

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	2015NTH002
DA Number	T6-14-62
Local Government Area	Kempsey Shire
Proposed Development	Staged development application – ‘Saltwater’ residential subdivision concept plan (approximately 338 lots) and Stage 1 of the concept plan (29 lots)
Street Address	32 Waianbar Avenue, South West Rocks
Applicant/Owner	Applicant – Teebee Holdings Pty Ltd Owners - Teebee Holdings Pty Ltd Kempsey Shire Council
Number of Submissions	44
Regional Development Criteria (Schedule 4A of the Act)	<p>The proposed development is of a kind listed at Clause 9 of Schedule 4A to the EP&A Act 1979:</p> <p><i>‘...subdivision of land for residential purposes into more than 100 lots where the land is wholly or partly in a sensitive coastal location.’</i></p> <p>Therefore, pursuant to clauses 20, 21 and 22 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i>, the regional planning panel is the relevant consent authority for this application.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy 14 – Coastal Wetlands; • State Environmental Planning Policy 44 – Koala Habitat Protection; • State Environmental Planning Policy 55 – Remediation of Land; • State Environmental Planning Policy 71 – Coastal Protection; • State Environmental Planning Policy (Infrastructure) 2007; • Kempsey Local Environmental Plan 2013; • Kempsey Development Control Plan 2013; • Kempsey Coastal Zone Management Study 2015; and • Kempsey Coastal Zone Management Plan 2015.
List all documents submitted with this report for the panel’s consideration	<ul style="list-style-type: none"> • NSW Rural Fire Service Bushfire Safety Authority (5 November 2015) • Roads and Maritime Services Submissions • Office of Environment and Heritage Submissions • Department of Planning and Environment Submission

	<ul style="list-style-type: none"> • NSW Department of Primary Industries – Water Submission • Independent review of ecological assessments
Recommendation	That development application T6-14-62 be refused.
Report by	Erin Fuller, Manager Development Assessment, Kempsey Shire Council Rachael Jeffrey, Town Planner, Kempsey Shire Council
Report date	27 January 2016

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1 PURPOSE OF THE REPORT

This report provides an assessment of development application T6-14-62, which seeks development consent for the 'Saltwater' residential subdivision concept plan (approximately 338 lots) and Stage 1 of that concept plan (29 lots).

2 RECOMMENDATION

It is recommended that development application T6-14-62 be refused for the following reasons:

1. Pursuant to section 83C(3) of the EP&A Act 1979, the staged development application does not contain the information required to be included in the development control plan by clause 6.3 of KLEP 2013.
2. Insufficient detail has been provided for the concept plan to enable a proper assessment of the critical matters for the development: section 79C(1)(b) of the EP&A Act 1979.
3. The application does not demonstrate that environmental hazards pertaining to the shallow groundwater system, contamination and acid sulphate soils can be appropriately managed and/or mitigated for the development: section 79C(1)(b) of the EP&A Act 1979.
4. An acid sulphate soils management plan has not been provided pursuant to clause 7.1(3) of KLEP 2013: section 79C(1)(a)(i) of the EP&A Act 1979.
5. Insufficient information has been provided to enable a proper assessment of the ecological impacts of the development, in particular impacts on biodiversity and the potential impacts on Saltwater Lagoon and its tributaries: section 79C(1)(b) of the EP&A Act 1979.
6. The application does not demonstrate that the development will not have a significant impact on threatened species, populations or ecological communities, or their habitats: section 79C(1)(b) of the EP&A Act 1979.
7. Insufficient information has been provided to determine if the development is in accordance with the Comprehensive Koala Plan of Management for Eastern Portion of Kempsey Shire LGA Volume I, pursuant to clause 7.4(3) of KLEP 2013: section 79C(1)(a)(i) of the EP&A Act 1979.
8. The application does not demonstrate that the traffic impacts associated with the development can be managed and/or mitigated to ensure efficiency, safety and protect amenity: section 79C(1)(b) of the EP&A Act 1979.
9. The application does not demonstrate that impacts on the groundwater system can be appropriately managed and/or mitigated to prevent pollutants entering the system, the subsequent eutrophication of nearby water systems, and the exposure of acid sulphate soils: section 79C(1)(b) of the EP&A Act 1979.
10. The application does not demonstrate that stormwater can be appropriately managed given the shallow water table and in a manner that will not adversely impact on the adjacent environmentally sensitive wetland: section 79C(1)(b) of the EP&A Act 1979.
11. Insufficient information has been provided to enable a proper assessment of the extent of fill

required and any associated impacts: section 79C(1)(b) of the EP&A Act 1979.

12. The application does not demonstrate that the services essential for the development are available or that adequate arrangements have been made to make them available when required pursuant to clause 7.9 of KLEP 2013: section 79C(1)(a)(i) of the EP&A Act 1979.

13. Insufficient information has been provided with respect to the staging of the development to enable a proper assessment of whether the development will promote and co-ordinate the orderly and economic use of the land: section 79C(1)(e) of the EP&A Act 1979.

14. The application does not demonstrate compliance with Chapter D2 of KDCP 2013: section 79C(1)(a)(ii) of the EP&A Act 1979.

3 INTRODUCTION

3.1 Background

3.1.1 Tea tree plantation

The Department of Land and Water Conservation approved a development application KE/96/2 for clearing of approximately 30 ha of vegetation for the establishment of a tea-tree plantation at the site on 14 May 1996, subject to a number of conditions. The consent also required a buffer area of at least 100m to be maintained along the boundary with the Arakoon State Recreation Area (which is now part of Hat Head National Park). The applicant has advised that they continue to operate under this consent.

3.1.2 The 'Saltwater' precinct

The following provides a brief history of the planning controls relating to the "Saltwater" precinct which includes the subject site:

- **1997** – Kempsey Shire Council resolved to commence the process to rezone the area known as 'Saltwater' from 1(c) Rural Small Holdings, 1(d) Rural Investigation and 7(a) Wetlands Protection to permit residential development.
- **2008** - Local Environmental Study (LES) was finalised and publicly exhibited.
- **2009** - Local Environmental Plan (LEP) Amendment No. 55 was gazetted, rezoning the site to Residential 2(a) and Environmental Protection Zones 7(a) and 7(b), with an area of land deferred pending analysis of the adjacent Sewerage Treatment Plant (STP). LEP Amendment No. 55 introduced additional clauses pertaining to development of the Saltwater site, including the requirement for a site specific Development Control Plan.
- **2010** - The Saltwater Development Control Plan (DCP) was prepared for the site.
- **2014** - Kempsey Local Environmental Plan (KLEP) 2013 was gazetted along with Kempsey Development Control Plan (KDCP) 2013. The Saltwater DCP 2010 was not incorporated into KDCP 2013 in its entirety. Instead, KLEP 2013 and KDCP 2013 omitted the more prescriptive requirements to allow flexibility as to how the precinct will develop. This is to be achieved through the requirement for a DCP/master plan to be approved for the precinct prior to any development occurring.

3.1.3 Development application T6-14-62

Development application T6-14-62, the subject of this report, was lodged with Council on 25 February 2014. A summary of the history of the application is provided in Appendix A.

The development for which consent is sought is the 'Saltwater' residential subdivision concept plan and Stage 1 of this concept plan (collectively referred to as 'the development' throughout this report). However, the application focuses on Stage 1 of the development with insufficient information provided for the overall concept plan.

The applicant has been provided numerous opportunities to provide the requested information with respect to the concept plan and as outlined in this report, the absence of this information is largely the reason the application is recommended for refusal.

4 THE SITE AND SURROUNDING DEVELOPMENT

4.1 SITE CONTEXT

The township of South West Rocks (SWR) is approximately 35 kilometres north-east of Kempsey on the NSW North Coast.

The subject site, known locally as 'Saltwater', is located approximately two kilometres to the south-east of the SWR town centre and two kilometres south-west of the village of Arakoon. Trial Bay beach is approximately one kilometre to the north.

Access to the site is from Waianbar Avenue, which connects with Phillip Drive.

The subject site is bound to the east by Saltwater Lagoon (which forms part of Hat Head National Park) and to the west by the SWR Golf Course. To the north of the site, adjacent to Phillip Drive, are two "pockets" of low density residential development (to the NE and NW) separated by the former Caltex and Shell fuel depot sites.

The Kempsey Shire Council (KSC) Sewerage Treatment Plant (STP) are located on the parcel of land adjoining the subject site to the south-west. A single detached dwelling is also located within the adjoining Lot 34 DP 1167775.

Saltwater Creek traverses the southern end of the subject site, flowing from the Golf Course to the west into Saltwater Lagoon to the east.



Figure 1: Site locality plan.

The adjoining property to the south of the subject site is expected to be developed for residential development in accordance with the Part 3A project approval MP 08_0167 (as modified) which gave approval for 273 residential lots.



Figure 2: Illustration provided at page 13 of the Statement to Environmental Effects (Geoff Smyth & Associates: December 2014).

4.2 SITE DESCRIPTION

The subject site is described as Lot 35 in DP 1167775 with a total area of 65.53 hectares. There are a number of easements and rights of access that affect the land which are identified on Figure 3.

The site gently slopes from north to south. The approximate levels are 6m AHD to the north and 3m AHD at the southern extent of the proposed residential footprint.

The site was previously cleared of native vegetation with only some small pockets remaining and regrowth in some locations within the site.

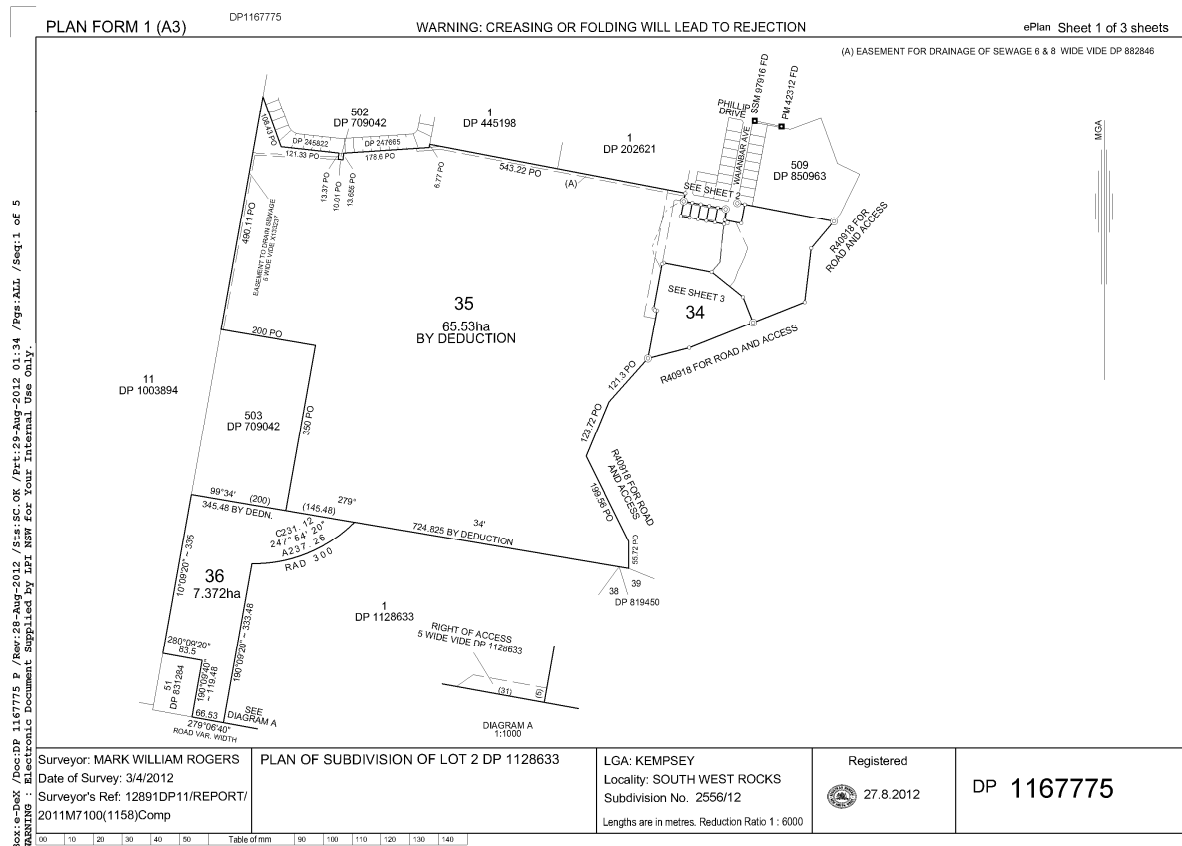


Figure 3: Deposited plan 1167775 - Lot 35 is the subject site.

5 PROPOSED DEVELOPMENT

The application seeks development consent for the 'Saltwater' residential subdivision concept plan and Stage 1 of that concept plan.

5.1 'Saltwater' residential subdivision concept plan

The statement of environmental effects (SEE) describes the proposal as a 'master planned residential coastal village incorporating residential lots, environmental protection facilities, sporting fields and open space'.

The proposed concept plan comprises of approximately 338 residential lots, environmental works within the lagoon and riparian areas, sporting fields, open space, drainage and stormwater management works, and an internal road network.

The original concept master plan provided with the application shows a neighbourhood community centre and a library adjacent to the STP (see Figure 4) although this is not discussed in the submitted documentation or shown on the latest concept plan (see Figure 5).



Figure 4: Concept master plan provided in Annexure A of Statement to Environmental Effects (Geoff Smyth & Associates: December 2014)

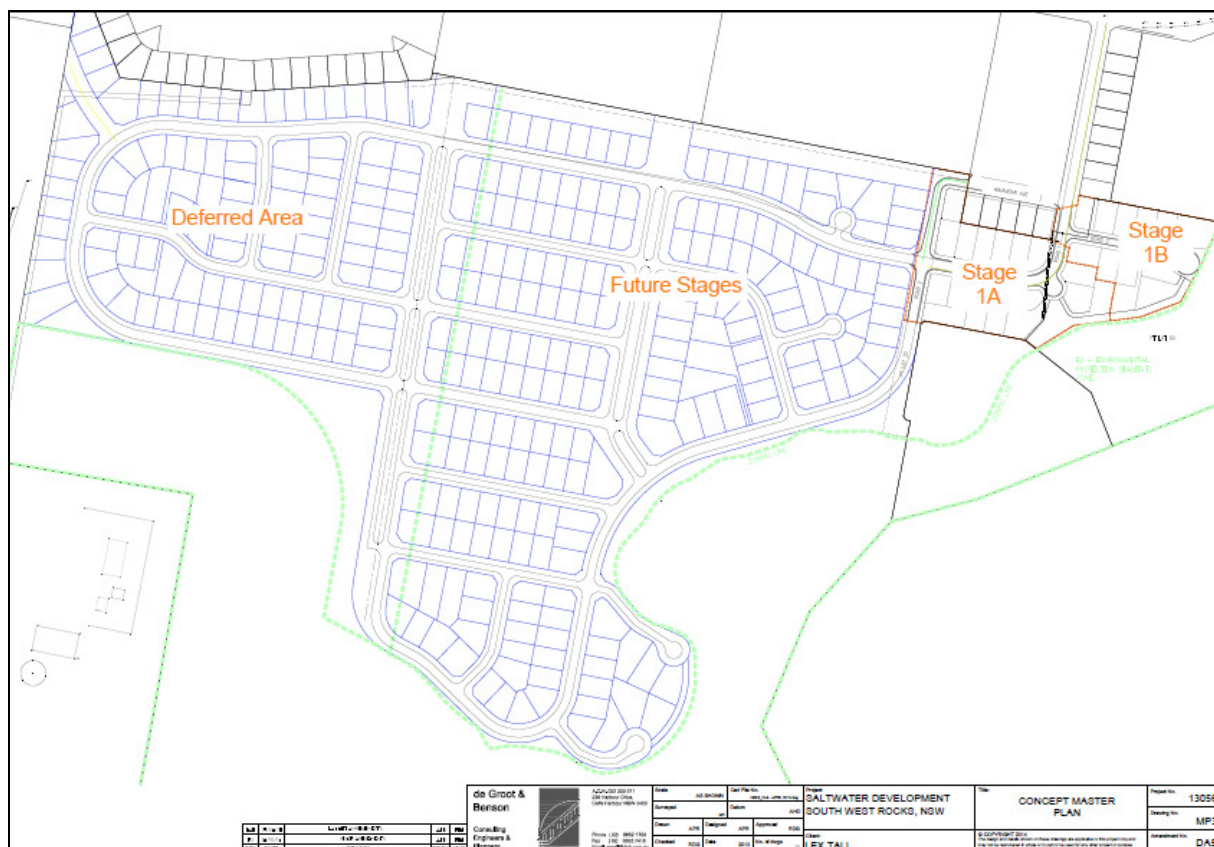


Figure 5: Concept master plan provided in Annexure B to additional information submitted dated 19 June 2015 (Geoff Smyth & Associates).

5.2 Stage 1

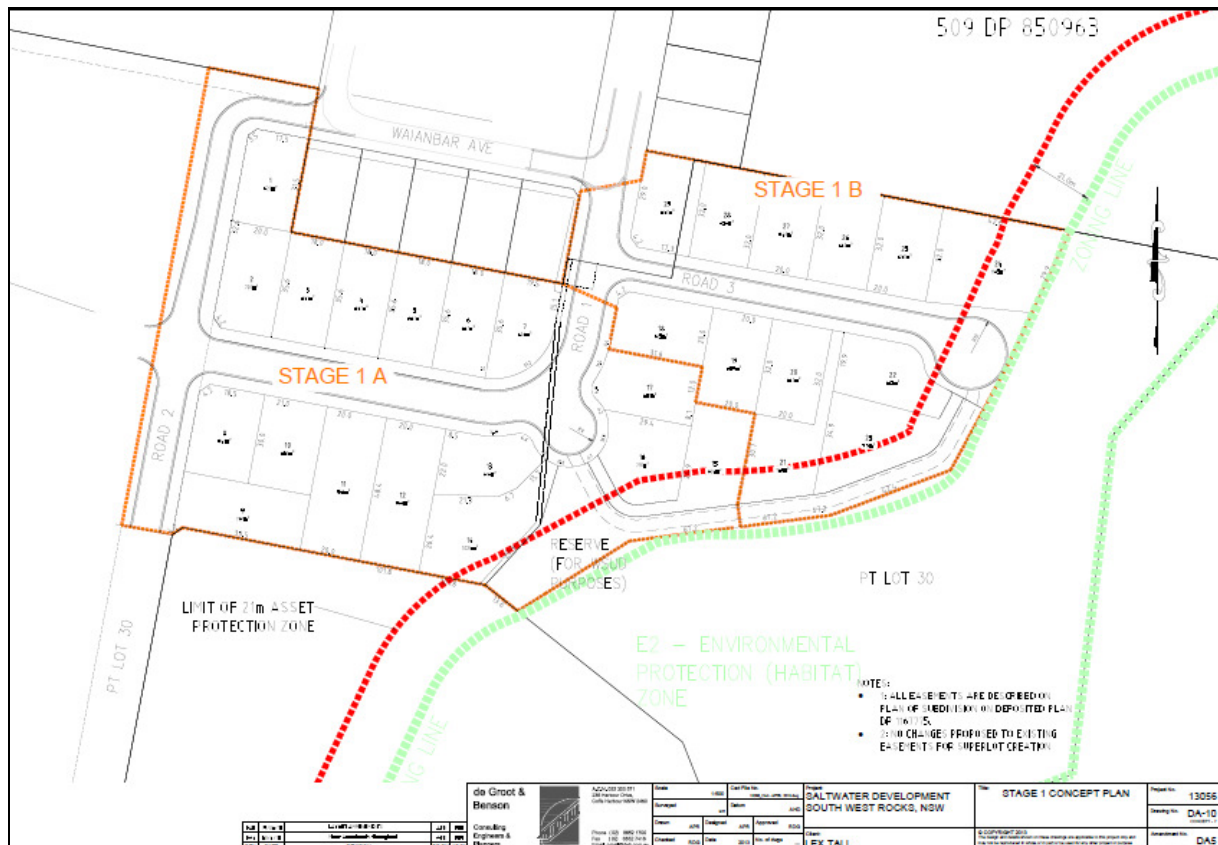


Figure 6: Stage 1 concept plan provided in Annexure A to additional information dated 19 June 2015 (Geoff Smyth & Associates).

Stage 1 of the proposed concept plan comprises of:

- 29 residential lots ranging in size from 604m² to 1,183m²;
- a drainage reserve;
- partial closure of a Council road reserve along Waianbar Avenue to facilitate the proposed road extension; and
- a residual lot.

This will involve the removal of 3.24 ha of vegetation.

Proposed Lot 29 and those parts of Roads 1 and 3 immediately adjacent to this lot are proposed to be located on Council land. In this regard, owner's consent from Council would be required before any consent could be granted for this part of the development.

The applicant is seeking consent to construct Stage 1 in two sub-stages as follows:

Stage 1A

- construction of Roads 1 and 2;
- 17 residential lots;
- part of the drainage reserve including construction of the bio-retention basin and infiltration swales; and
- construction of a fire trail within the Stage 1A drainage reserve;

Stage 1B

- partial closure of Council road reserve along Waianbar Avenue and extension of Road 1 to connect with Waianbar Avenue;
- construction of Road 3;
- 12 residential lots;
- remainder of the drainage reserve containing infiltration swales;
- construction of a bio-retention basin at the end of Road 3; and
- continuation of the fire trail through the drainage reserve to link with Road 3.

The applicant proposes to continue to use the residual land for tree farming in accordance with consent KE/96/2 (see section 3.1.1 of the report).

6 STATUTORY CONTEXT

6.1 Consent authority

The proposed development is of a kind listed at clause 9 of Schedule 4A to the EP&A Act 1979, being the subdivision of land for residential purposes into more than 100 lots where the land is wholly or partly in a sensitive coastal location. The implication is that, pursuant to clauses 20, 21 and 22 of *State Environmental Planning Policy (State and Regional Development) 2011*, the regional planning panel is the relevant consent authority for this application.

6.2 Staged development application

The application seeks development consent for a staged development, pursuant to section 83B of the EP&A Act 1979. A staged development application is:

a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may set out detailed proposals for the first stage of development.

The planning principle relating to how much information should be provided at Stage 1 for a staged development application is set out in *Anglican Church Property Trust v Sydney City Council* [\[2003\] NSWLEC 353](#) at 58-59:

We accept that multi-stage applications are useful for large or controversial projects as they provide the applicant with certainty about the major parameters of a proposal before it embarks on the expensive exercise of preparing detailed drawings and specifications for a development application. The critical issue is: how much detail should be provided in the Stage 1 application as against the Stage 2 application?

The principle we have adopted is that in multi-stage applications the information provided in Stage 1 should respond to all those matters that are critical to the assessment of the proposal. Where traffic generation is the critical issue, Stage 1 should include information on the precise number of cars accommodated on a site. Where the floor space is critical, Stage 1 should include the precise FSR. Where the major issue is the protection of vegetation, the footprints of the proposed buildings may be sufficient. In the proposal before us, however, the two major issues are the impact on the heritage-listed Church and the heritage streetscape. In our opinion, two building envelopes, within which buildings of any shape or design might emerge, are not sufficient to make a proper assessment.

In this case, the matters Council considers critical to the assessment of the proposal are:

- demonstrating that environmental hazards such as bush fire, flooding, shallow groundwater, contamination and acid sulphate soils are appropriately managed and/or mitigated for the proposed residential use of the site;
- the ecological impacts of the proposed development, in particular impacts on biodiversity, whether or not there will be a significant effect on threatened species, populations or ecological communities, or their habitats, and the potential impacts on Saltwater Lagoon and its tributaries, listed as a SEPP 14 wetland;
- the management of traffic impacts to ensure efficiency, safety and amenity;
- the management of potential impacts on the groundwater system to prevent pollutants entering the system, the subsequent eutrophication of nearby water systems, and the exposure of acid sulphate soils;
- ensuring stormwater is appropriately managed in light of the relatively shallow water table across the site and the sensitivity of the adjacent environmentally significant wetland;
- the extent of fill required in response to addressing key matters such as flooding, groundwater and stormwater management, and any impacts resulting from this; and
- ensuring that the development can be adequately serviced; and
- ensuring that the staging of the development promotes and co-ordinates the orderly and economic use of the land.

As discussed in this report, the application focusses primarily on Stage 1 of the development with limited detail provided for the overall concept plan. After careful consideration, it is concluded that the application fails to provide sufficient detail for the concept plan, in particular with respect to the abovementioned critical matters, to enable a proper assessment of the development to be undertaken. The application is therefore recommended for refusal.

6.3 Nominated integrated development

The information submitted with the application indicates that the proposed works are likely to interact or intersect with the water table. The NSW Department of Primary Industries - Water (DPI) has advised that this would require a licence under Part 5 of the *Water Act 1912*. This would make the proposed development nominated integrated development under the EP&A Act 1979.

Ordinarily, this would require the consent authority to obtain from the DPI any general terms of approval before consent could be granted (unless the application is to be refused) pursuant to section 91A of the EP&A Act 1979. It would also require the application to be notified in a particular manner (written notice, published in newspaper and for a period of 30 days) in accordance with Division 7 of Part 6 of the EP&A Regulation 2000.

However, the applicant has elected for the application not to be treated as integrated development for the purposes of requiring a licence under Part 5 of the *Water Act 1912*. Nonetheless, the application was referred to the DPI for comments.

The DPI advised (provided in full at Appendix B and discussed in section 8.1.3 of the report) that:

the proponent should be aware that if there is direct connection to the water table from the proposed stormwater quality treatment devices including the bioretention basins and swales, a licence will be required from DPI Water. DPI Water do not typically issue licences for this purpose based on the promotion of ecologically sustainable development and as such it is likely that an alteration of the proposed layout / design of the stormwater treatment system may be required in the event of potential groundwater intersection.

The implication of this would be that should consent be granted, the applicant may need to apply for a modification to the consent in relation to the stormwater treatment system when a licence is obtained from the DPI. However, given that this is a key issue critical to the assessment of the proposal, it is considered that this aspect of the development should be resolved with a reasonable level of certainty as part of the current application.

6.4 Permissibility

The subject site is zoned R1 General residential, RU2 Rural landscape and E2 Environmental conservation under the provisions of the Kempsey Local Environmental Plan 2013.

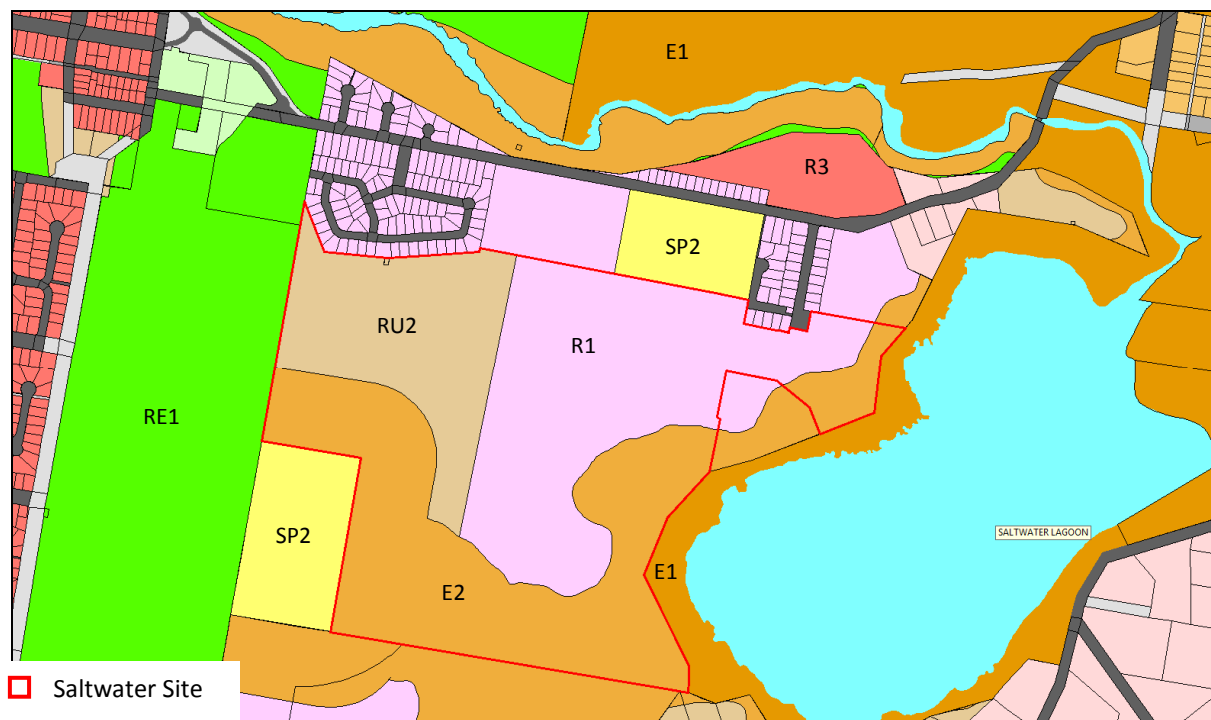


Figure 7: Extract from KLEP 2013 zoning map.

6.4.1 Subdivision

In accordance with clause 2.6(1) of KLEP 2013, land may be subdivided with development consent. However, clause 4.1 provides that any lot resulting from a subdivision of land must comply with the stipulated minimum lot size for that zone. The minimum lot sizes relevant to this proposal are:

- R1 General residential – 500m²;
- RU2 Rural landscape – 40ha; and
- E2 Environmental conservation – 40ha.

All lots proposed within the R1 zone are in excess of 500m² and therefore comply.

However, the residential lots proposed within the RU2 zone do not comply with the 40ha minimum lot size and KLEP 2013 does not allow for this development standard to be varied down to lot sizes in the order of 500m² to 1,000m² as proposed. As such, there would not be the ability to grant development consent for that part of the residential subdivision concept plan located within the RU2 zone. Nonetheless, it is useful to see how this land could be incorporated into the proposed development should it be rezoned to residential sometime in the future.

The proposed residual land is zoned RU2 Rural landscape and E2 Environmental conservation and would comply with the minimum lot size of 40ha for these zones.

6.4.2 Roads

Roads are proposed in both the R1 and RU2 zones and are permissible with consent pursuant to KLEP 2013. This is significant as despite there not being the ability to grant consent to the residential lots within the RU2 zone, there would still be the ability to grant consent to the north-south local and collector road running adjacent to the R1/RU2 zone boundary which is critical to the functionality of the subdivision within the R1 zone.

6.4.3 Environmental works within the E2 zone

The documentation submitted with the development application mentions pedestrian and cycleway links in the E2 zone. However, no detail as to the exact location of these or how they will be constructed has been provided.

Environmental facilities are permitted with consent in the E2 zone and are defined as:

means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

6.4.4 Sporting fields

The submitted 'Coastal Village Masterplan' (see Figure 4) shows sporting fields located within the E2 zone adjacent to the golf course and sewage treatment plant to the west of the subject site. However, more recently submitted plans for the concept master plan do not show any development in this area (see Figure 5).

Nonetheless, 'recreation facilities' are prohibited under KLEP 2013 in the E2 zone and there would not be the ability to grant consent to this aspect of the concept plan.

6.4.5 Neighbourhood Centre

The same 'Coastal Village Masterplan' (see Figure 4) shows a neighbourhood centre (comprising of commercial premises and information and education facilities) adjacent to the sporting fields in the RU2 zone. These facilities are also not shown on the most recently submitted concept master plan (see Figure 5).

Nonetheless, commercial premises and information and education facilities are prohibited under KLEP 2013 within this zone and there would not be the ability to grant consent to this component of the concept plan.

6.5 Matters for Consideration

In determining a development application, a consent authority is to take into consideration such of the matters set out in section 79C of the EP&A Act 1979 as are of relevance to the development the subject of the development application:

Table 1: Matters for consideration pursuant to s 79C of the EP&A Act 1979.

	Comment
The provisions of any environmental planning instrument: s 79C(1)(a)(i)	Applicable EPIs are as follows: <ul style="list-style-type: none">– Kempsey Local Environmental Plan 2013 (see section 7.1 of the report);– State Environmental Planning Policy No. 14 – Coastal Wetlands (see section 7.3 of the report);– State Environmental Planning Policy No. 44 – Koala Habitat Protection (see section 7.4 of the report);– State Environmental Planning Policy No. 55 –

	Remediation of Land (see section 7.5 of the report); – State Environmental Planning Policy No. 71 – Coastal Protection (see section 7.6 of the report); and – State Environmental Planning Policy (Infrastructure) 2007 (see section 7.7 of the report).
The provisions of any proposed instrument that is or has been the subject of public consultation and that has been notified to the consent authority: s 79C(1)(a)(ii)	None applicable.
The provisions of any development control plans: s 79C(1)(a)(iii)	Kempsey Development Control Plan (DCP) 2013 (see section 7.1.4 of the report).
The provisions of any planning agreement that has been entered into under s 93F, or any draft planning agreement that a developer has offered to enter into under s 93F: s 79C(1)(a)(iia)	The SEE indicates that the proposal includes investigation of establishing a Voluntary Planning Agreement with Council to facilitate the construction of cycleways, community playing fields, water quality management from the golf course and improved beach access. However, no draft planning agreement has been presented to Council.
The provisions of the regulations: s 79C(1)(a)(iv)	The provisions of the Coastal Policy must be taken into consideration in determining a development application pursuant to clause 92(1) of the EP&A Regulation 2000 (see section 7.8 of the report).
The provisions of any coastal zone management plan that apply to the land: s 79C(1)(a)(v)	Kempsey Coastal Zone Management Plan (September 2015) applies to the land (see section 7.9.3 of report for discussion).
The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality: s 79C(1)(b)	These are discussed throughout the report.
The suitability of the site for the development: s 79C(1)(c)	Part of the Saltwater precinct was rezoned in 2009 to allow for residential development. However, the current application fails to provide sufficient detail for the concept plan to enable a proper assessment as to whether the development as proposed is suitable for the site.
Any submissions made in accordance with this Act or the regulations: s 79C(1)(d)	See section 8 of the report.
The public interest: s 79C(1)(e)	The current application fails to provide sufficient detail for the concept plan to enable a proper assessment as to whether the development as proposed is in the public interest.

7 PLANS AND POLICIES

7.1 Kempsey Local Environmental Plan 2013

7.1.1 R1 General Residential Zone

The objectives of this zone are:

- to provide for the housing needs of the community;
- to provide for a variety of housing types and densities;
- to enable other land uses that provide facilities or services to meet the day to day needs of residents; and
- to encourage urban infill and redevelopment in areas that surround existing or proposed facilities and services.

The proposed development is consistent with the aims of the R1 zone in that it would assist in meeting the demand for new residential land adjacent to the established SWR township and would facilitate a variety of housing options.

7.1.2 E2 Environmental Conservation Zone

The objectives of this zone, as relevant to the proposal, are:

- to protect, manage and restore areas of high ecological, scientific, cultural and aesthetic values;
- to prevent development that could destroy, damage or otherwise have an adverse effect on those values; and
- to protect wetland ecosystems from development that could adversely affect water quality, water supply and biodiversity.

The development has the potential to indirectly impact on the E2 zone, in particular through groundwater interference, stormwater discharge and hydrological changes. The application in its current form does not demonstrate how these impacts will be adequately managed for the concept plan to achieve the above mentioned objectives. This is further discussed throughout the report.

7.1.3 Clause 5.5 Development within the coastal zone

The subject site is within the coastal zone.

Pursuant to subclause (2), development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following:

Table 2: Matters for consideration pursuant to cl 5.5 of KLEP 2013.

Comment	
(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to: <ul style="list-style-type: none">(i) maintaining existing public access and, where possible, improving that access, and(ii) identifying opportunities for new public access, and	Whilst the proposed development will not alter existing access arrangements to the coastal foreshore, the application fails to demonstrate how the development will integrate with the existing beach access point to the north of the subject site.

<p>(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</p> <ul style="list-style-type: none"> (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and (ii) the location, and (iii) the bulk, scale, size and overall built form design of any building or work involved, and 	<p>In terms of scenic quality, low-density residential development is considered an appropriate development of the residential zoned land.</p> <p>However, insufficient information has been provided for the concept plan to determine the suitability of the development as proposed for that particular location.</p>
<p>(c) the impact of the proposed development on the amenity of the coastal foreshore including:</p> <ul style="list-style-type: none"> (i) any significant overshadowing of the coastal foreshore, and (ii) any loss of views from a public place to the coastal foreshore, and 	<p>The proposed subdivision is for low-density residential development. Development of these lots will be primarily for dwelling houses and not envisaged to cause any significant overshadowing or view loss from public places.</p>
<p>(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and</p>	<p>The proposal would not impact on the scenic quality of any coastal headlands.</p>
<p>(e) how biodiversity and ecosystems, including:</p> <ul style="list-style-type: none"> (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, <p>can be conserved, and</p>	<p>It is considered that further ecological assessment for the concept plan should be undertaken at the site to provide a detailed understanding of the potential impacts on biodiversity and ecosystems. The results of such an assessment should inform the overall concept plan and any recommended mitigation measures should be incorporated into the concept plan.</p>
<p>(f) the cumulative impacts of the proposed development and other development on the coastal catchment.</p>	<p>The application does not adequately address the cumulative impacts of the proposed concept plan on the coastal catchment, in particular with respect to stormwater management and impacts on the groundwater system. These are critical matters that need to be sufficiently resolved at the concept plan stage, and not deferred to future stages of the development.</p>

7.1.4 Part 6 – Urban release areas

Part of the subject site is identified as an urban release area in KLEP 2013.

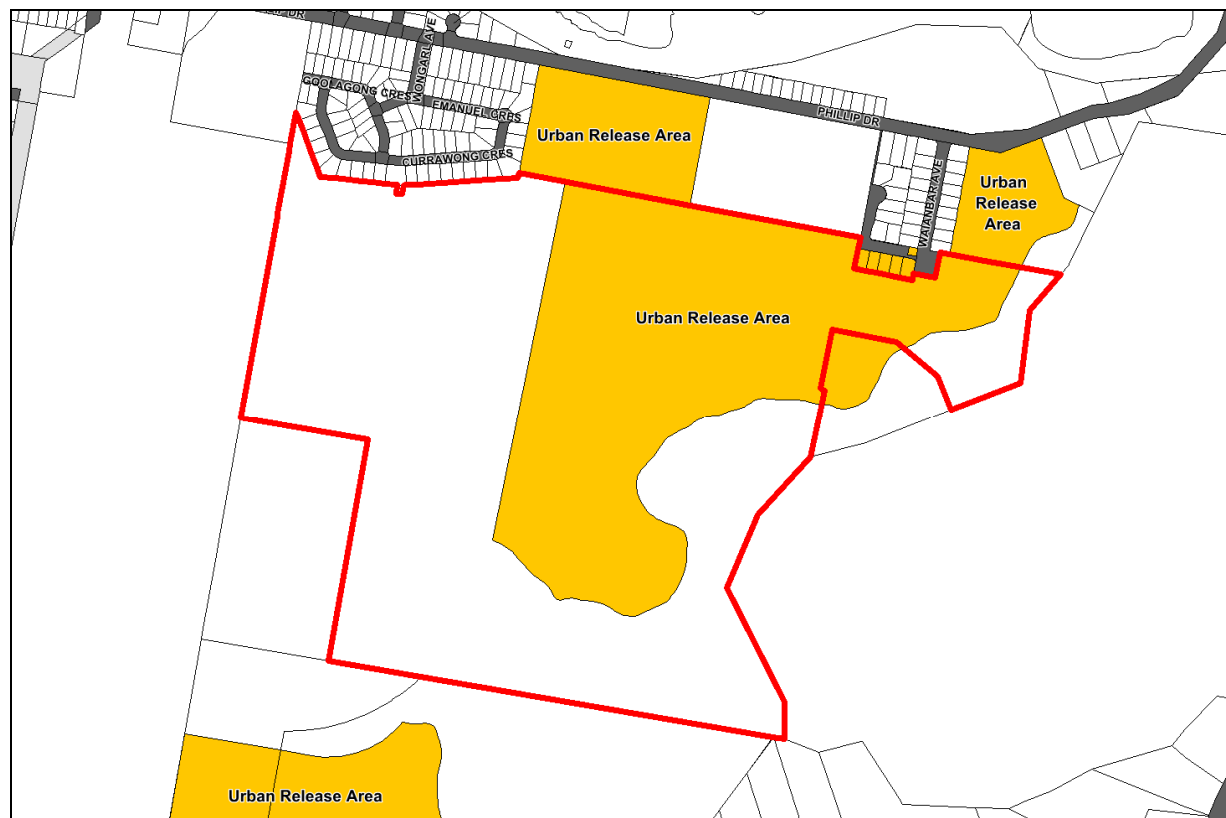


Figure 8: Urban release area, KLEP 2013 (subject site outlined in red).

7.1.4.1 Clause 6.2 – Public utility infrastructure

Pursuant to clause 6.2 of KLEP 2013, development consent must not be granted for the subdivision of land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The applicant has not provided an adequate Infrastructure Servicing Strategy for the concept plan (see section 7.2.1.1 of the report) demonstrating how infrastructure, including water and sewer, will be provided to the development (see section 9.7 of the report).

7.1.4.2 Clause 6.3 – Development control plan

Pursuant to clause 6.3 of KLEP 2013, development consent must not be granted for development on land that is within an urban release area unless a development control plan (DCP) that provides for the matters specified in subclause (3) (set out in Table 3 below) has been prepared for the land.

However, pursuant to section 83C(2) of the EP&A Act 1979, if an environmental planning instrument requires the preparation of a DCP before any particular kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a staged development application in respect of that land. The applicant has chosen to lodge a staged development application.

Pursuant to section 83C(3) of the EP&A Act 1979, any such staged development application is to contain the information required to be included in the DCP by the environmental planning instrument. Compliance in this regard is shown in Table 3 below.

Table 3: Matters set out in section 83C(3) of the EP&A Act 1979.

The development control plan must provide for all of the following:	Complies	Comment
(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,	X	A staging plan has not been provided.
(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, pedestrians and cyclists,	X	The Concept Traffic Strategy submitted does not adequately address traffic efficiency or safety, public transport, or the movement of pedestrian and cyclists (see section 9.2 of the report).
(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,	X	Not provided. A Preliminary Vegetation Management Plan for Stage 1 only has been provided. The documentation indicates that street trees will be provided but this has not been incorporated into an overall strategy for the development.
(d) a network of active and passive recreation areas,	X	Not provided. The applicant indicates that the primary strategy is for public sporting fields and open space to be further considered as part of later stages of the development, and all of the E2 land will be dedicated to Council in the future as a public reserve.
(e) stormwater and water quality management controls,	X	The information provided is not considered adequate. See comments from DPI (section 8.1.3 of the report) and discussion at section 9.4 of the report.
(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,	X	Bush fire – see section 8.1.2 of the report. Groundwater – see section 9.3 of the report. Flooding – see section 9.5 of the report. Geotechnical – see section 9.6 of the report. Acid sulphate soils – see section 7.1.5 of the report. Site contamination – see section 7.5 of the report. Coastal hazards – see section 7.9 of the report.
(g) detailed urban design controls for significant development sites,	X	Not provided.

(h) measures to encourage higher density living around transport, open space and service nodes,	X	No higher density areas nominated.
(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,	X	The open space and neighbourhood/community centre are shown in a zone in which they are prohibited and therefore cannot be considered as part of the concept plan.
(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.	X	As above.

7.1.5 Clause 7.1 – Acid sulphate soils

The footprint of the proposed development is mapped as Class 4 land for the purposes of this clause. The implication is that if works are proposed:

- a) that are more than 2 metres below the natural ground level; or
- b) by which the watertable is likely to be lowered more than 2 metres below the natural ground surface,

development consent must not be granted unless an acid sulphate soils management plan has been prepared for the proposed works in accordance with the Acid Soils Manual and has been provided to the consent authority (clause 7.1(3) KLEP 2013).

The applicant has stated that the development does not incorporate such works and as such, an acid sulphate soils management plan is not required.

Whilst limited groundwater monitoring has been undertaken at the site, the information available and submitted with the application indicates that the water table depth is 1.46m below the surface at the northern boundary of the site, adjacent to the former Caltex and Shell fuel depot sites, and 1.36m at the southern extent of the development footprint.

It is not clear on the information provided the depth of excavation works that will be required for service infrastructure and the extent to which the watertable will be lowered as a result of the proposed stormwater management plan for the development. In the absence of this information, it is considered that an acid sulphate soils management plan should be provided for the development.

7.1.6 Clause 7.2 – Earthworks

Pursuant to clause 7.2(3) of KLEP 2013, before granting consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

Table 4: Matters for consideration pursuant to cl 7.2 of KLEP 2013.

	Comment
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	It is not clear from the information submitted the extent of earthworks proposed/required for the development. The documentation indicates that there will be some minor earthworks to ensure that the proposed lots drain appropriately to the street and prevent local drainage issues.
(b) the effect of the development on the likely future use or redevelopment of the land,	
(c) the quality of the fill or the soil to be excavated, or both,	

(d) the effect of the development on the existing and likely amenity of adjoining properties,	However, the information provided indicates that filling could be required to achieve adequate clearances above the 1 in 100 year flood level and the water table. Without this detail, the extent of fill required and the potential impacts from this cannot be properly assessed.
(e) the source of any fill material and the destination of any excavated material,	
(f) the likelihood of disturbing relics,	
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	

7.1.7 Clause 7.3 – Flood planning

As the land is at or below the flood planning level, pursuant to clause 7.3(3) of KLEP 2013, development consent must not be granted to development on the land unless the consent authority is satisfied that the development:

Table 5: Matters to be satisfied of pursuant to cl 7.3 of KLEP 2013.

	Comment
(a) is compatible with the flood hazard of the land, and	The adopted minimum floor level for the Saltwater precinct is 4.1m AHD. Existing ground levels are in the order of 6m AHD at the northern extent of the proposed residential footprint and 3m AHD at the southern extent. Some fill may therefore be required to achieve the required floor level for the southern portion of the development.
(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and	
(c) incorporates appropriate measures to manage risk to life from flood, and	
(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and	Given that the extent of fill required for the development has the potential to impact upon flood behaviour, in the absence of this information it cannot be determined whether the development will adversely significantly affect flood behaviour, the environment, or the community.
(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	

7.1.8 Clause 7.4 – Koala habitat

Pursuant to clause 7.4(3) of KLEP 2013, development consent must not be granted for the development unless the consent authority is satisfied that the development is in accordance with the *Comprehensive Koala Plan of Management for Eastern Portion of Kempsey Shire LGA Volume I—The CKPoM (Working Provisions)*, published in April 2011. As discussed in section 7.4 of the report, the application does not provide sufficient information to determine if habitat compensation measures are required for the development pursuant to the CKPoM.

7.1.9 Clause 7.9 – Essential services

Pursuant to clause 7.9 of KLEP 2013, development consent must not be granted to development unless the consent authority is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

Table 6: Matters to be satisfied of pursuant to cl 7.9 of KLEP 2013.

	Comment
(a) the supply of water,	It is considered that the site can be adequately serviced by potable water although the applicant has not provided a clear staging strategy demonstrating how this will be achieved.
(b) the supply of electricity,	Whilst the applicant indicates that Essential Energy has advised that electricity can be supplied, the applicant has not provided documentation from Essential Energy confirming this.
(c) the disposal and management of sewage,	Adequate arrangements have not been made. See section 9.7.2 of the report.
(d) stormwater drainage or on-site conservation,	Adequate arrangements have not been made. See section 9.4 of the report.
(e) suitable vehicular access.	Adequate arrangements have not been made. See section 9.2 of the report.

7.2 Kempsey Development Control Plan 2013

7.2.1 Chapter D2 Saltwater Precinct, South West Rocks

7.2.1.1 Development Requirements - Precinct Planning

Pursuant to Section 4, prior to any development occurring on the site, the following documentation needs to be submitted to and approved by Council:

Table 7: Compliance with Section 4 of Chapter D2 in KDCP 2013.

Compliance		Comment
4.1 Master Plan		
That provides for the following:		
- Staging plan	X	A staging plan has not been provided.
- Transport movement hierarchy	X	The Concept Traffic Strategy submitted does not adequately address traffic efficiency or safety, public transport, or the movement of pedestrian and cyclists (see section 9.2 of the report).
- Landscaping strategy	X	Not provided. A Preliminary Vegetation Management Plan for Stage 1 only has been provided. Street tree species have been nominated

		in the documentation but this has not been incorporated into an overall strategy for the development.
- Public open space strategy	X	Not provided. The applicant indicates that the primary strategy is for public sporting fields and open space to be further considered as part of later stages of the development, and all of the E2 land will be dedicated to Council in the future as a public reserve.
- Stormwater concept plan	X	The information provided is not considered adequate. See comments from DPI (section 8.1.3 of the report) and discussion at section 9.4 of the report.
- Buffers/other responses to natural, environmental and industrial hazards	X	Bush fire – see section 8.1.2 of the report. Groundwater – see section 9.3 of the report. Flooding – see section 9.5 of the report. Geotechnical – see section 9.6 of the report. Acid sulphate soils – see section 7.1.5 of the report. Site contamination – see section 7.5 of the report. Coastal hazards – see section 7.9 of the report.
- General site layout including site sensitive lot sizes	✓	General lot layout provided.
- Identification and protection of Aboriginal heritage	✓	The applicant has provided an Aboriginal Heritage Due Diligence Assessment which has been reviewed by the OEH (see section 8.1.5 of the report).
- Environmental and health provisions	X	Biodiversity – See comments from the OEH at section 8.1.5 and general discussion at section 9.1 of the report. Flooding – See section 9.5 of the report. Climate change – See section 7.9 of the report. Bush fire – See section 8.1.2 of the report. Acid sulphate soils – See section 7.1.5 of

		<p>the report.</p> <p>Contamination – See section 7.5 of the report.</p> <p>Mosquito control – An assessment or overall management strategy has not been provided.</p>
- Appropriate commercial development (where relevant)	X	Whilst the SEE states that no commercial development is proposed, it is worthwhile noting that the “neighbourhood centre” (comprising in part of shops and offices as shown on the concept master plan - see Figure 4) is located within the RU2 Rural landscape zone in which this type of development is prohibited (see section 6.4.5 of the report).
- Provision of social infrastructure	X	The applicant seeks to rely on existing social infrastructure in the SWR area and defer this aspect to future development of the ‘deferred area’ (the area zoned RU2 Rural landscape).
- Accommodates other relevant Desired Outcomes and Development Requirements in Chapter D2 of the DCP	X	See further in this section 8.1.4 of the report.
Addresses potential future development and connections to the deferred areas and all staging plans accurately and consistently identify the constraints of these areas.	X	Whilst an overall subdivision layout has been provided for the whole site, including the deferred area, this does not reflect the constraints of the site nor has a staging plan been provided.
4.2 Traffic management plan		
A Traffic Impact Assessment is undertaken for the whole Saltwater Precinct and this is to inform a Traffic Study for the proposed development.	X	Neither Council nor the RMS support the methodology or conclusions reached in the submitted TIA and Traffic Study (see Section 9.1 of report).
Traffic Study shows how the transport network will be constructed in stages commensurate with staging of the subdivision and development in Saltwater Precinct (where relevant).	X	Not provided. The TIA submitted by the applicant states that a second access point to Phillip Drive will be required when at least 150 lots within the development are constructed. However, there are no details demonstrating how the development will be staged in light of this and no certainty has been provided that a second access point can be achieved.
Adequate vehicular, pedestrian and cycleway connections are provided throughout the Saltwater Precinct.	X	See section 9.1 of report.

A primary road linkage route is to be provided from the north (Phillip Drive) to the south (Belle O'Connor Street) of the Saltwater Precinct.	X	The link road has not been incorporated into the development. See section 9.1 of report.
A predominant ring road is to be provided around residential zoned land.	✓	The proposed lot layout generally complies with the exception of lots to the north adjacent to existing residential and the golf course.
4.3 Integrated water cycle management (IWCM) strategy		
IWCM Strategy provided, incorporating a Stormwater Management Strategy.	X	See section 9.4 of report. The Stormwater Management Plan submitted for the development is primarily for Stage 1 with little detail provided for the overall development.
The IWCM Strategy is based on modelling of projected rises in ground water levels and makes appropriate recommendations in relation to clearances required between development/earthworks and the ground water table.	X	See section 9.4 of the report. Limited groundwater modelling has been undertaken and it has not been demonstrated how adequate clearances will be achieved for the whole development.
Ensure that the volume of stormwater flow is restricted to pre-development levels by specifying maximum site coverage requirements coupled with water sensitive urban design measures.	X	See section 9.4 of the report. No site coverage controls are stipulated.
Ensure that the water reuse system is integrated with Council's recycled water supply scheme.	✓	Connection is proposed to Council's recycled water system.
Ensure there is a net reduction of pollutants entering the estuary or Saltwater Lagoon from both existing and future development for all rainfall events up to an including the 1 in 2 year ARI to achieve a net positive environmental outcome through development of an appropriate strategy.	X	This requirement has essentially been reiterated by DPI Water who have recommended that the system be either a closed system or a minimum 1m depth between the base of the transition layer and the water table be provided to prevent short circuiting of polluted water into the groundwater system and subsequent eutrophication of nearby surface water systems. Furthermore, DPI Water recommends that no water quality treatment devices are cut into the water table as this may result in the exposure of acid sulphate soils.
Ensure there are no changes to the natural groundwater regime that could adversely affect Saltwater Lagoon and Creek and associated wetland.	X	See section 9.3 of report.
Ensure that there remains after	X	See sections 9.3 and 9.4 of the report.

development a balance between the surface and groundwater flows that mimic the natural condition through operation, implementation, review and maintenance of a suitable detailed Water Management System.		Further modelling of the groundwater system is required to properly assess the impacts of the proposed development.
Ensure that IWCM infrastructure is provided in line with the staging of development within Saltwater Precinct.	X	A staging plan has not been provided.
Ensure that all future development does not place any additional stress on the existing natural environment of Saltwater Creek and Lagoon.	X	Cannot be properly assessed in the absence of information relating to the concept plan.
All water treatment systems are wholly located within the residential zoned land and outside the land zoned E2 – Environmental conservation.	✓	Complies.
The design of the Stormwater Drainage System minimises the need to fill the site.	X	Further details are required to demonstrate the extent of fill required to achieve adequate clearances to the water table and for the stormwater management system to operate satisfactorily.
Detailed surface and groundwater modelling is undertaken.	X	Information submitted focusses on Stage 1 with limited detail for the concept plan. Further modelling is required to assess impacts beyond Stage 1.
4.4 Infrastructure servicing (IS) strategy		
IS strategy provided addressing water, electricity, gas, telecommunications and sewerage system supply for the whole of the Saltwater precinct.	X	Not provided.
Existing community is not to be burdened by the provision of public infrastructure required as a result of future development.	✓	The applicant would be required to bear the costs of any infrastructure works required to establish the development.
The strategy is to specify the infrastructure required for each stage of development.	X	Not provided.
Identifies the capacity of existing infrastructure.	X	Council has advised the applicant of the capacity of existing water and sewer infrastructure. This information has not been incorporated into a clear infrastructure staging plan for the development.
A servicing and financial strategy must be undertaken to ensure financial viability to deliver the required upgrades in a timely	X	Not provided. This is considered significant in the absence of a clear staging plan for the development which

manner.		demonstrates how each stage can 'stand alone'.
Infrastructure is fully retained in the residential zoned land and not within the E1, E2 or RU2 zones.	✓	Generally complies although some sewer infrastructure will be required to be located within the RU2 zone to connect the development with the SWR STP.
A concept plan for the provision of trunk electricity supply.	X	Not provided.
A detailed analysis of the suitability of underground services inclusive of building footings is to be submitted. The analysis is to consider the potential interaction of such services with high water tables and provide recommendations in regards to ameliorative measures.	X	Not provided. In particular, the application fails to provide an analysis of the maintenance and environmental implications of providing underground services in the vicinity of a high water table, and provide subsequent recommendations to be adopted for the development.
Plan showing where undergrounding of services will not be possible due to adverse impacts associated with the high water table.	X	Not provided. This is considered important as it has the potential to alter the concept plan layout.
4.5 Vegetation management strategy		
A Vegetation Management Strategy for the relevant part of the Saltwater Precinct.	X	Not provided. A Vegetation Management Plan for Stage 1 only has been provided.
Incorporates the existing vegetation character elements/major vegetation zones into the streetscapes and open space areas.	X	
Central drainage line and Saltwater Lagoon are revegetated with appropriate species to blend with the predominant landscape character element.	X	
Identified the vegetation works required at each stage of development.	X	

7.2.1.2 Development Requirements – Subdivision

Relevant to Stage 1 of the development.

Table 8: Compliance with Section 5, Chapter D2 of KDCP 2013.

	Compliance	Comment
5.1 Compliance with approved Master Plan .	X	A Master Plan in accordance with section 5.1 has not been provided.
5.2 Compliance with Chapter B1 of KDCP 2013.	✓	Generally compliant.
5.3 Development staging		

- In accordance with approved Master Plan & strategies.	X	Satisfactory Master Plan and strategies have not been provided (see section 7.2.1.1 of the report).
- Major roads constructed early in development.	X	The applicant proposes to construct only those necessary for Stage 1 and provide access from Waianbar Avenue. However, this is considered reasonable for the proposed 29 lots.
- Details of staging demonstrating lots to be released in orderly and coordinated manner.	X	No staging details have been provided.
5.4 Road network		
- Designed in accordance with section 3.0 of Chapter B2 of KDCP 2013, <i>South West Rocks Pedestrian and Mobility Plan 2003</i> , and Council's engineering guidelines.	✓	Generally complies with minor amendments.
- Consistent with approved Master Plan and Traffic Study.	X	A satisfactory Master Plan has not been provided and the Traffic Study provided is not considered satisfactory.
- All roads and open space areas suitable for use by cyclists.	X	This detail has not been provided. The applicant indicates that cycleways will be provided in the E2 zone although details regarding a cycleway network has not been provided.
- Commensurate to the needs of that stage.	✓	Satisfactory.
- Provides for generally even distribution of traffic.	X	See section 9.2 of the report for a discussion regarding traffic efficiency.
- Internal road layout provides for an even distribution of additional traffic.	X	
- Main intersection with Phillip Drive is a priority controlled intersection.	X	The intersection of Phillip Drive and Waianbar Avenue is controlled by the dominant road (Phillip Drive). This intersection would require modifying by increasing the pavement width of Phillip Drive at that point to allow cars to pass traffic turning right into Waianbar Avenue.
- Development consent shall not be granted unless satisfactory arrangements have been made in respect of the acquisition and construction of access to the Saltwater Precinct.	✓	Access for Stage 1 is proposed from Waianbar Avenue.

- Entrance points into the Saltwater Precinct justified by way of detailed traffic analysis and accompanied by detailed landscape treatments and clear entrance signage.	X	This detail has not been provided.
- Takes into consideration the location of existing Waianbar Avenue relative to Phillip Drive and connections with any proposed subdivision layout.	✓	Access for Stage 1 is proposed from Waianbar Avenue.
5.5 Integrated Water Cycle Management (IWCM) Plan		
- Consistent with IWCM Strategy and inclusive of a Water Quality Monitoring Program.	X	A satisfactory IWCM Strategy has not been provided. The Stormwater Management Plan submitted for Stage 1 is not considered satisfactory (see section 9.4 of the report).
- Water Sensitive Urban Design Planning and Technical Guidelines for the relevant part of Saltwater Precinct are to be submitted with DA.	X	Not submitted.
5.6 Subdivision Infrastructure		
- Provide an Infrastructure Servicing Plan consistent with the approved Infrastructure Servicing Strategy.	X	A satisfactory Infrastructure Servicing Strategy has not been provided.
- All lots serviced with sealed road frontage, drainage, water supply, sewerage, underground electricity and telecommunications.	X	The provision of sewer, stormwater management, and the protection of underground infrastructure has not been adequately resolved for Stage 1.
5.7 Provision of underground services		
- Address any adverse impacts associated with the interaction between underground services and the water table.	X	Not resolved.
5.9 Open Space Management Plan		
- Consistent with approved Master Plan and Open Space Strategy.	X	A satisfactory Master Plan and Open Space Strategy have not been provided.
5.10 Vegetation Management, Street Trees and Landscaping		
- Street trees.	X	The applicant has indicated street trees will be provided but has not provided any further detail.
- Vegetation Management Plan.	✓	Provided for Stage 1.
5.11 Solar Access		

- Lots oriented to achieve satisfactory solar access for future dwelling.	✓	Generally complies.
5.12 Lots comply with minimum lot size	✓	See section 6.4.1 of the report.
5.13 Subdivision Plans	X	Not sufficiently detailed to resolve all matters.

7.2.1.3 Development Requirements – General

Table 9: Compliance with Section 6, Chapter D2 of KDCP 2013.

	Compliance	Comment
6.1 Compliance with approved Master Plan and strategies	X	A satisfactory Master Plan and associated strategies have not been provided.
6.2 Development Staging		
- Development is contained wholly within the relevant stage and sufficient infrastructure is available.	X	The provision of sewer, stormwater management, and the protection of underground infrastructure has not been adequately resolved for Stage 1.
6.3 Design Objectives		
- Responds to natural features of the site, is appropriate for location in SWR and allows for natural infiltration of water.	X	Potential impacts on the groundwater system and stormwater management have not been adequately addressed (see sections 9.3 and 9.4 of the report).
- Addresses as relevant the Saltwater Creek Estuary Management Plan, and the Kempsey Coastal Processes and Hazards Definition Study.	X	The application in its current form, including the stormwater management plan for Stage 1, does not adequately demonstrate that the aims of the Saltwater Creek Estuary Management Plan will be achieved.
6.4 Access and Parking		
- In accordance with KDCP 2013, Council's engineering guidelines, and the approved Master Plan and Traffic Study.	X	See section 9.2 of the report.
6.5 Integrated Water Cycle Management (IWCM)		
- IWCM Plan submitted for relevant stage that complies with approved Master Plan, IWCM Strategy, WSUD Planning and Technical Guidelines, KDCP 2013, Council's engineering guidelines and the <i>Saltwater Lagoon and Catchment Stormwater Management Strategy 2007</i> .	X	A satisfactory Master Plan and IWCM Strategy has not been provided. The Stormwater Management Plan submitted is not considered satisfactory (see section 9.4 of the report).
- Performance of stormwater quality treatment systems demonstrated using	X	Although the MUSIC tool was utilised, the Stormwater Management Plan

MUSIC tool.		submitted is not considered satisfactory (see section 9.4 of the report).
- Stormwater infrastructure located outside of E2 zone.	✓	Complies.
- Suitability of proposed siting of services and building design given high water table levels, having regard to climate change.	X	Not resolved.
- Hydrological integrity of Saltwater Lagoon maintained through continued groundwater monitoring.	X	This has not been adequately demonstrated (see sections 9.3 and 9.4 of the report).
6.6 Infrastructure provision		
- Sufficient to service the needs of the development and inclusive of any necessary easements.	X	The provision of sewer, stormwater management, and the protection of underground infrastructure has not been adequately resolved for Stage 1.
6.7 Vegetation		
- Detailed regeneration, rehabilitation and maintenance plan required for relevant stage, consistent with approved strategy.	✓	Whilst a Vegetation Management Strategy has not been provided, a Vegetation Management Plan for Stage 1 has been provided.
6.8 Environment, Safety and Health:		
- No drainage infrastructure in SEPP 14 areas.	✓	Complies.
- Use of E2 zoned land consistent with objectives of the zone.	X	No detail on proposed pedestrian and cycleway network has been provided to determine potential impacts.
- Drainage controls and public open space restricted to land zoned R1.	X	Drainage infrastructure is restricted to land zoned R1. However, the applicant is seeking to rely on the E2 zoned land to meet the open space requirements.
- For any development/works within E2 zoned land, detailed Vegetation Management Plan required.	✓	Provided for Stage 1.
- E2 zoned land to be dedicated to KSC on completion of final stage of development. Developers are responsible for management and ongoing maintenance of this area until transferred to KSC.	✓	Applicant states this will occur in SEE.
- An Environmental Management Plan required for the land zoned E2.	✓	Provided in the form of a Vegetation Management Plan for Stage 1.
- Areas outside of the development footprint are to be regenerated and the	✓	A Vegetation Management Plan for Stage 1 has been provided.

subject of a Vegetation/Environmental Management Plan and consistent with the approved Staging Plan.		
6.9 Tree Preservation		
- Trees and vegetation to be removed clearly identified.	✓	The Flora and Fauna Assessment for Stage 1 identifies 53 trees for removal.
6.10 Street Landscaping	X	The applicant has indicated street trees will be provided but has not provided any further detail.
6.13 Public Open Space – a Landscape Management and Maintenance Plan submitted.	X	Not provided.
6.15 Buffer Zones		
- Comply with NSW RFS requirements for protection against bushfire.	✓	A conditional Bushfire Safety Authority has been issued by the RFS.
- No development within 220m of STP to protect future residents from noise and odour.	X	As discussed in section 6.4 of the report, the sporting fields and community/ neighbourhood centre proposed adjacent to the STP are prohibited within the zone.
- No building works within 50m of land zoned E2.	X	The 50m buffer was incorporated into the E2 zoned land and it is Council's intention to remove this requirement from KDCP 2013 accordingly.
6.16 Cultural Heritage	✓	Complies. Cultural heritage has been adequately addressed.
6.17 Contamination – Prior to any development of lands adjacent to Phillip Drive, validation of all contamination remediation must be provided to the consent authority.	X	Not provided.
6.18 Acid Sulfate Soils – A detailed Acid Sulfate Soil Management Plan is required.	X	Not provided.
6.19 Flooding - Minimum floor level of 4.1 AHD is to be achieved.	X	The applicant has not demonstrated how this will be achieved for the entire development (see section 9.5 of the report).
6.20 Bushfire - APZs and fire trails are not located in E2 zone.	✓	Complies.
6.21 Geotechnical	X	See section 9.6 of the report.
6.24 Earthworks	X	See section 7.1.6 of the report.
6.25 Erosion and Sediment Control Plan	✓	Provided for Stage 1 only.
6.26 Biting Midge and Mosquito Control	X	No detailed assessment has been

	provided. The applicant relies on the effectiveness of the proposed stormwater management system to prevent stagnant water, and therefore reduce the opportunity for mosquito breeding areas. However, Council has concerns regarding the proposed stormwater management method and considers it likely that water pooling will occur.
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7.3 State Environmental Planning Policy No. 14 – Coastal Wetlands

Part of SEPP 14 Wetland No. 439 is located in the south eastern corner of the subject site. Saltwater Lagoon, which also forms part of this wetland, and its associated tributaries are located on the allotment immediately to the east which is part of the Hat Head National Park.

Whilst not clearly illustrated on any of the plans or figures provided by the applicant, Council estimates that at its closest point, the distance between the edge of the SEPP 14 wetland and the proposed development is approximately 50m, in the eastern corner of Stage 1B. This is the width of the E2 Environment conservation zone land at this point.

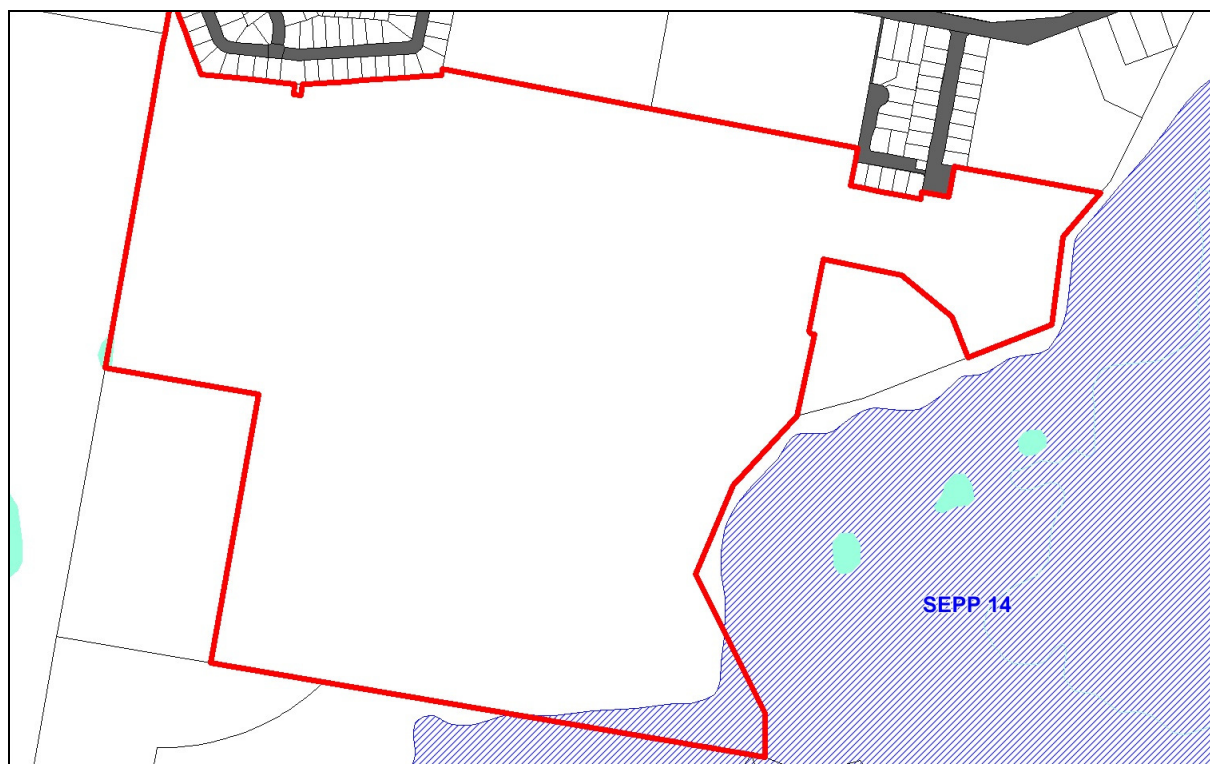


Figure 9: Subject site (outlined in red) and the location of the mapped SEPP 14 wetland.

The proposal does not involve development on land protected by SEPP 14 however, the abovementioned SEPP 14 Wetland No. 439 is located immediately downstream of the site and therefore has the potential to be impacted as a result of the proposal. This could be through the pollution of and/or changes to surface and groundwater flows in the locality. The applicant has not adequately demonstrated how these impacts will be managed for the entire development to ensure the protection of the SEPP 14 wetland.

One of the primary constraints to development at this site is the shallow groundwater table. The Groundwater Impact Assessment provided focusses primarily on Stage 1, concluding that future stages of the development have the potential to alter groundwater flows across a much more extensive area and as such, recommends that a more comprehensive and numerical groundwater model is developed to assess impacts prior to further development post Stage 1. Furthermore, the DPI have raised concern that interference with the groundwater system as proposed in the current stormwater management plan has the potential to pollute groundwater and thereby cause eutrophication of nearby water systems, as well as lower the water table below natural fluctuation levels and thereby expose acid sulphate soils.

7.4 State Environmental Planning Policy 44 – Koala Habitat Protection

SEPP 44 applies within the Kempsey LGA. In accordance with SEPP 44, KSC has prepared a *Comprehensive Koala Plan of Management for the Eastern Portion of the Kempsey LGA* (CKPoM) which applies to the subject site. The CKPoM maps most of the site as “other” with parts of the site “preferred Koala habitat”, in particular “secondary A” which includes “vegetation communities and/or associations wherein primary food tree species are sub-dominant components of the overstory tree species and usually (but not always) growing in association with one or more secondary food tree species”.

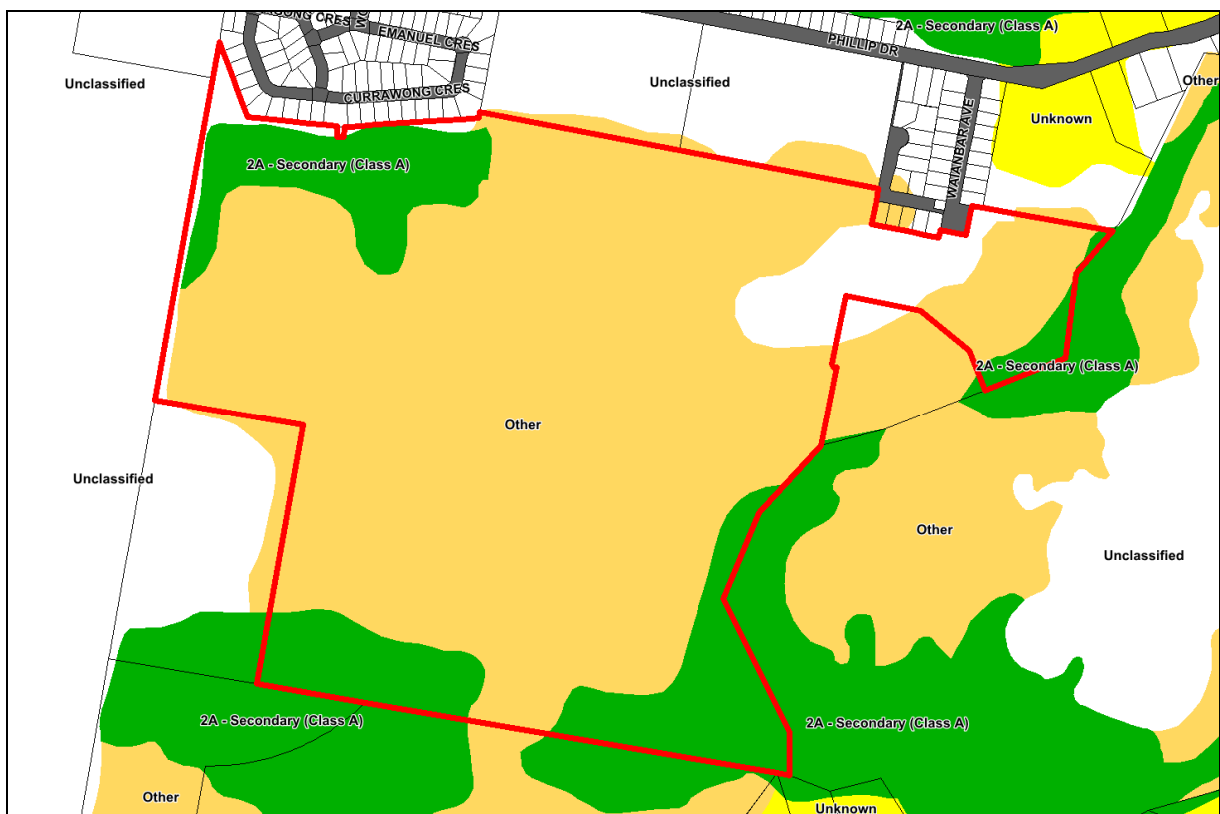


Figure 10: Mapping of the subject site pursuant to the CKPoM.

The parts of the site proposed to be developed for residential development that are within the R1 General Residential zone are within the areas mapped as “other” or “unclassified”. If the land is zoned “other”, the Kempsey CKPoM states that no further assessment is required. If the land is unclassified, the Kempsey CKPoM requires that the applicant undertake vegetation community mapping to classify the land.

The Flora and Fauna Assessment Report (Flametree Ecological Consulting: January 2014) submitted with the development application and addressing SEPP 44, fails to classify any of the land mapped as unclassified. The implication of this is that the consent authority does not have the information available to it to determine if habitat compensation measures are required as per the Kempsey CKPoM for the concept plan.

7.5 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 is relevant to the proposal as some land adjacent to the site to the north was previously used by petroleum companies.

A Preliminary Contamination Assessment was carried out by Douglas Partners Pty Ltd in 1996 for KSC. This assessment concluded that there was no significant contamination that would pose a threat to residential development. Remedial activities at the former Caltex site were continuing at the time of the investigation.

Verification as part of this development application should be provided confirming that the land (in particular that adjacent to the former Caltex and Shell sites) is suitable for its intended residential use. This has not been provided by the applicant.

7.6 State Environmental Planning Policy No. 71 – Coastal Protection

The subject site is within the coastal zone and therefore SEPP 71 applies.

7.6.1 Matters for consideration

Pursuant to clause 7(b), the consent authority must take into consideration the matters set out in clause 8 of SEPP 71 when determining a development application for land within the coastal zone:

Table 10: Matters for consideration pursuant to clause 8 of SEPP 71.

	Comment
(a) the aims of this Policy set out in clause 2,	The proposal is generally in accordance with the aims of SEPP 71.
(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,	The development will not affect existing public access to and along the coastal foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	No new opportunities have been identified and the application fails to demonstrate how the development will integrate with the existing beach access point to the north of the subject site.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	Low-density residential development is considered an appropriate development of the residential zoned land. However, insufficient information has been provided for the concept plan to determine the appropriateness of the development as proposed.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	The development would not significantly overshadow the coastal foreshore or cause any significant view loss from a public place to the coastal foreshore.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	It is not envisaged that low-density residential development on the subject site within the R1 zone would impact on the scenic qualities of the coast.
(g) measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats,	The application fails to undertake an adequate assessment of significance for the development to determine if there is likely to be a significant impact on any threatened species, populations or ecological communities, or their habitats.
(h) measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats	As above.
(i) existing wildlife corridors and the impact of development on these corridors,	An ecological assessment for the entire development footprint has not been undertaken to determine any existing corridors or identify any opportunities to provide or enhance corridors.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	See section 7.9 of the report.
(k) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	The applicant has provided an Aboriginal Heritage Due Diligence Assessment which has been reviewed by the OEH (see section 8.1.5 of the report).
(l) likely impacts of development on the water quality of coastal waterbodies,	Has not been adequately addressed for the development.
(m) the conservation and preservation of items of heritage, archaeological or historic significance,	Adequate.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	<p>The cumulative impacts of the entire development have not been addressed.</p> <p>The development would be connected to Councils recycled water system and all future dwellings would be required to achieve the relevant BASIX score.</p>

7.6.2 Significant coastal development

The application was referred to the NSW DPE pursuant to clause 11(2) of SEPP 71 – Coastal Protection. The DPE advised that as none of the proposed works are located below the mean high water mark of Saltwater Lagoon, the Department does not need to be involved in the proposal.

7.6.3 Development control

Pursuant to Part 4 of SEPP 71, a consent authority must not consent to an application to carry out development on land within the coastal zone unless it is satisfied of certain matters:

Table 11: Matters to be satisfied of pursuant to clauses 14 -16 of SEPP 71.

	Comment
Clause 14 – Public access A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The proposal is not envisaged to impede or diminish access to the coastal foreshore.
Clause 16 – Stormwater The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	Stormwater management for the development has not been adequately resolved to enable Council to form the opinion that there will not be an adverse impact on the adjacent Saltwater Lagoon or its tributaries as a result of the development.

7.6.4 Master Plans

The proposed development triggers the requirement for a master plan pursuant to clause 18(1) of SEPP 71. However, the DPE has waived this requirement pursuant to clause 18(2) of SEPP 71 (see Appendix C).

7.7 State Environmental Planning Policy (Infrastructure) 2007

The proposed subdivision is a traffic generating development, being the subdivision of land into 200 or more allotments and includes the opening of a public road, as listed under Schedule 3 of SEPP (Infrastructure) 2007.

Before determining a development application for traffic generating development, the consent authority must notify the Roads and Maritime of the application and take into consideration any submission that is made in response (clauses 104 and 104(3)(b)).

The application was referred to the RMS accordingly - see section 8.1.4 of the report. In summary, the RMS have advised that a north-south link road should be provided through the development, the adopted methodology and conclusions in the TIA are not supported, and that Council may wish to request additional sensitivity analysis.

The consent authority must also take into consideration the following matters:

Table 12: Matters for consideration pursuant to cl 104(3)(b) of SEPP (Infrastructure) 2007.

	Comment
The accessibility of the site concerned, including: a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail.	The application fails to demonstrate that there would not be an adverse impact on traffic efficiency as a result of the development. The proposed development would not involve the movement of freight.
Any potential traffic safety, road congestion or parking implications of the development.	See section 9.2 of the report.

7.8 NSW Coastal Policy 1997

Pursuant to clause 92(1)(a) of the EP&A Regulation 2000, the consent authority is to take into consideration the provisions of the Government Coastal Policy when determining a development application to which that Policy applies.

The subject site is within the coastal zone and the strategic actions set out in the Coastal Policy that are relevant to development control need to be considered:

Table 13: Consideration of strategic actions under the NSW Coastal Policy.

	Comment
Natural Environment	
1.1.6 Voluntary conservation agreements will be used to preserve lands of significant conservation value.	Not proposed.
1.1.7 Wetland associated species are protected through controlling runoff, sedimentation and other water quality impacts.	Stormwater management and groundwater interference for the development has not been adequately resolved to enable Council to form the opinion that there will not be an adverse impact on the water quality of the adjacent Saltwater Lagoon or its tributaries as a result of the development.
1.2.3 Fish habitats and utilisation by fish populations and communities studied.	
1.2.5 Threatened species, populations and ecological communities listed under the <i>Threatened Species Conservation Act 1995</i> .	The application fails to undertake an adequate assessment of significance for the development to determine if there is likely to be a significant impact on any threatened species, populations or ecological communities, or their habitats.
1.3.2 Management of non-point source pollution.	Stormwater management and groundwater interference for the development has not been adequately resolved to enable Council to form the opinion that there will not be an adverse impact on the water quality of the adjacent Saltwater Lagoon or its tributaries as a result of the development.
1.3.7 High quality coastal waters.	
1.3.8 Discharge of contaminated stormwater to coastal waters is minimised.	

1.3.14 Management of coastal groundwater, surface water and the coastal environment in accordance with the State Groundwater Policy.	Not adequately resolved – see section 9.3 of the report.
1.4.5 Threats to the coastline.	It is not considered that the proposed development poses an unacceptable threat to the coastline.
1.4.7 Estuary and aquatic habitat protection.	The subject site is located adjacent to Saltwater Lagoon and contains important estuary and aquatic habitat. The application fails to demonstrate protection of this habitat as a result of the entire development (not just Stage 1).
Natural Processes and Climate Change	
2.1.3 Consider physical and ecological processes and hazards.	See section 7.9 of the report.
2.1.4 Acid sulphate soil.	See section 7.1.5 of the report.
2.2.2 Sea level change scenarios.	See section 7.9 of the report.
Aesthetic Qualities	
3.2.1 Development in accordance with the North Coast Design Guidelines and the Guidelines for Tourism Development along the New South Wales Coast.	These have been addressed in the SEE.
3.2.4 Give consideration to the design and locational principles in the Coastal Policy.	Generally consistent.
Cultural Heritage	
4.2.3 Coastal sites of Aboriginal heritage significance.	The applicant has provided an Aboriginal Heritage Due Diligence Assessment which has been reviewed by the OEH (see section 8.1.5 of the report).
Ecologically Sustainable Human Settlement	
6.1.1 Coastal urban planning/ settlement strategies prepared by DUAP will identify suitable areas for urban growth considering environmentally sensitive areas or natural and cultural heritage resources.	<p>The Mid North Coast Regional Strategy states that a minimum of 18,300 new dwellings will be required for future growth in the Hastings-Macleay Valley region to 2031. The MNCRS identifies areas in SWR, including the Saltwater site, as potential areas for future urban expansion.</p> <p>The proposed development is generally in accordance with the Strategy as it is within a location identified for growth.</p>
Public Access and Use	
7.2.3 A coastal safety assessment is considered for any development in proximity to unpatrolled or inadequately patrolled coastal beaches.	The proposal is in close proximity to both Horseshoe Bay and Front Beach which are both patrolled between September and April.

7.9 Coastal Management

In accordance with the State Government Coastal Management Program, Council has commissioned a series of reports:

1. Kempsey Coastal Processes and Hazards Definition Study (June 2013);
2. Kempsey Coastal Zone Management Study (September 2015); and
3. Kempsey Coastal Zone Management Plan (September 2015).

7.9.1 Kempsey Coastal Processes and Hazards Definition Study (CPHSS) 2013

The CPHSS examines the coastal process and hazards affecting the local government area. From this, coastal erosion hazard maps were developed showing the likely extent of impacts for the present day, 2050 and 2100. Another series of maps was also produced showing areas likely to be temporarily inundated with seawater in a severe coastal storm for these same time periods.

These maps indicate that the subject site is not envisaged to be affected by coastal erosion for these time periods. However, the subject site was shown likely to be affected by temporary inundation with seawater in a severe coastal storm as follows:

Time period	Comment
Present day	No inundation of the proposed Saltwater residential subdivision footprint.
2050	Parts of the southern-most extent of the proposed Saltwater residential subdivision footprint are mapped as “Worst Case (Rare) Immediate Hazard”.
2100	A large proportion of the proposed Saltwater residential subdivision footprint (except for higher areas in the north) is mapped as either “Worst Case (Rare) Immediate Hazard” or “Best Estimate (Unlikely) Immediate Hazard”.

These descriptors are defined as follows:

Likelihood	Description	Hazard Descriptor
Unlikely	There is a low possibility that the event will occur, however, there is a history of infrequent or isolated occurrence.	Best Estimate
Rare	It is highly unlikely that the event will occur, except in extreme / exceptional circumstances, which have not been recorded historically.	Worst Case

However, due to the broad scale at which this study was undertaken, the study acknowledges that the impacts of elevated ocean levels on flooding extents associated with catchment runoff should be determined explicitly for each waterway using a hydraulic flood model.

In this regard, the *Saltwater Creek Catchment Flood Study* (WBM Oceanics Australia, 2006), and updated investigations undertaken in 2010 (WBM BMT, 2010), provides more detailed modelling of this catchment than that provided in the Kempsey CPHSS. Council therefore has adopted the 1 in 100 year flood level of 3.5m AHD (north of Saltwater Creek) and adopted a minimum floor level of 4.1m AHD as recommended in the *Saltwater Creek Catchment Flood Study* (WBM BMT, 2010).

7.9.2 Kempsey Coastal Zone Management Study (CZMS) 2015

The CZMS includes a discussion of values and issues, outlines outcomes from community and stakeholder consultation, details a risk based assessment of threats to coastal values and provides a cost benefit analysis of available management options.

The CZMS recommends that the Coastal Zone Management Plan (CZMP) include, in the next five to ten years, an updated flood assessment for Saltwater Lagoon based on the latest available OEH guidance on the interaction of elevated ocean levels and catchment flooding through the State Floodplain Management Program be undertaken.

It is acknowledged that Saltwater is the only site in the local government area for which more detailed information exists to qualify the maps produced in the CZMS.

7.9.3 Kempsey Coastal Zone Management Plan (CZMP) 2015

The CZMP provides a list of actions to be implemented over the next five to ten years with the aim of managing the risk associated with coastal hazards and predicted inundation levels across the coastal zone within the local government area.

Action 10 of the Kempsey CZMP is of particular relevance to the Saltwater site as it recommends that updated flood assessment for Saltwater Creek and Lagoon be undertaken.

As the CZMP was only recently finalised (September 2015), an updated flood assessment is yet to be undertaken. It is considered that the detailed investigations undertaken in 2006 and 2010 for the site, and from which the currently adopted flood levels are derived, are satisfactory.

8 CONSULTATION

8.1 Government Agencies

A copy of all comments received from NSW State Government agencies are provided at Appendix B.

8.1.1 NSW Department of Planning and Environment

The application was referred to the DPE pursuant to clause 11(2) of SEPP 71 – Coastal Protection. The DPE advised that as none of the proposed works are located below the mean high water mark of Saltwater Lagoon, the Department does not need to be involved in the proposal.

8.1.2 NSW Rural Fire Service

The proposal is for the subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, and as such requires the RFS to issue a bush fire safety authority for the development pursuant to section 100B of the *Rural Fires Act 1997*.

The RFS issued a conditional bush fire safety authority for the concept plan and Stage 1 on the 5 November 2015. A copy is provided in Appendix B.

Should the JRPP resolve to approve the application, the conditions of the bush fire safety authority would be included to impose these requirements.

8.1.3 NSW Department of Primary Industries – Office of Water

The information submitted with the application indicates that the proposed works are likely to interact or intersect with the water table. The DPI has advised that this would require a licence under Part 5 of the *Water Act 1912*.

This would trigger the integrated development provisions of the EP&A Act 1979. However, the applicant has elected for the application not to be treated as integrated development and will obtain the licence separately outside of the DA process. Nonetheless, the application was referred to the DPI as an agency who may have an interest in the determination of the application. The most recent advice received from the DPI Water (a copy is included in

Appendix B: Government Agency Submissions

) is summarised below with assessment comments provided.

Table 14: Advice received from DPI Water.

DPI Water	Comment
The proponent should be aware that if there is a direct connection to the water table from the proposed stormwater quality treatment devices including the bio-retention basins and swales, a licence will be required from DPI Water. DPI Water do not typically issue licences for this purpose based on the promotion of ESD and as such it is likely that an alteration of the proposed layout/design of the stormwater treatment system may be required in the event of potential groundwater intersection	If the proposal is approved, any change to the proposed stormwater quality treatment system would need to be the subject to a section 96 modification application to Council. Given that stormwater management is a critical matter and likely to influence the overall concept plan, it is considered that this aspect of the development should be resolved with some certainty as part of the development application.
The requirements of the model for urban stormwater improvement conceptualization (MUSIC) for bio-retention systems are such that the proposed filter media depth should not include the transition and drainage layer (the proposed filter media depth for the development is 0.4m). As such, the DPI Water recommends that, in high water table environments, the system be either a closed system with the designated identifiable entry and exit points with the filter media situated above the transition and drainage layers (i.e. no discharge from the bottom of the basin), or a minimum 1m depth between the base of the transition layer and water table. This is in order to prevent short circuiting of polluted water into the groundwater system and subsequent eutrophication of nearby surface water systems.	These comments should apply to the entire development, not just Stage 1, and should be demonstrated with a reasonable level of certainty for the development application.
It is recommended that Council ensure that no water quality treatment devices, including trenches, swales and bio-retention basins, are cut into the water table without an appropriate licence from the DPI Water. Devices such as these, if cut into the water table can cause water table lowering below natural fluctuation levels, which may result in the exposure of potential Acid Sulphate Soils causing irreversible impacts	Given the potential impacts on the adjacent environmentally significant water systems, it is considered that this should be resolved with a reasonable level of certainty for the entire development as part of this development application.

on the receiving environment such as Saltwater Lagoon.	
It is recommended that the proposed groundwater monitoring plan include quarterly downloaded data loggers rather than quarterly manual dipped levels in order to assist with groundwater assessment for the site for future stages.	This requirement would be included as a consent condition should the JRPP resolve to approve the proposed development.
It is recommended that Council ensure compliance with Acid Sulfate Soil assessment in accordance with their LEP.	Agreed – see section 7.1.5 of the report.
It is recommended that the proposed “soak away” basins be altered to allow appropriate treatment pollutants from street runoff water prior to just “soaking away”. This is the purpose of directing water to the bio-retention basins for treatment rather than just an infiltration basin.	Again, given the potential impacts on the adjacent environmentally significant water systems, it is considered that this should be resolved with a reasonable level of certainty for the entire development as part of the development application.

8.1.4 NSW Roads and Maritime Services – Transport

The proposed subdivision is a traffic generating development, being the subdivision of land into 200 or more allotments and includes the opening of a public road, as listed under Schedule 3 of SEPP (Infrastructure) 2007.

Pursuant to clause 104, before determining a development application for traffic generating development, the consent authority must notify Roads and Maritime of the application and take into consideration any submission that is made in response.

The most recent correspondence of 20 July 2015 from the RMS is summarised below and comments provided.

Table 15: Advice received from NSW Roads and Maritime Services - Transport.

RMS	Applicant response	Comment
<p>Roads and Maritime support the provision of a north-south link road within the development (refer to previous response to Council of 10 February 2015). It is noted that on page 5 of the submission from the applicant (dated 19 June 2015) that this response has not been acknowledged.</p> <p>The requested variation to Council’s Development Control Plan requirement for a north-south link road within the development is not supported.</p>	<p>The applicant provided the following response on the 22 September 2015:</p> <p><i>The RMS is in support of a north-south link road within the development. We have previously advised that we do not support the construction of the north-south link road or consider that it is warranted and reasons were provided. As previously advised, the concept layout can accommodate the provision of the north-south link road without alteration to the subdivision layout if a condition of consent were to be imposed</i></p>	<p>The provision of link road cannot be conditioned as no assessment of impacts relating to the link road have been undertaken, such as traversing the E2 zone, potential impacts to the waterway and impacts on the Wallum Froglet.</p> <p>The applicant has not adequately justified not incorporating the link road into the development – see section 9.2 of the report.</p>

	<i>by the JRPP. It should be noted that the RMS is an advisory body only.</i>	
<p>The following comments are provided in response to the Traffic Impact Assessment (TIA) of 19 June 2015:</p> <ul style="list-style-type: none"> – The TIA does not provide a clear justification for the origin and destination of trips used to inform the traffic distribution. – The assumed distribution internal and external to the precinct is not considered to reflect the likely distribution of trips generated by the location of services, employment and education. – It is considered that a much greater proportion of southbound trips would be attracted from the northern precinct to the south via the link road, thereby reducing the need for trips via Gregory Street north of the Belle O'Connor Street intersection. Therefore the conclusions of the TIA are not considered to reflect the likely impacts of development on the safety and efficiency of Gregory Street and the wider road network. – The TIA does not address the network benefits achieved by the inclusion of an additional north-south connection within the proposed development. – The adopted methodology and conclusions of the TIA are not supported. 	<p>The applicant provided the following response on the 22 September 2015:</p> <p><i>Further clarification and additional sensitivity analysis can be provided however it is considered that the RMS are unlikely to change their opinion that a north-south link road is desirable.</i></p> <p><i>de Groot and Benson have advised that further clarification for the origin and destination of trips will not result in the north-south link road being justified. In the circumstances it is not considered that further clarification is necessary.</i></p>	<p>Council generally agrees with the comments provided by RMS.</p> <p>Further discussion is provided in section 9.2 of the report.</p>
Council may wish to request that additional sensitivity analysis be undertaken to demonstrate the likely network	No comment provided.	Noted and agreed that further traffic analysis should be undertaken prior to approval of the proposed development.

impacts arising from a greater proportion of development traffic being distributed from the northern precinct to the south via a link road connection. It is considered likely that this will identify a reduced demand on Gregory Street north of Belle O'Connor Street intersection. Additionally, further modelling of impacts on the Belle O'Connor St / Gregory St roundabout should be undertaken of this scenario.		
Where future constraints on the capacity of roundabout are identified then further consideration could be given to the future benefits of extending a connection between the eastern end of Belle O'Connor Street and Arakoon Drive.		Noted.

8.1.5 NSW Office of Environment and Heritage

Table 16: Advice received from NSW OEH.

OEH	Comment
Aboriginal Cultural Heritage	
Council should be satisfied that the proposed development does not impact on the vegetated areas referred to as the hind dune area adjacent to Phillip Drive in the north-east corner of the area of assessment or the existing forest along Saltwater Lagoon as reflected in recommendation 3 of the assessment undertaken by Myall Coast Archaeological Services.	Noted.
Council should remind the applicant or condition any approval to ensure that any unexpected find of an Aboriginal object within the area of the proposed works, not just human skeletal remains, requires an immediate stop work procedure and appropriate notification to OEH.	Should the JRPP resolve the grant consent to the application, this should be included as a condition of consent.
Biodiversity	
OEH previously recommended that further survey work be undertaken to determine the habitat of the Wallum Froglet.	The applicant has since submitted a Section 5A Assessment of Significance for the development.
The applicant has indicated the Connell Wagner survey undertaken in April 2004, (data more than	Council engaged the services of an independent ecologist to review the ecological assessments

<p>12 years old) is sufficient for Council to consider the significance of the proposed impacts.</p> <p>For Council to adequately assess the significance of the proposed impacts either:</p> <ul style="list-style-type: none"> - further surveys should be undertaken; or - Council should assume presence of the Wallum Froglet over the subject site where there is suitable habitat for the species. <p>The habitat terms used in information provided by the applicant are not in accordance with the OEH <i>Threatened Species Assessment Guidelines</i> (2007) which do not differentiate types of habitat in the assessment of significance. OEH considers that all habitat needs to be considered.</p>	<p>provided for the proposal and this is provided at Appendix D.</p> <p>The review raised a number of issues with various aspects of the ecological assessments, the most significant being that the applicant has failed to adequately address the potential ecological impacts for the overall concept plan. See section 9.1 of the report.</p>
<p>The biodiversity impacts of whole footprint of the concept plan, as well as Stage 1, need to be considered at this time and not left for pending future subdivision applications.</p>	
<p>OEH acknowledges that the applicant now proposes to remove any infrastructure from the E2 zones however adequate buffers have not been incorporated to reduce indirect impacts on the biodiversity values of the E2 zoned areas.</p>	<p>A 50m buffer was incorporated into the E2 zoned land when the land was rezoned.</p>
<p>Council should ensure that suitable buffers including perimeter roads are provided to the land zoned E2 to reduce the likelihood of indirect impacts on these biodiversity values.</p>	
<p>Council should ensure that it has enough information to be able to determine whether the proposal is likely to have a significant impact threatened species, populations, ecological communities or their habitats. This may include Council obtaining further information and/or an expert opinion regarding the presence of the Wallum Froglet, the habitat of the Wallum Froglet to be impacted by the proposal and the significance or otherwise of those impacts pursuant to Section 5A of the EP&A Act.</p>	<p>Council engaged the services of a qualified and independent ecologist to undertake a review of the ecological assessments. This review concluded that there is not sufficient information to properly assess the ecological impacts of the proposed development, in particular, whether there is likely to be a significant impact on any threatened species or their habitat. See section 9.1 of the report.</p>
<p>Council should consider the applicants' response to submissions as incomplete as there has not been adequate assessment of the total biodiversity impacts in relation to a suitable offset for the proposal.</p>	<p>The application fails to adequately address the potential ecological impacts for the overall concept plan and provide offsets accordingly.</p>
<p>An offset proposal should be prepared for the biodiversity impacts proposed by the development. OEH recommends use of the Biobanking Assessment Methodology to identify</p>	

the type and quantum of offsets needed to compensate for the direct and indirect impacts of the proposal on biodiversity. The offset proposal should accord with the <i>OEH principles for the use of biodiversity offsets in NSW</i> .	
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8.2 Community Consultation

The development application was placed on public exhibition from 13 January 2015 to 9 February 2015. A total of 40 public submissions were received during this period, with a number of submissions received since.

A discussion of the matters raised in these submissions is provided at Appendix E.

The key matters raised in the submissions can be summarised as:

- potential direct, indirect and cumulative environmental impacts, particularly on the Wallum Froglet, Saltwater Lagoon and the E2 zoned land;
- the development will be prone to inundation given the high groundwater levels across the site and future sea level rises (and the community will bear the cost of allowing this);
- future coastal hazards (as a result of sea level rise) will impact the development and have not been adequately considered;
- the development will potentially expose acid sulphate soils;
- development does not adequately address the management of mosquitos;
- Waianbar Avenue is not a suitable access for the development for traffic safety, amenity, and emergency access reasons;
- lack of detail and uncertainty as to where the additional traffic access point to Phillip Drive will be;
- the development will result in an oversupply of residential lots in SWR;
- the development has the potential to impact on housing prices in Waianbar Avenue;
- the potential impacts on tourism in SWR has not been considered;
- situating playing fields located adjacent to the STP would pose health concerns; and
- the development does not comply with the relevant planning controls.

9 KEY ISSUES

9.1 Ecology

The applicant has provided the following ecological reports in support of the proposed development:

- *Flora and Fauna Assessment of Stage 1 of 'Saltwater', South West Rocks* prepared by Flametree Ecological Consulting (January, 2014); and
- *Saltwater Residential Development, South West Rocks - Proposed Stage 1 and Concept Plan Section 5A Assessments of Significance* prepared by F Dominic Fanning – Gunninah (October 2015).

Council engaged the services of a qualified and independent ecologist to undertake a review of the abovementioned assessments, having regard to current statutory requirements, policies, survey guidelines/standards (DEC 2004, DECC 2007), and to satisfy Council's obligations under the EP&A Act 1979. This review is provided in full at Appendix D.

The review raised a number of issues with various aspects of the ecological assessments, the most significant being that the applicant has failed to adequately address the potential ecological impacts for the overall concept plan. Without this information, it is considered that the consent authority does not have before it sufficient information to properly assess the ecological impacts of the proposed development. In particular, whether there is likely to be a significant impact on any

threatened species, populations or ecological communities or their habitat, or the overall biodiversity impacts and how these should be offset.

9.2 Traffic

The proposed development is a traffic generating development pursuant to SEPP (Infrastructure) 2007 (see section 7.7 of the report). Traffic can have an impact in a number of ways, for example on traffic efficiency, on amenity, on safety and on road pavement life. It is therefore essential that all relevant traffic impacts are identified and assessed.

As discussed in section 8.1.4 of the report, the RMS have advised that it does not support the methodology or conclusions adopted in the applicant's Traffic Impact Assessment (TIA) and Council generally concurs with this.

Impact on Traffic Efficiency

An important consideration is to determine the effect the proposed development will have on traffic efficiency, a key consideration being the capacity of the existing road network that will be affected by the development. Adverse effects must be identified and corrective measures designed.

As discussed above, the TIA does not adequately demonstrate that the development will not adversely impact on traffic efficiency in the locality.

The Link Road

In 2012, Council commissioned Cardno Pty Ltd to undertake a TIA for the whole of the Saltwater precinct (inclusive of the subject site and the Malbec development) and having consideration for the adjoining Seascape Grove development to the south of the precinct.

The TIA considered two new access points for the Saltwater precinct along Phillip Drive in the north, and another to the south onto Belle O'Connor Street. The TIA also considered two scenarios for the precinct, one without a link road and another with a link road, but ultimately concluded that the link road was the preferred option:

A link road linking the north and south portions of the development is proposed subject to environmental constraints. From a transport planning and engineering perspective, this link road is very desirable as a method of improving permeability of the precinct and South West Rocks as a town to public transport. The link road provides a spine for public transport to travel along providing a route with a high catchment area for the residents of Saltwater Precinct, as well as providing an efficient loop for busses to travel along to access the existing and proposed developments along Belle O'Connor without doubling back.

Based on the findings of this TIA, the requirement for the link road was reinforced by Council in KDCP 2013 (see section 7.2.1.1 of the report) and the Malbec development in the south of the Saltwater precinct makes provision for this link road (see Figure 2).

Despite this, the applicant is proposing not to provide the link road, based on their analysis which shows that traffic impacts external to the precinct, as well as traffic volumes in Gregory Street, will be similar with or without a link road. However, neither Council nor the RMS are of the view that the applicant's TIA and Traffic Study has adequately justified not incorporating the link road into the development.

Access to Phillip Drive

The application proposes to utilise the existing Waianbar Avenue as one of the access points to Phillip Drive as well as provide an additional access point in one of three possible locations when no more than 150 lots are constructed.

The three nominated access points are through land owned by other parties (including Council) and no evidence has been provided demonstrating that any of these access points could be achieved. It is worthwhile noting that a submission was received from the owner of the property through which two of the access points are proposed objecting to there being two collector roads on their land (although they would be open to negotiating with the developer a mutually agreeable location for the collector road subject to appropriate compensation).

Waianbar Avenue has a road reserve width of 19 metres with a general as constructed road width of 9 metres. This is adequate to accommodate Stage 1 of the development and there is adequate road reserve width to upgrade Waianbar Avenue to a collector road when required beyond Stage 1.

Impact on Safety

The *Guide to Traffic Generating Development* (RTA: October 2002) recommends that a road safety audit be undertaken if the proposed development is likely to have a significant effect on the volume, direction or composition of traffic. Undertaking a road safety audit at the concept stage prevents inappropriate concepts or treatments being adopted. The purpose of a road safety audit is to promote good road design by reducing the risk of crash occurrence, the severity of crashes, remedial work and the cost to the community.

The applicant has not undertaken a road safety audit for the development.

Public Transport Services

The *Guide to Traffic Generating Developments* (RTA: October 2002) states:

Subdivisions should ideally have at least two entrances to the major road network, to avoid continuous bus routing. At least 90% of dwellings are to be within 400 metres safe walking distance from an existing or potential bus route, and not more than 500 metres from the nearest stop or potential stop.

Also states:

It is advisable to identify bus routes in new residential subdivisions so that appropriate planning measures can be taken (i.e. crossing points, traffic slowing measures, etc).

One of the primary reasons in support of a link road is that it will provide an effective public transport loop for not only the development, but SWR in general. However, the proposal does not incorporate a link road although an additional access point to Phillip Drive has been proposed, albeit subject to the consent of the owners of these adjoining parcels of land.

The applicant states that the collector class roads are capable of being used as bus routes as required, no bus stops are proposed in Stage 1 because Phillip Drive is within 400 metres, and bus stops will be provided in consultation with the relevant bus companies and will be nominated in future development applications.

It is considered that the location of bus stops will impact on the final road layout/design and should at least be given consideration at the concept stage, and not deferred to later development applications.

Pedestrian Circulation

Pedestrian safety is a critical issue in the design of new residential estates. As per the *Guide to Traffic Generating Developments* (RTA: 2002), the internal circulation system and the external access points should be designed for pedestrian safety thereby minimising pedestrian/vehicle conflicts.

Whilst a pedestrian circulation plan has not been provided, the applicant states that all roads will have a 1.2 metre wide footpath, there will be pedestrian and cycleway linkages in the environmental zones, and in the longer term a cycleway linkage between the northern and southern Saltwater precincts is recommended.

The level of detail provided in regard to pedestrian circulation and safety is not considered adequate. There is no plan showing the proposed pathways and cycleways, the north-south cycle link is only nominated as “possible”, no detail has been provided as to how potential impacts from the walkways/cycleways in the environmental zone will be managed, or how the development will integrate with the *Kempsey and South West Rocks Pedestrian Access and Mobility Plan* (Cardno: 2003). Of particular importance is detail as to how the development will integrate with the existing beach access point to the north of the subject site, existing access paths to the SWR CBD, and existing access paths to the school.

9.3 Groundwater

The site is constrained by a relatively shallow water table. The Groundwater Impact Assessment (GIA) submitted provides groundwater level measurements undertaken in 2007 which show groundwater at depths across the subject site to be between 0.71m and 2.11m. Based on this information (and acknowledging that there has been insufficient groundwater to positively confirm the likely range of groundwater levels at the subject site) the GIA provides interpreted groundwater table contours and flow directions for the whole of the subject site. The highest groundwater level is 3.56m AHD (approximately 180 metres to the south of the Shell and Caltex sites) which grades down to 1.4m AHD at the eastern and southern boundaries of the site.

The GIA is largely focused on Stage 1 of the development and concludes that as a result of prolonged rainfall events the groundwater could at times approach the ground surface, particularly at the western extent of Stage 1. As a result of sea level rise, the GIA postulates that this could happen as a result of just a typical rain event. In response to these findings, the GIA recommends that some form of groundwater drainage be implemented to control groundwater levels, suggesting that this could be done through a network of subsurface drains and surface drains preferably set about 0.8m to 1.2m below ground surface levels and ideally at, or only slightly below, existing groundwater levels to limit flow rates and possible exposure of acid sulphate soils. Provided typical groundwater levels are maintained below about 0.5m to 1.0m, the GIA concludes that the construction of houses, roads and services for Stage 1 would be feasible if done in accordance with good engineering practice which takes into account the potential reduction in the strength of the soil due to shallow water.

The GIA concludes that the potential impacts from the Stage 1 development will be limited due to the limited footprint of the development and subject to groundwater drainage being implemented to control groundwater levels (yet the DPI has advised that any interception of the groundwater would require a licence from DPI who would be reluctant to issue such a licence given the associated environmental risks). The GIA also concludes that future stages of the development have the potential to alter groundwater flows across a much more extensive area and as such, recommends that a more comprehensive and numerical model is developed to assess impacts prior to further development post Stage 1.

The shallow groundwater levels across the subject site are a significant constraint to development of the site, and as such this is a matter critical to the assessment of the proposal. The information provided with the application does not demonstrate that the residential footprint proposed for the concept plan can be achieved in a satisfactory manner given the shallow groundwater levels. It may be that an extensive amount of fill will be required and if so, the impacts of this should be considered now as part of the concept plan.

9.4 Stormwater Management

D01 in section 4.3 of Chapter D2 KDCP 2013 states:

Stormwater issues are deemed to be the paramount issue constraining the site and are considered to be the ultimate factor that will determine the urban development pattern of the site.

In addition to the relatively flat topography of the land, a significant constraint at this site is the shallow groundwater as discussed above in section 9.3 of the report. Free draining sands are interrupted by coffee rock and clay layers at various depths which significantly reduce permeability.

The applicant has provided a stormwater management plan for Stage 1 and a concept stormwater layout for the proposed development. It is proposed to apply the concepts adopted for Stage 1 over the balance of the site.

The information provided for Stage 1 indicates that stormwater quality treatment devices will intercept with the water table, and based on the limited groundwater information available, this could be to a greater extent over the remainder of the site. This will impact on the functionality of these systems. The DPI recommends that the system be either a closed system or a minimum 1m depth between the base of the transition layer and the water table be provided to prevent short circuiting of polluted water into the groundwater system and subsequent eutrophication of nearby surface water systems. Furthermore, DPI recommends that no water quality treatment devices are cut into the water table as this may result in the exposure of acid sulphate soils.

In the absence of more comprehensive information on the groundwater system, it is considered that there is inadequate information available to properly assess the potential impacts of the proposed stormwater management system for the development. It is considered imperative that groundwater and stormwater management are resolved with a reasonable level of certainty for the development, not just Stage 1, as these are critical matters that will significantly influence the overall concept plan for the site.

9.5 Flooding

Council has adopted a 1 in 100 year flood level of 3.5m AHD (north of Saltwater Creek) and a minimum floor level of 4.1m AHD as recommended in the site specific *Saltwater Creek Catchment Flood Study* (WBM BMT, 2010).

Existing ground levels are in the order of 6m AHD at the northern extent of the proposed residential footprint and 3m AHD at the southern extent. Some fill may therefore be required to achieve the required floor level for the southern portion of the development.

9.6 Geotechnical

The site contains soils associated with the Hat Head soil landscape. The Hat Head soil landscape has been associated with a number of limitations, including poor drainage, flood hazard, permanently high watertables, groundwater pollution hazard, non-cohesive soils and high foundation hazard.

As a result of the above soil characteristics at the Saltwater site it is recommended within the LES that appropriate erosion and sediment control measures must be incorporated into any development on the site as part of a comprehensive soil and water management plan for the development. In addition, the LES states that strict controls on erosion and sedimentation control are to be in place, particularly during construction works, due to the erodability of the soil and proximity to Saltwater Lagoon.

The suitability of the soils for construction purposes must be addressed to ensure that the bearing material is capable of supporting structures, particularly the unconsolidated material on site. It must be ensured that any fill used at the site is free of contaminants. The application addresses this for Stage 1 only, not the overall concept plan, and information on the extent of fill required for the development has not been provided.

9.7 Servicing

The Infrastructure Servicing Strategy submitted by the applicant as a whole is lacking in detail and is not interconnected with any of the proposed concept/master plans. In particular, information as to be how infrastructure will be provided with respect to the staging of the development has not been provided, nor has it been demonstrated how the maintenance and environmental implications of providing underground services in the vicinity of the high water table will be overcome.

9.7.1 Water

Based on recent a recent pressure test in Waianbar Avenue, there appears to be sufficient capacity for, and beyond, Stage 1. The application indicates that to meet the water supply needs of the development beyond Stage 1, a main will be extended from the Gregory Street reservoir supply which is in line with Council's strategy.

The applicant's consultant acknowledges that further modelling is required to determine further details with respect to the supply and staging of water infrastructure beyond Stage 1. Without this information, the applicant is unable to provide a staging plan for the supply of water and demonstrate how this will interconnect with other aspects of the development.

9.7.2 Sewer

There is sufficient capacity for the development at the adjacent SWR STP although both the Waianbar Avenue (R13) and the Currawong Crescent (R2) pump stations are at capacity.

Further details are required to demonstrate how sewerage infrastructure will be provided for Stage 1 and how this will progress through subsequent stages as the development increases in size. Master sewer plans provided depict the Stage 1 catchment draining into Wainabar Avenue pumping station, which as mentioned is already, is at capacity. As an alternative, the applicant has stated that a pressure sewer system could be used instead of the pumping station which is not considered sufficient detail and does not constitute a master plan.

If a pressure sewer system is to be provided for Stage 1, details of how this will be incorporated into future staging need to be provided. In addition, should a slow stage development scenario occur, clarification needs to be provided detailing how will one or two lots be able to provide sufficient flow along the length of the sewer main to the STP (at least 1km) without septicity occurring.

9.7.3 Electricity

A concept plan for trunk electricity supply has not been provided, nor has supporting documentation from Essential Energy.

10 CONCLUSION

In summary, the application seeks development consent for the 'Saltwater' residential subdivision concept plan and Stage 1 of that concept plan. However, the information provided with the application largely focusses on Stage 1 with limited detail pertaining to the overall concept plan. After careful consideration, it is concluded that the application fails to provide sufficient detail on the critical matters for the concept plan to enable a proper assessment of the development to be undertaken. Accordingly, the application is therefore recommended for refusal.

Appendix A: Summary of History of Development Application T6-14-62

Table 17: Summary of history of development application T6-14-62.

Date	Details
25/2/14	Development application T6-14-62 lodged with Council.
25/3/14	<p>KSC requested further information:</p> <ul style="list-style-type: none"> • Clarification of the relevant consent authority; • Provide the following reports in accordance with KDCP 2013: <ul style="list-style-type: none"> – A detailed Master Plan; – Traffic Management Strategy; – Integrated Water Cycle Management Strategy (including Water Sensitive Urban Design Strategy); – Infrastructure Servicing Strategy (particularly for sewer and water); – Vegetation Regeneration, Rehabilitation and Maintenance Strategy; and – A DCP compliance table. • Owner's consent be provided from adjacent land owners as the concept plan included Link Roads traversing neighbouring land; • Consideration of the social and economic impacts; • Revised flora and fauna assessment requested as the report provided only considered the impacts of Stage 1; • An ASS Management Plan was requested; and • A detailed flooding assessment was requested.
7/4/14	<p>Applicant advised:</p> <ul style="list-style-type: none"> • Under the impression Council would be consent authority as Lot 352 would be in a different ownership to the residual lot, and that lot 352 will contain all of the lots proposed in the current Stage 1 application. • The concept master plan was not intended to be a detailed master plan and its purpose is to allow for the approval and release of Stage 1 only, allowing a cash flow to be provided to fund other studies across the whole site. • The Stage 1 application aims to provide a detailed proposal for this first stage and set out a concept proposal for the residue of the site. Further detail will be provided before future stages can be undertaken. • It is agreed that there are numerous unresolved issues at this time. These issues are being investigated and the release of stage 1 lots will generate funds to expedite the solutions. • The concept proposal included with this application provides the principles for the residential development of the whole site that is desired to be achieved. • It is considered the concept proposal does provide an overall concept as envisaged by Section 4 and a staged application under S83B of the Act provides the mechanism to achieve the completion of studies.
10/4/14	<p>KSC advised applicant:</p> <ul style="list-style-type: none"> • JRPP is the determining authority for the application; • Pursuant to s 83D of the Act, the provisions of the Act relating to development applications apply to the application for concept approval, such that matters required to be addressed under Section 79C cannot be deferred for future consideration; and • The Master Plan waiver was provided by NSW DP&I on the basis that existing planning controls applying to the land would apply. KDCP 2013 requires the preparation of a Master Plan for the whole precinct.
29/5/15	<p>Applicant advised:</p> <ul style="list-style-type: none"> • S83B of the EP&A Act alleviates the need for a DCP or Master Plan provided a Concept Plan is prepared for stages beyond Stage 1. • Applicant stated they would provide: <ul style="list-style-type: none"> – Concept master plan; – Traffic Management Strategy;

Date	Details
	<ul style="list-style-type: none"> – Integrated Water Cycle Management Strategy; – Infrastructure Servicing Strategy, – Vegetation Regeneration, Rehabilitation and Maintenance Strategies; – Social and Economic Impact; – Acid Sulfate Soils; – Flooding and Sea Level Rise; and – Landscaping Strategy, Bushfire Buffers etc.
2/6/14	<p>KSC advised applicant:</p> <ul style="list-style-type: none"> • S 83C of the EP&A Act does not alleviate the need for the Concept Plan to provide the level of information that would be required by a DCP. • Requested the findings of all interrelated strategies prepared for the proposal be incorporated into the master plan. • If a link road is not to be provided this must be justified and resulting impacts on the traffic flow and road network examined in any traffic study. • Owner's consent would only be required when a DA is submitted that includes construction of the access road on neighbouring land. • Indicative access road points are acceptable on the master plan however, there should be discussion included regarding the impact to traffic flow of any variation to the indicative access point locations. The Traffic Management Strategy is to be sufficiently detailed to specify at what threshold (if any) additional access points would be required. • The Integrated Water Cycle Management Strategy is to contain sufficient detail to identify criteria to be applied to future stages expressed as a ratio of the area and volume required to treat runoff to ensure there is a net reduction of pollutants entering Saltwater Lagoon and Creek. The master plan should include discussion as to how this Strategy has been incorporated into the overall design. • The Infrastructure Servicing Strategy will need to address DO2, Section 4.4 of Chapter D2 of KDCP 2013. • The Vegetation Management Strategy should contain sufficient detail to identify those parts of the land that are suitable for revegetating as referred to in DO3, Section 4.5, Chapter D2 of KDCP 2013 and this should be reflected in the overall master plan.
24/7/14	<p>KSC advised applicant:</p> <ul style="list-style-type: none"> • That a substantial proportion of proposed lot 29 falls within land currently dedicated to Council as public road. Council is of the opinion that the consent of Council, as owner of the section of road in question, is required in order for the application to be made.
7/8/14	<p>Applicant submitted:</p> <ul style="list-style-type: none"> • Addendum to original SEE that included consideration of sections 4, 5 and 6 of the KDCP 2013, social and economic impacts, ecological impacts, acid sulfate soils, flooding, and sea level rise.
15/9/14	<p>KSC advised applicant:</p> <ul style="list-style-type: none"> • The additional information provided fails to satisfactorily address all of the matters outlined in Councils letter dated 25 March 2014, discussed at the meeting held on 2 May 2014 and Councils letter dated 2 June 2014. <p><u>Master/ Concept Plan</u></p> <ul style="list-style-type: none"> • The information provided focuses on Stage 1 and lacks the required detail in regard to the overall development of the land. As a result, the concept/ master plan does not resolve the critical issues relevant to the site. • Lack of justification to vary Part 6.15, Chapter 2 of KDCP 2013 (no building work within 50m buffer to E2 zoned land). • No open space strategy has been provided. • No estimate of the capital investment value has been provided.

Date	Details
	<p><u>Traffic Management Strategy</u></p> <ul style="list-style-type: none"> No traffic study has been provided. The addendum does not: <ul style="list-style-type: none"> adequately justify not providing a through link road, contain details identifying thresholds for requiring additional access points to Phillip Drive; or detail the resulting impacts on intersections back to the Bi-Lo shopping complex. The concept traffic management plan relies on the findings of a TIA undertaken in 2012 for the broader Saltwater precinct. Whilst this TIA is relevant to the assessment it did not benefit from site specific interrelated investigations and a proposed subdivision layout. The RFS indicated they would prefer a perimeter road system separating bushland for urban areas and requested details discussing compliance with the road design requirements of <i>Planning for Bushfire Protection 2006</i>. The addendum does not provide such discussion. <p><u>Integrated Water Cycle Management Strategy (IWCMS)</u></p> <p>The management of stormwater is a critical matter and will play a significant role in informing the overall master/concept plan for the development. The groundwater impact assessment and the stormwater management plan submitted for the development have been reviewed and the following comments are provided:</p> <ul style="list-style-type: none"> Actual seasonal high groundwater level for the whole site, including stage 1, need to be determined as this is critical to designing water sensitive urban design systems such as bio retention systems. Further investigation is required to determine the extent of the groundwater flow movement issue. Groundwater and stormwater monitoring needs to inform and be incorporated into subsequent stages. All stormwater infrastructure needs to be located outside of the E2 zone. The existing open drain into which the infiltration drain overflows is manmade and has no connection to the Lagoon. No consideration has been given to the 'Kempsey Coastal Processes and Hazards Definition Study' dated June 2013. The proposed option of artificially adjusting the sand berm does not comply with the current protocol adopted under the 'Saltwater Creek & Lagoon Estuary Management Study and Plan.' Individual water tanks will need to complement Council's recycled water distribution network. There is no mention of the required Water Sensitive Urban Design Planning and Technical Guidelines for Saltwater Precinct. <p><u>Infrastructure Servicing Strategy</u></p> <ul style="list-style-type: none"> Does not identify the existing servicing capacity or the thresholds for the extension and/or upgrading of services. An overall strategy to service all stages of the development has not been provided. The NSW RFS requested details regarding hydrant coverage for proposed lots 14 and 15 which has not been forthcoming. <p><u>Vegetation Regeneration, Rehabilitation and Maintenance Strategy</u></p> <ul style="list-style-type: none"> A compliant vegetation regeneration, rehabilitation and maintenance strategy has not been provided.
11/11/14	<p>KSC advised applicant:</p> <ul style="list-style-type: none"> Reminder that the flora and fauna assessment submitted be revised to address a number of matters, as detailed in Council's letter dated 25/3/14. This included that the assessment cover the whole of the master plan footprint area, not just Stage 1. Council noted that studies submitted to date reply in part on studies that were undertaken as part of the rezoning process. This information needs to be supplemented with field investigations as the rezoning studies were generally limited to desktop investigations.

Date	Details
26/11/14	<p>Applicant advised:</p> <ul style="list-style-type: none"> Considers that the study already provided satisfies statutory requirements and LES recommendations, as well as what was agreed to at the previous meeting held with Council staff. Specific details will be provided for each relevant subdivision stage. The assessment provided includes 7 part tests for relevant species including the Wallum Froglet and acknowledges further 7 part tests would be provided to support each DA.
12/12/14	<p>Applicant submitted:</p> <ul style="list-style-type: none"> Amended SEE.
13/1/15	Amended SEE placed on public notification between 13/1/15 and 9/2/15.
8/5/15	<p>KSC advised applicant:</p> <p>After reviewing the information submitted to date Council considers there are still a number of matters outstanding in regards to the proposed development:</p> <ul style="list-style-type: none"> <u>Integrated Development</u> <ul style="list-style-type: none"> Bushfire safety authority – The proposal is ‘integrated development’ as a bushfire safety authority from the RFS. The RFS has requested additional information. If RFS will not grant an approval Council must refuse the DA. Interference with the water table – Council considers the development is likely to intercept the water table (following advice from DPI and limited groundwater monitoring at the site) and as a result considers the proposal is ‘integrated development.’ Referral to the DPI is therefore required and general terms of approval are required. <u>Threatened species</u> – Based on the information provided to date Council is not able to determine if the proposal is likely to have a significant impact on any threatened species, in particular the Wallum Froglet. Further survey should be undertaken in accordance with OEH recommendations. <u>Traffic and roads</u> <ul style="list-style-type: none"> Existing traffic volumes – study does not indicate how existing traffic flows in the surrounding road network were determined or source of information. The traffic counts used are significantly below counts recorded by Council and this affects the reliability of the model and the predictions put forward, which in turn affects whether the thresholds nominated and design standards proposed are appropriate and adequate. Annual growth assumption – An appropriate growth figure to use is 3% (not 2% as used in the study). This will affect the modelling results. North/south link road – The decision not to provide the north/south link road is not adequately justified. Additional access points to Phillip Drive – Council and RFS require a level of certainty that the required additional access points to Phillip Drive can be provided. Perimeter roads - A perimeter road separating the urban areas from bushland has not been provided as requested by RFS and required by the KDCP 2013. <u>Encroachment into E2 zone</u> – No infrastructure is to be located in the E2 zone. <u>Integrated water cycle management strategy</u> – Not yet provided. The studies provided to date Groundwater Impact Assessment (Douglas Partners, 2013) and Stormwater Management Plan (de Groot and Benson, 2014) relate only to Stage 1. Once an Integrated Water Cycle Management Strategy prepared and adopted, each future Stage would require an Integrated Water Cycle Management Plan and Stormwater Management Plan in accordance with the strategy. <u>Infrastructure servicing strategy:</u> <ul style="list-style-type: none"> Has not been provided. Details on the specific infrastructure required for each stage of the development has not

Date	Details
	<p>been provided.</p> <ul style="list-style-type: none"> – Water capacity at the site has not been determined. – There are capacity issues downstream of pump station R13 and a simple upgrade of the pump station is not considered a viable solution. – The existing sewage pump station in Waianbar Avenue has no remaining capacity and is not available for Stage 1. – It is unclear what type of system is being proposed as in one section it states a gravity system would be used and in another it states a pressure system would be used in the the Engineering Issues Statement (de Groot and Benson, 2014). – There is a conflict between the provision of 3kl water tanks and use of Councils recycled water scheme. – As the water and sewer infrastructure would most likely be regularly inundated by groundwater range of materials that would be acceptable and/or any coating on this infrastructure needs to be considered. – The strategy should be updated to include essential energy requirements. – No consideration is provided of whether the community will be burdened by the provision of public infrastructure as a result of the proposal. – A servicing and financial strategy has not been provided. – Infrastructure encroaches into the E2 zoned land. <ul style="list-style-type: none"> • <u>Vegetation Management Strategy</u> – The Vegetation Management Plan provided relates to Stage 1 only. A Vegetation Management Strategy should be provided for the entire footprint of the concept plan area. • <u>Open space</u> – The Open Space Management Strategy provided does not adequately address Clause 6.3 of KLEP 2013 or Chapter D2 of KDCP 2013 with respect to open space. • <u>Other matters:</u> <ul style="list-style-type: none"> – Stormwater Management – comments provided by NOW need to be addressed. – Biodiversity – comments provided by OEH need to be addressed. – Aboriginal archaeology – An updated Aboriginal cultural heritage assessment is required in accordance with OEH comments. – Hat Head National Park and Saltwater Lagoon – potential impacts on the adjoining Hat Head National Park and Saltwater Lagoon need to be addressed in accordance with OEH comments. <p>Council advised the applicant that the above information was considered necessary to enable Council to properly consider the application. Given the extent of information required, and the likely time needed to provide this information (such as wallum Froglet surveys), Council suggested the applicant withdraw the application and resubmit when the required information was ready.</p>
4/6/15	<p>KSC provided applicant with:</p> <ul style="list-style-type: none"> • Historical traffic counts for SWR; • Traffic count details in PDF table form; • Recent traffic counts for Phillip Drive and Belle O'Connor Street; • Confirmed previous advice of 3 November 2014 that the existing sewage pump station R13 and associated rising main off Waianbar Avenue is at capacity and could not accommodate any additional residential allotments; • Further, the existing receiving sewage pump station R2 off Currawong Drive is also at capacity; • A copy of the current Council Policy on Sewer Services No. 3.2 provided together with a copy of the draft procedure for pressure sewerage systems for information; and • Advised there is sufficient warrant having regard to the physical constraints of the site to allow further investigation into provision of Pressure Sewer Systems in this locality.
19/6/15	<p>Applicant provided:</p> <ul style="list-style-type: none"> • Response to Government agency comments.

Date	Details
19/8/15	Applicant advised: <ul style="list-style-type: none"> After obtaining legal advice, further ecological survey for the Wallum Froglet would be undertaken at the subject site.
27/8/15	KSC advised applicant: <ul style="list-style-type: none"> Copies of Government agency comments provided for consideration; A public meeting scheduled by the JRPP for 17 September 2015; Following this meeting, the assessment would be finalised and the matter reported to the JRPP for determination; In Councils opinion, the key matters associated with the proposal had not been satisfactorily addressed or resolved; and As the applicant indicated via email on 19 August 2015 that further ecological studies of the Wallum Froglet were going to be undertaken, it was suggested that the applicant consider withdrawing the application and re-lodging when the required information was ready for submission.
15/9/15	Applicant submitted: <ul style="list-style-type: none"> An amended bushfire concept strategy plan (Drawing No. MP9, Amendment No. DA5).
17/9/15	Public briefing meeting held by JRPP.
22/9/15	Applicant submitted: <ul style="list-style-type: none"> Response addressing Council and Government agency comments and matters raised in the public briefing meeting.
15/10/15	Applicant submitted: <ul style="list-style-type: none"> Updated Section 5A assessment of significance.
15/12/15	KSC advised applicant: <ul style="list-style-type: none"> They have the opportunity to withdraw the application prior to it being reported to the JRPP for determination.
15/12/15	Applicant advised: <ul style="list-style-type: none"> The application would not be withdrawn.

Appendix B: Government Agency Submissions

Appendix C: SEPP 71 Master Plan Waiver

Appendix D: Independent Peer Review of Ecology Assessments

Appendix E: Public Submissions Summary

Table 18: Matters raised in public submissions.

	Comment
The initial proposal is for only 29 lots however the long term plan is for 350 lots, a café, cultural centre and a boardwalk around the lagoon within the National Park resulting in impacts to the environment.	The development application seeks consent for the Saltwater residential subdivision (approximately 338 residential lots) with Stage 1 comprising of 29 lots. The application proposes walkways and cycleways in the E2 zoned land. As discussed in section 6.4 of the report, the community/neighbourhood centre could not be considered as part of the development application. Any works within the Hat Head National Park, adjacent to Saltwater Lagoon, would require approval by OEH.
The proposed boardwalk, café and bird hides are extremely destructive for the lagoon.	
Cumulative effects will result if this DA is approved as the Malbec DA for 350 lots is on adjoining land.	The cumulative impact of the proposed development is a matter for consideration by the consent authority and has been discussed in the report.
Cumulative impacts have not been adequately considered or addressed.	
The proposal will result in an oversupply of residential blocks in SWR.	The consent authority cannot refuse the application to prevent an oversupply in the market.
Health concerns in regards to the location of the playing fields in such close proximity to the sewerage treatment plant.	The playing fields cannot be considered as part of this development application – see section 6.4.4 of the report.
Council could be liable in a situation where forced relocation was necessary or damage to property, injury or loss of life?	The consent authority must take into consideration and be satisfied of certain matters when determining a development application. These are discussed throughout the report.
The proposal has the potential to impact on the use of Saltwater Creek and Main Beach and therefore impact tourism in SWR.	It is acknowledged that an increase in residential housing in SWR is likely to increase the number of people utilising the local beaches and waterways. However, this is not envisaged to be to an extent that would detrimentally impact on tourism.
One landholder in Waianbar Avenue is already selling because their property is be inundated by surface water.	Consideration has been given to the shallow water table and this is discussed in section 9.3 of the report.
Housing values in Waianbar Avenue will be negatively affected if this proposal goes ahead.	The land has been zoned for residential development since 2009 and since this time, there has been an expectation that this land would be developed in the future

	accordingly.
The developer is 'free-riding' by proposing to use the McNiven development road (Waianbar Avenue) as their access road	Waianbar Avenue is a Council managed road and it was designed to be upgraded to a collector road at some point in the future when it was constructed. The cost of any upgrade of this road required as a result of the development would be borne by the developer.
The developer proposes to only pay some legally required contributions after the sale of each block of land.	Council's contribution plans do allow for the payment of contributions to be deferred until the sale of land upon agreement with Council.
Council should require at least a \$15 million bond to ensure compensation is available to all home owners when flooding inundation occurs from either the high water table or sea level rise.	The consent authority must be satisfied that the development is appropriate prior to granting consent. Such a bond cannot be taken.
It is likely insurance costs for the proposed development would be significant as they are to be affected by flooding and climate change.	
The developer has intentionally caused confusion about this development.	Noted.
Questions if the 'Precautionary Principle' has been satisfied.	The precautionary principle has been considered as part of the assessment of the development.
There has been no consideration of the loss of the future local and visiting community enjoyment of the lagoon environment.	Potential impacts on Saltwater Lagoon have been considered and are discussed throughout the report.
Weather conditions may impact on sewerage performance.	Any sewerage system would need to comply with Council's requirements. See section 9.7.2 of the report for a discussion on sewer.
The quality and value of the environmental resources should be considered not just the monetary gain from development.	The potential environmental impacts of the proposal have been considered in this assessment.
Council needs to consider the implications of the draft Coastal Management Act in their assessment.	The reforms have been announced but are not yet in place. The draft Coastal Management Bill is out for public comment until 26 February 2016.
The TeeBee Holdings Pty Limited development is landlocked.	The subject site has frontage to Waianbar Avenue.
The zoning of the site is inappropriate and the wetland is not being protected	The site was zoned for residential development in 2009 following the completion of a

by an appropriate zone.	<p>LES being undertaken. The LES concluded that the land was potentially suitable for residential development (refer to Section 7.2).</p> <p>There is an E2 zone surrounding the Saltwater Lagoon wetland which provides a buffer between the site and the wetland.</p>
The studies requested by Council have not been undertaken (i.e. Aboriginal Heritage and threatened species).	This assessment report details the matters for which further information is considered to be required.
An updated Aboriginal heritage assessment has not been undertaken as requested by OEH. Only around 15% of the site has been the subject of an Aboriginal heritage assessment.	The applicant has since provided an Aboriginal Heritage Due Diligence Assessment which has been reviewed and accepted by the OEH (see section 8.1.5 of the report).
No consultation has been undertaken with the Local Aboriginal Land Council.	
A 50m buffer to the E2 zone has not been provided in accordance with Council's DCP.	The 50m buffer was incorporated into the E2 zoned land and it is Council's intention to remove this requirement from KDCP 2013 accordingly.
Previous applications to development this land have been rejected by KSC – why is it different now?	Each new development application is assessed separately on its merits.
Requirements of Kempsey DCP 2013 are not met by the proposal. This should be rectified before further consideration by Council. This is a specific requirement of the Masterplan waiver.	An assessment of the proposal against KDCP 2013 is provided in section 7.2 of the report. A copy of the waiver from DPE is provided at Appendix C.
TeeBee Holdings were waived from being required to prepare a masterplan.	
If Stage 1 is approved does this mean following stages are automatically approved also?	The development application seeks consent for the concept plan and Stage 1 of that concept plan. Future stages would be the subject of separate development applications but would need to be consistent with any approved concept plan.
Was the DA referred to the Minister under SEPP 71?	The application was referred to DPE pursuant to clause 11(2) of SEPP 71. The DPE advised that as none of the proposed works are located below the mean high water mark of Saltwater Lagoon, the Department does not need to be involved in the proposal.

Is the development 'designated development' due to the SEPP 14 wetland?	No the proposal is not a kind of development that is listed in Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> .
No evidence has been provided of acquisition of land or agreements with other developers who have frontage to Phillip Drive.	See section 9.2 of the report for a discussion regarding access points to Phillip Drive.
<p>The owner of the adjacent land to the north on Phillip Drive:</p> <ul style="list-style-type: none"> - objects to there being two collector roads on their land connecting the proposal to Phillip Drive; - already has an approved concept plan for development of their land which does not include the collector roads as illustrated on the plans for the proposal; - does not agree to compulsory acquisition of their land to achieve connection to Phillip Drive; - is open to negotiation with the 'Saltwater' developer to identifying a mutually agreeable location for a collector road through the property and appropriate compensation between the two parties. 	
Access issues associated with the proposed development across land to the north have not been resolved with the adjoining landowners. This should be done prior to approval of the development.	
It may be possible for an alternative to using Waianbar Avenue as the primary access road to the proposed new subdivision by creating new collector roads either to the east or west of Waianbar Avenue and closing off Waianbar Avenue (via Bollards or landscaping etc).	
No definite locations for collector roads connecting to Phillip Drive has been demonstrated only 'possible' road locations.	
The proposal includes a collector road over a drainage line, Crown Land and public playing fields (including a recently \$40K upgraded skate park).	
The location of the collector road near the playing fields and skate park puts	

the safety of children in danger.	
The developer has suggested Council access a road corridor over Crown Land for the 'Link Road' which the Saltwater development would then use.	
Concerns over the ability for emergency vehicles to access the new development in an emergency if the only access is Waianbar Avenue.	
<p>The proposed road does not comply with the DCP Safe Road Network.</p> <ul style="list-style-type: none"> - No primary road linkage route is provided from the north to the south of the Saltwater Precinct; and - No predominant ring road is provided around the proposed residential zones to improve access to adjacent open space areas, and ensure emergency access for bushfire protection purposes. 	Traffic impacts are discussed in section 9.2 of the report.
Impacts to amenity, in particular along Waianbar Avenue, from increased traffic.	
Concerns over the safety of pedestrians and people using wheel chairs/walkers and children on bikes and scooters due to the increase in traffic in the area.	
The increase in traffic proposed on Waianbar Avenue is from approximately 200 car movements per day to 2000 (a 1000% increase).	<p>The <i>Guide to Traffic Generating Developments</i> (Roads and Traffic Authority: October 2002) nominates a traffic generating rate for dwelling houses at 9 daily vehicle trips per dwelling.</p> <p>There are currently 30 dwellings utilising Waianbar Avenue. Stage 1 would add another 29 dwellings which would result in just under double the number of vehicle movements.</p>
Concerns the proposed access through Waianbar Avenue does not meet Council or State Authority requirements.	Waianbar Avenue would be required to meet the relevant standards.
Waianbar Avenue is not suitable as a collector road as it is too narrow and not appropriate for a 60km/hr speed limit.	To service the existing 30 lots and Stage 1 (29 lots), a minimum 9 metre carriageway and 3.5 metre wide footways within a 16 metre road reserve would be required. To upgrade Waianbar Avenue to a collector road, the road carriageway would need to be

Concerns major road works will be required on Waianbar Avenue as the data provided by the developer does not comply with Councils geometric road design document.	expanded to 11 metres wide with footways 4-5 metres wide within a 19 metre road reserve. The Waianbar Avenue road reserve is of sufficient width to accommodate all of these requirements.
If Waianbar Avenue is upgraded to a collector road will this be undertaken prior to Stage 1 and who will pay for the work required, including relocation of services?	The developer would be responsible for meeting the costs of any upgrades required as a result of the development.
Concerns over the potential for road damage from heavy vehicles accessing the development via Waianbar Avenue.	Appropriate conditions could be included requiring that a dilapidation report be prepared by the applicant prior to any works commencing and that Waianbar Avenue be maintained to a reasonable standard during construction works.
Residents of Waianbar Avenue have always been under the impression the street was designed as a residential cul-de-sac and no consultation or notification from Council regarding this potentially changing has been received.	Waianbar Avenue was designed with an adequate road width to enable future upgrade to a collector road.
Concerns over the proposed road adjacent to 20 Waianbar Avenue and non-compliance with DCP Safe Road Network.	All roads would need to comply with the relevant requirements.
The proposal involves the removal of the traffic calming speed hump from Waianbar Avenue and the widening of the road. This has the potential to result in the intersection of Waianbar Avenue and Phillip Drive becoming dangerous.	The intersection would also need to be upgraded to meet relevant requirements.
The proposal would result in busses being unable to (legally) turn into/ out of Waianbar Avenue and potentially meaning bus users (including children and elderly) have to walk some distance from their homes to a bus stop.	As discussed in section 9.2 of the report, bus routes and stops need to be adequately accommodated for in the development.
Heavy vehicles using Waianbar Avenue cause vibration to dwellings.	It is considered that heavy vehicles accessing Waianbar Avenue would not cause any more vibration to existing dwellings than in any other location.
Pollution of Intermittently Closed and Open Lakes and Lagoons (ICOLL) by encroaching development.	Consideration has been given to the potential impacts on Saltwater Lagoon and its tributaries through the groundwater system, stormwater management and hydrological changes. These are discussed throughout the report.
Infusion of nutrients such as phosphorus from garden fertilisers, pet faeces,	

washing of vehicles, oil, rubber etc.	
More frequent opening of the lagoon entrance would be required to remove contaminated water further altering the lagoon water regime.	
The wetland is already being impacted by existing development and the proposed will worsen this.	
Wetlands are not an appropriate place to locate increased recreation and human impacts.	
The lagoon would take all the runoff from the proposed development which the developer estimates will have 60% hard surfaces, exacerbating overland runoff and eutrophication of lagoon waters.	
Changed conditions in the lagoon area may generate an explosion of mosquito numbers and new diseases leading to an increase in pesticide use for human safety.	A mosquito management strategy/plan has not been provided as required – see discussion in section 7.2.1 of the report.
The lagoon is an ecological asset for birds and land and aquatic wildlife.	Ecological impacts of the proposal are discussed in section 9.1 of the report.
Local extinction of the Wallum Froglet from pollution and predation by cats and dogs.	
Weed invasion of the National Park from plants escaping from domestic gardens and dumping of garden waste.	
Impacts to the National Park and heathland from pollution, new walking / mountain bike/ trail bike tracks being created and trampling of vegetation.	
The almost certain loss of biodiversity at the site cannot be offset nearby due to its uniqueness and 'healthy modified condition'.	
The aesthetic value of the lagoon will be impacted.	
There has been no consideration of the impact of climate change on the lagoon and the site. It is likely with sea level rise and increased flooding plants	

and biota will need to migrate upstream but that will not be possible if the development goes ahead.	
<p>The flora and fauna study prepared by Kendall and Kendall (2003) has been misquoted in the Statement of Environmental Effects.</p> <ul style="list-style-type: none"> - The SEE implies Kendall and Kendall (2003) recommended a 3m AHD vertical buffer to justify the location of the E2 zone. This was not the intent of the Kendall and Kendall or WBM report. The 3m AHD vertical buffer was derived by WBM. - The vertical buffer determined by Kendall and Kendall (2003) of RL 1.5m to 2.0m AHD was to maintain the integrity of the wetland ecosystem but has been incorrectly used to justify habitat protection in the SEE. 	
There is no acknowledgement of the adjoining National Park or adequate mitigation to avoid impacts between the proposed development and the National Park.	
Justification for destruction of habitat of the Wallum Froglet has not been provided and sufficient ecological fieldwork has not been undertaken.	
Domestic pets (particularly cats) will kill native wildlife.	
<p>The impact assessments undertaken by Flamtree (2014) are invalid for the following reasons:</p> <ul style="list-style-type: none"> - The loss of habitat in Stage 1 was independent of later habitat loss in further stages; and - As habitat for the threatened species occurs elsewhere the loss in Stage 1 is of no consequence. 	
The Brush-tailed Phascogale, Squirrel Glider and Grey-headed Flying Fox were all recorded on the site and many others may be present. This development would destroy habitat for these species and therefore a SIS should be prepared and submitted to the Department of Environment.	

<p>Only one of the six surveys at the site for the Wallum Froglet was undertaken at a time likely to detect the species. This survey identified across a large area of the development site.</p>	
<p>The potential for the development to mobilise Acid Sulfate Soils has been dismissed in the main section of the SEE. Concerns relating to this are documented in the appendices to the report.</p>	<p>See section 7.1.5 of the report for a discussion regarding acid sulphate soils and section 8.1.3 of the report for advice received from the DPI.</p>
<p>The Coastal Zone Management Plan (March, 2015) has been adopted by Council which recommends the following for the Saltwater Creek and Lagoon:</p> <p>This action involves the following steps:</p> <ul style="list-style-type: none"> – Conduct a Flood Study assessment for the combined impact of catchment flooding and oceanic water level events and sea level (i.e. benchmarks adopted by Council); – Use the outcomes of the combined flood modelling to amend the Floodplain Risk Management Plan mapping and flood planning levels for development in the LEP and DCP; and – Apply development controls to the Flood Planning Area based upon existing Flood Risk Precinct development controls, or new controls prepared for the individual catchment (i.e. through the Floodplain Risk Management Plan process). <p>In the interim, consider coastal inundation impacts for development applications made within the immediate coastal inundation risk zone, as identified in this CZMP.</p> <p>Figure F4 of the Coastal Hazards Study indicates there will be a need for the staged withdrawal of development over the next 100 years due to accretion and sea level rise. This will result in future ratepayer costs for the removal of existing development and purchase of flood free land.</p> <p>The land titles for the proposed allotments will need to carry a warning about future possible climate change effects.</p>	<p>See section 7.9 of the report for a discussion on the Kempsey Coastal Zone Management Plan and Study.</p>

Environmental issues identified in <i>the Saltwater Creek and Lagoon Estuary Management Study and Plan</i> (WBM, 2004) and <i>Kempsey Coastal Processes and Hazard Definition Study</i> (BMT WBM, 2013) have not been adequately addressed.	
Additional local flood studies and flood compounding effects on sea level rise have not been completed which were a recommendation of the <i>Kempsey Coastal Processes and Hazard Definition Study</i> (BMT WBM, 2013).	
WBM has identified that a study of flood events under climate change should be undertaken for the area but has not been undertaken.	
There has been no consideration of the combined effect of increased flooding, increased sea level rise and storm surges under climate change.	
Manly Hydraulics has estimated the berm height under climatic conditions would be higher than other reports, and this has been dismissed.	
Flood studies undertaken are flawed as they assume a maximum berm height of 2m AHD however it has reached approximately 3.0m AHD in the past.	
Groundwater sampling for the studies was undertaken in July and August 2007 following a 5 year drought and therefore levels are much lower than the average.	
Manly Hydraulics monitoring records show Saltwater Lagoon reached 2.21m AHD in February 2009 however a lagoon level of 2.2m was stated as suitable for conditions in the year 2100. The predicted level for 2100 must be a mistake given there are records the lagoon already reaches this height?	
The site and surrounding land has a significant history of flooding, particularly during 1949, 1950 and 1963. Filling of nearby swamps and flood ways around Hill Street, Simpson Street and the Golf Course will only exacerbate this flooding when similar heavy rainfall occurs. Therefore the site should not be developed for residential use.	

The threat of flood into the future at this site is very high as demonstrated in modelling for the BMT WBM report.	
Inaccurate flood mapping has been used by the developer in their documentation and differs from the map in the Coastal Inundation Study.	
Potential impacts from storm surge have not been adequately addressed.	
Do the proposed swale drain areas meet the site requirements?	See section 9.4 of the report for a discussion regarding stormwater management.
<p>The Engineering Issues Report (Appendix F to SEE) has the following issues:</p> <ul style="list-style-type: none"> - Method proposed of removing surface water to prevent mosquitos demonstrates a lack of understanding of mosquito breeding requirements. - Use of the MUSIC model is problematic. - Details of rainfall used in the MUSIC model are not provided. - The report contains contradictions such as stating rain events that will cause runoff will be relatively rare and then stating runoff would occur after a 2 year ARI rain event. 	
The Stormwater Management Plan proposes to allow runoff to infiltrate the groundwater along the sites downstream boundary. This contradicts the need to retain the pre-development groundwater levels to maintain the hydrological system of the lagoon.	
Who will be responsible for the future maintenance of the proposed swale drains?	The stormwater management system would become the responsibility of Council subject to an appropriate maintenance period.
<p>The Groundwater Impact Assessment (Appendix E) is flawed:</p> <ul style="list-style-type: none"> - It notes that insufficient monitoring has been undertaken to date to accurately confirm groundwater levels in the area; - It notes a need to obtain additional groundwater data which should be understood prior to development at a complex site such as this. - No details of the conceptual model are provided and therefore not 	Groundwater impacts are discussed in section 9.3 of the report.

<p>available for independent review.</p> <ul style="list-style-type: none"> - No details of weather conditions at the time of monitoring are provided. This is important to understand how the system will respond to changes such as increased hardstand area, increased run-off, reduced infiltration and changes to evapotranspiration. - Soil permeability is not fully detailed. - ASS assessment is based on risk maps not site specific sub-surface investigation (not in accordance with relevant guidelines). - As a result of the above issues with the report the conclusions are questionable. 	
<p>If water will be drawn from spears in National Park dunes there may be shortages and impacts to vegetation during dry times.</p>	
<p>Studies of beach erosion and sediment movement undertaken at Kingscliff in 2011 are relevant to this, and other, proposals for low lying coastal land.</p>	<p>Noted.</p>
<p>No community consultation occurred during rezoning by the Planning Assessment Commission (PAC).</p>	<p>The Planning Assessment Commission did not participate in the rezoning process.</p> <p>The LES was finalised and publicly exhibited for 8 weeks between 15 September and 14 November 2008. Local Environmental Plan (LEP) Amendment No. 55 was gazetted on 14 August 2009, rezoning the site to Residential 2(a) and Environmental Protection Zones 7(a) and 7(b), with an area of land deferred pending analysis of the adjacent STP.</p>
<p>The community consultation undertaken by the developer has been limited to a brief street meeting, a letter drop and one (1) email.</p>	<p>There are no details within the SEE detailing any community consultation undertaken by the applicant.</p>
<p>Information regarding the development was not displayed at the library.</p>	<p>The development application was publicly exhibited in accordance with Council's requirements.</p> <p>A copy of the application was made available on the SWR library during the exhibition period.</p>
<p>General lack of awareness in the SWR community of the proposal due to lack of community consultation.</p>	
<p>Only one public meeting was held regarding the proposed development.</p>	
<p>Very minimal community consultation has been undertaken.</p>	

Damage to the wetland community as a result of fire management requirements recently altered by Council staff without reference to a Council meeting. This will impact habitat outside the APZ.	The RFS have reviewed the proposal and provided conditions that must be met to ensure the appropriate protection of people and property from bush fire (see section 8.1.2 of the report). Any additional fire protection measures implemented in the NP is the decision of the NPWS.
The development will result in NPWS undertaking more frequent hazard reduction burns in the NP to reduce the risk of fire to dwellings. This will change the ecology in this location.	