

Proposed Rezoning at Seaspray Street,
Narrawallee

Lot 29 DP874275

Response to Issues

April 2000

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Background

Despite several meetings and discussions, and a number of reports regarding the flora and fauna issues associated with the proposed rezoning of Lot 29 DP874275 Seaspray Street, Narrawallee, several perceived issues or concerns are regarded by the NSW National Parks & Wildlife Service (NP&WS) and Shoalhaven City Council as still outstanding. The NP&WS, in particular, maintains concerns regarding:

- the distance of the proposed development from a known Powerful Owl roost tree;
- the extent of disturbance which may be necessary with respect to bushfire protection;
- general concerns regarding 'wildlife corridors'; and
- general concerns regarding threatened species.

The issues raised by the NP&WS (at the recent meeting on the 8th of March 2000 at Shoalhaven City Council) have been addressed by previous reports provided by Gunninah Environmental Consultants (Gunninah) and in previous advice. The ultimate design of the subdivision and development on the subject site has been modified in response to these issues, and the current proposal addresses both general environmental concerns and issues relating to threatened species (see figure 1). The following response report has been prepared by Gunninah Environmental Consultants in consultation with Terry Watkinson of Watkinson & Apperley Pty. Ltd.

Likelihood of Impacts

It is the express opinion of Gunninah that the proposed rezoning and subsequent residential development of Lot 29 DP874275 Seaspray Street, Narrawallee will not impose "a significant effect" on any "threatened species, populations or ecological communities, or their habitats" pursuant to Section 5A (s.5A) of the NSW Environmental Planning & Assessment Act 1979 (EP&A Act).

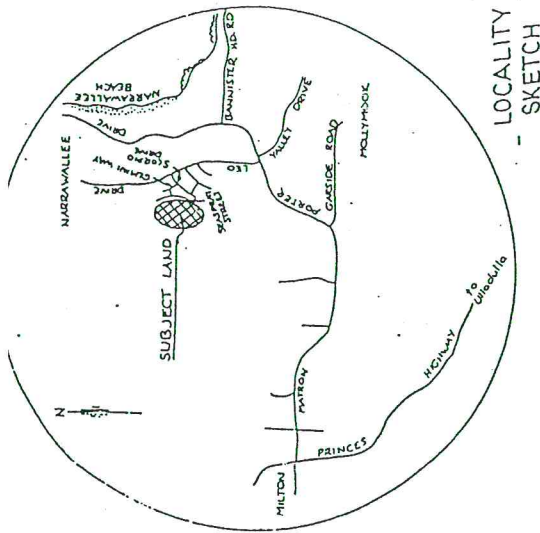
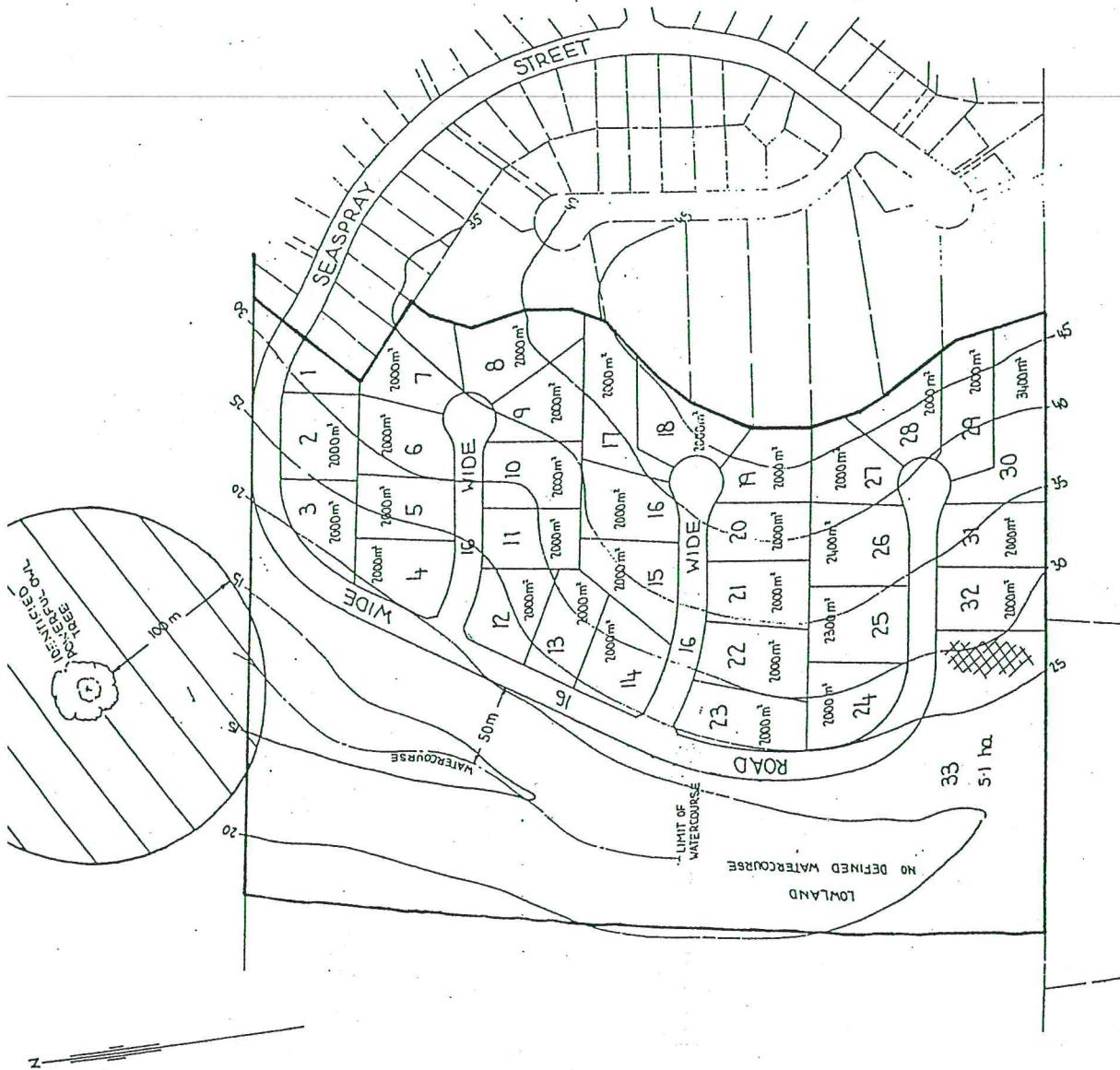
Both the rezoning and the subdivision concepts have incorporated consideration of the relevant flora and fauna issues. The proposal to rezone the site and to locate a residential subdivision on the eastern (upper) slope incorporates appropriate responses to issues of native biota, particularly threatened species.

Information Base

In respect of the above issues, a variety of detailed discussions, meetings and reports have occurred over the past decade in relation to the proposed activity. The previous studies which have been conducted on the site and in the locality provide an extensive information base for environmental assessment of the proposal:

Fenwick R. 2000. *Information and advice regarding bushfire hazard on Lot 29 DP874275, Seaspray Street, Narrawallee.* Cremorne Point, Sydney. (see Annexure A.)

Gunninah. 1999. *Supplementary Flora & Fauna Issues. Part Lot 28 DP 871790 Seaspray Street, Narrawallee;*



LOCALITY - SKETCH

Figure 1
Subject Site at Narrawallee indicating location of Powerful Owl nest tree and the buffer zone in relation to the proposed subdivision layout.



Seaspray Street, Narrawallee
Project No 98100

Garrinsh Environmental Consultants
Phone: (02) 9906 5436 Fax: (02) 9906 7770

BUILDING AREA

KEY

Subject Site Boundary
100 metre buffer zone as proposed by NPWS (M Boak pers comm 1/9/99)

WATKINSON APPERLEY PTY. LTD
SURVEYORS & ENGINEERS
51 GRAHAM STREET, NOWRA, 2541
PHONE: (02) 4421 4500 • FAX: (02) 4423 1496
EMAIL: watapp@choal.net.au

NOTE: ALL AREAS & DIMENSIONS ARE SUBJECT TO FINAL SURVEY

DATE 17 SEPT 99
REDUCTION 1:7000
JOB NO. HAN'S 01

Gunninah. 1999. *Flora & Fauna Issues. Part Lot 28 DP 871790 Seaspray Street, Narrawallee*;

Shoalhaven City Council. 1999. *Review of impacts on Powerful Owl by proposed residential rezoning, Seaspray Street, Narrawallee*;

Coombes. 1998. *Powerful Owl (Ninox strenua) and Glossy Black Cockatoo (Calyptorhynchus lathami) Nesting Assessment*;

Kevin Mills & Associates. 1998a. *Flora and Fauna Study. Part Lot 28, DP 871790 Seaspray Street, Narrawallee, City of Shoalhaven*;

Kevin Mills & Associates. 1998b. *Supplementary Flora and Fauna Study. Part Lot 28, DP 871790 Seaspray Street, Narrawallee, City of Shoalhaven*;

New Lands Consulting. 1995. *Visual Impact Assessment of Lake and Ocean Estate Narrawallee, NSW, Canberra*.

Kevin Mills & Associates. 1994. *Preliminary Flora and Fauna Study. Part Lot 28, DP 871790 Seaspray Street, Narrawallee City of Shoalhaven*;

Cowman Stoddart. 1994. *Preliminary Flora and Fauna Assessment. Land at Narrawallee, Shoalhaven*.

Issues

As a result of previous meetings with Shoalhaven City Council and the NP&WS (particularly an on-site meeting on the 2nd September, 1999) it was agreed that all issues, other than the nest tree of the Powerful Owl, relating to threatened species had been adequately addressed. The major outcomes of the earlier meetings were to accurately locate the Powerful Owl nest tree, and to re-design the proposed subdivision to accommodate a buffer zone at least 100m wide around this habitat resource. A hard management boundary on the western side of the proposed subdivision (using a peripheral road) for bushfire hazard reduction purposes as recommended by Mills 1998, has been included in the proposal and meets the previously discussed issues relating to bushfire management.

These issues were addressed in a supplementary report prepared by Gunninah addressing the concerns of Shoalhaven City Council and the NP&WS, involving several design options, the location of the Powerful Owl nest tree and the inclusion of a 100m buffer and habitat protection zone.

The proposed rezoning of the subject site [to 2(c) - Residential "C" *Living Area* and 7(d1) - Environmental Protection "D1" *Scenic*] and subsequent residential subdivision meets all of the relevant planning criteria and requirements contained in the relevant controlling legislation and planning controls (Table 1), as well as maintaining the original character of the current zoning relating to scenic protection.

Table 1. Relevant planning and conservation issues relating to the proposed rezoning of Lot 29 DP874275 Seaspray Street, Narrawallee.

Issue	Relevant legislation	Proposed measure	Outcomes
Powerful Owl	TSC Act; EP&A Act; Coombes <i>pers comm</i> .	Minium of 100m buffer zone around the identified nest tree. Boundary fencing of the site would be constructed to limit access to nest tree location. Potential habitat and foraging resources will be maintained within the Environmental Protection Zone.	Current proposal will provide approximately 140m of protection between the nest tree and the subdivision. Habitat elements will be maintained.

Bushfire Hazard	Rural Fire Services Act 1997. Fenwick 2000	Hard edge (road pavement) on western boundary of the subdivision area, which provides a hazard reduction zone contained within the road corridor. A bushfire hazard reduction zone (of 4m width) will be constructed around the western, northern and southern perimeters of the proposed Environmental Protection Zone/area.	Subdivision to the east of main access (periphery) road with building setbacks. This provides a minimum buffer distance of 25m to nearest dwellings. The provision of a hazard reduction zone around the Environmental Protection Zone.
Ecological Values	Shoalhaven City Council LEP 1985. Milton-Ulladulla Structure Plan 1996.	All land to the west of the proposed peripheral access road will be maintained, contributing to the natural values of the local area as well as providing foraging habitat for threatened species such as the Powerful Owl.	Meets the designated urban development capabilities of the planning instrument. Approximately 40% of total land area will be dedicated for ecological purposes.
Riparian Vegetation	Rivers & Foreshores Improvement Act. 1948. s.22	Provision of a 50m vegetated buffer between the proposed subdivision and the drainage line.	The buffer zone is 2.5 times the required distance for a riparian zone provided in the DL&WC Policy.
Habitat Corridor	TSC Act; EP&A Act	LEP zoned protection of an area of vegetation considered to have some habitat value.	Approximately 40% of total land area to be maintained will directly contribute to the existing potential habitat corridor.
Drainage protection	Rivers & Foreshores Improvement Act 1948.	All drainage works will be contained within the proposed development area. Water quality basins will be constructed on the western side of the periphery road (approximately 45m from the existing creek line).	Best practice environmental protection measures will be employed in drainage infrastructure design and construction.
Lot size & Density	Shoalhaven City Council LEP 1985. Shoalhaven City Council - subdivision code 1983.	Deed of agreement to be negotiated prior to gazettal of LEP amendment.	Provision of a new residential area with a range of housing types (including a dwelling to be constructed in the residue, as per the sketch plan). This LEP amendment is to provide a substitute to the development of a 17 lot subdivision off Ross Avenue, Narrawallee (part Lot 300 DP792411) which also includes dedication of adjacent

			wetland and public reserve.
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The proposed rezoning and subsequent development of Lot 29 DP874275 Seaspray Street, Narrawallee has addressed all of the relevant planning and statutory matters, including:

- the requirements of the *NSW Threatened Species Conservation Act 1995* (TSC Act) with respect to threatened biota and their habitats;
- s.5A of the EP&A Act, in determining "*whether a significant effect is likely on threatened species, populations or ecological communities, or their habitats*";
- s.79C of the EP&A Act, with respect to the potential for impacts on the environment generally; and
- relevant considerations of other legislation, including the *Rivers & Foreshores Improvement Act 1948* and the *Rural Fires Act 1997*.

Given the approach which has been adopted to the design of the proposed subdivision and subsequent development of the subject site, and given the application of appropriate environmental management measures and impact amelioration measures as part of subsequent development of the site, the current re-designed proposal is regarded as an appropriate response to the environmental features present. The proposed subdivision must be regarded as reasoned and reasonable response to environmental issues which have been raised with respect to native biota on the subject site and in the vicinity.

Furthermore, the recommendations provided by Mills (1998) with respect to rezoning and subdivision of the subject site have also been addressed in the re-design of the future subdivision of the site (Table 2). As with respect to the relevant planning and statutory requirements, the current subdivision design has addressed the recommendations of Mills, and provides an appropriate and environmentally sound response.

Table 2. Responses to recommendations, by Mills (1998) regarding the proposed rezoning and subdivision of Lot 29 DP 874274 Seaspray Street, Narrawallee.

Recommendations of Mills (1998)	Response
<i>Lots should be restricted to the upper part of the slope, where disturbance has been greatest.</i>	The proposed subdivision design has been revised and redesigned from the original plans. The prepared option now has confined development to the upper slope on the eastern side of the subject site, utilising that area which has already experienced some disturbance.
<i>A road should be located on the western edge of the subdivision to help confine impacts to the residential area and to assist with bushfire protection.</i>	The preferred subdivision option will provide a peripheral road along the western side of the subdivision. The impacts of this development will be contained to the east, and the road will also act as a bushfire hazard reduction zone and provide safe access for Rural Fire Service facilities.
<i>Drainage control works should be restricted to the residential area.</i>	All works except for water quality and retention basins will be contained in the development area.
<i>All services, eg. sewer, power, water, should be restricted to the residential side of the above road.</i>	As above, except for a minor provision associated with sewerage works.

Wherever possible trees should be retained on lots.	Trees will be retained in all development lots, wherever safe and possible. All trees are to be retained in the EPZ, with the exception of the dwelling site contained in this zone.
The lower valley should retain the existing environmental protection zoning.	The lower eastern slope and western sections of the subject site will be maintained within an Environmental Protection Zone, and managed for conservation and scenic protection purposes.
A management regime should be developed for the lower valley that ensures that its important natural values are maintained.	Environmental management principles will be employed as a standard measure for subdivision construction. The EPZ will be the subject of an Environmental Management Plan, included in a s.88b instrument.

PLANNING and OTHER ISSUES

In addition to the specific conservation and biological matters considered above, other related planning and development issues apply in consideration of the proposed rezoning and subdivision of the subject site. In particular:

- the current 'Environmental Protection' zoning of the subject site is Zone 7(d2) - Environmental Protection (Special Scenic Zone). Whilst the NP&WS has indicated an objection to the rezoning of land from 'Environmental Protection' to 'Residential', there has been no assessment of the basis for the 'Environmental Protection' zoning of the subject site by the NP&WS. As indicated by the "Special Scenic Zone" - (d2) which applies to the subject site, the current zoning reflects neither an assessment of the ecological values of the site in that zoning process, nor any indication that the site is *per se* of particular ecological value;
- the requirements of the Rural Fires Act 1997 have been addressed by the provision of a peripheral road system and relevant building setbacks, enabling the provision of appropriate bushfire protection without any requirement for modification of native vegetation downslope (to the west) of development activities; and
- the proposed development of the subject site has already involved a substantial compromise by the applicant, involving re-design of the road system, acceptance of development constraints with respect to the Powerful Owl nest tree and to bush fire protection requirements, and the establishment of a large residue lot on the subject site which is predominantly to be dedicated to conservation and scenic protection purposes.

CONCLUSIONS

The proposed rezoning and subdivision of the subject site (Lot 29 DP874275 Seaspray Street, Narrawallee) has involved extensive consideration of flora and fauna, and bushfire, issues. The proposed rezoning and subdivision design has been modified substantially from the original proposal to incorporate a range of appropriate impact amelioration and

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environmental management measures, in response to issues which have been raised by the NP&WS and Shoalhaven City Council, and the perceived ecological values of the site.

The proposed rezoning and subdivision have been responsive to issues identified and matters raised, and the current proposal constitutes an appropriate and reasoned approach to development of the subject site, designed to avoid the imposition of unacceptable impacts upon the environment.

With respect to s.5A of the EP&A Act, it is not "*likely*" that "*a significant effect*" will imposed upon any "*threatened species, populations or ecological communities, or their habitats*". Threatened biota, and s.5A of the EP&A Act, do not constrain development of the site.

With respect to s.79C of the EP&A Act, the proposed development has been responsive to environmental concerns, and is not likely to impose a significant adverse impact upon the natural environment or scenic value of the site. Similarly, the requirements of the *Rural Fires Act 1997* are readily addressed by the proposed subdivision design.

Annexure A

Bushfire advice and correspondence:

Fenwick R. 2000. *Information and advise regarding bushfire hazard on Lot 29 DP874275, Seaspray Street, Narrawallee.* Cremorne Point, Sydney

2/116 Milson Rd
Cremorne Pt NSW 2090

Mr Alan Hanson
PO Box 73
Jannali NSW 2226

Dear Alan,

Re: Proposed Narrawallee Subdivision

I inspected the site of your proposed subdivision at Narrawallee recently, with a view to advising on bushfire protection. I refer to a site plan prepared by Watkinson Apperley and overwritten by Gunninah Environmental Consultants, plus the 1:25 000 topographic map of the area.

The area proposed for development has a gentle (under 5°) slope to the west, ending approximately 50m from the centreline of a poorly defined shallow watercourse which drains to the north. Your property continues to the west for another 50 – 100m beyond that drainage line, at a slope of under 5° and with an easterly aspect.

The site and the land for another 400m to the west are covered with medium coastal forest growth, which has the appearance of having been hazard-reduced by low intensity fire in the past. The whole timbered area sits within a very extensive tract of grazing land, and is well isolated from any other vegetation able to sustain bush-fire.

Despite its isolation from any large areas of forest, the part of the site you wish to develop should be regarded as having a Medium fire hazard rating (Circular C10).

The extension of Seaspray Street, shown to be a 16m wide easement, will substantially enclose the area proposed for development. In my opinion, adequate protection against bushfire would be provided by the following measures:-

- Within each Lot, a 10m setback from the road edge, maintained as lawn or garden to the specification for a Fuel Free Zone (FFZ), ie at no more than 2 tonnes per hectare (t/ha) of flammable fine fuel.
- The sealed road surface 6m in width plus a 5m fuel-reduced strip on either side to provide a further 10m treated to better than Fuel Reduced Zone (FRZ) specifications (less than 8 t/ha), plus 6m of FFZ.
- A further 5m of undergrowth clearing on the western side of the road easement to provide a total of 10m wide FRZ beside the paved part of the access road would give protection adequate to a High fire hazard rating exposure.

The present subdivision plan shows Lot 23 as a relatively shallow Lot parallel to Seaspray Street. If Lots 23 and 22 were realigned so that they each had a relatively narrow frontage on to Seaspray Street, they would both have sufficient lot depth to provide a 10m wide setback from the western side. All other Lots appear to be able to fully comply with the recommended clearances.

A dwelling constructed on Lot 33 within the indicated 'Building Area' should be enclosed by a circular driveway on its western and southern sides, and have a 10m wide FFZ plus a 10m wide FRZ.

Lots 30, 31 and 32 should have some protection on their southern sides. 10m each for FRZ and FFZ would be adequate, given the level ground approach of fire coming from that direction, and the limited space in which fire could develop. Some realignment of the boundaries of Lots 29 and 30 may need to be considered to accommodate that recommendation.

The part of Lot 1 between the road and the site boundary should be cleared to the FRZ standard.

The area is not one in which I would consider that the strict application of the usual guidelines need be applied, but the above recommendations are made in the belief that a conservative rather than speculative approach should be taken to fire protection issues.

Should you wish me to prepare a full report with respect to the above property, please contact me at your convenience.

Yours sincerely,

Roger Fenwick
14 February 2000