

**JOINT REGIONAL PLANNING PANEL
(HUNTER AND CENTRAL COAST)**

JRPP No	2013HCC006
DA Number	16-2012-800-1
Local Government Area	Port Stephens Local Government Area
Proposed Development	A 106 Lot Torrens Title residential subdivision, plus three environmental conservation lots (drainage reserve), and supporting roads including lots 2,3 and 4, DP 1184315 which are to be dedicated to Council and National Parks and Wildlife Service (NPWS).
Street Address	21-27 Fishermans Bay Road, Fishermans Bay (Lots: 1-4, DP: 1184315), and 2 and 4 Clonmeen Circuit, Anna Bay (Lot: 132, DP: 834467 and Lot: 59, DP: 815148).
Applicant/Owners	New South Wales Land & Housing Corporation (Urban Growth NSW) – Lots 1-4, DP 1184315 and 4 Clonmeen Circuit, Anna Bay (Lot 132, DP 834467) Port Stephens Council – 2 Clonmeen Circuit, Anna Bay (Lot 59, DP 815148).
Number of Submissions	<p>The application was advertised and notified for a period of 30 days on two occasions (20 November 2013 and on 9 April 2014).</p> <p>First exhibition period (20 November 2013) – Council received 17 submissions (note: one submission included a petition with 249 signatures).</p> <p>Second exhibition period, Amended plans (9 April 2014) – Council received 21 submissions (note: one submission included a petition with 16 signatures).</p> <p>The key issues raised in the submissions included: flora and fauna and related environmental impacts, loss of privacy, infrastructure provision and its related impacts, residential density, drainage, bushfire, traffic, safety, construction impacts, section 94 and voluntary Planning Arrangements.</p>
Regional Development Criteria (Schedule 4A of the Act)	The application is being reported to the Hunter and Central Coast Joint Regional Planning Panel (the Panel) in accordance with Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> section 5 as the development is Crown development with a capital investment value over \$5 million (CIV \$12.5 million)

List of All Relevant s79C(1)(a) Matters	<p><u>Environmental Planning Instruments:</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy 44 (Koala Habitat Protection) • State Environmental Planning Policy 55 (Remediation of Land) • State Environmental Planning Policy 64 (Advertising and Signage) • State Environmental Planning Policy 71 (Coastal Protection) • Port Stephens Local Environmental Plan 2000 (PSLEP 2000) • Port Stephens Local Environmental Plan 2013 (PSLEP 2013) (Gazetted 22 February 2014) <p><u>Development Control Plans</u></p> <ul style="list-style-type: none"> • Port Stephens Development Control Plan 2007 • Port Stephens Development Control Plan 2013 (in force 22 February 2014 –adopted December 2013) <p><u>Planning Agreements</u></p> <ul style="list-style-type: none"> • Draft Voluntary Planning Agreement exhibited April 2014. The proposed agreement relates to waiving of s.94 fees in lieu of construction of a Recreation/Community Centre located a few hundred metres west of the subject land, and infrastructure works associated with the subdivision. <p><u>Coastal Zone Management Plan</u></p> <ul style="list-style-type: none"> • Government Coastal Policy (in accordance with the provisions of State Environmental Planning Policy No. 71 (Coastal Protection)).
List all documents submitted with this report for the panel's consideration	<p>Development Plans – Prepared by Tattersall Lander, (Reference 21300171), dated 14 October 2013, revision J, sheet 1 (x3) – draft dimensioned Masterplan (staging, contours and lot layout.</p> <p>Engineering Plans - drawing number 30011119, prepared by SMEC Australia Pty Ltd, dated 12 November 2013, revision 2, sheets 102-107 and 130.</p> <p>External Referrals –</p> <ol style="list-style-type: none"> 1. NSW Government, Department of Primary Industries (Office of Water), response dated 24 June 2015; 2. Rural Fire Service NSW, Bushfire Safety Authority dated 2

	<p>April 2014;</p> <p>3. NSW Government, Office of Environment & Heritage, response dated January 2014.</p> <p>Landscaping - Landscape Report and Plan, prepared by The Design Partnership dated November 2013.</p> <p>Flora and Fauna – RPS Habitat Rehabilitation Plan January 2015 RPS Construction Flora and Fauna Management Plan 2015</p> <p>General – Department of Planning Masterplan Waiver dated 30 July 2012</p>
Recommendation	<p>That DA 16-2012-800-1 (HCC 2013HCC006) for a 106 Lot Torrens Title residential subdivision, plus three environmental conservation lots (drainage reserve), and supporting roads, including lots 2,3 and 4, DP 1184315 to be dedicated to Council and National Parks and Wildlife Service (NPWS) be approved. The development is located at 21-27 Fishermans Bay Road, Fishermans Bay (Lots 1-4, DP 1184315), 4 Clonmeen Circuit, Anna Bay (Lot 132, DP 834467) and 2 Clonmeen Circuit, Anna Bay (Lot 59, DP 815148), and approval is recommended subject to conditions of consent set out in the attached schedule.</p>
Report by	Belinda Martin, Development Planner

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development consent is sought for a 106 Lot Torrens Title residential Subdivision at 21-27 Fishermans Bay Road, Fishermans Bay, 2 Clonmeen Circuit, Anna Bay and 4 Clonmeen Circuit, Anna Bay. The proposal is for residential subdivision, drainage reserves and dedication of environmental lands to Council and National Parks and Wildlife Service. The subject land is zoned 2(a) Residential "A" and 7(f1) Environmental Protection (Urban Conservation) under Port Stephens Local Environmental Plan ('LEP')2000, the Plan under which this application was lodged. Under Port Stephens LEP 2013, (which commenced 22 February 2014) the site is zoned R2 Low Density Residential and E2 Environmental Conservation. The proposal is permissible in the zone with development consent under both LEP 2000 and LEP 2013. The subject site is bushfire prone, situated within 40 metres of a watercourse, includes identified artifacts of heritage significance, and is located within proximity to a registered Aboriginal place. General Terms of Approval have been issued by Rural Fire Service (RFS), Office of Environment & Heritage (OEH) and NSW Office of Water (NOW).

The site is heavily vegetated vacant land. The subdivision is proposed to occur in three stages and is subject to a Voluntary Planning Agreement ('VPA').

The development has been assessed under Section 79C of the Environmental Planning & Assessment Act 1979 and is considered satisfactory. Accordingly, it is recommended that the application be approved subject to conditions of consent.

INTRODUCTION

The report provides a detailed overview of the development proposal for the subdivision including a comprehensive planning assessment of the development against the major heads of consideration under Section 79C of the *Environmental Planning & Assessment Act 1979*. The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel on the basis that the estimated value of the project is over \$5Million (\$12.5Million) and is Crown Development.

BACKGROUND/SITE DESCRIPTION

At the time of lodgement of the Subdivision application in December 2012 the land was legally described as Lots 4561 and 4562, DP 841032. These lots comprised of Lot 4561 – 3032m² and Lot 4562 – 22.37ha. These historic parcels are now registered as Lots 1 -4, DP 1184315.

Lot 132, DP 834467 (4 Clonmeen Circuit – 660m²) was purchased to provide access from the site into Clonmeen Circuit and has been incorporated into the application. Lot 59, DP 815148 (2 Clonmeen Circuit – 2185m², public reserve) is Council owned land. Council has provided its consent for access to this lot to provide linkages to existing drainage infrastructure.

The application was publicly exhibited on two occasions (November 2013 and April 2014). During the exhibition process 38 submissions were received. The key issues

raised in the submissions include, flora and fauna and related environmental impacts, loss of privacy, concerns over infrastructure provision and its related impacts, residential density, drainage, bushfire, traffic, safety, construction impacts, section 94 (s.94) and proposed (VPA) arrangements.

The original lot yield upon lodgement of the DA included 10 residential lots immediately to the south of the site abutting Fishermans Bay Road and situate adjacent to the entrance to the site off Fishermans Bay Road. These lots were deleted from the design before the first exhibition period was undertaken.

SITE DESCRIPTION

The site is located in Fishermans Bay, New South Wales and is bordered to the east by Tomaree National Park, to the south by Fishermans Bay Road and the north and west by the existing residential development of Anna Bay. The site is in close proximity to Nelson Bay (approximately 10 minutes) and is approximately 30ha in area including lands for dedication to National Parks and Wildlife Service and Council.

Slope	Varying topography – the site generally falls to the western boundary (approximately 25m AHD to 11m AHD) with a ridgeline running east west through the site dividing it into two main catchments.
Vegetation	The site is covered in a combination of vegetation including native vegetation and a mix of forest and heath communities. The vegetation in the south west corner of the site has been identified as an Endangered Ecological Community(EEC) - Swamp Schlerophyll Forest.
Constraints	Bushfire prone land, Acid sulphate soils (class 4 and 5), 'other' habitat/supplementary koala habitat (far south east corner of the site and northern tip), landscape habitat link, EEC (Swamp Sclerophyll Forest – south western portion of the site). Two natural watercourses traverse the site.

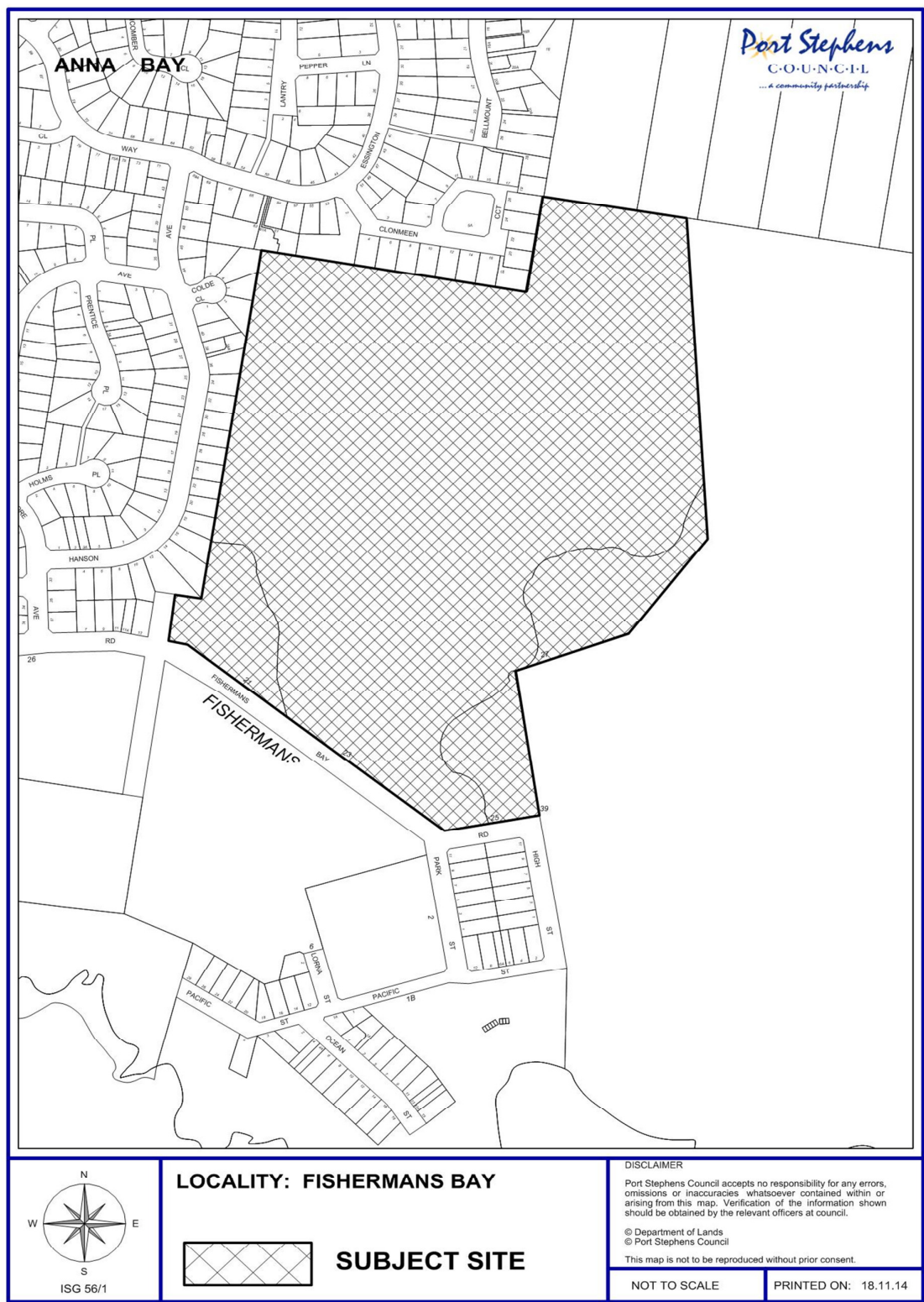
The development will be accessed off Fishermans Bay Road and an alternative access point provided off Clonmeen Circuit, Anna Bay.

Due to the natural topography of the land, the site is separated into two main natural drainage catchments. The northern catchment drains north to Clonmeen Circuit. The southern catchment drains west to Hansen Avenue. The development will provide a detention basin and bioretention basin in the northern catchment and drainage reserve in the southern catchment.

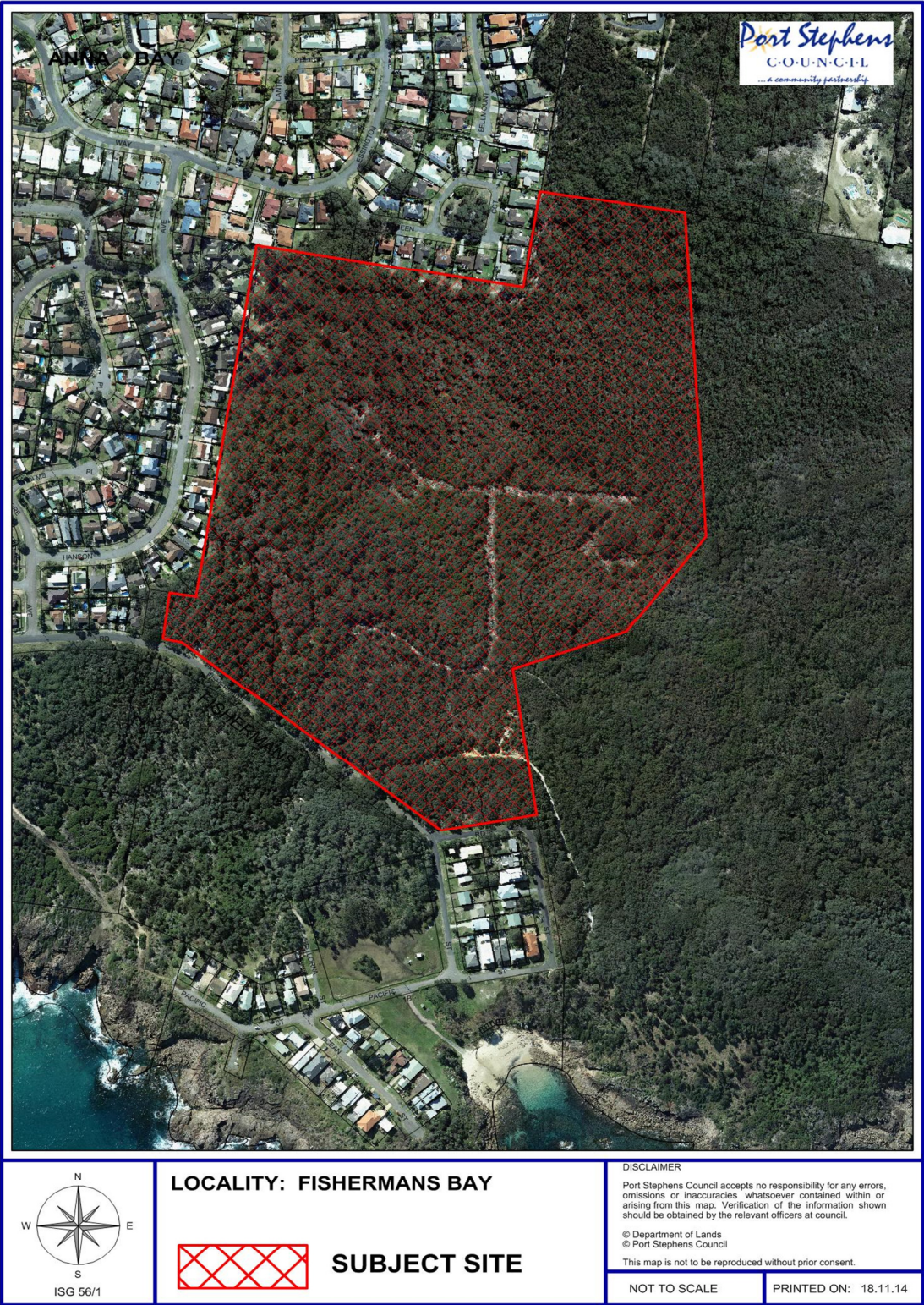
There are approximately 25 residential properties adjoining the development site's northern and western boundaries. These dwellings are predominantly single level dwellings with some two storey development. There is a National Park located along the eastern boundary of the development site.

A locality plan, aerial image and site plan showing watercourses are set out on the following pages.

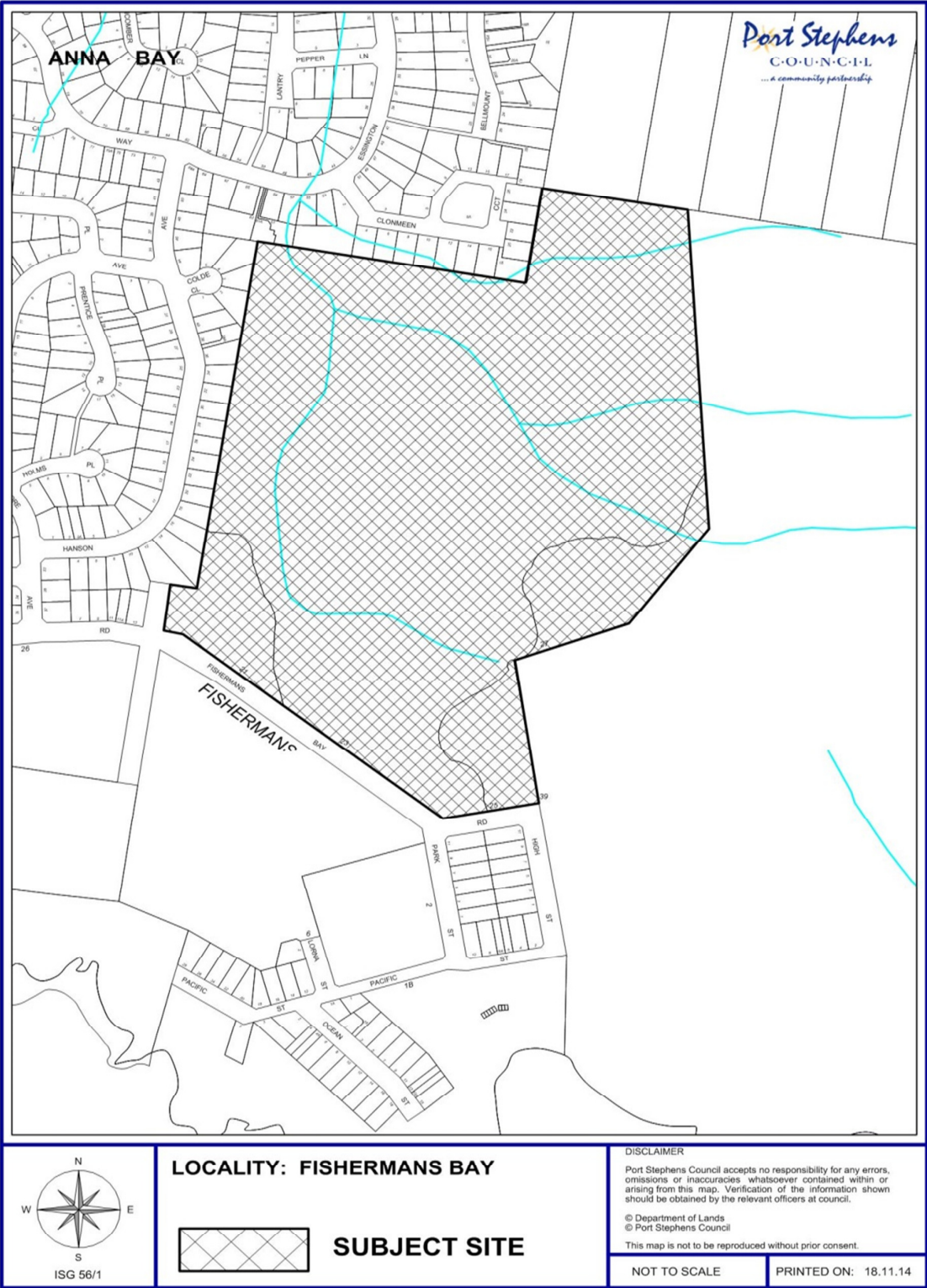
Locality Plan (Figure 1)



Aerial Image (Figure 2)



Site Plan showing watercourses (Figure 3)



PROPOSAL

A 106 Lot Torrens Title residential subdivision, plus three environmental conservation lots (drainage reserve), and supporting roads. In addition, lots 2,3 and 4, DP 1184315 are to be dedicated to Council and National Parks and Wildlife Service (NPWS).

The subdivision is to be undertaken in three stages as follows:

- Stage 1 (Lots 101 to 135, 137 and 138 (34 residential lots and two drainage reserves))
- Stage 2 (Lots 201 to 238 (38 residential lots))
- Stage 3 (Lots 301 to 333 and lot 335 (34 residential lots)).

The proposed residential lots will range between 603.7 and 4184m².

The associated works include:

- *Construction of roads and stormwater infrastructure, installation of utility facilities;*
- *Earthworks associated with construction of roads and drainage;*
- *Implementation of sediment and erosion control safeguards associated with earthworks;*
- *Construction of playground, picnic area and open 'kick around' area;*
- *Clearing of proposed building envelopes;*
- *Landscaping including retention of mature trees where practicable throughout the estate, inclusion of a 'no build' zone at the rear of some lots aligning with Hansen Avenue, screen planting to boundaries, rehabilitation planting and other landscaping as detailed in the Landscape Report, November 2013 (Design Partnerships);*
- *Construction of shared paths through the subdivision connecting to Fishermans Bay Road (gravel pedestrian and cycle trails through retained bushland, and shared paths to be installed through the site connecting Fishermans Bay Road and Essington Way together with a formal entrance to the Tomaree National Park and shared path on the southern side of Fishermans Bay Road);*
- *Construction/improvement of gravel trail through retained vegetation;*
- *Construction of pathway connection (and access point) to Clonmeen Circuit;*
- *Construction of formal entrance to Tomaree National Park;*
- *Dedication of land to Council (Proposed Lots 137, 138 and Lot 2, DP 1184318 for environmental reserve). This land includes a number of drainage reserves, open space areas, an area in the south western part of the site identified as an endangered ecological community (EEC) including associated buffers, and a parcel of land (Coastal land) to the west of the road reserve emanating from Fishermans Bay Road;*
- *Dedication of land to National Parks and Wildlife Service (proposed Lot 335 and Lots 3 and 4, DP 1184318). This is the land in the eastern part of the site which adjoins Tomaree National Park;*
- *Construction of a 6m x 3m advertising sign near the Development entry.*

The proposed development is subject to a voluntary Planning Agreement (vPA) under which the Applicant proposes to construct dual use paths linking Fishermans Bay to Morna Point Road, Anna Bay and to also undertake construction of the Anna Bay Community Recreation Centre. This assessment recommends a deferred commencement approval subject to finalizing the VPA.

PLANNING ASSESSMENT

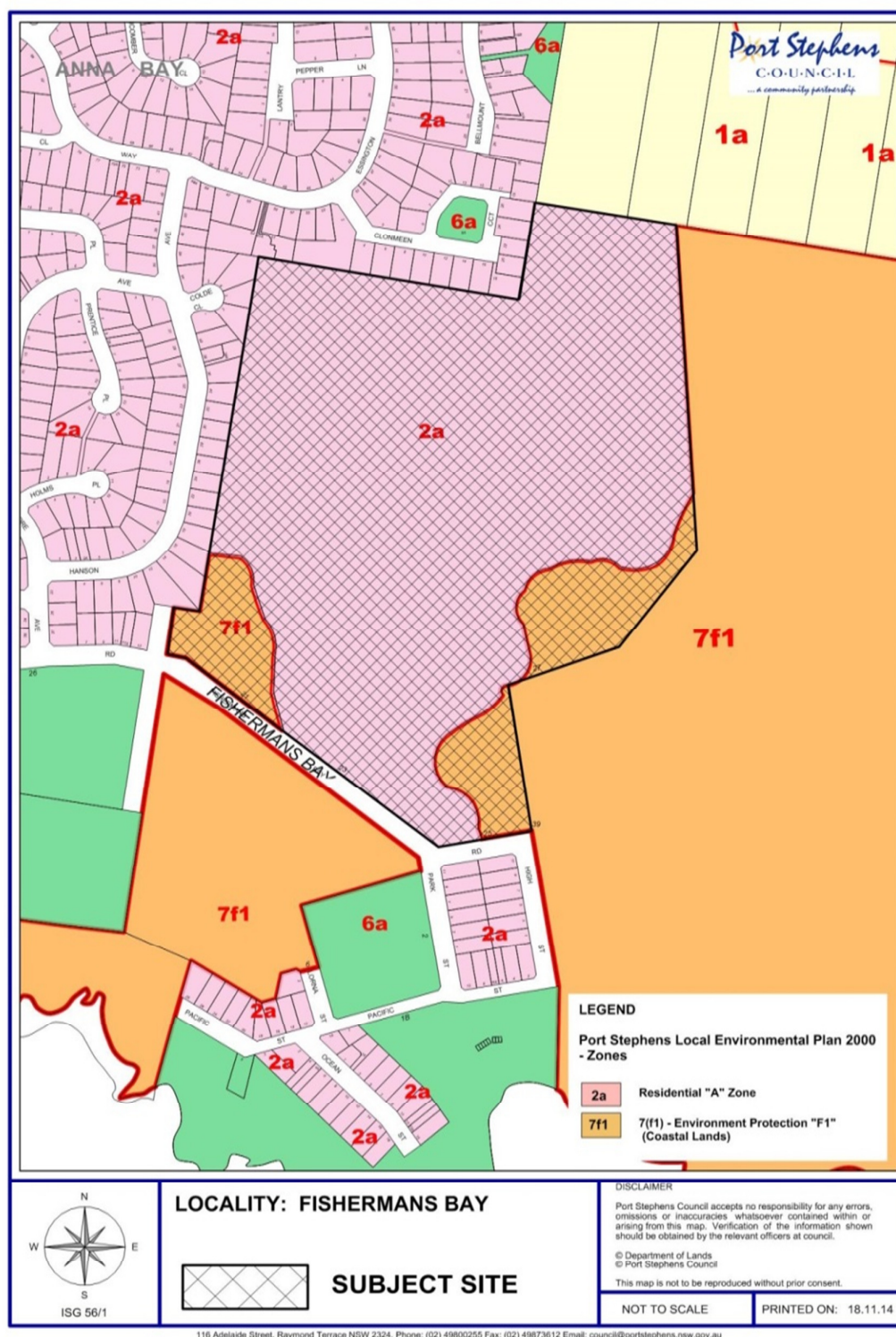
Environmental Planning & Assessment Act 1979

The proposal has been assessed under the relevant matters for consideration detailed in Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000

At the time of lodgment *Port Stephens Local Environmental Plan 2000* (PSLEP 2000) was the relevant instrument in force. The site is zoned 2(a) Residential "A" and 7f(1) Environmental Protection.

LEP 2000 Zoning Map (Figure 4)



2(a) Residential 'A' zone

The 2(a) Residential "A" zone is characterised by residential development (one and two storey dwelling houses and dual occupancy housing) and may include

townhouses, and units. Small scale activities such as neighbourhood and community uses may be present in the zone.

The proposal for residential subdivision is permissible in the zone and is consistent with the zone objectives which aim to provide for a variety of housing types and densities that meet the day to day needs of the community whilst providing a connection to the existing neighbourhood and services. In addition, amenity is supported through landscaping, subdivision design and retention of Conservation lands.

Zone No 7 (f1) (Environment Protection “F1” (Coastal Lands) Zone)

The 7f(1) Environmental Protection zone is characterised by environmentally sensitive land of particular environmental interest and can include water catchment areas, wetlands and significant flora and fauna.

The proposed residential lots are restricted to the portion zoned 2(a) Residential ‘A’ and the development provides lots for dedication to Council and National Parks and Wildlife within land zoned 7f(1) Environment Protection 7f(1) Coastal lands.

The dedication of this environmentally sensitive land ensures that the zone objectives are achieved and environmental land protected.

Clause 17 - Subdivision

The proposed residential lots will range in area between 603.7m² and 4184m². The development satisfies the subdivision requirements under Clause 17 of PSLEP 2000 as all proposed allotments are greater than 500m² which is the minimum lot size requirement.

Further proposed lots 137 (5125m²), 138 (3569m²) and 335 (7111m²) are reserves for drainage and environmental purposes and no minimum lot sizes apply to this land. Lots 2, 3 and 4, DP 1184315 (zoned E2 Environmental Conservation under PSLEP 2013) will not be modified as part of the development.

Clause 47 – Services

Clause 47 requires that adequate services be provided to the site. Utility services are available to the site including electricity, telephone and water. Pit and Pipe Infrastructure for National Broadband is also proposed to be provided by the Applicant.

Clause 51A – Acid Sulfate Soils

The proposed development is on land mapped as Class 4 and 5 Acid Sulfate Soils (ASS). The majority of the site is mapped as containing Class 5 soils with a minor portion being identified as Class 4 ASS (to the south west of Clonmeen Circuit backing onto Hanson Avenue). The applicant has submitted a geotechnical report prepared by Coffey Geotechnics dated 29 October 2012. The assessment has identified that the development can achieve compliance with Clause 51A subject to conditions of consent. Should the JRPP elect to approve the development a condition is recommended that further investigation into the area noted as Class 4 ASS should be undertaken prior to commencement of any works at the site.

Clause 55 - Protection of heritage items, heritage conservation areas and relics

Clause 55 requires a Consent Authority to consider potential impacts upon heritage items, heritage conservation areas and relics. An Aboriginal Heritage Assessment was prepared by Streat Archaeological Services and included test excavation

methodology and a cultural heritage assessment, undertaken 2012 and 2013. The reports identified two previous studies on the site and the presence of two isolated artefacts. The site is also within 300m of the Birubi Point registered Aboriginal Place (Government Gazette 20/4/2007). Consultation with Aboriginal groups and a field survey were undertaken and one artifact remains within the conservation area (not subject to development) and the other was unable to be located and application for an Aboriginal Heritage Impact Permit ('AHIP') to remove the item from the Aboriginal Heritage Information Management System (AHIMS) data base is included as part of the report.

The area identified as EEC was thought to have moderate archaeological potential however this area of the site will remain undisturbed. The site is generally considered to have low archaeological potential and the proposal is therefore not inconsistent with the requirements of Clause 55. It is concluded that the proposed development will not adversely impact upon the heritage value of the site subject to inclusion of an advice relating to discovery of any Aboriginal relics on site during works.

The incorporation of and advice to ensure that if any Aboriginal artefacts are discovered whilst the works are being undertaken on the site, that the National Parks and Wildlife Service are contacted to issue any additional permit as required. Further, referral has been made to the Office of Environment and Heritage (OEH) and support for the proposal provides General Terms of Approval including archaeological testing of sand deposits, test excavations and an AHIP for the two isolated artefacts. The proposal therefore satisfies Clause 55 of LEP 2000.

Clause 59 – Development of archaeological sites

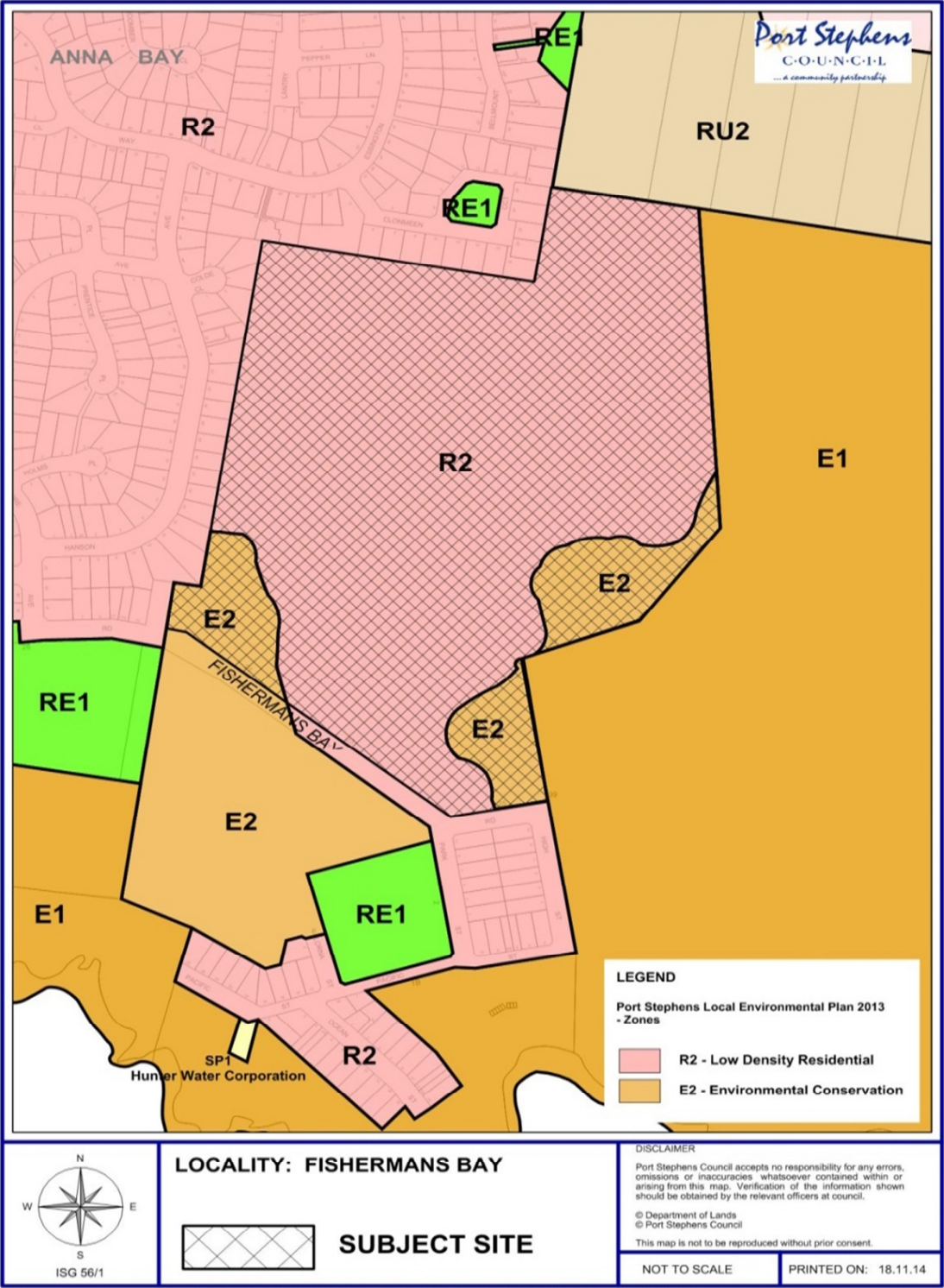
This clause allows a Consent Authority to grant consent to development on an archaeological site that has Aboriginal Heritage significance. Streat Archaeological Services undertook an Aboriginal and Archaeological Assessment of the site as noted in clause 55 above.

Known artefacts on the site were identified. The consultant concluded that preparation of a Cultural Management Plan in addition to an (AHIP) could be prepared to ensure that potential Aboriginal archaeological significance of the site is protected, however, upon referral to OEH this was not a requirement. OEH has provided concurrence subject to its General Terms of Approval. The incorporation of conditions of consent ensures that the development is satisfactory with regards to clause 59.

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 (PSLEP2013)

Port Stephens Local Environmental Plan 2013 (PSLEP 2013) commenced on 22 February 2014. In accordance with clause 1.8A LEP 2013 'Savings provisions relating to development applications', any application lodged prior to the commencement of the Plan is to be determined as if the Plan had not commenced. Accordingly, this assessment has considered the development against the relevant provisions of LEP 2000 as the relevant instrument in force at the time of lodgement. However the consent authority is also required to give consideration to the relevant weight to LEP 2013 as if it were a Draft Instrument. Under LEP 2013, the site is zoned R2 Low Density Residential and E2 Environmental Conservation.

LEP 2013 Zoning Map (Figure 5)



Zone R2 Low Density Residential

The objectives of the zone include provision of housing needs for the community and provision of other land uses that meet the day to day needs of the community within a low density environment that protects and enhances amenity.

The proposal for residential subdivision is permissible in the zone and is consistent with the zone objectives by provision of a variety of housing types and densities that meet the day to day needs of the community together with provision of services to the site and connectivity to the existing neighbourhood. In addition, amenity is supported through landscaping, subdivision design and retention of Conservation lands.

Zone E2 Environmental Conservation

The objectives of the zone include the protection and management of areas of high ecological, scientific, cultural or aesthetic values.

The proposed residential lots are restricted to the portion zoned R2 Low Density Residential and the development provides lots for dedication to Council and National Parks and Wildlife within land zoned E2 Environmental Conservation.

The dedication of this environmentally sensitive land ensures that the zone objectives are achieved and environmental land protected.

Clause 4.1 Minimum Subdivision lot size

The objectives of this clause ensure that lot sizes are able to accommodate development and are consistent with the lot size map.

The proposed residential lots will range in area between 603.7m² and 4184m². The proposal meets the subdivision requirements under Clause 4.1 of LEP 2013 as all proposed allotments are greater than 500m² which is the minimum lot size requirement.

The proposed lots 137 (5125m²), 138 (3569m²) and 335 (7111m²) are reserves for drainage and environmental purposes. Lots 2,3 and 4, DP 1184315 (zoned E2 under LEP 2013) will not be modified as part of the development.

The proposal therefore meets the aims and objectives of this clause.

Clause 5.5 Development within the coastal zone

The objectives of this clause include protection of the coastal environment for the benefit of present and future generations whilst protecting and preserving the coastal environment. The cumulative effects of the proposal have been assessed and it is considered that these impacts will be mitigated by the implementation of appropriate conditions of consent. The assessment has demonstrated that the proposal will not impact significantly upon the coast or those matters considered under Clause 8 of SEPP 71 (see SEPP71 discussion).

Clause 5.9 and Clause 5.9A – Preservation of trees or vegetation/trees or vegetation not described by Development Control Plan

The objective of these clauses is to preserve the amenity of the area through preservation of trees and vegetation. A flora and fauna report has been submitted noting the existence of *Paperbark Swamp Forest*, *Coastal Sand Wallum*, *Coastal Sand Apple Blackbutt Forest* and *Nerong Smooth-barked Apple forest*. It was found the *Paperbark Swamp Forest* exists on Aeolian sands and not alluvial soils (alluvial soils being the specific criteria to establish an EEC rating). However, Council has taken a conservative approach in order to protect this vegetation and required the

Applicant to treat this vegetation as Swamp Sclerophyll Forest on Coastal Floodplains EEC ensuring this EEC area is protected and subsequently dedicated to Council. Rehabilitation works in the EEC area are addressed in the Habitat Rehabilitation Plan which will form part of the voluntary Planning Agreement.

In addition, the landscaping plan provides for retention of trees where practical throughout the subdivision.

Given the proposal will provide protection for this EEC area, and a Construction Flora and Fauna Management Plan has been prepared that will form part of the approved documents to any consent, the proposal satisfies the requirements of these clauses.

Clause 5.10 – Heritage Conservation

The objective of this clause is to conserve environmental heritage, heritage significance of heritage items, conserve archaeological sites, aboriginal objects and Aboriginal places of significance.

The assessment result relating to archaeological sites has been considered under Clause 55 of LEP 2000 and consideration under this clause also supports the proposal given that there will be no significant impacts upon heritage items.

Referral has been made to OEH and support for the proposal has been provided subject to conditions of consent.

Part 6 – Urban Release areas

The site is not defined as an urban release area, however, provision of essential services and infrastructure will be included as part of this development.

Clause 7.1 Acid Sulfate Soils

The proposed development is on land mapped as Class 4 and 5 Acid Sulfate Soils (ASS). The majority of the site is mapped as containing Class 5 soils with a minor portion being identified as Class 4 ASS (to the south west of Clonmeen Circuit backing onto Hanson Avenue). The applicant has submitted a geotechnical report prepared by Coffey Geotechnics and dated 29 October 2012. The assessment has identified that the development can achieve compliance with Clause 7.1 subject to conditions of consent. Should the JRPP elect to approve the development a condition is recommended that further investigation into the area noted as Class 4 ASS should be undertaken prior to commencement of any works at the site.

Clause 7.2 – Earthworks

Earthworks are discussed within the Section Bulk Earthworks and Erosion and Sediment Control. Provisions have been incorporated into the design to ensure suitable access and conditions have been imposed to ensure the bulk earthworks are undertaken without any significant impacts upon the environment.

Clause 7.6 – Essential Services

Clause 7.6 requires that adequate services be provided to the site. Essential services will be available to the development including, water, sewer, electricity, stormwater drainage, vehicular access and telecommunications. Pit and Pipe Infrastructure for provision of the National Broadband Network is also proposed to be included.

Other Plans/Strategies:

Regional Environmental Plans

The Lower Hunter Regional Strategy and Lower Hunter Regional Conservation Plan are relevant to this proposal and guide the growth of the Lower Hunter. The primary objective of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located. This will ensure the sustainable accommodation of the projected housing and employment needs to the Region's population for the next 25 years.

Anna Bay is identified within the Lower Hunter Regional Strategy as a proposed urban area with boundaries to be defined through local planning. The Fishermans Bay area however, is not specifically identified within the Strategy.

The proposal is not contrary to the aims of the Lower Hunter Regional Strategy or the Lower Hunter Regional Conservation Plan and the proposal has been considered against the relevant legal instruments which identify the subject site as urbanised.

The proposed subdivision achieves the objectives of the Strategy and Plan by providing residential land to cater for the sustainable accommodation of the region's population growth.

Port Stephens Planning Strategy 2011 -2036

The Port Stephens Planning Strategy (PSPS) responds to the State Government's Lower Hunter Regional Strategy and Lower Hunter Regional Conservation Plan by providing local level detail and the Port Stephens Commercial and Industrial Lands Study.

The primary purpose of the PSPS is to guide land use planning and decision making for development and environmental outcomes. The PSPS provides the framework for the broad strategic base to manage growth and is supplemented by the development of sub-strategies to provide an additional level of detail for specific areas or issues.

Anna Bay – Boat Harbour – Fishermans Bay – One Mile – Bobs Farm

Population projections for the Anna Bay – Boat Harbour – Fishermans Bay – One Mile – Bobs Farm area indicate population will increase from 5,503 people in 2009 to 6,600 people 2031 and increase of 1,097. Anna Bay is identified as the only centre within the area and is planned to be the focus of activity generated by the population area.

The subject land has been identified in the PSPS as a residential land holding which has been included in potential development yields. The proposed development is consistent with the aims of the (PSPS) as it provides residential housing for future development and achieves additional residential yield in the locality.

Anna Bay Strategy and Town Plan 2008

The site is identified in the Anna Bay Strategy for future residential use. The Strategy, in conjunction with the Port Stephens Planning Strategy 2011 identifies Anna Bay as a new release area of up to 200 dwellings over the next 15-20 years. The development of the site is also noted in the Strategic Directions section of the Strategy.

The proposal is considered to be consistent with the aims of the Strategy, and will also contribute to economic growth in the area.

Tomaree National Park Plan of Management

Land to the east of the site zoned E2 Environmental Conservation will be dedicated to the National Parks and Wildlife Service. The Applicant has consulted with National Parks and Wildlife Service to formalise access to the park as presented in its landscape design (which includes fencing to ensure protection of the Park).

SECTION 94 CONTRIBUTIONS/VOLUNTARY PLANNING AGREEMENT

The application attracts Section 94 contributions pursuant to Section 80A(1) of the Environmental Planning & Assessment Act 1979 and the Port Stephens Section 94 Development Contributions for a total of \$1,483,784.

However, in lieu of Section 94 fees a (vPA) has been proposed by the Applicant and includes the construction of a Recreation/Community Centre located to the west of the subject site and ancillary works associated with the subdivision. Should the Panel support the development a condition of consent (deferred commencement) relating to the vPA will be imposed.

STATE ENVIRONMENTAL PLANNING POLICIES

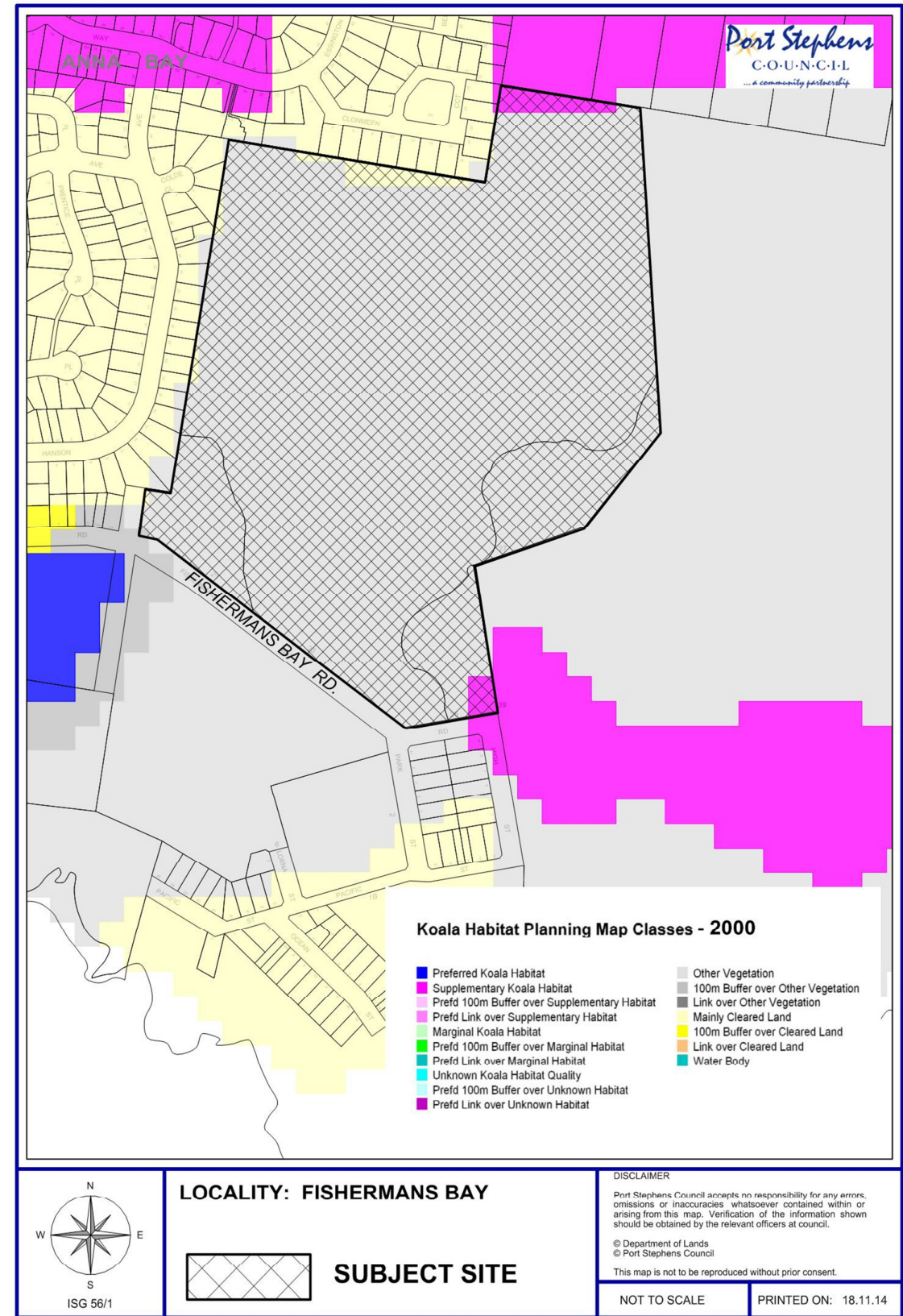
State Environmental Planning Policy (Major and Regional Development) 2011

This policy sets out the functions of regional panels in determining applications for regional development. Part 4 of the policy specifically applies to regional development outlines the functions of Council's and regional panels with respect to the receipt, assessment and determination of development applications. The provisions of the policy have been adopted in the processing of the subject application.

State Environmental Planning Policy No 44 (Koala Habitat)

This policy aims to encourage conservation of areas of natural habitat for koalas to ensure their population continues and does not decline. Port Stephens Council has adopted a Comprehensive Koala Plan of Management (CKPoM) which supersedes this State Policy in the Port Stephens Local Government Area. The site is defined as 'other vegetation' and lies between an area of Supplementary and Preferred habitat with small areas of supplementary habitat mapping overlapping the northern tip and south eastern corner of the site.

Koala Habitat map (Figure 6)



Two studies were completed by the Applicant's consultant and noted that whilst the site contained some koala feed trees (*Eucalyptus pilularis*) Blackbutt and *M. quinquenervia*) Broad leaved paperbark these trees would be retained in EEC and Coastal lands to be dedicated to Council and National Parks and Wildlife Service. However, the Consultant also indicated that preferred koala feed trees (Swamp Mahogany – *Eucalyptus robusta*, Forest red Gum *Eucalyptus tereticornis* and naturally occurring hybrids, Drooping Red Gum *E. parramattensis* Tallowwood *E. microcorys*) were not evident on the site nor were the presence of any koalas recorded during site surveys.

Given the classification of 'other vegetation' and (lack of koala feed trees) together with the lack of officially recorded koala sightings (historically) it was considered by the Consultant that the site was unlikely to support a permanent koala habitat.

Subsequent Inspection by Council Environmental officers confirmed that the site is considered 'other vegetation' however, that a landscape habitat link could potentially exist for koalas travelling through the site. It was considered that strengthening of local habitat corridors by conservation and dedication of the EEC area to Council would ensure this across the site. It was also found that there is no significant impact to koala fauna and that no further assessment was required under the (CKPoM).

The proposal was considered to satisfy the requirements of this State Policy.

State Environmental Planning Policy No 55 (Remediation of Land)

This policy provides planning controls for remediation of contaminated land. The policy states the land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

A search of orders made by the Office of Environment and Heritage (OEH) under the Contaminated Land Management Act 1997, Environmentally Hazardous Chemicals Act 1985 and Protection of the Environment Operations Act 1997 have not identified any potential compliance issues. The geotechnical assessment completed by Coffey Geotechnics using a selection of boreholes did not reveal any observable signs of contamination, nor does Council have any details of contamination registered against this site.

Given the historical use of the land as vacant land it is not considered likely that contamination would be in existence at the site. In this regard, the development is satisfactory and further investigation of the site is not warranted in this instance.

State Environmental Planning Policy No 64 (Advertising and Signage)

Signage has been incorporated into the design in the form of a post pylon sign measuring 6m x 3m approximately. The signage shall be used for advertising the land release and will be located in proximity to the main entrance of the development on land owned by the Applicant.

The signage is proposed to be constructed after earthworks and site works. It is noted that no initial advertising is included as part of the application. However, the signage will seek to include advertising as housing commences to be constructed and will change on a six monthly basis as land is developed. No illumination is included as part of the signage application and the Applicant confirms that they do not have a standard marketing sign plan and that details of design and footings will be provided at Construction Certificate Stage. However, given that the current location of the

signage is on land proposed to be dedicated to National Parks and Wildlife (which is currently owned by the Applicant), details of any signage or entry statements are required to be provided to Council prior to any Roads Act approval.

The proposal is not contrary to the requirements of the State Policy or assessment criteria in Schedule 1 and conditions will be imposed in relation to this signage.

State Environmental Planning Policy No 71 (Coastal Protection)

The subject site is located within the coastal zone, therefore the provisions of State Environmental Planning Policy No 71 Coastal Protection apply.

The policy seeks to ensure that development in the NSW Coastal zone is appropriate and suitably located, and its aims include to:

- (a) Protect the natural attributes of the coast;
- (b) Protect and preserve Aboriginal cultural heritage;
- (c) Protect the visual amenity of the coast;
- (d) Protect beach environments and amenity; and
- (e) Ensure that the type/bulk/scale and size of development is appropriate in the location.

Part 5 of this Policy requires a Master Plan for residential subdivision in the coastal zone above 25 lots. This requirement has been waived by the Department of Planning in a letter dated 30 July 2012 and is submitted with this report.

The Development is considered to be consistent with the matters for consideration in Clause 8 of this State Policy as set out below:

Sub clause	Comment
(a) The aims of this Policy set out in clause 2	<p>The site is in excess of 300m from the coast and the proposal will be supportive of the recreational, cultural and economic attributes of the coast by provision of new housing, recreational facilities (Anna Bay Community Recreation Centre) and will not adversely impact upon heritage, visual amenity, or coastal access. In particular, dedication of conservation areas will ensure protection of EEC and buffer areas and landscape links are provided to the existing National Park.</p> <p>The development is not inconsistent with the aims of the SEPP.</p>
(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.	<p>The proposal will provide for construction of shared paths through the subdivision connecting to Fishermans Bay Road and gravel pedestrian and cycle trails through the site.</p> <p>Access to the foreshore will not be restricted by the proposal and shared paths will be conditioned to Australian Standards which</p>

	will cater for pedestrians and persons with a disability.
(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	As well as shared paths throughout the development, improved access to the foreshore area will be provided by works being undertaken as part of the Voluntary Planning Agreement. These works include construction of the Anna Bay Recreation Centre which also provides an improved access to the foreshore area.
(d) The suitability of the development given its type, location and design and its relationship with the surrounding area.	The development is considered suitable for the site. The land has been zoned as residential land for many years and a previous application for subdivision approved in 1994. The site is also in close proximity to the Anna Bay Town Centre and Community Recreation Centre approved adjacent to the existing scout hall.
(e) Any detrimental impact that development may have on the amenity of the coastal foreshore and any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The development proposed will not significantly impact upon the amenity of the foreshore or any views of the foreshore given the site is over 300m from the coastal foreshore. The site is also bounded to the east by the Tomaree National Park which is heavily vegetated however, does not hinder access to the coastal foreshore.
(f) The scenic qualities of the New South Wales Coast, and means to protect and improve these qualities.	The scenic quality of the coast will not be impacted as a result of the development. The proposed development will provide a planned subdivision with appropriate landscaping (including retention of mature trees where possible), retention of EEC area to be dedicated to Council and Environmental Conservation lands for dedication to National Parks and Wildlife service.
(g) Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The site is not identified to have a significant impact upon Threatened Species. The EEC area on the western side of the site will be dedicated to Council and will provide a habitat corridor and form a sub regional corridor. In addition, E2 Environmental Protection lands will be dedicated to National Parks and Wildlife to ensure habitat corridors are maintained to the east of the site providing connectivity to the existing National Park.
(h) Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine	The development does not impact upon fish, marine vegetation or habitat.

vegetation (within the meaning of that Part), and their habitats.	
(i) Existing wildlife corridors and the impact of the development on these corridors.	The EEC area located in the south western part of the site will be dedicated to Council and provide a habitat linking corridor. In addition, E2 Environmental Protection lands will be dedicated to National Parks and Wildlife to ensure habitat corridors are maintained to the east of the site providing connectivity to the National Park.
(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	Given the site is over 300m from the coast, and water quality issues have been addressed through the assessment together with referral to the Office of Water, it is unlikely that impacts upon coastal processes and coastal hazards will occur.
(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The subdivision will not increase the potential for conflict between land based and water based activities.
(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The proposal has been assessed in relation to Aboriginal heritage and culture and it is concluded that the development will not result in adverse impacts. Further the proposal has been referred to OEH who has provided its support for the proposal subject to General Terms of Approval.
(m) Likely impacts of development on water quality of coastal waterbodies.	<p>The development has been assessed having regard to potential impacts to water quality and has been found satisfactory subject to conditions of consent.</p> <p>The proposal has been referred to the NSW Office of Water who have provided their support for the proposal subject to General Terms of Approval.</p>
(n) The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has been assessed in relation to Aboriginal heritage and has concluded that the proposal will not adversely affect heritage or archaeological items of significance. Further, the proposal has been referred to OEH who has provided its support for the proposal subject to General Terms of Approval.
(o) Only in cases in which a Council prepares a draft local environmental plan that applies to the land to which this Policy applies, the means	N/A

<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 water and energy usage by the proposed development is efficient.</p>	<p>The cumulative impacts of the proposed development and water/energy usage have been considered in this report and it is considered that the cumulative impacts will be mitigated by the implementation of appropriate conditions of consent included as an annexure to this report. In addition, future development on the site will be required to comply with the Building Sustainability Index: BASIX.</p>
--	--

Environmental Planning & Assessment Regulation 2000

Clause 92 – Additional matters

This policy was proposed to consider impacts upon coastal areas as a result of increasing population growth and the number of developments in coastal areas. Councils are required to consider the Coastal Policy when determining development applications. The proposal for residential subdivision is consistent with this Policy and the requirements of SEPP 71 as discussed in this report.

DEVELOPMENT CONTROL PLANS

Development Control Plan 2007 applies to the subject site and contains provisions which relate to residential subdivision. Development Control Plan 2013 does not affect the outcome of this assessment report.

Part B1 –Subdivision and Streets

Topography and views	<p>Topography characteristics of the site include steep areas (10-20%) formed by hard rock ridges with corresponding valleys. The Geotechnical reported provided by the Applicant's Consultant concluded that areas of steeper slopes generally corresponded to sandy areas and areas of rock are generally located in the coastal land to be dedicated to National Parks and Wildlife Service. High strength rock outcrops appear evident over the east west central ridge.</p> <p>The lot layout and street network responds to the topography of the site by providing larger rural style lots in areas of rock affected land and perimeter roads around EEC land.</p>
Street and Block layout	<p>The street and block layout is acceptable and responds to the constraints of the site. Areas of the site of ecological significance have been retained and shall be</p>

	dedicated to Council and National Parks and Wildlife Service. The street layout has also considered connections with the periphery of the site and surrounding area.
Footpaths and Cycleways	Conditions will be imposed in to relation to shared paths, pedestrian access and cycleways.
Parks and Open Space	<p>The location and size of the proposed open space area is acceptable to Council.</p> <p>Access to either the open space or reserve/EEC areas are easily achieved. Lots are within 400m of either area.</p> <p>Retention and rehabilitation of the EEC area and dedication of land to Council will be a positive adjunct to the park and open space area provided. In addition, provision of walking trails and easy access to the National Park and coastal area enhances the provision of open space.</p>
Lot Layout	<p>The proposed lot layout allows for regular shaped lots which can accommodate reasonable building footprints and primarily address solar access. Larger lots will respond to topography and also the requirements for APZ areas as discussed in the section relating to Flora and Fauna.</p> <p>Lot 328 will have access to proposed Access Way 2 therefore a variation to the 10m minimum for street frontage will apply. This is considered a minor departure from this control and is acceptable.</p>
Street Trees	A condition of consent will be imposed in this regard.
Infrastructure	Provision of Infrastructure and services includes infrastructure for stormwater drainage, roads, sewer and reticulated water, energy and telecommunications. Conditions have been imposed in regard to infrastructure requirements.

Part B2 – Environmental and construction management

Water Quality Management	The water quality strategy submitted with the report has been assessed and it is concluded that the proposed development will not result in
--------------------------	---

	unacceptable impacts to stormwater and water quality management.
Acid Sulfate Soils	<p>The proposed development is on land mapped as Class 4 and 5 Acid Sulfate soils. The majority of the site is mapped as containing Class 5 soils with a minor portion being identified as Class 4 Acid Sulfate Soils (to the south west of Clonmeen Circuit backing onto Hanson Avenue). The applicant has submitted a geotechnical report prepared by Coffey Geotechnics and dated 29 October 2012. The assessment has identified that the development can achieve compliance with development on Acid Sulfate Soils Class 4 subject to conditions of consent. Should the JRPP elect to approve the development a condition is recommended that further investigation into the area noted as Class 4 ASS should be undertaken prior to commencement of any works at the site.</p>
Contaminated Land	The site is not contaminated. Refer to SEPP 55 discussion elsewhere in this report for details.
Vegetation Management	<p>A Habitat Rehabilitation Plan has been included as part of the vPA and a Construction Flora and Fauna Management Plan will form part of the schedule to the conditions of consent and will minimize any impact from clearing of existing vegetation. The development results in clearing of select areas of vegetation from the site for the proposal and for APZ areas required by NSW Rural Fire Service (RFS). Areas that have been identified as having high ecological value have been retained and will be dedicated to Council and National Parks and Wildlife Service. In order to respond to site clearing the assessment has concluded that a Habitat Rehabilitation Plan (HRP) is required. The HRP and Construction Clearing Plan include habitat protection measures, weed management, re-vegetation, rehabilitation and details of monitoring and reporting. The HRP will form part of the vPA and the Construction Flora and Fauna Management Plan which addresses Flora and Fauna Management measures, clearing protocols, weed management, monitoring and review will be included in the schedule of documents to any Consent if the JRPP approves the proposal.</p> <p>The proposed development is satisfactory regarding vegetation management subject to the recommendations of the Habitat Rehabilitation Plan and Construction Clearing Flora and Fauna Management Plan.</p>

Koala Management	<p>The site is located within proximity to supplementary and preferred koala habitat. See discussion relating to SEPP 44 and Flora and Fauna else where in this report.</p> <p>The development is not considered to result in adverse impacts to koala habitat.</p>
Trees	<p>A flora and fauna report has been submitted noting the existence of <i>Paperbark Swamp Forest, Coastal Sand Wallum, Coastal Sand Apple Blackbutt Forest and Nerong Smooth-barked Apple forest</i>. Whilst it was found the <i>Paperbark Swamp Forest</i> exists on Aeolian sands and not alluvial soils (alluvial soils are the specific criteria for an EEC rating). However, Council has taken a conservative approach in order to protect this vegetation and required the Applicant to treat this vegetation as Swamp Sclerophyll Forest on Coastal Floodplains EEC. This will ensure that the EEC area is protected and this land will also subsequently be dedicated to Council. Rehabilitation works in the EEC area are addressed in the Habitat Rehabilitation Plan and will form part of the vPA.</p> <p>In addition, the landscaping plan provides for retention of trees where practical throughout the subdivision.</p>
Weeds	<p>The Vegetation Management Plan (part of the VPA) and Construction Flora and Fauna Management Plan will address requirements for removal of herbaceous weeds with minimal impacts upon existing native species and stability of soil.</p>
Erosion and Sediment control	<p>Proposed site clearing and infrastructure works have the potential to result in erosion and sediment runoff. Conditions of consent have been recommended to address erosion and sediment control during construction and site preparation works.</p>
Construction Waste	<p>Moderate quantities of waste are expected to be generated during the subdivision construction phase of the development as a result of site works.</p> <p>A Waste Management Plan will be conditioned to be provided prior to the commencement of works.</p>
Waste Water	<p>Reticulated water and sewer will be provided to the site.</p>

Part B3 – Parking, traffic and transport

Public Transport	A condition will be imposed regarding bus stop/shelters. See discussion relating to traffic and access under Section 79C(1)(b).
Parking	Adequate provision for parking can be provided on development lots.
Access/Traffic	See discussion relating to traffic and access under Section 79C(1)(b).

Section (s.79C(1)(b) – Likely impacts

The proposed development is not expected to result in any adverse impacts to the natural and built environments, or social or economic impacts in the locality. The proposal is considered suitable in respect to access and traffic, flora and fauna, erosion and sediment control, social and economic impacts and stormwater management, as discussed in Section 79C(1)(a)(iii) of this report. The development provides an opportunity to appropriately accommodate additional residential accommodation that is contiguous with the existing residential area to the north and west of the site.

Access and Traffic

Better Transport Futures provided a traffic impact assessment showing the potential impact on the local traffic system and infrastructure. Vehicular access to the site will be gained from both Fishermans Bay Road and Clonmeen Circuit. The traffic impact assessment included assessment of the impacts of traffic generation from both access locations and also included a sensitivity analysis to test for various volume splits between the two access points. The reports concluded that local road infrastructure to the north of the site via Clonmeen Circuit is capable of supporting the additional traffic volumes associated with the development. Upgrades to Clonmeen Circuit will be required to integrate the development into the existing local road network.

Access to the proposed site via the south occurs along Fishermans Bay Road which is currently a 5.0 to 5.5 m wide local road servicing 45 lots. The proposed development would see volumes almost double from approximately 300 vehicles per day (vpd) to 650 vpd. Council's Development Control Plan requires local roads with volumes greater than 100 vpd upto 1000 vpd to be classified as a local street with a minimum carriage width of approximately 8.0 meters. It was recommended to the Applicant that upgrades to Fishermans Bay Road occur given that the current condition of Fishermans Bay Road is too narrow for the expected traffic volumes generated by the development. This assessment concludes that Fishermans Bay Road would become dangerous when a generally straight alignment with no natural speed control is coupled with a narrow pavement width and higher traffic volumes. A condition for upgrade to Fishermans Bay Road from the western boundary of the site to the proposed new intersection to match the width of Fishermans Bay Road

adjacent to the west has been agreed with the Applicant subject to final agreement of the level of works required.

The proposed development incorporates an internal road network layout which complies with Councils subdivision DCP chapter providing an interconnected network within the development site. The development is satisfactory with regards to traffic and access.

Flora and fauna

A detailed Flora and Fauna study has been carried out on the site by RPS Australia East Pty Ltd.

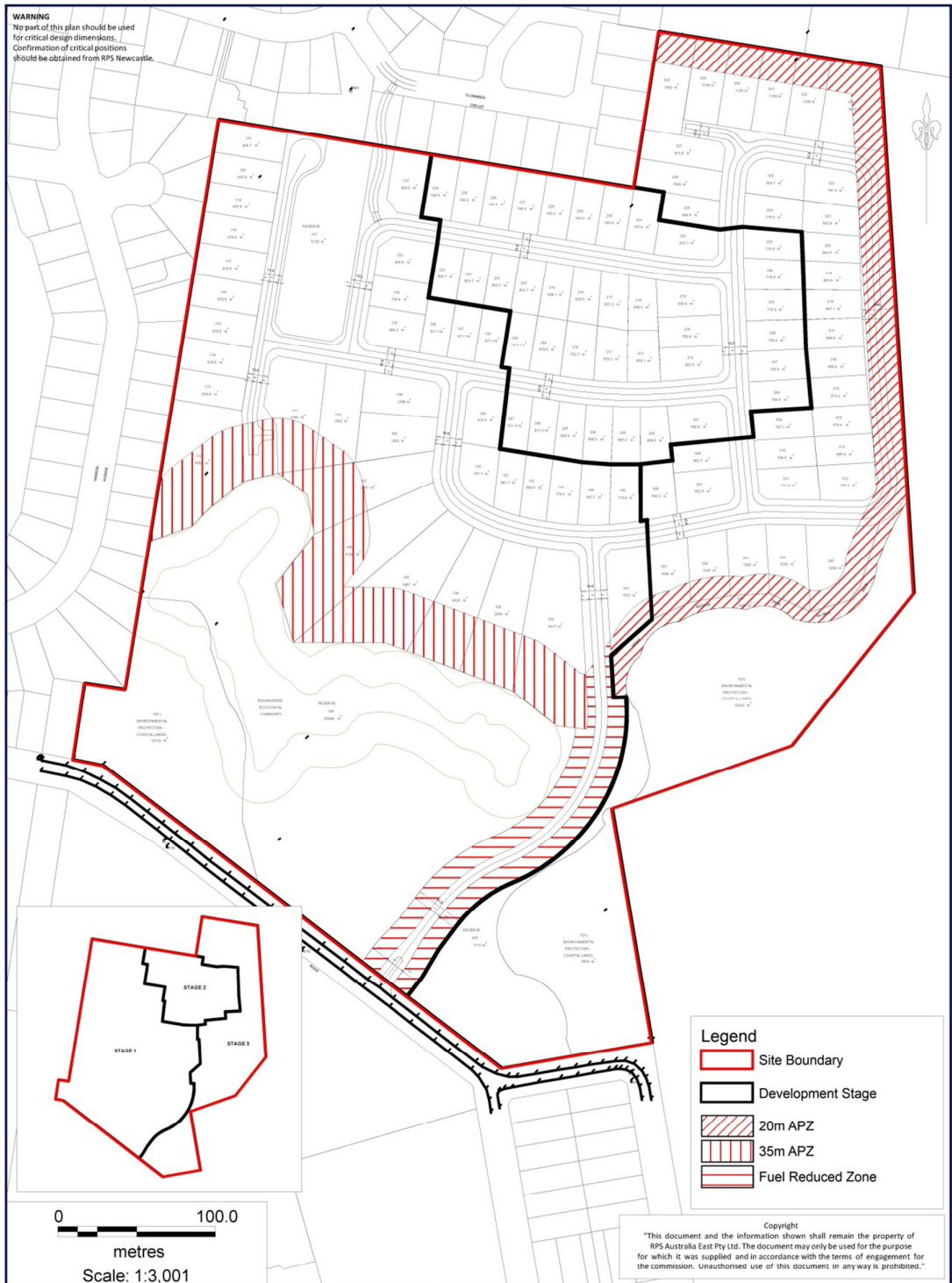
The western side of the site contains a landscape habitat link while the northern and southern areas provide landscape links of less significance. Habitat corridors in the area support squirrel gliders, eastern horseshoe bats, koalas and other fauna.

Three broader categories of vegetation occur on the site - Dry open forest, heath and Ephemeral swamp forest. The Applicant's Consultant report recorded approximately 13ha of Coastal Sand Wallum Woodland heath, approximately 8ha of Coastal Sand Apple Blackbutt forest (primarily in the vicinity of the area adjacent to the western and southern boundaries and approximately 1ha of Nerong Smooth-barked Apple Forest in the northern site area (rocky outcrop). Paperbark Swamp Forest was specific to the EEC area on the site to be dedicated to Council for Conservation land.

The report identified 142 hollows for nesting/refuge areas and included a Seven Part Test to identify and assess threatened species on the site which whilst identifying species such as the Bentwing Bat did not find a significant impact would occur upon threatened species.

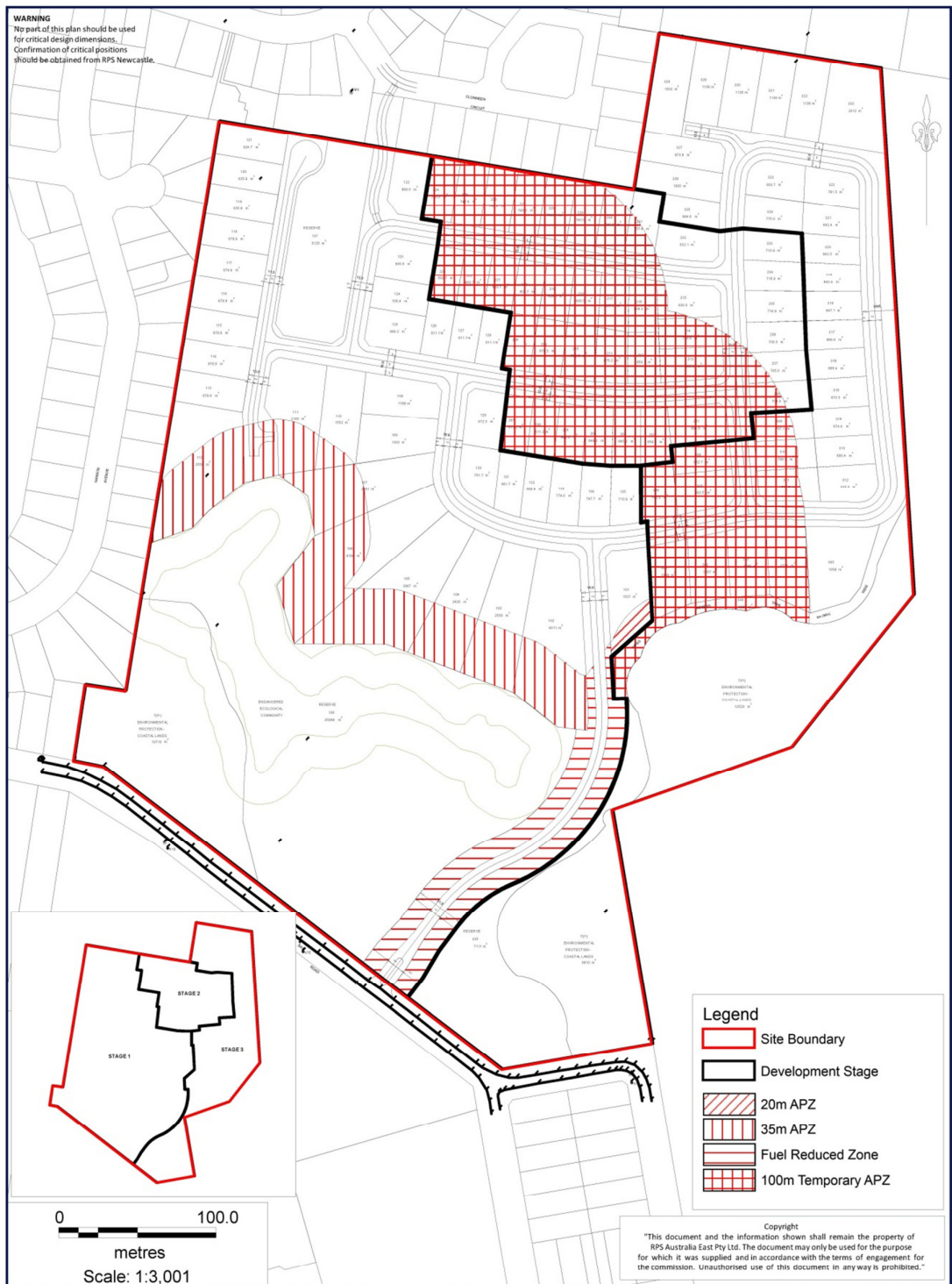
The development results in the clearing of approximately 15.08 ha of native vegetation within the development area with approximately 7.61ha to be retained. Clearing for the area of Asset Protection Zones (APZ) approved by the Rural Fire Service will result in approximately two thirds of the development footprint being cleared, however, this will be subject to the provisions of the HRP and Construction Flora and Fauna Management and will include retention of additional trees where practicable, and in particular habitat trees on the larger southern lots. Permanent APZ areas are enforced to the south and east of the development area where they meet the retained bushland and National Parks and Wildlife Service Conservation land. Retention of reduced canopy vegetation in the form of an outer protection area is to be provided and fuel reduced zones have been included in road reserve areas to provide additional safety for residential and emergency vehicles in a bushfire situation (see APZ maps over page and Bushfire Safety Authority NSW Rural Fire Service attached to this report).

Required APZ mapping (Figure 7)



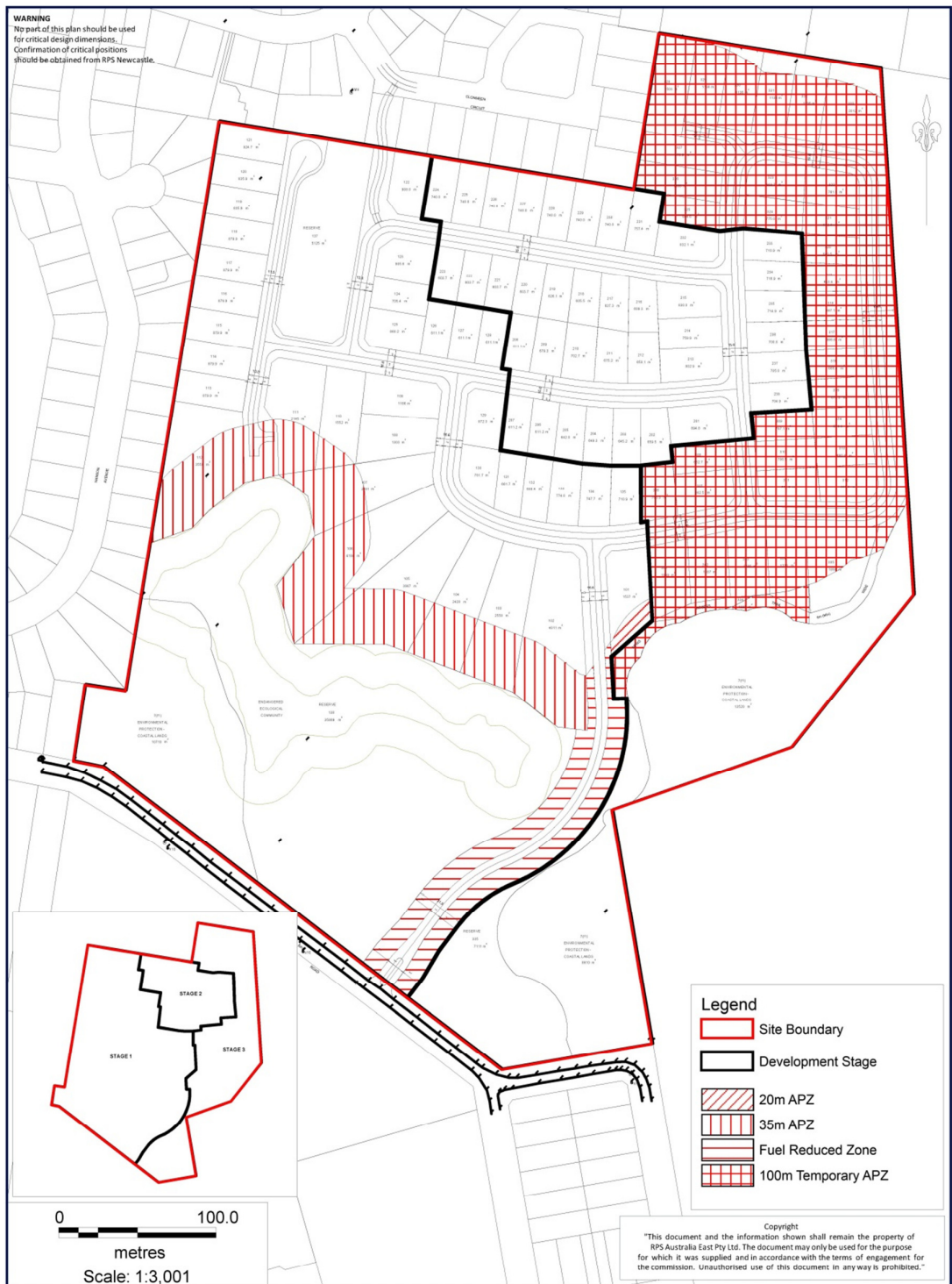
TITLE: REQUIRED APZ (PBP 2006)	LOCATION: FISHERMANS BAY	DATUM: DATUM	DATE: 28-10-2013	LAYOUT REF: 15085/38A/26370 Fishermans Bay
		PROJECTION: MGA ZONE 56 (GDA 94)	PURPOSE: UPDATED BUSHFIRE ASSESSMENT	VERSION (PLAN BY): MD A-A4
CLIENT: URBAN GROWTH NSW		RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762)		
JOB REF: 26370		241 DENISON STREET BROADMEADOW PO BOX 428 HAMILTON NSW 2303		
		T: 02 4940 4200 F: 02 4961 6794 www.rpsgroup.com.au		
		RPS		

Stage 1 APZ mapping (Figure 8)



TITLE: REQUIRED APZ (BPB 2006) STAGE 1	LOCATION: FISHERMANS BAY	DATUM: DATUM	PROJECTION: MGA ZONE 56 (GDA 94)	DATE: 28-10-2013	PURPOSE: UPDATED BUSHFIRE ASSESSMENT	LAYOUT REF: 15085/36A/26370/Fishermans Bay	VERSION (PLAN BY): MD A-A4
CUSTOMER: URBAN GROWTH NSW	JOB REF: 26370	RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762) 241 DENISON STREET BROADMEADOW PO BOX 428 HAMILTON NSW 2303 T: 02 4940 4200 F: 02 4961 6794 www.rpsgroup.com.au				RPS	

Stage 2 APZ mapping (Figure 9)



TITLE: REQUIRED APZ (PBP 2006) STAGE 2		LOCATION: FISHERMANS BAY	DATUM: DATUM PROJECTION: MGA ZONE 56 (GDA 94)	DATE: 28-10-2013 PURPOSE: UPDATED BUSHFIRE ASSESSMENT	LAYOUT REF: 15085/36A/26370/Fishermans Bay VERSION (PLAN BY): MD A-A4
CLIENT: URBAN GROWTH NSW JOB REF: 26370		RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762) 241 DENISON STREET BROADMEADOW PO BOX 428 HAMILTON NSW 2303 T: 02 4940 4200 F: 02 4961 6794 www.rpsgroup.com.au			RPS

Despite clearing a positive outcome is achieved by retention and dedication of environmentally sensitive land which will ensure the provision of connectivity links for protection of flora and fauna.

Assessment by Council identified that no significant impacts upon flora and fauna (including upon koalas (see SEPP 44 discussion) or any threatened species will occur. Further, retention of EEC (Swamp Sclerophyll Forest) will be undertaken by dedication of this EEC area in the south west of the site to Council. Rehabilitation works will also be undertaken to this land as part of the vPA and are detailed in the Habitat Rehabilitation Plan to ensure greater conservation outcomes.

The recommendations of the report are suitable and have been incorporated into the recommended conditions of consent.

Aboriginal Heritage and Culture

The Applicant's proposal included an Aboriginal Cultural Heritage Assessment and Archaeological assessment of the site. The investigation included a review of previous studies and consultation with Aboriginal groups was undertaken. A small portion of the site was identified as having a moderate archaeological potential (in the vicinity of the EEC area). The assessment identified that two previously recorded sites within the study area and one registered Aboriginal Place nearby:

- Isolated Artefact Fishermans Bay 1-38-5-0153 – recorded in 1995 and identified as located on a low rise 350 metres north of the intersection of Fishermans Bay Road and High Street, Fishermans Bay.
- Landcom – FBI 38-5-0309 – Located on an unformed track some 600 metres from the coastline at Fishermans Bay (isolated cream silcrete flake).
- Birubi Point Aboriginal Place declared in the NSW Government Gazette 20 April 2007. This site is located 300m to the south of the proposed development and is an area of approximately 56ha.

Following submission of additional material in December 2013, OEH issued General Terms of Approval dated 30 January 2014 and included a requirement for Archaeological testing of the Pleistocene aged sand deposits prior to commencement of any development works, Archaeological test excavations and salvage excavations (if required) under an Aboriginal Heritage Impact Permit (AHIP) form a condition of consent by the relevant planning authority and that an AHIP is required for the site which may need to be expanded, if potential salvage is undertaken.

The assessment concludes that the site generally has low archaeological potential and that the proposed development is satisfactory subject to conditions of consent.

Social and economic impact

The proposal will have a positive social impact and provide additional housing in the area. The development will link with the coastal foreshore and area of Anna Bay. The design provides for a range of lot sizes to accommodate different types of housing and will contribute to economic growth in the area.

At an approximated build cost of \$280,000 per dwelling the total economic output would be \$57.9 million and would create 161 jobs. This would drive economic growth and result in flow on industrial effects such as local purchases of goods and services as a result of the direct change in the economy and employment. The resulting increase in wages and salaries leads to increased consumption estimated to be in the vicinity of \$5,316 million.

Bulk Earthworks

A bulk earthworks plan and cross sections have been prepared demonstrating a reasonably close cut and fill balance across the site.

The plans submitted with the revised proposal indicate fill depths generally of 1m behind existing properties along Hanson Avenue and Clonmeen Circuit with maximum depths between 1m and 1.5m for proposed Lot 120. The contour plan indicates that the area of fill around lot 120 will seek to rectify a topographic depression and fill will level out reducing any potential impacts.

Most of the lots subject to bulk earthworks will have filling of heights significantly less than this. Fill is required to achieve serviceable lots at some locations in response to local formations such as the Rhyodacite ridge are proposed.

There are no significant environmental impacts anticipated as a result of the filling of the land and the works shall enable the future residential development of land for that purpose.

Erosion and Sediment Control

A site Soil and Water Management Plan (SWMP) will be prepared for the site to manage erosion and sedimentation during construction. The following practices are to be undertaken to minimise potential for soil erosion and sedimentation:

- Proposed control measures are to be in place prior to any clearing, stripping or filling operations occurring on-site;
- Sediment fencing (or other sediment trapping measures detailed in the SWMP) is to be placed downslope of areas of disturbance or fill;
- Soil to be stockpiled if it cannot be reused immediately;
- Exposed soil to be kept in a slightly moist condition to retain soil structure and prevent wind erosion;
- Prompt revegetation of disturbed areas; and
- Regular maintenance of control features.

These provisions are considered generally acceptable. Furthermore, a condition has been incorporated to ensure the landform is stabilised and erosion controlled to prevent sedimentation runoff.

Noise

The construction works have the potential to result in noise impacts, specifically given the existence of rhyodacite rock formations. Rhyodacite will be removed (where required) using conventional earthmoving equipment without blasting. However, as the sewer is no longer required to be routed to the southern portion of the development and therefore no deep sewer installation is required through the area

identified as rhyodacite ridge, this construction work in the vicinity of the rhyodacite ridge will be reduced substantially.

Should the Panel determine to approve the application conditions are recommended with regards to restricting construction noise. These conditions are sufficient to address any adverse noise impacts to adjoining properties.

Stormwater management

A Stormwater Management Strategy has been prepared for the site by SMEC dated 7 November 2012 and 11 November 2013.

The ridgeline which runs east west across the site divides the site into two catchments. The Applicant's consultant report noted that northern catchment currently drains to the drainage reserve which subsequently connects to Clonmeen Circuit and the southern catchment currently drains to a pipe that passes under Hanson Avenue and drains to the east via overland flow in drainage paths.

The majority of the proposed subdivision area is predominantly a natural and sandy catchment. Stormwater from this catchment infiltrates into the ground and only in the event of a perched water table, will it produce runoff and flows into the downstream drainage system. Council has no recorded history of flooding problems around this site other than the groundwater issues with existing properties along Clonmeen Circuit.

Development of the southern catchment will not occur other than the construction of an access road of Fishermans Bay Road. Removal of the previously proposed lots to the southern part of the site has provided increased buffers to the EEC area which is also subject to rehabilitation as part of the vPA. This will assist in ensuring its retention remains as close as possible to a 'natural state'.

A detention basin is proposed in the northern catchment to reduce peak discharge from the site to pre-developed rates for all events up to and including the 100 year event. Water quality is also addressed for the proposed development by way of the provision of bio-retention basin ensuring water quality discharged from the site meets Council's Urban Stormwater and Rural Water Quality Management Plan.

The design of the development currently results in the potential for road reserve runoff being directed towards private property inter allotment drainage. It is recommended that a condition of consent be included requiring that Accessway 2 be constructed as a battle-axe lot with appropriate easements for access. The condition does not result in physical changes to the runoff discharge points however will address potential future maintenance issues which could arise should the development be supported without the inclusion of the recommended condition.

The developed utilises a minor/major stormwater management strategy which is compliant with Council's infrastructure Specification. Hydrological, hydraulic and water quality testing and sensitivity analyses have been provided to demonstrate provision of pre-development peak discharges and ensure Council water quality requirements are met.

The proposal is acceptable in relation to stormwater and water quality.

Safety and security

Safer by Design is based on Crime Prevention through Environmental Design (CPTED). The main principles of CPTED include surveillance, access control, territorial

reinforcement and activity and space management. Its strategies are designed to work with crime prevention and police strategies. The proposal will provide for community space that will encourage surveillance from surrounding roads and housing areas. Landscape planning will allow for clear visibility from streets, reduce potential entrapment areas and encourage natural surveillance. Lighting conditions will be imposed that comply with Australian Standards.

Utilities and services

Utility services are available to the site including electricity, communications and water. NBN Pit and Pipe Infrastructure is included in the proposal.

VISUAL IMPACT

A visual impact assessment has been prepared by Moir Landscape Architecture dated October 2012 and a further letter in response to revised layout dated 18 October 2013.

The report notes the historical development of Anna Bay with the establishment in the early 1930's of low scale sea side shacks and weekenders which given commercial development over time has generated changes in the visual landscape of the area.

The report findings were taken from the most prominent 10 viewpoints and concluded that most visual impact is more pronounced during construction phases and is ultimately mitigated through measures such as landscaping and retention of vegetation where possible.

The report findings also concluded that during the early part of the assessment the application was amended to remove 10 lots from the southern portion of the development site. These lots were located in close proximity to Fishermans Bay Road. This assessment concludes that the removal of these lots from the proposal has resulted in the development being acceptable with regard to visual impact and the access from Fishermans Bay Road will contrast with the existing character of Anna Bay or as an extension of the existing residential area.

Furthermore, vegetation buffers and landscaping will aid in visual mitigation of impacts together with retention of larger mature trees where possible. Landscaping conditions will be imposed (including street trees) and vegetation rehabilitation is addressed through the Habitat Rehabilitation Plan. The proposed 10m no build zone along Hanson Avenue and 5m no build zone Clonmeen Circuit (see landscape report November 2013) together with retention of select vegetation (more mature trees) will mitigate visual impacts.

Whilst some impacts will be evident during the construction phase, the proposal is not considered to have significant visual impacts given the mitigation strategies for landscaping, rehabilitation and protection of the EEC and Coastal lands.

EXTERNAL AGENCY ADVICE

The following agencies have provided General Terms of Approval which shall be incorporated into the approval should the Panel approve the development:

- Office of Environment & Heritage (OEH) in accordance with Section 90 of the National Parks & Wildlife Act. The development has the potential Impact on Aboriginal Heritage artefacts.
- Rural Fire Service NSW (RFS) in accordance with Section 100B of the Rural Fires Act 1997. The development is for residential subdivision on bush fire prone land.
- NSW Office of Water (NOW) in accordance Section 91 of the Water Management Act. The development includes works located within 40 metres of a watercourse.

INTERNAL REFERRALS - Key issues noted in internal referrals are set out below:

Referral	Summary of Comment
Building Surveyor	No objections to the proposal or requirement for conditions.
Environmental Health	Development will connect to sewer. No further comments or conditions.
Economic Development	Provides support for the proposal and confirms advice is based on REMPLAN data that the proposal is likely to generate an economic output of \$57.9 million and 161 jobs.
Community Planning (Disability Access)	Conditions to be imposed requiring footpaths to be compliant with relevant Australian Standards (AS 1428) – in order to ensure accessible travel paths.
Natural Resources	<p>The site is mapped as containing 'other vegetation', but is located between areas of preferred and supplementary koala habitat. No requirement for further assessment of Koala Habitat is required.</p> <p>The area identified with EEC (Swamp Sclerophyll Forest) will be dedicated to Council and existing E2 Environmental Conservation Lands dedicated to National Parks and Wildlife Service.</p> <p>The original key concerns lay with impacts of habitat corridor for key species and conservation value of the Endangered Ecological community 'EEC' in southern portion of site were addressed through provision of connectivity corridors. The western side of the site is a landscape habitat link while the northern and southern areas are landscape links which are considered less critical. Habitat corridors support squirrel gliders, eastern horseshoe bat, koalas and other fauna.</p> <p>A Habitat Rehabilitation Plan will form part of the vPA and Construction Flora and Fauna Management Plan will form a condition of consent.</p>
Engineering (including drainage and traffic)	<p>Support for the proposal has been provided by Council's Development Engineer subject to conditions of consent.</p> <ul style="list-style-type: none"> • Previous concerns regarding the sewer line immediately adjacent to existing dwellings has been removed with deletion of southern cluster of lots originally proposed. As the

	<p>sewer is no longer required to be routed to the southern portion of the site no deep sewer installation is required.</p> <ul style="list-style-type: none"> • Noted that the extent of rock removal has been significantly reduced and extraction methods will be managed through the construction process and will be dealt with through an Environmental Management Plan. • Dilapidation report for Council Infrastructure will be required prior to construction. • Concerns over water quality issues have been addressed in consultation with the NSW Office of Water. • Traffic – see section relating to Traffic in this report.
--	--

Suitability of the site (s.79C(1)(c))

The site is zoned for residential development. The proposed development will provide for residential allotments which will can competently accommodate a dwelling house, provide for adequate vehicular access, provide sufficient open space for future occupants and provide for adequate methods of stormwater disposal. In addition, the site is capable of being serviced by water, electricity and telecommunications infrastructure for residential development. Moreover, the site is to be located adjacent to an existing established residential area and is therefore a logical extension to the existing residential area.

COMMUNITY CONSULTATION

Submissions (s.79C(1)(d))

In accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979 (EP&A Act) and Environmental Planning & Assessment Regulations 2000 (EP&A Regs) relating to advertised development the application was publicly exhibited on two occasions.

Further, the Applicant has undertaken community consultation prior to lodgement of the application (4 workshops in May 2011 and two information sessions in August 2011 and September 2012) together with pre-lodgement consultation with Council and relevant Government agencies.

The original lot yield upon lodgement of the DA included 10 residential lots immediately to the south of the site abutting Fishermans Bay Road and situate adjacent to the entrance to the site off Fishermans Bay Road. These lots were deleted from the design before the first exhibition period was undertaken but after community consultation with the Community and the Applicant directly.

First exhibition period

The first round of notification related to the development as proposed and was publicly exhibited for a period of 30 days from 20 November 2013. Seventeen submissions were received including one submission which was a petition with 249 signatures.

Second exhibition period

The second round of notification was undertaken in April 2014 to take into account an Owners Consent issue and purchase of 4 Clonmeen Circuit by the Applicant and exhibition of the draft vPA.

Twenty one submissions were received including one submission which was a petition with 16 signatures.

The issues over the two exhibition periods have been combined and the key issues raised in the submissions are summarised below:

Issue
<p>Environmental Impacts – (including loss of natural bushland, impacts upon flora/fauna)</p> <p>The majority of submissions raised concern regarding the likely environmental impacts from the proposal, primarily the loss of native vegetation (which includes areas of EEC's) and its impact on the local koala population.</p> <p>Comment –</p> <p><i>The site is mapped as 'other vegetation' and is situate between areas of preferred and supplementary koala habitat however, through the assessment process it has been concluded that no adverse impacts upon koalas will result from the proposed development.</i></p> <p><i>Key concerns with impacts of upon habitat corridors for key species and the conservation value of the Endangered Ecological Community 'EEC' in the south portion of the site. The western side of the site is a landscape habitat link whilst the northern and southern areas are landscape links which are considered less critical. Habitat corridors will be protected through provision of connectivity corridors. These corridors are no longer threatened by lots originally proposed in the southern part of the site (close to Fishermans Bay Road, which have now been deleted by the Applicant).</i></p>

A detailed Flora and Fauna study has been carried out including a Seven Part Test and has been found to have no adverse impact upon Threatened Species. Further, retention of EEC (Swamp Schlerophyl Forest) will occur with dedication of this EEC area to Council. In addition, a habitat Rehabilitation Plan will form part of the vPA and a Construction Flora and Fauna Management Plan will also form part of the approved documents to any Development Consent issued.

Traffic Impacts/Safety

The majority of submission raised concern regarding reduced traffic and pedestrian safety and amenity as a result of traffic generation from the development. These concerns also frequently commented on the existing state of the roads, particularly the narrow widths of Clonmeen Circuit, Essington Way and Fishermans Bay Road and the need for upgrades.

Comment

The assessment has identified that the existing road network has the capacity to cater for the proposed development subject to upgrades to Fishermans Bay Road. Council has also conditioned upgrade to Clonmeen Circuit and a shared pathway will be included along Fishermans Bay Road to ensure that pedestrian safety is achieved

Drainage/Flood

The majority of submissions raised concern regarding existing drainage problems and potential for flooding around the site, and the potential for the development to exacerbate those issues.

Comment

The development has been designed so as not to impact the existing drainage regime in the southern part of the site, which drains to the EEC, as any significant change in volumes or velocity would likely adversely impact the environmental quality of the Swamp Sclerophyll Forest.

The majority of the subdivision will drain to the northern part of the site. The proposal will include a detention basin to manage stormwater from the development, before connecting to the existing Council infrastructure in 2 Clonmeen Circuit. The development does not result in impacts to adjoining properties or the surrounding locality with regard to drainage and flooding.

Infrastructure in Anna Bay

Many submissions raised concerns regarding the lack of capacity of existing infrastructure to cope with the additional demands created by the proposed residential development.

Comment

The development will provide additional infrastructure in the area and improved facilities through provision of the subdivision and works to be undertaken as part of the voluntary Planning Agreement, including the provision of a new recreation Centre in Anna Bay. In addition, conditions of consent have been recommended requiring the upgrade of infrastructure and in particular to the road and pedestrian network.

Construction Impacts

A number of submissions raised concerns with the potential for significant impacts during the construction phase, particularly, noise, dust and visual impact. Particular concern was raised regarding the likely prolonged timeframe for construction of the subdivision. Comment was also provided in relation to the subdivision at Corlette undertaken by Urban Growth (Landcom).

Comment

It is noted that the construction phase of the development has potential to result in impacts to adjoining properties. However, these impacts are not unreasonable and consistent with the development of land. It is recommended that should the Panel supported the development that conditions addressing erosion and sediment control, construction noise and management of the site to ensure suitable measures are utilised to mitigate impacts to adjoining properties.

Bushfire

A number of submissions raised concerns that the proposal would increase bushfire risk to existing dwellings.

Comment

The proposal will require removal of vegetation behind existing dwellings, and will significantly increase the setback to any bushfire threat. The application has been reviewed by the NSW Rural Fire Service, who issued General Terms of Approval subject to conditions which require the provision of Asset Protection Zones and the provision of multiple exit routes from the site. In addition, consideration has been given to the recently adopted 10/50 rule which represents the most contemporary bushfire separation standard. The development does not increase the bushfire risk to existing properties, development of the site minimises the risk potentially faced by the existing dwellings.

Loss of Privacy

Concerns were raised in some submissions that the proposal will result in a loss of privacy for existing dwellings adjoining the site.

Comment

The engineering plans submitted with the revised proposal indicate fill depths generally of 1m behind existing properties along Hanson Avenue and Clonmeen Circuit with maximum depths between 1m and 1.5m for proposed Lot 120. Notwithstanding, the proposed lot layout provides adequate setbacks, and that measures can be undertaken with design and landscaping for any future dwellings to minimise potential for unreasonable privacy the contour plan indicates that area of fill around lot 120 will seek to rectify a topographic depression and fill will level out reducing the potential for impacts. Ultimately, cut and fill across the site will balance out.

There are no significant environmental impacts anticipated as a result of the filling of the land and the works shall enable the future residential development of land for that purpose.

Impact on Amenity

Concern was raised that vehicle entry/exit onto Clonmeen Circuit would adversely impact the amenity of some properties.

Comment

The access to Clonmeen Circuit is a secondary route. Council has expressed its concerns to the Applicant about safety and access hazards relating to Clonmeen Circuit. Council has included conditions relating to upgrade of Clonmeen Circuit to local street standard and also upgrade to Fishermans Bay Road. This will ensure the proposed development is integrated into the existing residential area and not isolated.

Whilst it is noted that headlight spill will present an impact to some properties it is not significant enough to warrant refusal of the application.

Density

A number of submissions raised concern that the proposed lot sizes provided potential for future increases in residential density through dual occupancy and multi-dwelling housing.

Comment

It is considered that the proposed lot sizes are suitable and similar to that of the surrounding area. The lots do not present a potential for further increases in density beyond what would be reasonably expected for any residential area. Lots on the perimeter of the development with larger areas are a result of the need for asset protection zones for bushfire protection purposes. Any further development of the proposed lots would require further application to Council, and would be required to comply with the residential controls in Local Environmental Plan 2013 or the relevant plan in place at the time.

Property Values

Some concerns were raised regarding the proposed development's impact upon existing property values in the area.

Comment

Consideration of direct impact on adjoining property values is not a relevant planning consideration.

Cost of maintaining reserves

A number of submissions raised concern regarding the cost associated with maintaining reserves (dedicated to Council).

Comment

Council has accepted that land shall be dedicated to Council as a result of the development. The cost to Council of the maintenance of this land is not a relevant planning consideration in light of Council's acceptance of the land.

Section 94/VPA arrangements

Some submissions queried the use of funds for provision of better services/infrastructure in the area.

Comment

The Applicant is finalising a voluntary Planning Agreement with Council and has been involved in this process since prior to lodgement of the Development Application. This Agreement would see the Applicant construct part of the new Anna Bay Community Recreation Centre the subject of (DA 16-2012-595-1) at the site of the old Scout Hall near the Fishermans Bay and Morna Point road intersection, along with other infrastructure in lieu of Section 94 payments.

Concern over fencing – Lot 112 backing onto property in Hanson Avenue

A submission was lodged that raises concerns over a portion of the boundary fence adjoining proposed Lot 138 (which is proposed to be dedicated to Council as a nature reserve) and along this portion of their rear boundary they will not be entitled to a boundary fence.

Comment

The Dividing Fences Act 1991 provides that any residential property is entitled to a boundary fence. The dedication of proposed Lot 138 does not impact on this entitlement.

Public interest (s.79C(1)(e))

The development is consistent with the zone objectives of the residential zone and provides for additional housing opportunities for the community. The development also preserves environmentally sensitive land for enjoyment by the public together with upgraded facilities to the Fishermans Bay area and will be a contiguous link to the existing development of Anna Bay. The proposal is compatible with the site and is considered to be in the public interest.

DRAFT CONDITIONS/CONCLUSION

Draft conditions are included in this report. The Panel is advised that the majority of conditions have been agreed with Urban Growth (Crown), however, conditions 20(a) and (d) and 36(a) and (b) remain in contention and Council will work with the Applicant to try and resolve these conditions before the Panel Meeting. Council will provide any updated conditions to the Panel prior to the meeting. Should the JRPP Panel seek to support the proposal, any conditions that are not agreed will be subject to the Panel's further input and concurrence from the Minister, if required.

RECOMMENDATION

An assessment of the application has been carried out under Section 79C(1) of the *Environmental Planning and Assessment Act, 1979* as amended. The proposed development is considered satisfactory in terms of the relevant matters for consideration under the Act and the development application is recommended for approval subject to Conditions of Consent.

Officer: Belinda Martin
Position: Development Planner
23 January 2015

SCHEDULE OF CONDITIONS – DA 16-2012-800-1

Deferred Commencement Consent

This is a **deferred commencement approval** under Section 80(3) of the *Environmental Planning & Assessment Act 1979* (as amended). This consent does not become operational until the requirements listed below (schedule 2) of this consent have been satisfied.

Upon compliance with the issues under schedule 2, and written confirmation from Council to that effect, the consent shall become operational from the date of endorsement included in the written notification subject to the conditions listed in schedule 3 and any other conditions arising from the requirement of schedule 2.

SCHEDULE 1 – Deferred Commencement condition

1. This Consent will not become operational until execution of the voluntary Planning Agreement (vPA) takes place. The vPA is required to be registered against the land by way of an 88B Instrument.

SCHEDULE 2

Schedule 2 conditions of consent

CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

2. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Stamped Development plans – Tattersall Lander, (Reference 21300171), dated 14 October 2013, revision J:

1. Draft dimensioned Masterplan (Staging)– sheet 1
2. Draft dimensioned Masterplan with contours – sheet 1
3. Draft dimensioned Masterplan (Lot layout) – sheet 1

Urban Growth/Smec Australia Pty Ltd (revision 2)

(a) Engineering Plans (including coversheet, drawing list and locality plan, overall site plan, sections, longitudinal diagrams, cross sections, accessways and cross sections, Earthworks Movement Plan and Volumes) – 30 pages.

Coffey Geotechnics – Fishermans Bay Development – Fishermans Bay Road, Fishermans Bay Geotechnical Site Assessment dated 29 October 2012.

Coffey Geotechnics Pty Ltd – assessment of groundwater conditions in the area of the proposed bioretention basin (reference GETWARA21557AC-AD) dated 8 October 2013.

Coffey Geotechnics Pty Ltd – Pavement Design report (reference GEOTWARA21557AC-AC) dated 4 October 2013.

Bushfire Assessment Report RPS dated October 2012 and letter dated 30 October 2013 addressing revised Masterplan and Asset Protection Zone issues.
SMEC (Tony Wong Design Strategy) report for Fishermans Bay Subdivision Stormwater Management Plan dated 7 November 2012 and additional report dated 11 November 2013 together with Annexures.
The Design Partnership – Landscape report - Fishermans Bay Road, Port Stephens dated November 2013.
Construction Flora and Fauna Management Plan and Habitat Rehabilitation Plan dated January 2015.
NSW Planning & Infrastructure – Master Plan Waiver dated 30 July 2012.

INTEGRATED/EXTERNAL REFERRAL CONDITIONS

3. The development shall be undertaken in accordance with the conditions imposed by the following agencies which are attached to this consent:
 - a. NSW Department of Primary Industries Office of Water, dated 24 June 2014.
 - b. NSW Rural Fire Service, dated 2 April 2014.
 - c. NSW Government Office of Environment and Heritage, dated 30 January 2014.

CERTIFICATES AND APPROVALS

4. **Prior to the issue of the Subdivision Certificate (for each stage)**, the Section 50 Hunter Water Compliance Certificate must be provided.
5. **Prior to the issue of the Subdivision Certificate (for each stage)**, an application (together with a plan) shall be made, and submitted to Council for road names and street addressing details. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names. The road names shall be in accordance with the Geographical Names Board NSW requirements.
6. **Prior to the issue of the Subdivision Certificate** the person having the benefit of this Consent shall contact Council's Mapping section via email at addressing@portstephens.nsw.gov.au stating your development approval number, address of the property and the assessing officer to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes.

LAND TITLE

A restriction as to user under Section 88B of the Conveyancing Act shall be prepared and submitted to Council in conjunction with the Subdivision Certificate application which gives effect to the following restrictions:

- A restriction to lots (proposed lots numbered 112-121) backing onto Hansen Avenue for creation of a 'no build easement' 10 metres wide that will restrict

owners from building in that easement as identified in the 'no build zone' of The Design Partnership – Landscape report - Fishermans Bay Road, Port Stephens dated November 2013.

- A restriction to proposed lots numbered 122-231, 326, 327 and 328 backing onto Clonmeen Circuit for creation of a 'no build easement 5 metres wide along adjacent property boundaries that will restrict owners from building in that easement as identified in the 'no build zone' of The Design Partnership – Landscape report - Fishermans Bay Road, Port Stephens dated November 2013.
- A restriction to proposed lots numbered 112, 111, 110, 107, 106, 105, 104, 103, 102, 101, 301, 302, 303, 304 and 305) for retention of habitat trees as identified in Figure 4 (Location of retained hollow bearing tree map dated 27 November 2012 RPS), Construction Flora and Fauna Management Plan dated January 2015 and Figure 4 (Hollow Bearing Trees) of Habitat Rehabilitation Plan January 2015. The lots shall also be restricted by an easement in order to ensure buffer zones and APZ areas are managed in accordance with Bushfire Assessment Report dated October 2012, letter dated 30 October 2013 and Rural Fire Service General Terms of Approval dated 2 April 2014.

ACID SULFATE SOILS–

7. Part of the site has been identified as Class 4 Acid Sulfate Soils. Preliminary investigations into the areas identified as Class 4 Acid Sulfate Soils should be undertaken **prior to commencement of any works at the site**. Should Acid Sulfate Soils be identified during preliminary investigations, an Acid Sulfate Soils Management Plan shall be provided to and approved by Council **prior to works commencing**.

Site works (including preliminary investigations) shall be undertaken in accordance with the recommendations of the Fishermans Bay Geotechnical Site Assessment, prepared by Coffey Geotechnics dated 29 October 2012.

SERVICES

8. **Prior to issue of the subdivision certificate (for each stage)**, separate underground water, sewerage, telecommunications (including provision of National Broadband Network infrastructure) and electrical power services shall be reticulated for each lot in accordance with the service provider's requirements. Documentary evidence from service providers confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.
9. **Prior to issue of the subdivision certificate (for each stage)**, street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:
 - a. generally based on Australian Standard AS 1158;
 - b. providing lighting for public pathways; and
 - c. providing "cut-off" luminaries (such as "Aeroscreen" or similar).

EROSION CONTROL

10. A Construction Environmental Management Plan shall be provided by the Civil Contractor that ensures the property and its surrounding environs shall be

protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Controls shall be imposed in accordance with Managing Urban Stormwater – Soils and Construction, Volume 1 (Landcom, 2004).

EARTHWORKS

11. Filling material, shall be limited to the following:
 - a. virgin excavated natural material (VENM);
 - b. excavated natural material (ENM) certified as such in accordance with Protection of the Environment Operations (Waste) Regulations 2005; and
 - c. material subject to a Waste exemption under Clauses 51 and 51A Protection of the Environment Operations (Waste) Regulations 2005 and recognised by the NSW Environment Protection Authority as being 'fit for purpose' with respect to the development subject of this application.

Under no circumstances shall contaminated fill material including but not limited to putrescible wastes, (such as timber, paper, green waste, food etc), oil products (including petrol, bitumen, asphaltic concrete etc), plastic, and the like, be deposited on the land unless expressly authorised by this development consent. Certification shall be provided to Council for all fill placed on the site.

12. A Geotechnical Engineer's report shall be submitted to and adopted by Council **prior to the endorsement of the subdivision certificate (for each stage)**. The report shall provide each lot with a site classification under AS 2870 and take into account site filling and any excavations. Please note such site classification is to be made only after completion of site works affecting lots.

CONSTRUCTION MANAGEMENT

13. A dilapidation report must be submitted to Council **prior to approval of engineering plans under the Roads Act**. The report must document and provide photographs that clearly depict any **existing** damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development and along haulage routes. In addition, details are required for the disposal of any spoil gained from the site and /or details of the source of fill, heavy construction materials and proposed routes to and from the site. Should construction details change for latter stages of construction, amended details shall be submitted to be approved by Council **prior to these works commencing**.
14. The applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities at their own cost and to Council's satisfaction. A **Subdivision Certificate shall not be issued** until all necessary remediation and repair works have been completed to Council's satisfaction.
15. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:

Monday to Friday – 7am to 6pm

Saturday 8am to 1pm

No construction work is to take place on Sundays or public holidays.

WASTE MANAGEMENT -

16. A Waste Management Plan (WMP) must be provided by the Civil Contractor to Council prior **to works commencing in each stage.**

STREET TREES/LANDSCAPING

17. Street trees are required to be a mix of eight species with at least five species endemic to the Port Stephens area. Use of *Elaeocarpus reticulatus* as a street tree must not be 'Prima Donna' and Banksia Serrata must not be included as part of the species list. *Araucaria heterophylla* should be used as the parkland species. Street planting is to provide articulation with paths, root barriers and tree guards which are all to be installed **prior to the issue of the Subdivision Certificate.** The street trees are to be planted in accordance with the Port Stephens Council Draft Tree Technical Specification dated May 2014 and the approved landscape plan detailed in the landscape report The Design Partnership dated October 2012 and addendum report dated November 2013.

18. **Prior to the release of the Subdivision Certificate for each stage** certification shall be provided by a suitably qualified landscape professional demonstrating that landscape planting and street trees has been established on site in accordance with this consent and the approved landscaping plans.

All upgrades required to existing public infrastructure as identified in this consent (with the exception of Fishermans Bay Road) shall be completed to the satisfaction of Council **prior to issue of subdivision certificate of the first constructed stage.** All upgrades required to Fishermans Bay Road as identified in this consent shall be completed to the satisfaction of Council **prior to issue of subdivision certificate of the third and final constructed stage.**

CIVIL WORKS

19. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until;

- a. The Roads Act Approval has been issued; and
- b. All conditions of the Roads Act Approval have been complied with to Council's satisfaction.

20. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional and constructed in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007.

The required works to be designed are as follows:

- a) Upgrade of Clonmeen Circuit from the development to the intersection of Essington Way to a local street standard;
- b) Provide a Disability Discrimination Act compliant bus shelter in Essington Way at the closest safe location to the intersection of Essington Way and Clonmeen Circuit;
- c) A footpath providing a continuous connection from the developments footpath network to the bus stop located in Essington Way;
- d) Upgrade of Fishermans Bay Road from the intersection for the development at Fishermans Bay Road to Dunmore Avenue to a width equivalent to the existing width of Fishermans Bay Road west of the intersection of Fishermans Bay Road and Dunmore Avenue;
- e) Cycle way 2.5 m wide from the intersection for the development from Fishermans Bay Road to Morna Point Parade;
- f) All redundant vehicular crossings to be removed and footway formation reinstated;
- g) Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with Roads and Maritime Service (previously identified as RTA) and Australian Standards;
- h) Signage and line marking (The Signage and Line Marking Plan shall be approved by the Council Traffic Committee);
- i) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- j) Payment of applicable fees and bonds; and
- k) Contractor's public liability insurances to a minimum value of \$10 million dollars.

The engineering plans shall be approved by Council prior to the commencement of works.

21. A pavement report for works within a public road reserve shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans and approved by Council under the Roads Act, 1993.

The pavement depths must be determined in accordance with Council's specifications and the following road classifications:

- a. Clonmeen Circuit – Local Road;
 - b. Essington Way – Collector Road; and
 - c. Fishermans Bay Road – Local Road.
22. All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) prior to issue of the Subdivision Certificate or Occupation Certificate. Works associated with the Roads Act Approval are subject to:
- a. inspection by Council;
 - b. testing by a registered National Association Testing Australia (NATA) Laboratory; and

- c. Approval by Council at each construction stage as determined by Council.
- 26 All civil engineering works shall be carried out in accordance with the approved plans and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council. A letter of practical completion for each stage shall be issued by Council **prior to issue of the Subdivision Certificate for each stage.** Works associated with the approved plans and specifications shall not commence until:
- a. The Principal Certifying Authority has been nominated; and
 - b. Council has received two days notice of the commencement date.
27. The developer is to provide the below plans and CAD files to Council. All CAD files shall be supplied in AutoCAD or compatible format in a known coordinate system (preferably GDA94 or MGA56):
- (a) Road construction plans in **CAD format prior to commencement of road works;**
 - (b) Works-as-executed drawings and CAD files of all engineering works **prior to the issue of any Subdivision Certificate(s);**
 - (c) CAD files which include all lot and road boundaries, lot numbers and easements, **prior to the issue of the Subdivision Certificate;** and
 - (d) All geotechnical testing and results as required by the certifier and infrastructure specification **prior to the issue of the Subdivision Certificate.**
28. Engineering plans for the following subdivision works within the private property shall be designed by a suitably qualified professional and constructed, in accordance with Council's 'Infrastructure Specification – AUS Spec', **prior to commencement of works:**
- a. Earthworks and site regrading;
 - b. Roads and Road pavement;
 - c. Pathways and cycleway and associated road crossings;
 - d. Roadside furnishings (in accordance with RTA and Australian Standards);
 - e. Earth retaining structures;
 - f. Stormwater drainage, inter-allotment drainage and subsoil drainage;
 - g. Water Quality improvement devices;
 - h. Services (including water, sewer, power, communications etc);
 - i. Road and public space lighting;
 - j. Landscaping within the dedicated reserves (including road reserve); and
 - k. Erosion control works.

Where appropriate, supporting calculations shall be provided to demonstrate compliance with Council's Infrastructure Specifications or other specifications as identified.

ROADS AND PAVEMENT

29. A Geotechnical Report for pavement design of the proposed roadworks prepared by a duly qualified and experienced Geotechnical Engineer in accordance with Councils Infrastructure Specification shall be submitted **prior to commencement of works**
30. The pavement design for all roads shall be based on the road classification as presented in **Figure 1** of proposed *Pavement Design Report GEOTWARA21557AC-AC dated 4th October 2014 by Coffey Geotechnics Pty Ltd* with the exception of the road identified as 'Accessway 1' which provides access to Clonmeen Circuit from the Subdivision which shall be considered to be a local street.
31. Signage details including advertising, footing detail and final location of the proposed billboard signage together with details of any entry statements for the development shall be provided to Council for approval **prior to any** Roads Act approval. The display of signs allowed by this consent is permitted for a five year period from the date of consent or until the sale of the last residential lot approved under DA 16-2012-800-1, whichever occurs first. The operational consent may be extended at the discretion of Council following a written request from a person having benefit of the consent.

CIVIL DESIGN SPECIFIC

32. The road identified as Accessway Two shall be a right of carriageway in lieu of dedicated road reserve. The driveway constructed as part of a right of carriageway shall:
- a. Include a minimum 6.0 metre wide driveway from the edge of the road pavement to 6 metres inside the front property boundary;
 - b. thereon be a minimum trafficable width of 4 metres;
 - c. Have an offset of 300mm or greater from obstructions higher than 150mm; and
 - d. Shall be constructed in concrete or interlocking pavers in accordance with the options shown on Council's Standard Drawings S122 & S105B to the end of the battle-axe handle.

Full engineering details shall be submitted with the construction certificate. The driveway shall be fully constructed **prior to issue of subdivision certificate** for each stage.

TRAFFIC MANAGEMENT PLAN

33. A Construction Traffic Management Plan is to be submitted to Council **prior to commencement of the works for each stage.**

PARKING AND ROAD SIDE ENVIRONMENT

34. No trees, vegetation or road side furniture shall restrict pedestrian sight distance at the pedestrian crossing located at CH 180 of Road 1. The road side environment shall be designed to ensure pedestrians have a minimum 105 metres sight distance from the crossing point in both directions. Full engineering details shall be submitted with the construction certificate.

STORMWATER DRAINAGE

35. A detailed Stormwater design report shall be submitted with civil engineering plans prior to the commencement of works detailing conformance to the Stormwater Management Plan dated 11 Nov 2013 by SMEC, and Councils Infrastructure Specification. All water quality devices shall be designed in accordance with Water Sensitive Urban Design Technical Design Guidelines for South East Queensland and industry best practice.

STORMWATER IN RESERVES

36. All stormwater work to be carried out within Council's Drainage Reserves must be approved by Council under Section 68 of the Local Government Act. Engineering plans for the work must be prepared and designed by a suitably qualified professional in accordance with Council's 'Infrastructure Specification – AUS Spec'. The required works to be designed are as follows:

- a. Connection of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in the drainage reserve adjacent to Clonmeen Circuit; and
- b. Secondary stormwater flow path capable of conveying the 1% AEP flood flow to the downstream stormwater system.

The engineering plans shall be approved by Council **prior to the commencement of works.**

ADVICES

37. Should any Aboriginal relics be discovered then all excavations or disturbance to the area shall cease immediately and the NSW Office of Environment and Heritage, shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act 1974*. All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council **prior to works commencing.**