailed cultural heritage assessment was undertaken in August 2005 to support and inform the rezoning. This assessment identified one scarred tree in the proposed rezoning area which Council advised in its letter dated 6th February 2007 would be recommended to be included as an item of environmental heritage in Schedule 1 of the RVLEP 1992.

Direction 4.1 – Acid Sulfate Soils

That part of the subject land that is proposed to be rezoned is mapped as Class 5 acid sulfate soils, with the remainder of the land being mapped as Class 3 acid sulfate soils.

This planning proposal has been configured such that the proposed rezoning area comprises land above the 1 in 100 year flood level (being RL 5.65m AHD) and excludes mapped Class 3 acid sulfate soils.

The future development on the land will be required to comply with the Acid Sulfate Soils Planning Guidelines and Clause 6.1 of the RVLEP 2012.

Direction 4.3 – Flood Prone Land

The lower sections of the subject land are identified as being subject to the 1 in 100 year flood event.

This planning proposal has been configured such that the proposed rezoning area comprises land above the 1 in 100 year flood level (being RL 5.65m AHD).

The future development on the land will be required to comply with the Acid Sulfate Soils Planning Guidelines and Clause 6.5 of the RVLEP 2012.

Direction 4.4 – Planning for Bushfire Protection

Parts of the subject land are mapped as being bushfire prone. Development of bushfire prone land is managed and controlled by the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997.

A detailed bushfire hazard assessment was prepared (July 2008) to support and inform the original rezoning proposal having regard to the provisions of Planning for Bushfire Protection 2006. The conceptual subdivision layout provides for 2 way constructed roads, specific APZ's for certain lots, fire trails etc.

The NSW RFS is required to be consulted as part of the planning proposal.

Direction 5.1 – implementation of Regional Strategies

The Strategy provides that for land that is in the non-coastal area, rural residential land release will occur in accordance with existing rural residential strategies.

The proposed rezoning and future rural residential development of the land is consistent with the Strategy as it is consistent with the long-standing Richmond River Rural Residential Development Strategy 1999.

The proposed rezoning of the land for rural residential purposes is therefore consistent with the Strategy and thus with the provisions of Direction 5.1.

Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast

The NRFPP does not apply to the subject land due to the fact that the subject land is identified for rural settlement in a currently enforced rural settlement strategy that has been approved by the Director-General of the DoP under Clause 20 of the North Coast REP, being the Richmond River Rural Residential Development Strategy 1999. The proposed rezoning is thus consistent with the provisions of Direction 5.3.

Direction 6.1 – Approval and Referral Requirements

The proposed rezoning of the land does not seek any additional concurrence, consultation or referral of development applications to the Minister or other public authority or any designated development provisions.

The proposed rezoning is thus consistent with the provisions of Direction 6.1.

6.3 – Site Specific Provisions

No specific standards or controls are provided in the Planning Proposal. The Planning Proposal is consistent with the Direction.

4.3 Environmental, social and economic impacts

4.3.1 Critical Habitat and Threatened Species

Detailed ecological investigations were undertaken on the site in 2005 to inform the prior rezoning submission (including Threatened species assessment). The subject land is largely cleared land that has been disturbed by prior activities.

Prior investigations confirm that the potential impact of the proposal concluded that the would be no significant effect on threatened species, populations or ecological communities or their habitats due to the disturbed nature of the site and preservation of the remnant woodland.

4.3.2 Environmental Effects and Management

The key possible environmental effects of the use of part of the land for rural residential purposes are as follows:

Acid Sulfate Soils

The rezoning land is clear of the mapped Class 3 acid sulfate soils.

Land contamination

A preliminary land contamination investigation has been undertaken to support and inform the rezoning proposal which reported that contamination is not likely and will not preclude or compromise the rural residential subdivision and development of the land.

Flooding

The rezoning area is above the 1 in 100 year flood level.

Land use conflict

A LUCRA would have to be prepared to support and inform the rezoning. Land use conflict will not be a significant issue due to the fact that the site is within a planned strategy for rural residential with a number of other rural residential estates existing in the locality.

Cultural heritage

A detailed cultural heritage assessment was undertaken in August 2005 to support and inform the rezoning. This assessment identified one scarred tree in the proposed rezoning area which Council advised in its letter dated 6th February 2007 would be recommended to be included as an item of environmental heritage in Schedule 1 of the RVLEP 1992.

Bushfire

A detailed bushfire hazard assessment was prepared (July 2008) to support and inform the original rezoning proposal having regard to the provisions of Planning for Bushfire Protection 2006. The conceptual subdivision layout provides for 2 way constructed roads, specific APZ's for certain lots, fire trails etc.

4.3.3 Social and Economic Effects

The proposed rezoning will provide additional land for rural residential purposes which will have positive social and economic impacts for the community.

A social and economic assessment and cultural heritage assessment will support and inform the rezoning proposal.

4.4 State and Commonwealth interests

4.4.1 Public Infrastructure

The subject land is within an area that is serviced reticulated electricity and telephone services and public roads. There is no reticulated water or sewerage services.

Prior investigations have confirmed that any future lots can be serviced with on-site wastewater disposal and potable water supply.

A detailed public infrastructure servicing assessment will be undertaken to support and inform the rezoning proposal.

4.4.2 State and Commonwealth Consultation

This section of the planning proposal will be completed following consultation with State and Commonwealth agencies identified in the "gateway exhibition and determination process".

5 Community Consultation

The proposal is considered <u>not</u> to be a "low impact planning proposal" and should thus be subject to a minimum 28 day community consultation exhibition period (per Section 4.5 – Community Consultation of *"A guide to preparing local environmental plans"*, DoP 2009).

The requirement for community consultation will ultimately be a matter for Council, however it is suggested that a minimum 28 day exhibition period would suffice in this instance.

6 Appendices

Appendix A	Copy of stamped approved plan – DA 2011.0243
Appendix B	Figure 2.5b – Detailed plan of suitable rural residential land in the western sector of the western catchment district
Appendix C	Maps showing proposed rezoning area, site constraints and conceptual lot and road layout

APPENDIX A

Appendix A Copy of stamped approved plan – DA 2011.0243

Planning Proposal Reardons Lane, Swan Bay September 2012



APPENDIX B

Appendix B Figure 2.5b – Detailed plan of suitable rural residential land in the western sector of the western catchment district

Planning Proposal Reardons Lane, Swan Bay September 2012



Figure 2.5b DETAILED PLAN OF SUITABLE RURAL RESIDENTIAL LAND IN THE WESTERN SECTOR OF THE WESTERN CATCHMENT DISTRICT

APPENDIX C

Appendix C Maps showing proposed rezoning area, site constraints and conceptual lot and road layout

Planning Proposal Reardons Lane, Swan Bay September 2012



