

APPENDIX B – GENERAL TERMS OF APPROVAL & CONCURRENCE CORRESPONDENCE

In reply please send to: Newcastle District Office

Our reference: FN90-02036L0 PA

Your reference: DA/113/2011

Contact: Phil Alexander (02) 4908 4350

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- 2 FEB 2012

LAKE MACQUARIE
CITY COUNCIL



LAKE MACQUARIE CITY COUNCIL
BOX 1906
HRMC NSW 2310
NSW 2310

31 January 2012

Dear Sir or Madam

SUBDIVISION APPLICATION NO. TENQ12-08100L1
11 ROBERTSON STREET 103 AND 115 WITHERS STREET 17 APPLETREE
ROAD WEST WALLSEND
CREATING: 4 INTO 404 LOT RESIDENTIAL SUBDIVISION

The Mine Subsidence Board has granted its approval for this subdivision, subject to:

- (a) the number, size and boundaries of lots being substantially as shown on the approved plan, and
- (b) notification being made to the Board of any changes to lot numbering and of the registered DP number.
- (c) notification to the Board of all street names to the proposed subdivision.

The Mine Subsidence Board's approval is required for the erection of all improvements.

As a guide to persons intending to erect improvements on this property, the Board has adopted the following surface development guidelines and will consider applications for:

1. Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials, erected on reinforced concrete footings and/or slabs to comply with AS 2870. These improvements are limited to a maximum length of 30 metres.
2. Single storey brick veneer improvements erected on reinforced concrete footings and/or slabs to comply with AS 2870.
 - a) Improvements erected on strip footings or waffle raft slabs are limited to a maximum length of 30 metres.

NEWCASTLE

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Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Argyle Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Feldwin Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 488G
Newcastle 2300
Telephone: (02) 4908 4395
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Email
mail@minesub.nsw.gov.au

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www.minesub.nsw.gov.au

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S 7 (Auto) Apr 2008

PUTTING SERVICE AND THE NEEDS OF PEOPLE FIRST

- b) Improvements erected on stiffened raft slabs are limited to a maximum length of 24 metres.
- 3. Two storey brick veneer improvements erected on reinforced concrete footings and/or slabs to comply with AS 2870.
 - a) Improvements erected on strip footings are limited to a maximum length of 24 metres.
 - b) Improvements erected on stiffened/waffle raft slabs are limited to a maximum length of 21 metres.
- 4. Full masonry and other types of improvements will be considered for this property under the Board's 'Graduated Guidelines for Residential Construction'. The improvements will be subject to length restriction and may require engineering design. Details of the requirements may be obtained from the Board's technical staff.

Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.

This approval is valid for two (2) years from this letter.

During planning and design of proposed improvements, applicants should consult with our staff.

Yours faithfully



Phil Alexander
District Manager

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15 FEB 2012

LAKE MACQUARIE
CITY COUNCIL



Transport
Roads & Maritime
Services

10 February 2012

SF2012/001304
MJ

General Manager
Lake Macquarie Council
DX 7869
NEWCASTLE

Attention: Mr Matthew D Brogan

GEORGE BOOTH DRIVE (MR527) - 4 LOT SUBDIVISION INTO 404 LOTS AT 11 ROBERTSON STREET, 103 WITHERS STREET, 115 WITHERS STREET AND 17 APPLETREE ROAD, WEST WALLSEND(DA/113/2011)

Dear Mr Brogan

I refer to your letter dated 23 January 2012 (your reference DA113/2011) regarding the subject development application forwarded to the Roads and Traffic Authority (RTA) for consideration.

On 1 November 2011 a new organisation called Roads and Maritime Services (RMS) was formed to replace the Roads and Traffic Authority and Maritime Services. RMS will focus solely on delivering quality services to the customer.

RMS has reviewed the information provided and note that there has been an increase in the number of proposed residential lots from 375 in the previous application to 404 with the current application. It has also been noted that the number of lots in the current proposal is still significantly less than the 463 lots in the original development application. As all other matters remain generally the same, RMS's previous advice dated 14 July 2010 (copy attached) and confirmed in my letter dated 25 February 2011 still applies.

On Council's determination of this matter, it would be appreciated if a copy of the Notice of Determination is forwarded to the RTA for record purposes.

Please contact me on 4924 0688 should you require any further advice.

Yours sincerely


Dave Young
Manager, Land Use Development
Infrastructure Services
Hunter Region

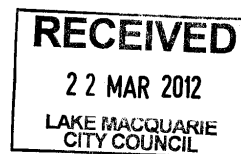
Roads & Maritime Services

Level 1, 59 Darby Street, Newcastle NSW 2300 | Locked Bag 30 Newcastle NSW 2300

www.rmsservices.nsw.gov.au



Department of
Primary Industries
Office of Water



Contact: Algis Sutas
Phone: 02 4348 5014
Email: algis.sutas@water.nsw.gov.au
Our ref: ERM2011/0135
Your Ref: DA 113/2011

The General Manager
Lake Macquarie City Council
PO 1906
Hunter Region Mail Centre NSW 2310

Attention: Matthew Brogan

15 March 2012

Dear Mr Brogan

**Re: Minor Amendment under Section 96 – DA 113/2011
4 into 404 Lot Residential Subdivision (Previously 4 into 375)
11 Robertson Street, 103 & 115 Withers Street and 17 Appletree Road, West
Wallsend. Lot 103 & 105 DP 1000408, Lot 15 DP 849003 & Lot E DP 938528**

The NSW Office of Water (NOW) has received correspondence dated 28 February 2012 in reference to a proposed modification or amendment to the integrated development proposal.

Based on a review of the information provided, NOW confirms that the existing **General Terms of Approval** (for 'works' requiring a Controlled Activity Approval under the *Water Management Act 2000*), **issued on 18 July 2011** will still apply to the proposed amended works and should be included in Council's amended consent.

Applicants must still apply for and obtain a Controlled Activity Approval **before** commencing any 'works/activities' on waterfront land. Application forms for the Controlled Activity Approval are available from NOW's website <http://www.water.nsw.gov.au/WaterLicensing/Approvals/Controlled-activities>

Should the proposed development be varied again in any way that results in more extensive 'works' on waterfront land NOW should be notified.

Please direct any questions regarding this correspondence to Algis Sutas.

Yours sincerely

Algis Sutas
Senior Licensing Officer
NSW Office of Water

www.water.nsw.gov.au

3/107 Mann Street, GOSFORD | PO Box 340, GOSFORD NSW 2250 | Tel (02) 4348 5014

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Telephone: 8741 5175
e-mail: csc@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433

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- 7 MAR 2012

LAKE MACQUARIE
CITY COUNCIL



The General Manager
Lake Macquarie City Council
Box 1906
Hunter Reg Mail Ctr NSW 2310

Your Ref: DA/113/2011
Our Ref: D11/0195
DA11021476201 GB

ATTENTION: Development Assessment & Compliance
Department

28 February 2012

Dear Sir / Madam

**Integrated Development for 11 Robertson Street, 103 & 115 Withers Street & 17
Appletree Road West Wallsend**

I refer to your letter dated 23 January 2012 seeking general terms of approval for the above Integrated Development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. When each individual Stage is developed, the adjoining Stage yet to be developed shall be managed at least to the standard of an outer protection area as outlined in Appendices 2 & 5 of 'Planning for Bush Fire Protection'.
2. The entire road reserve forms part of the APZ for future dwellings and are required to be managed accordingly.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and

ID:76201/75795/5

Page 1 of 3

electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

5. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

Landscaping

6. Landscaping within the drainage basins shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

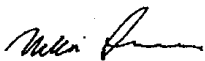
Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

Some of the affordable housing Lots proposed in Stage 2 are located on bush fire prone land. For future dwellings to avoid the additional construction cost complying with Australian Standard AS3959 'Construction of buildings in bushfire-prone areas', Council may wish to consider repositioning these affected Lots.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 5 August 2011.

For any queries regarding this correspondence please contact Garth Bladwell on 8741 5175.

Yours sincerely



Nika Fomin
Team Leader, Development Assessment

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.



Office of
Environment
& Heritage

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- 3 APR 2012

LAKE MACQUARIE
CITY COUNCIL

Your reference: DA/113/2011
Our reference: DOC12/12389 & FIL10/519-02
Contact: Nick Pulver, Ph: (02) 6659 8225

General Manager
Lake Macquarie City Council
PO Box 1906
HUNTER REGION MAIL CENTRE NSW 2310

Attention: Mr Matthew Brogan, Senior Development Engineer

Dear Sir/Madam

Re: DA 113/2011 Modification – Proposed 4 into 404 lots of Lots 103 & 105 DP 10000408, Lot 15 DP 849003 & Lot E DP 938528, West Wallsend, NSW

I refer to the correspondence from Lake Macquarie City Council (Council) received by the Office of Environment and Heritage (OEH), dated 23 January 2012, concerning the above modified development application (DA). I apologise for the delay in providing this response.

OEH understands that the proposed development modification was lodged with Council under the provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It is noted that the proposed modification is to now subdivide Lots 103 & 105 DP 10000408, Lot 15 DP 849003 & Lot E DP 938528, West Wallsend, NSW into 404 lots.

Aboriginal Cultural Heritage Assessment

The importance of protecting Aboriginal cultural heritage is reflected in the provisions of the *National Parks and Wildlife Act 1974* (NPW Act). That Act clearly establishes that Aboriginal objects and places are protected and may not be harmed, disturbed or desecrated without appropriate authorisation. Importantly, approvals under Parts 4 of the EP&A Act do not absolve the applicant of their obligations in accordance with the provisions of the NPW Act.

OEH has accordingly reviewed the documentation provided by the applicant in support of the proposed modification, to assess the potential impacts on Aboriginal cultural heritage in accordance with the OEH's Aboriginal cultural heritage assessment guidelines and the requirements of the NPW Act. The following advice is provided to Council and the applicant following this review.

Aboriginal cultural heritage values

OEH acknowledges the significance of the local environment to the local Aboriginal community including the existence of numerous registered Aboriginal sites and places of significance in the immediate locality. OEH also acknowledges that the project area contains landforms which have yielded a significant volume of evidence of Aboriginal occupation.

OEH notes that the modified development proposal is unlikely to impact or cause harm to the Aboriginal cultural heritage values associated with the project area. OEH also acknowledges the

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www.environment.nsw.gov.au

commitment by the applicant to prepare an appropriate management strategy, in consultation with representatives of the local Aboriginal community, to ensure this occurs. OEH encourages the applicant to continue to engage with the local Aboriginal community for the life of the proposed development.

Conclusion

OEH concludes that the General Terms of Approval for Aboriginal cultural heritage values provided to Council by OEH, in the letter dated 11 March 2011, are still applicable to the proposed modification.

If you would like to discuss any of the above matters, please contact Mr Nick Pulver on (02) 6659 8225.

Yours sincerely

DL Crodale 30/3/12

DIANE CROSDALE
Manager Planning and Aboriginal Heritage Section
Conservation and Regulation – North East
Office of Environment and Heritage



Office of
Environment
& Heritage

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27 MAR 2012

LAKE MACQUARIE
CITY COUNCIL

Your reference DA/113/2011
Our reference: DOC12/3212; FIL09/13990-03
Contact: Robert Gibson, 4908 6851

Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HUNTER REGION MAIL CENTRE NSW 2284

SCANNED

27 MAR 2012

Attention: Mr Matt Brogan

Dear Mr Bell

**CONCURRENCE CONDITIONS – SUBDIVISION OF LOTS 103 & 105 DP 10000408, AND
LOT E DP 938528, WEST WALLSEND**

Reference is made to the letter from Lake Macquarie City Council dated 23 January 2012 to the Office of Environment and Heritage (OEH) which was received on 25 January 2012. In your letter Council formerly requested OEH's concurrence for the proposed subdivision of Lots 103 & 105 of Deposited Plan (DP) 1000408. Council had provided OEH with the required \$320 concurrence fee with a letter dated 28 February 2012. The DA in question is a modified version of the proposed subdivision of the same lots, and for which OEH granted concurrence on 29 June 2011.

Once OEH considered that it was able to grant concurrence, OEH assessed the Species Impact Statement and a number of other documents, including public submissions, relevant recovery plans, and the report to Council on Lot 88 DP755262 & Lot 107 DP1000408.

OEH has completed assessing the request and grants concurrence subject to a number of conditions. A copy of OEH's concurrence conditions are provided in **Attachment A**.

If you have any questions concerning this advice, please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely

22 MAR 2012

RICHARD BATH
Head – Hunter Planning Unit
Conservation and Regulation – North East

Enclosure - Attachment A: Concurrence conditions for DA/113/2011 for Lots 103 & 105 DP 1000408 and Lot E DP 938528 George Booth Drive, West Wallsend, Lake Macquarie LGA.

PO Box 488G Newcastle NSW 2300
117 Built Street, Newcastle West NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4908 6810
ABN 30 841 387 271
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ATTACHMENT A:

**Concurrence Conditions for DA/113/2011 for Lots 103 & 105 DP 1000408 and LOT E DP 938528
George Booth Drive, West Wallsend, Lake Macquarie LGA.**

1. The development must be undertaken in accordance with the Species Impact Statement (SIS) including but not limited to the ameliorative measures documented in Section 7 and Appendix E of the SIS.

Reason: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 in this Concurrence Report.

The applicant must inform the Office of Environment and Heritage (OEH), prior to any clearing or construction, of any proposed variations in location or design of any structures or relative timing of clearing of the approved development that may impact on threatened species matters, which is not contained within the SIS and accompanying documentation or addressed by consent conditions. Any such proposed variations must be approved, in writing, by OEH's Manager Planning and Aboriginal Heritage before works associated with the variation commence. Requests for variations must be in writing and include an assessment of the potential impacts of the proposed variation on threatened species, endangered populations and endangered ecological communities (including their habitat).

Reason: To ensure that any proposed variations to the development do not increase adverse impacts on threatened species and their habitats, or lessen protection provided to threatened species and their habitats.

2. The provision of biodiversity offsets on parts of Lot 103, 105 & 107 of DP 1000408 and Lot 88 DP 755262, at West Wallsend, (**West Wallsend Offset Lands**): as shown in Figure 1 of Attachment A of this Concurrence Report and 178.44 ha of part of Lot 1 DP 78136 and Lot 13 DP 114564 at Brimbin (**Brimbin Offset Lands**) adjoining the Brimbin Nature Reserve as shown in Figure 2 of Attachment A of this Concurrence Report must be secured in perpetuity for conservation. The proponent must provide evidence of ownership to the consent authority prior to granting consent.
3. The Proponent must not sell or lease or offer for sale or lease the **West Wallsend Offset Lands** and/or that part of Lot 1 DP 78136 and Lot 13 DP 114564 at Brimbin (as per Figures 1 and 2 of Attachment A of this Concurrence Report) forming the biodiversity offsets.
4. The Proponent must not, whilst owner or occupier of the **West Wallsend Offset Lands** or the **Brimbin Offset Lands** conduct any works or activities, including the granting of any easements on the **West Wallsend Offset lands** or the **Brimbin Offset Lands** without the written permission of OEH Manager Planning and Aboriginal Heritage.
5. Within 12 months of consent being granted the proponent must: secure the **West Wallsend Offset Lands** with a section 88E instrument under the *Conveyancing Act 1919*. The **West Wallsend Offset Lands** may be transferred at no cost to Lake Macquarie City Council provided agreement of Lake Macquarie City Council and OEH's Manager Planning and Aboriginal Heritage is obtained. This transfer of land is conditional on the **West Wallsend Offset Lands** remaining secured in perpetuity under a section 88E instrument of the *Conveyancing Act 1919*.
6. The Proponent must provide funding to the owner of the **West Wallsend Offset Lands** as agreed by the proponent and owner to implement the Plan of Management provided in Appendix E of the SIS in perpetuity and meet OEH's biodiversity offsetting requirements. The Plan of Management may be reviewed every five years and amended by this review with the approval of OEH's Manager Planning and Aboriginal Heritage. Should a dispute over the amount of funds provided occur, OEH's Manager Planning and Aboriginal Heritage may determine the amount required to fund the Plan of Management. Once the funding amount is agreed or determined, no further payment other than as required by the Plan of Management will be required by the Proponent.

7. Within 12 months of consent being granted the Proponent must with agreement of the Minister administering the *National Parks and Wildlife Act 1974* transfer ownership of the **Brimbin Offset Lands** (Figure 2 of Attachment A) at no cost to the Minister for inclusion in National Parks Estate. The proponent must within 12 months of the Minister accepting the **Brimbin Offset Lands** develop a Plan of Management in consultation with OEH's Area Manager Manning. The Plan of Management must include the provision of funds for conservation management of the **Brimbin Offset Lands** in perpetuity. The Plan of Management must be approved by OEH's Manager Planning and Aboriginal Heritage. The Plan of Management may be reviewed every five years in consultation with OEH's Area Manager Manning and may be varied with the approval of OEH's Manager Planning and Aboriginal Heritage. Once the funding amount is agreed, no further payment other than as required by the Plan of Management will be required by the Proponent.
8. Funding for the Plan of Management as agreed within its provisions must be provided for five years initially and then as required or agreed within any Plan of Management. The first five years funding must be provided initially on transfer of the **Brimbin Offset Lands** and then as specified within the Plan of Management after its first review. The funds must be provided to the Chief Executive Officer, Office of Environment and Heritage or another delegated representative of the Chief Executive Officer. Once the funding amount is agreed, no further payment other than as required by the Plan of Management will be required by the Proponent.
9. If the remainder of Lot 1 DP 78136 and Lot 13 DP 11464 to the **Brimbin Offset Lands** have not been transferred to the Minister administering the *National Parks and Wildlife Act 1974* for inclusion in National Parks Estate within 12 months of this consent being granted then the **Brimbin Offset Lands** must be surveyed and Lot 1 DP 78136 and Lot 13 DP 11464 must be subdivided at the proponent's expense. Any survey for this condition must be done under the supervision and direction of OEH's Area Manager Manning or his delegated representative to ensure it is done with minimal vegetation clearing and soil disturbance.
10. Should the Minister administering the *National Parks and Wildlife Act 1974* decide not to accept ownership of the **Brimbin Offset Lands** as required by this concurrence then the lands must remain in the proponent's ownership and be secured in perpetuity for conservation under a section 88E instrument of the *Conveyancing Act 1919*. Should the **Brimbin Offset Lands** be secured by this condition the proponent must develop a Plan of Management within 12 months of securing the **Brimbin Offset Lands** to the satisfaction of OEH Manager Planning and Aboriginal Heritage and implement, conduct and fund any actions in the Plan of Management in perpetuity.
11. Should the **Brimbin Offset Lands** remain in the proponent's ownership as detailed in condition 11, the Proponent with the written agreement of OEH Manager Planning and Aboriginal Heritage may transfer ownership of the **Brimbin Offset Lands** to another party provided that they remain secured in perpetuity for conservation and funds are provided as agreed for implementation of the Plan of Management required by condition 10 of this Concurrence.

Note: Definitions

- For the purposes of this Concurrence references to OEH's Manager Planning and Aboriginal Heritage means Manager Planning and Aboriginal Heritage Section – North East, Conservation and Regulation Division, Office of Environment and Heritage, Department of Premier and Cabinet.
- For the purposes of this Concurrence references to OEH's Area Manager Manning means the officer holding the position of Area Manager Manning, Parks and Wildlife Group, Office of Environment and Heritage, Department of Premier and Cabinet.

12. The offset land must be managed for conservation in perpetuity, as per OEH's offsetting principles (OEH 2001b).

Reason: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 in this Concurrence Report.

13. The measures stated in Section 7 of the SIS must be implemented and in addition to the following conditions:

- (a) A suitably qualified and experience ecologist must be engaged in the clearing stage and must identify and record any additional habitat features and relocate any displaced fauna, as required. They must record details of any and all displaced fauna, including such details as species, gender, age, reproductive status, and number of individuals and provide details (habitat description, Easting's and Northing's in World Geodetic System (WGS) 84, Zone 56) of where they were collected and where they are translocated to. All of the above details must be presented in the first monitoring report prepared under the 'Flora & Fauna Plan of Management';
- (b) Vehicles and machinery used on site must be washed down prior to use on site; and
- (c) Surveys of the clumps of *Tetratheca juncea* clumps on the Subject Site must include a measure of seed set of the flowers produced in the preceding weeks (a.g. number and percent of flowers pollinated, ripe fruit and dehiscent fruit produced by plants sampled in several randomly located 1 square meter subplots). This information must be provided in the monitoring report for that survey period and provided to the consent authority and OEH within three (3) months of the completion of each annual reporting period.

*Reasons: (a) To gain obtain additional information on the composition and density of native fauna in the Subject Site that may be used for adaptive management for the offset area; (b) in order to prevent the spread of weeds, exotic animals or pathogens to the Subject Site; (c) to gauge whether pollination and seed set of the local *Tetratheca juncea* has been adversely affected by local development.*

Figure 1 - Biodiversity Offset Map
for Lots 103, 105 & 107 DP1000408 & Lot 88
DP755262, West Wallsend Concurrency (DA/113/2011)



LAKE MACQUARIE CITY COUNCIL

