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**DA 967/2013 - Proposed 405 Lot Subdivision at Crangan Bay**

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## TRIM REFERENCE:

MANAGER: Scott Cox, Manager

AUTHOR: Julie Garratley; Development Planner

**SUMMARY**

A development application has been received for a proposed 405 lot subdivision at No. 85 Kanangra Drive, Crangan Bay. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report. Following a thorough planning assessment the application is recommended for approval.

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| <b>Applicant</b>            | Monteath & Powys Pty Ltd                           |
| <b>Owner</b>                | Gwandalan Land Pty Ltd                             |
| <b>Application No</b>       | DA/967/2013  |
| <b>Description of Land</b>  | Lot 11 DP 1180296, 85 Kanangra Drive, Crangan Bay  |
| <b>Proposed Development</b> | 405 lot Subdivision                                |
| <b>Site Area</b>            | 62.28 hectares                                     |
| <b>Zoning</b>               | R1 General Residential, R2 Low Density Residential |
| <b>Existing Use</b>         | Vacant   |
| <b>Estimated Value</b>      | \$36,000,000                                       |

**RECOMMENDATION**

- 1** *That the Joint Regional Planning Panel grant consent to DA/967/2013, subject to the conditions contained in Appendix A.*

**PRECIS**

- The development application seeks consent for the construction of a 405 lot residential subdivision and associated open space, drainage and service infrastructure to be undertaken in eleven (11) stages.
- Concept Approval (MP\_10-0084) was issued for the site under the transitional provisions of the Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on 12 July 2012.
- The Concept Approval requires future applications for development to be undertaken under Part 4 or Part 5 of the EP&A Act where applicable.
- The Joint Regional Planning Panel is the consent authority for this application in accordance with the State Environmental Planning Policy - State & Regional Development.

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- Subdivision is a permissible land use under Wyong Local Environmental Plan 1991 (WLEP 1991) and Wyong Local Environmental Plan 2013 (WLEP 2013).
  - A total of 5 submissions were received during the public notification period citing concerns which included, but not limited to, impact of traffic, removal of vegetation, stormwater and wastewater management issues.
  - A total of 205.75 hectares of conservation land has been dedicated to the NSW Government adjoining the subject site as environmental offset land.
  - The development application is not considered to be 'integrated development' as defined by Section 91 of the Act and not subject to the integrated development provisions of the Act.

## **INTRODUCTION**

### **The Site**

The site is located off Kanangra Drive, Crangan Bay within the Wyong Shire Local Government Area. It is approximately 40kms south of Newcastle and 80kms north of Sydney and approximately midway between the two sub-regional centres of Wyong (32kms north) and Charlestown (35kms south). The Gwandalan area is located on the western shore of Crangan Bay, Lake Macquarie and generally comprises low density residential development surrounded by bushland. A number of conservation areas are located in this area including Munmorah State Conservation Area, Wallarah National Park and Lake Macquarie State Conservation Area.

Gwandalan's residential population in the ABS 2011 Census data was 3,035. The area has the following social infrastructure:

- Two pre-schools and an out-of-school hours centre (OOSH);
- Public School
- Neighborhood shopping centre with post office and chemist;
- Community hall;
- General practitioner, dentists and chemist; and
- Open space and recreation areas.

The area is popular for boating, fishing and water sports due to its lakeside location. Some residential properties have water frontage and there is a public foreshore reserve including a boat ramp close to the development site.

The site comprises Lot 11 DP 1180926 and the Reserve Road to the north with some road works to be undertaken on Lot 20 DP 1089946. The development area is approximately 62.28 hectares, excluding the road reserve. The northern boundary has approximately 700 metres frontage to the unformed road reserve while the western boundary is formed by Kanangra Drive. The northern boundary partly adjoins urban zoned land and a Council reserve while the southern and eastern boundaries adjoin conservation land that has been dedicated by the Proponent to the State Government.

There is a large area of cleared, disturbed ground in the centre of the site and a network of informal tracks traverse the site. The site has previously been used for unauthorised recreational uses and the dumping of rubbish which has now been removed.

The north-eastern and south-eastern edges adjoining the lake foreshore are low lying. Central to the eastern boundary is a bank feature parallel to the foreshore that contains a moderate slope, the site then rises westward toward Kanangra Drive at low slopes. Surface levels along the western boundary are approximately 30m AHD. There are no major watercourses however there are a number of gullies and ephemeral watercourses.

Remnant vegetation provides potential habitat for a range of flora and fauna. The site is considered to be above average in terms of habitat quality and is consistent with the surrounding conservation lands which are generally identified as being high or above average quality. The habitat is generally identified as including native flora showing no disturbance with a moderate level of the key elements identified. These areas include EEC with minor weed incursion.

Gwandalan is accessed from Kanangra Drive via the Pacific Highway south-east of the site. Vehicular access to the site is from an unformed road reserve on the northern boundary or an unformed track approximately 400m south of the intersection of Kanangra Drive and Summerland Road. A bus service links Lake Haven in the south and Charlestown in the north. The site can access existing services which include:

- Potable water via the Kanangra Reservoir (Wyong Council);
- Sewer as part of the Summerland Point Sewer Treatment Plant (Wyong Council);
- Electricity via a substation at the corner of Carters Road and the Pacific Highway Lake Munmorah (Ausgrid); and
- Telecommunication infrastructure is available within the adjoining urban area and there are no identified constraints to extending this to the site (Telstra).



**Figure 1:** Aerial photo with zone boundaries showing the subject site and surrounding areas.

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## The Proposed Development

The proposal is to subdivide the site into 405 Torrens title lots suitable for development consistent with residential zones. Six of the lots will be super lots. This DA seeks approval for:

- Bulk earthworks;
- Clearing of vegetation;
- Construction of internal roads and drainage infrastructure;
- Utility services infrastructure;
- Landscaping; and
- Establishment of asset protection zones.

The development is proposed to be constructed in eleven (11) stages. It is likely that temporary or partial construction of infrastructure, such as basins will be required. This will be identified at the construction stage.

The proposed development will result in the removal of vegetation as a result of bulk earthworks, the construction of roads, drainages and service infrastructure and open space such as parks. The total development lot has an area of 62.24 hectares. There is an area identified for an Angophora Inopina Reserve adjacent to Kanangra Drive which is 7.72 hectares which leaves a development footprint of approximately 54.52 hectares. Approximately 52.88 hectares of vegetation will be removed.

## Summary

The proposed development is to provide a 405 lot subdivision with associated civil infrastructure and services. The development application is the result of Concept Approval MP\_10-0084 dated 12 July 2012. The Concept Approval was approved by the Planning Assessment Commission under the provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). Although now repealed, the savings and transitional provisions for Part 3A projects as per the Act, apply to the concept plan approval, therefore Part 3A continues to apply. Future applications are to be assessed under Part 4 of the Act as specified in the concept approval. In addition, future applications are not considered to be 'integrated development' in accordance with Section 91 of the Act. The development is to be carried out generally in accordance with the terms of the Concept Plan Approval. Any amendments to the design are acceptable where the variations do not substantially change the outcome.

Section 5A of the Act requires consideration of the development on threatened species. The Department considers that sufficient information has already been provided during the rezoning and concept plan assessment process to address the impacts on threatened species. The transfer of the conservation lands to the Government was considered to adequately offset the impacts of the proposed development.

The site is within bushfire prone land which was considered with the concept approval. A Bushfire Threat Assessment report was undertaken with recommendations in accordance with the requirements of Planning for Bushfire Protection 2006. The report includes various recommendations which include suitable asset protection zones APZ and roads which allow for safe access, egress and defensible spaces for emergency services, and have been incorporated into the subdivision design.

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A Voluntary Planning Agreement (VPA) has been entered into by the proponent, the Minister for Planning and Infrastructure and the Minister for Administering the *National Parks and Wildlife Act 1974* on 12 March 2012. The VPA details commitments and requirements in regard to certain matters relating to the proposed development which include contributions to education, emergency services, roads, environmental land offset and land remediation and reserve establishment works.

The proposed development is considered to be consistent with the objectives of the Wyong Local Environmental Plan 1991 (WLEP 1991) and is governed by Part 4 – Gwandalan Site. The R1 General Residential and R2 Low Density Residential zoning is primarily to provide a range of lot sizes that can facilitate the delivery of housing in accordance with the relevant controls. Clause 89 of WLEP 1991 required a site specific development control plan to be prepared to ensure that the development of the site occurs in a logical and cost effective manner. The Concept Plan approval states that the concept approval satisfies the obligation to prepare a site specific development control plan as per the WLEP 1991 requirement. The development is considered to be consistent with the relevant chapters of the Wyong DCP 2005. The proposed development was also assessed against the provisions of WLEP 2013 and DCP 2013 to determine consistency with the new controls. This is discussed later in the report under the relevant planning instruments.

The subdivision has been designed to respond to the attributes of the site. The proposed development requires the removal of vegetation on site which has been adequately offset through the dedication of 205.75 hectares of conservation lands to the government. The proposal provides adequate setbacks to Kanangra Drive and is considered to suitably integrate with the local area.

## **VARIATIONS TO POLICIES**

There are no variations to any policies.

## **HISTORY**

Concept Plan Approval MP\_10-0084 dated 12 July 2012, was issued by the Planning and Assessment Commission under Part 3A of the EPA Act. The approval provided for:

- Residential development to a maximum of 623 dwellings over a 62.24 hectare development site;
- A conceptual layout including local open space, bushland and access network; and
- The dedication of 205.75 hectares of conservation land to the NSW Government adjoining or adjacent to the site.

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## SUBMISSIONS

### **Any submission from the public.**

The application was notified in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with 5 submissions being received. The issues raised in relation to the proposal are discussed below.

- Concerns of the stormwater impact on Strangers Gully.

#### Comment

The design provides for the ongoing provision of environmental flows into Strangers Gully. Council's Development Engineer has assessed the proposed stormwater management system and is satisfied that with some amendments satisfactory water targets will be achieved. The provision of wet retention basins will ensure that the stormwater discharges into Strangers Gully have sufficient pollutant removal to achieve the performance targets recommended in Council's Civil Specifications and "Australian Runoff Quality". A revised stormwater management system supported by additional stormwater modelling has been included as a condition of consent.

- Water Sensitive Urban Design (WSUD) not incorporated in every street.

#### Comment

The objectives of WSUD are to manage water quality and quantity from the site, which has been achieved through the proposed design. End of line stormwater treatment is the Council preferred option. This preference has been included in the design where possible.

- Are proposed swales/bio-filtration structures designed to cater for the most extreme events? Has Council considered the cost of maintaining the bio filtration structures?

#### Comment

The piped drainage system is designed for a minimum of 5 year ARI event in accordance with Wyong Council's Civil Works Design Guideline. The bio-filtration basins will be prepared with wet retention basins consistent with Council's asset management requirements. Wet retention basins are a more cost effective solution to the ongoing maintenance.

- What type of gross pollutant trap (GPT) will be installed? Insitu or precast units?  
Precast units are effective and easily maintained while insitu units can be ineffective and inefficient with high maintenance costs. Council needs to consider this in order to control future costs when maintaining the GPTs.

#### Comment

Full details of the stormwater infrastructure works, including the type of GPT, will be designed in accordance with Council's Civil Design and Construction Specifications and submitted prior to the issue of the Construction Certificate for Stage 1.

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- Despite biodiversity offsets being provided for this development, the subdivision is located through a wildlife corridor for native fauna, the removal of vegetation will affect biodiversity.

Comment

There is a large amount of green corridor and habitat network retained in the area and the proposal will retain vegetation where possible. The subject site is not currently identified as a wildlife corridor or conservation link. As part of the rezoning and Concept Plan approval, 205.75 hectares of land was dedicated to the NSW Government to compensate for the loss of vegetation on the site where possible. The Department of Planning and Infrastructure and the Office of Environment and Heritage were satisfied that the conservation lands dedicated adequately offset the impacts of the development.

- Loss of vegetation will detract from aesthetic appeal of the area.

Comment

The Landscape Plan prepared for the development proposes extensive street tree planting along all streets within the subdivision to accommodate for the loss of trees and to provide streetscape amenity. The site will be cleared in the respective stages therefore retaining vegetation until works are required. The gradual completion of stages will assist in the visual transition of the land to a residential subdivision.

- Domestic animals such as cats will threaten native wildlife. Wildlife must be protected.

Comment

The developer has committed to mitigating potential impacts on native fauna by developing strategies regarding pet ownership. This may include implementation of appropriate signage and information of responsible pet ownership to be included as part of the sale for each property. These strategies will be developed prior to the commencement of works.

- The lot sizes are too small and should be a minimum of 600m<sup>2</sup>.

Comment

A mix of lot sizes between 450m<sup>2</sup> and 1215m<sup>2</sup> have been provided. A minimum lot size of 450m<sup>2</sup> is required by the approved Urban Design Guidelines which is a requirement of Clause 89 of the Wyong Local Environmental Plan 1991. Detailed urban design controls for development sites were formulated to ensure a suitable standard of subdivision is provided. All lots comply with the minimum size requirement.

- The road reserves are very narrow in comparison to the local area.

Comment

The proposed road reserves are consistent with the Concept Approval Urban Design Guidelines approved by the NSW Department of Planning & Infrastructure and Wyong Council.

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- The Traffic Impact Study prepared by Hyder in 2013 refers to an earlier report prepared by Hyder in 2010 which relies on traffic count made in July 2007. Concern is raised as to whether or not this is an adequate response to the PAC Approval Condition requiring that the Proponent must include a revised assessment of the predicted impacts of traffic on the capacity, efficiency and safety of the surrounding road network with each development application for subdivision.

Comment

The revised traffic assessment has been prepared based on the data collected in 2007 and applying growth rates of 2% per annum and 0.5% per annum for Pacific Highway and Kanangra Drive respectively. These growth rates were used for the traffic impact assessment prepared for the approved Concept Plan which was reviewed by the Roads and Maritime Services. Given there have been no significant changes in land use in the area and the growth rates were accepted by the Roads and Maritime Services, it is considered that this approach is reasonable to determine estimated traffic data for the purpose of meeting the required condition of the PAC Approval.

- Concerns over the increase of traffic on the local roads.

Comment

The applicant has met the requirements to address potential traffic impacts on the external road network and has consulted with the RMS, Council and bus providers on traffic and transport matters. The traffic assessment was reviewed by Council's Transport Engineer who raised no issues in terms of traffic subject to conditions being imposed on the consent.

The proposed development will result in an increase of traffic on the surrounding road network. The following upgrades are proposed to the external road network:

- Pacific Highway/Kanangra Drive intersection upgrades;
  - A new connecting road on the eastern side of the Kanangra Drive/Summerland Road roundabout which will form the fourth leg to the roundabout;
  - A new T-junction on Kanangra Drive which will connect to the southern entry road of the estate. A roundabout was originally proposed however a review of the traffic data determined that a T-junction intersection at this location will provide a better level of service.
- Homes should be no more than 800m from a bus stop or transport node.

Comment

The opportunity to deviate the existing bus route from Kanangra Drive and into the subdivision has been investigated. Discussions with the local bus service provider indicated that deviation to the current bus route is dependent on demand generated within the subdivision. The internal road network would need to be designed to accommodate buses for a deviation to be implemented.



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While amendments to the bus route are at the discretion of the service provider, the subdivision has been designed to accommodate a bus route that ensures the majority of the lots are within 400m of a bus stop.

- In the Geotechnical report by Douglas Partners (October 2010), large areas of the site are recommended for single storey light construction buildings only.

Comment

An additional geotechnical investigation will be undertaken as a condition of consent. This information will be inform the detailed engineering design at the Construction Certificate stage. The lots within the subdivision will be classified by a Geotechnical Engineer's Report in accordance with AS2870-2011 prior to the issue of a Subdivision Certificate.

- All buyers should be made aware of mine subsidence constraints to development.

Comment

As the site is identified within a Mine Subsidence District, land owners will be informed of the mine subsidence constraint via the Section 149 Certificate included in a contract of sale for each property.

- Concerns regarding the adequacy and capacity of Sewer Infrastructure.

Comment

The site is currently not connected to any Council sewerage network at this stage. A preliminary concept plan has been developed and endorsed by Council Engineers. The concept proposes a new Sewage Pumping Station (SPS) to be constructed as part of the first stage. Prior to further design of the sewerage scheme Council requires the developer to prepare a sewer service strategy for the area.

- The Concept Infrastructure Plan prepared by Cardno in November 2010 identified the "NBN" as being available for telephone services. This is no longer available.

Comment

It is noted that NBN is no longer available.

It is understood that telecommunications services are available in the area. The developer will seek Telstra's requirements for works required to existing infrastructure to respond to the demand generated by the proposed development.

- The Summerland Point/Gwandalan area has one doctor who is not taking on new patients.

Comment

The availability of social and community infrastructure is generally beyond the ability of a developer to influence. However, the increase of population may provide incentive for the establishment of additional GP and ancillary services in the area and the nearby area of Lake Munmorah which has two medical practices.

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- Concern was raised over the development's compliance with the WLEP 2013.

Comment

In the context of the subject development application, Cl. 1.8A of the WLEP2013 requires WLEP1991 to be given determinative weight, with the relevant provisions of the WLEP 2013 given appropriate weight. The WLEP 2013 is not determinative of the development application. The assessment against the provisions of both WLEP 1991 and WLEP 2013 is provided later in this report.

- The proposed frequency of monitoring is one year for some aspects and two years for another during the development. Water quality monitoring should be an ongoing function.

Comment

The developer will be responsible to undertake the water quality monitoring as outlined in the Water Quality and Hydrologic Monitoring Program in accordance with the Concept Approval for a two year period upon the issue of the subdivision certificate for each stage of the development. The monitoring results are to be reported to Council and the Office of Water.

- Is the reticulation of grey water through the development still likely as per the Concept Infrastructure Plan (Oct 2010)?

Comment

Reticulation of grey water was considered, but was determined as not the best way to reduce potable water use. A connection to Council's recycled water system at Gwandalan Sewage Treatment Plant (STP) was previously discussed and Council has no intention of expanding the existing recycled water scheme at Gwandalan. At this stage, there are no alternate proposals for the reticulation of grey water.

- Compliance with Condition 1.10 and Condition 1.22 of the Concept Approval which requires the quantity of open space to be consistent with the concept plan, and details on the management of biodiversity/flora and fauna.

Comment

These matters have been addressed through the studies prepared for both the approved Concept Plan and the Development Application. The open space is consistent with the concept approval and the relevant mitigation measures and recommendations of the Ecological Assessment Report are considered to have been met. Details on the management of the interface between the development area and the conservation lands have been provided. Two new urban parks will be located on the eastern edge of the site as indicated in the concept plan.

- Concerns relating to Bushfire Management have been raised such as the asset protection zone (APZ) along Kanangra Drive is considered to be inadequate, no APZ on Summerland Road extension but there is bush to the north of this road, no details of APZs at the southern end of the development and the description of the inner protection area appears to be incapable of enforcement.

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### Comment

The APZ on the western boundary of the development site was determined in accordance with the requirements of Planning for Bushfire Protection 2006. A 10m APZ is required at this location. The APZ is contained entirely within the proposed road reserve.

A 20m APZ will be implemented along the Summerland Road extension.

APZs will be implemented at the southern end of the development. The required APZs vary between 10m, 20m and 25m in width and will be contained within the road reserve or stormwater basins and the front setbacks of residential lots where required. The proposal was reviewed by the Rural Fire Services (RFS) at the Concept Plan stage and considered adequate. The Department of Planning and Infrastructure deemed future development applications not to be “integrated development” in accordance with section 75P(2)(b) of the Act. Therefore referral to the RFS was not required.

- Under the section Access/Egress (evacuation) the report calls for parking on one side of internal roads. This is considered totally impractical.

### Comment

Internal roads have been designed to comply with the requirements of Planning for Bushfire Protection 2006 which includes limiting parking to one side of the carriageway.

- The Bushfire Threat Assessment report is considered inadequate and out of date in light of the recent bushfires.

### Comment

The Bushfire Threat Assessment (BTA) was undertaken for the site in 2010 as part of the Concept Plan application. The BTA was prepared in accordance with the current Rural Fire Services guidelines, “*Planning for Bush Fire Protection 2006*”. An addendum was prepared to the BTA due to minor layout changes and submitted with the development application. The addendum confirmed that the proposed development remains consistent with the relevant Rural Fire Services controls.

- Clarification required regarding the currency of AS 3959-2009 in relation to dwelling design and construction

### Comment

Australian Standard AS 3959-2009 is current at the time of writing. Should AS3959-2009 be updated, future dwellings will be required to comply with the relevant standard.

- The developer should consider *Guidelines for Development Adjoining DEC Lands* as it adjoins a State Conservation Area (SCA).

### Comment

The *Guidelines for Development Adjoining DEC Lands* was considered in Council’s assessment of the development application. Particular attention was given to erosion and sediment control, stormwater runoff, wastewater, threat to groundwater dependent

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ecosystems and boundary encroachments. The proposal is considered to have reasonably addressed these requirements.

- There should be no vehicle and trail bike access into the SCA or pedestrian access other than formalised walking pathways/trails. This will help control illegal dumping including grass clippings. Residents should also not have the ability to encroach into the SCA.

#### Comment

To minimise illegal access and dumping a bollard and wire fencing will be erected along the perimeter roads adjoining the SCA. Connections for pedestrian access into the SCA are not proposed as part of this development application.

#### ***Any submission from public authorities.***

It is noted that the proposal is not integrated development. However the application was referred to the Roads and Maritime Services (RMS) and the Mines Subsidence Board (MSB) for consideration.

#### Roads and Maritime Services

The RMS has no objections to the proposal and provided comment with matters to be addressed and included in conditions of consent.

#### Mines Subsidence Board

No comments received.

#### **Internal Consultation**

#### Council's Ecologist

The applicant submitted the following reports in support of the proposed development:

- Ecological Assessment Report – Lower Hunter Lands, Gwandalan by RPS dated 9 November 2010,
- Additional Ecological Information, Southern Estates – Gwandalan by RPS dated 18 November 2013,
- Bushfire Threat Assessment – Lower Hunter Lands, Gwandalan by RPS dated 12 October 2010,
- Additional Bushfire Information – Coal and Allied Southern Estates, Gwandalan Site by RPS dated 21 October 2013

Following a review of these documents, no objection was raised subject to appropriate conditions of consent.

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*Council's Arborist and Landscape Design Assessment Officer*

The applicant submitted a Landscape Masterplan Report by Moir Landscape Architects dated November 2013 and Gwandalan Residential Subdivision, Landscape Documentation by Moir Landscape Architects dated November 2013 in support of the proposed development. Following a review of these documents and the Statement of Environmental Effects, no objection was raised with regard to the proposed tree removal subject to appropriate conditions being imposed to the consent.

*Council's Environmental Protection Officer*

The applicant submitted a Remedial Action Plan titled "Remedial Action Plan – Proposed Residential Subdivision" prepared for Coal and Allied by Douglas Partners Dated July 2013 to address any potential contamination of the site. Following a review of this document, no objection was raised subject to the recommendations of the report and appropriate conditions being imposed on the consent.

*Council's Water & Sewer Engineer*

The applicant submitted Concept Plan Infrastructure Report, Gwandalan by Cardno dated November 2010 to address the water and sewer requirements for the site. Following a review of these documents, Council's Water & Sewer Engineer raised no objections to the proposed development subject to appropriate conditions of consent.

Water supply is available for the proposed development from the western side of Kanangra Drive. Council's existing system has adequate capacity to provide water supply however no property connections are to be made directly to the trunk main. The applicant is required to construct all water mains within the site. Construction of the water main will result in an offset to the total amount of Water Contributions payable.

The site is not connected to any Council sewer network at this stage. A preliminary concept plan has been developed by consulting engineers Cardno as discussed in the Concept Plan Infrastructure Report. The concept proposes a new Sewage Pumping Station (SPS) to be constructed as part of the first stage. Prior to further design of the sewerage scheme the Water and Sewerage Unit require the developer to prepare a sewer service strategy for the area for review by Council. The strategy will need to provide an analysis of various options to minimise the number of new SPSs, the capital and operational costs, construction feasibility, hydraulic calculations for SPSs and rising mains and an analysis of proposed lot uptakes within the SPS catchments.

*Council's Transport Engineer*

The applicant submitted Proposed Subdivision Plan by Monteath & Powys dated February 2013, Concept Engineering Design by Monteath & Powys dated November 2013 and Lower Hunter Lands Project, Gwandalan, Traffic Impact Study by Hyder Consulting dated November 2013 and Coal & Allied Southern States, Gwandalan Traffic Impact Study by Hyder Consulting dated November 2013 to address the traffic issues associated with the proposed subdivision. Following a review of these documents it was determined that the general road layout was suitable and consistent with the Concept Approval. Some amendments will be required in regard to some intersections treatments, road alignment and the radius in some areas. These amendments will be included in the conditions of consent.

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### Council's Development Engineer

The applicant submitted Gwandalan: Water Sensitive Urban Design, Flooding and Stormwater Management by GHD dated October 2010, Gwandalan Development Project, Stormwater Management Plan by SMEC, November 2013 and the Proposed Subdivision Plan by Monteath & Powys dated February 2013 to address the stormwater management system and any impact from flooding on the site.

Following a review of these documents additional information was requested in regard to the water quality and stormwater management treatments. The proposed basin treatments were not consistent with Council's requirements. A condition of the Concept Approval required the applicant to submit detailed design of all stormwater management devices with each development application for subdivision. The application was submitted with stormwater detention basins and water quality targets inconsistent with Council's requirements. Council reviewed data submitted and were able to manipulate the stormwater management system to be consistent with Council requirements. These amendments are to be included as conditions of consent.

### **ECOLOGICALLY SUSTAINABLE PRINCIPLES**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matter is considered to warrant further discussion, as provided below:

Bushfire Protection: The site is identified as bushfire prone land. A Bushfire Risk Assessment was submitted with the development application with suitable bushfire mitigation measures in accordance with Planning for Bushfire Protection 2006 which has been incorporated into the subdivision design.

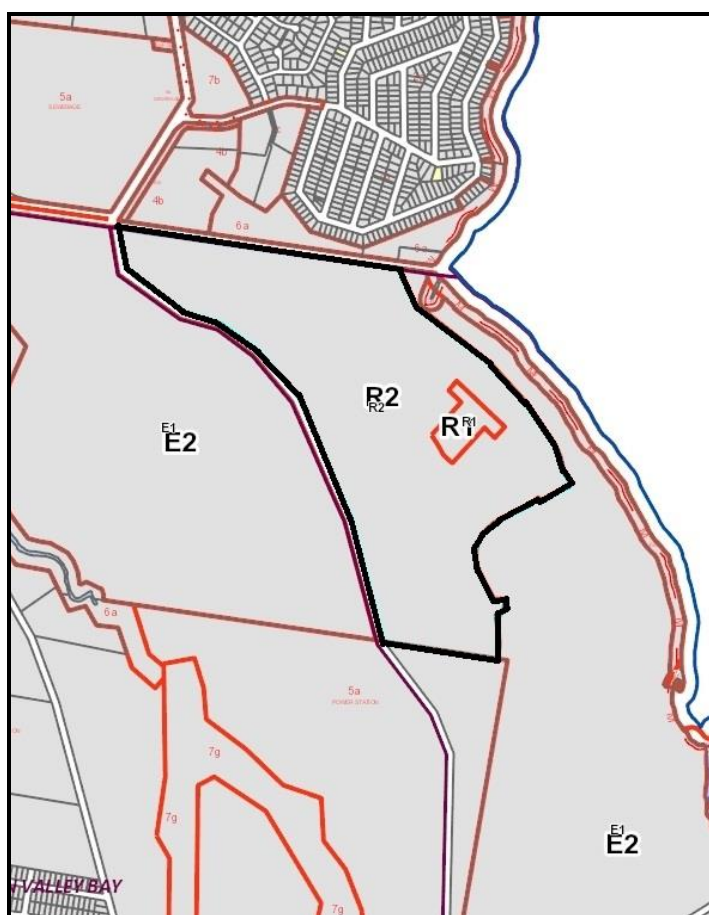
### **ASSESSMENT**

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

## THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

The application is required to be assessed under the WLEP 1991. WLEP 2013 includes a savings provision under Clause 1.8A which states the following:

The development application was submitted prior to the coming into force on 23 December 2013 of Wyong LEP 2013. Therefore, the application is to be assessed under the Wyong LEP 1991.



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## Zoning

The majority of the site is zoned R1 and R2 Residential. The Crown Road along the northern boundary is zoned 5(a) Special Uses.

### Mandatory Requirements: Part 4 Gwandalan Site

Part 4 of the WLEP 1991 sets out specific provisions for the land at Gwandalan. No other provisions of the WLEP 1991 apply to the Gwandalan site, except Clause 7(3) Definitions and Clause 8: Consent authority.

#### *Clause 78: Objectives of Land Use Zones to be taken into account.*

The consent authority is required to take into consideration the objectives of each land use zone.

The objectives for the R1 General Residential zone are:

- a) To provide for the housing needs of the community,
- b) To provide for a variety of housing types and densities,
- c) To enable other land uses that provide facilities or services to meet the day to day needs of residents,
- d) To encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment of the Wallarah Peninsula,
- e) To encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
- f) To ensure that any non-residential development is compatible with the amenity of the area.

The objectives for the R2 Low Density Residential zone are:

- a) To provide for the housing needs of the community within a low density residential environment,
- b) To enable other land uses that provide facilities or services to meet the day to day needs of residents,
- c) To encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment of the Wallarah Peninsula,
- d) To encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
- e) To ensure that any non-residential development is compatible with the

The proposed development is considered to meet the objectives of the zone by providing a range of lot sizes that can facilitate the delivery of housing in accordance with the relevant controls. The subdivision pattern is consistent with the urban design and planning controls to promote an appropriate form of development consistent with the environmental values of the area. Lots are appropriately sized and oriented to facilitate an appropriate form and scale of development that will integrate with surrounding low to medium density development within a landscaped setting. Appropriate lots have been provided that can accommodate future non-residential development (e.g. childcare centre) without having a significant impact on the amenity of the area.



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*Clause 82: Subdivision - Consent Requirements.*

Subdivision is permissible only with development consent.

*Clause 86: Development within the Coastal Zone.*

Sub-clause 2 provides that the consent authority must not grant consent to development wholly or partly within the coastal zone unless it has regard to certain matters. These are summarised in the following table:

**Table 1: Coastal Zone Assessment**

| <b>Requirement</b>   | <b>Comments</b>   |
|--|---|
| Public access to and along foreshore.  | The site is not located along the foreshore and public access is not affected by the proposed development. Public access to and along the foreshore will be improved by the dedication of conservation lands between the subject site and the foreshore.  |
| Suitability of development, its relationship with the surrounding area and its impact on the natural scenic quality. | The site is zoned residential. It is located adjacent to the existing Gwandalan settlement with direct pedestrian and vehicle access to surrounding areas. Urban design guidelines and land dedications ensure that the impact on the natural scenic quality is minimised.  |
| Impact of the proposed development on the amenity of the coastal foreshore.  | Foreshore lands were dedicated as part of the Concept Approval. The proposed development will not have a significant impact on the amenity of the coastal foreshore. Controls on future development mitigate any chance of overshadowing or significant overlooking of public foreshore areas. No views of the foreshore from public land will be affected and the impacts are considered satisfactory. |
| Protection of the visual amenity and scenic qualities of the coast.  | Appropriate protections are in place through urban design controls including street design, built form controls, setbacks, vegetation buffers and landscaping. A significant portion of the lake foreshore has been protected through the dedication of conservation lands.   |
| Conservation of biodiversity and ecosystems.   | Water quality measures are proposed to protect receiving water of Lake Macquarie. Impacts of the development are also off-set through the dedication of conservation lands that will provide habitat and maintain biodiversity.   |

|  |   |
|--|---|
| Cumulative impacts of this and other development on the coastal catchment. | The cumulative impacts of this development of coastal catchment are largely mitigated by: coastal hazards being avoided by setbacks from the lake; the dedication of foreshore land to improve public access and protect the environmental values of the foreshore; and construction and development controls to mitigate impacts from development within the site. |
|--|---|

Sub-clause 3 further states that consent must not be granted unless the consent authority is satisfied that:

| Requirement  | Comments   |
|--|--|
| Where practicable the development will not impede or diminish land based access to or along the foreshore                              | The proposed development does not impede or diminish land based access. It is considered to enhance access by dedicating to public land foreshore areas previously held in private ownership.  |
| Impact of any non-reticulated effluent system on water quality.  | Not applicable. Effluent will be reticulated.  |
| That no untreated stormwater will be discharged to receiving waters.   | All stormwater discharging the site will be treated through a stormwater management system before entering receiving waters.   |
| The development will not be affected by, have an impact on, or increase the risk of coastal hazards in relation to this or other land. | Through the dedication of foreshore land, the risk of this site is from coastal hazards is mitigated and the proposed development will not increase the risk of coastal hazards. The development will not impact on coastal hazard risk to other land. |

*Clause 87: Arrangements for Designated State Public Infrastructure.*

A Voluntary Planning Agreement between the proponent and the NSW State Government makes provision for designated State public infrastructure.

*Clause 88: Public Utility Infrastructure.*

The requirements for and construction of public utility infrastructure will form part of the construction phase of the development. In accordance with Part C of the Concept Approval, certification of service provision is required prior to the release of any Subdivision Certificate.

*Clause 89: Development Control Plan*

As per the Concept Approval, the Concept Plan satisfies the obligation to prepare a development control plan as required for the subject site to compliance with the modifications

outlined in Part C of the approval. The Department of Planning has confirmed that the modifications required by Part C have been adequately addressed.

Site specific controls have been prepared in the form of Urban Design Guidelines. Assessment against these guidelines is presented in Table 2.

**Table 2:** Urban Design Guidelines.

| <b>DCP Requirement</b>  | <b>Response</b>  |
|---|--|
| a) A staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing.   | Development staging is submitted.  |
| b) An overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrian and cyclists.                         | Section B1 Public Domain Plan of the Urban Design Guidelines makes provision for the circulation system and design.  |
| c) An overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain. | A detailed landscape strategy has been submitted and found satisfactory.   |
| d) A network of passive and active recreational areas.  | Section B1 of the Urban Design Guidelines recommends open space outcomes while the Concept Approval also involved the dedication of conservation lands to complement parks and recreation areas within the Wallarah Peninsula. |
| e) Stormwater and water quality management controls.  | Suitable stormwater and water quality management controls are proposed.  |
| f) Amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected.                | The conceptual layout in the Urban Design Guidelines provides broad provisions for flood free development of lots, appropriate bushfire measures including APZs and evacuation routes.   |
| g) Detailed urban design controls for significant development sites.  | No significant development sites are contained in the development area but detailed urban design guidelines are provided for future residential development within the site.   |
| h) Measures to encourage higher density living around transport, open space and service nodes.  | Super lots have been provided which may result in higher density development in close proximity to the existing and future potential public transport routes;  |

|  |   |
|--|---|
|  | potential future service node near the Summerland Rd / Kanangra Dr intersection; and in close proximity to open space along the foreshore.                    |
| i) Measures to accommodate and control appropriate neighborhood commercial and retail uses.  | Zone objectives are provided in the LEP that restrict commercial and retail uses. The existing Wyong DCP will apply to non-residential development.           |
| j) Suitably located public facilities and services, including provision for appropriate traffic management facilities and parking. | Public infrastructure including new traffic management facilities are identified in the Urban Design Guidelines and detailed in this development application. |

### **Wyong Local Environmental Plan (WLEP) 2013**

The site is identified as R1 General Residential and R2 Low Density Residential under the WLEP 2013.

The subject site is zoned R1 General Residential and R2 Low Density Residential under the Wyong LEP 2013. The current proposal is permissible under the WLEP 2013. As stated earlier in this report, Cl. 1.8A of WLEP 2013 requires that the development application be determined as if the WLEP 1991 were determinative and operative with the WLEP 2013 being given appropriate consideration as if it were certain and imminent.

The objectives of the R1 and R2 zones are generally to provide a variety of housing suitable to the needs of the community. The development is to be compatible with the scale and character of the local area and is to complement the existing streetscape while providing a residential character which corresponds with a low density residential environment.

The proposed development is considered to be consistent with the zone objectives for the R1 and R2 zone in the WLEP 2013. The granting of consent to the subject development application is consistent with the planning scheme under the WLEP 2013.

### **b) Relevant DCPs**

#### **Wyong Development Control Plan 2005**

The obligation to prepare a development control plan for the site is satisfied under the concept plan approval in accordance with the transitional provisions for Part 3A. Therefore, the Concept Approval and Urban Design Guidelines (UDG) prevail to the extent of any inconsistency with the Wyong DCP. The provisions of the Wyong DCP that would apply are generally dealt with in the UDG and Concept Approval.

A complete assessment of the proposal was undertaken having regard to the relevant Chapters of WDCP 2005. This assessment is provided in the table below.

- Development Control Plans No.14 Tree Management
- Development Control Plans No.66 Subdivision
- Development Control Plans No.67 Engineering Requirements for Development

**Table 1: Wyong DCP 2005 – Compliance Table**

|  | <b>Proposed</b>  | <b>Required</b>  | <b>Compliance</b> |
|--|--|--|-------------------|
| <b>Chapter 13<br/>Interim Conservation Areas</b>               |  |  |                   |
| Ecological Assessment.   | Transfer of 205.75 hectares of conservation lands to the Government.   | Consideration of potential conservation area   | Yes               |
| <b>Chapter 14<br/>Tree Management</b>                          |  |  |                   |
| Ecological Assessment.   | Transfer of 205.75 hectares of conservation lands to the Government.   | Biodiversity offset  | Yes               |
| <b>Chapter 30<br/>Wyong Shire Wetlands Areas</b>               |  |  |                   |
| Stormwater management  | Stormwater management system to provide adequate downstream water quality.   | Stormwater management system to maintain downstream water quality. Development to have minimal impact on the environmental values of an area | Yes               |
| <b>Chapter 66<br/>Subdivision</b>                              |  |  |                   |
| Subdivision design   | Subdivision of 405 lots and associated infrastructure and services. Lot sizes between 450m <sup>2</sup> and 1215m <sup>2</sup> | Subdivision design & supporting documentation. Minimum lot size to be 450m <sup>2</sup> .  | Yes               |
| <b>Chapter 67<br/>Engineering Requirements for Development</b> |  |  |                   |
|  | Stormwater Infrastructure with dry detention basins.   | Stormwater management design with wet retention/detention basins   | No                |

**Development Control Plan Chapter 66 – Subdivision**

The proposed 405 lot subdivision complies with the general requirements of the subdivision to provide a mix of lot sizes with areas of between 450m<sup>2</sup> and 1025m<sup>2</sup>. The lot sizes are consistent with Council's requirements for standard allotments and corner lot arrangements. The proposed lots will have east / west orientation and will allow for living areas and open space on the northern side maximising solar access. The proposal requires removal of existing vegetation and native trees. However, the vegetation loss has been offset by the dedication of 205.75m<sup>2</sup> of land for the purpose of conservation to the NSW Government.

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The proposal is to be undertaken in 11 stages. It is a requirement that any staged development is to provide immediate access for public transport. The northern access road joining the Summerland Road roundabout will be constructed with stage one which would allow access for public transport. Details of the construction of each stage have been provided. The recommended reports and information for assessment have been included with the submission.

The sites are provided with adequate water and sewer. Sewer disposal is by way of the reticulated sewer system as part of the Summerland Point Sewer Treatment Plant. The sites are able to be serviced with electricity via the substation at Lake Munmorah and telecommunications infrastructure. Gas is not available and not considered economically feasible to extend from the nearest main at Doyalson.

### **Development Control Plan Chapter 67 – Engineering Requirements for Development**

The application was reviewed by Council's Development Engineer. The submitted preliminary Stormwater Management Plan was not consistent with Council's asset management requirements. The stormwater management requires some amendment to become consistent with the requirements of Council in regard to flooding, water sensitive urban design, water conservation and stormwater collection and disposal. Council has reviewed the data and is able to manipulate the stormwater devices to be consistent with Council's stormwater management requirements. The submitted preliminary stormwater management system can be revised and will therefore be included as a condition of consent.

### **Wyang Development Control Plan 2013**

Wyang DCP 2013 includes a savings provision under Clause 1.4 which states the following:

*"Consistent with the provisions of Clause 1.8A of Wyong LEP 2013 if a development application has been made before the commencement of this DCP in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this DCP had not commenced."*

The application would therefore have been assessed using the Wyong DCP 2005 with appropriate weight given to Wyong DCP 2013 had the obligation to prepare a DCP not been satisfied under the concept plan approval.

### **Wyang Shire Settlement Strategy**

The Wyong Shire Settlement Strategy lays out the strategic direction and framework for land use and development activities in the Wyong LGA, taking into account State, regional and local planning objectives. It also complements the North Wyong Shire Structure Plan (NWSSP). It is important that the future urban growth be managed sustainably so as to preserve the natural environment while providing for the housing and facilities needs of the future population.

A balance must be provided between the new urban release areas, local heritage, coastal and rural areas and the natural environment. The Strategy takes into account how the area is today and the perceived character of the future. It considers existing land uses, infrastructure, environmental values and social and economic needs. The proposed subdivision is consistent with the objectives of the Settlement Strategy by providing a proposal that encourages ecologically sustainable development while maintaining a high

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standard of urban design consistent with the existing and desired future character of the area.

### **North Wyong Structure Plan**

The North Wyong Structure Plan identifies where and when development is planned to occur and that there is sufficient land to meet the housing and employment needs for the future. The Plan also identifies important environmental assets, landscape values and natural resources that are to be protected. Key infrastructure requirements are to be considered and new urban land releases are to contribute to infrastructure costs. The proposed subdivision is consistent with the objectives and direction of the Structure Plan.

### **Voluntary Planning Agreement (VPA)**

Section 79C of the EP&A Act requires that any planning agreement entered into under Section 93F of the EP&A Act must be taken into consideration in determining a development application. The VPA for the site details measures relating to the proposed development including the dedication of conservation lands, the provision of infrastructure and contributions toward community services and facilities.

## **THE LIKELY IMPACTS OF THE DEVELOPMENT**

### **a) Built Environment**

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of statutory and DCP compliance and in terms of the submissions received and other relevant impacts.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

### **b) Natural Environment**

#### *Flora and Fauna*

The proposed development results in the removal of approximately 52.88 hectares of vegetation. The potential impacts of vegetation removal according to habitat availability for each threatened species and communities were considered. Indirect impacts on surrounding lands were also considered, including alterations to water flows and potential impacts on groundwater dependent ecosystems (GDE). The impacts were considered in the context of the 205.75 hectares of biodiversity offset lands which were dedicated to the NSW Government through the VPA entered into as part of the Part 3A Concept Plan approval, as well as the 7.72 hectare Angophora Inopina Reserve within the development site. The impact of the development of the site was considered in relation to the suitable habitat within these areas and measures for mitigating indirect impacts.

It was determined that the potential impacts of the development estate were minimal compared to the benefits obtained from the protection of conservation lands. Therefore it was concluded that the development in the context of the offset land was unlikely to have a significant impact on any threatened species, populations, ecological community or GDE such that a viable population or occurrence would be placed at risk as per the 7 Part Test undertaken for this application. These findings are consistent with the determinations that the

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ecological impacts are appropriately offset by the Concept Approval and VPA. Notwithstanding, measures to identify and prioritise retention are contained in the ecological assessments undertaken for the development. This includes identifying hollow bearing or mature trees to be given for retention, and minimising the cut, fill and batters within engineering design constraints.

The developer has committed to mitigating potential impacts on native fauna by developing strategies regarding pet ownership. This may include implementation of appropriate signage and educative programs such as letter box drops or brochures to be included as part of the sale for each property. These strategies will be developed prior to the commencement of works.

### *Stormwater Management*

A review of the “Stormwater Management Plan” and the proposed strategy for each sub-catchment area within the subdivision identified several issues regarding the long term maintenance and performance of the water quality and stormwater management treatments. The proposed Bio-Filtration Basins (5) treatments within each sub-catchment area of the subdivision were not consistent with Council’s Asset Management Systems. A condition of the Concept Approval required the applicant to submit detailed designs of all stormwater management devices with each development application for subdivision in accordance with Councils requirements.

The submitted Stormwater Management Plan included “Music” software modelling pollution performance reduction targets from the proposed Bio-Filtration Basins. Council reviewed the submitted modelling data and were able to manipulate the stormwater management system to be consistent with Council requirements by converting the Bio-Filtration Basins into Wet Retention Basins in accordance with Council’s current Asset Management Systems. To ensure the capture of pollution to achieve the reduction targets as described in Volume 1 of Council’s Civil Works Design Guideline the Stormwater Management Plan will require review and re-modelling to incorporate the use of devices such as bio-swales, rain gardens, GPT’s and Wet Retention Basins within the treatment train to ensure that there is no detrimental impact on water quality within Crangan Bay and Strangers Gully. The revised “Stormwater Management Plan” has been included as a condition of consent.

In regards to the existing ground water dependant ecosystem located within Strangers Gully the submitted “Stormwater Management Plan” includes a strategy of providing a flow diversion within the longitudinal stormwater drainage system to divert low flows from the development catchment No.6 to the adjacent catchment (DC5). This will enable the majority of the runoff to be treated in the Wet Retention Basin 5 in catchment DC5. This strategy is considered appropriate and acceptable in accordance with the Concept Approval.

All relevant issues regarding the likely impacts on the natural environment have been considered and determined to be reasonable for the proposed development.

## **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

A review of Council’s Land Information mapping identifies the following constraints:

- Bushfire
- Mines Subsidence
- Flooding



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Bushfire and mine subsidence have been addressed earlier in this report.

## **Flooding**

A "Flood Impact Assessment" was submitted with the application which applied hydrologic and hydraulic modelling to determine the flood characteristics at the subject site for the existing and developed conditions. The models applied the 5%, 1 AEP and PMF events. The model recommends that the proposed subject lots are above the 1 % AEP level (1.5m AHD) and FPL (2.0m AHD) and that no planning controls are required. The model results indicate that flooding risks to the adjoining lands are insignificant and that any requirement for detention storage due to the location of the site in relation to the receiving waters of Lake Macquarie is not warranted.

A sensitivity analysis was undertaken in regards to sea level rise where the model results indicate that if Flood Planning Levels were adopted for the site they would unlikely be affected by any potential Sea Level Rise. The model results also indicate that no proposed allotments within the subdivision would be inundated during a PMF event. Examination of the submitted preliminary engineering plans and level information reveals that the proposed lots are above the RL 3.0m AHD therefore no Flood Planning Level is recommended.

There are no other constraints that would render the site unsuitable for development.

The site is considered to be suitable for the proposed development as demonstrated through the environmental assessment. The proposed subdivision is considered to fit with the locality by providing a development which is capable of providing a balance of the built and the natural environment. Adequate recreation, transport and utility services are available. Due consideration has been given to the site attributes which are considered conducive to the proposed development. The dedication of 205.75 hectares of conservation land to the NSW Government adjoining or adjacent to the site was deemed suitable for biodiversity offset.

## **ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS**

The submissions have been addressed previously in the report.

## **THE PUBLIC INTEREST**

The public interest is best served by the orderly and economic use of land for which it is zoned. The proposed development is permissible with consent and the development proposed in this application complies with all relevant policies and controls. The proposed subdivision is consistent with the requirements of the North Wyong Structure Plan and the Wyong Shire Settlement Strategy and considered to be in the public interest by providing future housing to assist with the predicted population growth.

## **OTHER MATTERS FOR CONSIDERATION**

### *Contributions*

The proposed church attracts a contribution payment under Section 94A of the Environmental Planning and Assessment Act 1979.

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## **CONCLUSION**

The proposed development comprises the subdivision of Lot 11 DP 1180296 and an unformed Crown Road Reserve into 405 lots with the establishment of associated roads, open space, infrastructure and services. The site and the general form of the development are the subject of a Concept Approval to allow a maximum of 623 dwellings. This determination considered the suitability of the site and the appropriateness of the development.

Subject to various conditions, the proposal is acceptable against the relevant considerations under section 79C.

The proposal is recommended for approval.

## **ATTACHMENTS**

- 1 Draft Conditions
- 2 Development Plans