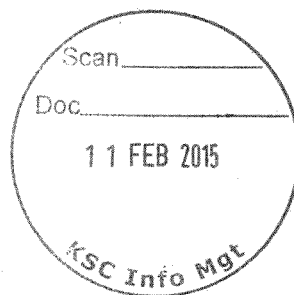


## **Appendix B: Government Agency Submissions**



Mr D Rawlings  
General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Our ref: 15/01371  
Your ref: D14/6381, T6-14-62

9 February 2015

Dear Mr Rawlings

**Referral under State Environmental Planning Policy No 71 – Coastal Protection for a 29 Lot Subdivision of Lot 35 DP 1167775, 32 Waianbar Ave, South West Rocks**

Thank you for your referral of the development application for the above under clause 11(2) of State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71).

We have examined the application and note that none of the proposed works are located below the mean high water mark of Saltwater Lagoon. Consequently, we have decided the Department does not need to be involved in the proposal. Council could now determine the proposal, having regard to the matters listed in clause 8 of the Policy.

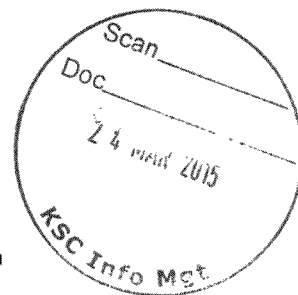
Yours sincerely



**Paul Garnett**  
Senior Planning Officer  
Northern Region



**Department of  
Primary Industries**  
Office of Water



Contact: Vanessa Sultmann  
Phone: 02 6676 7382  
Fax: 02 6676 7388  
Email: [vanessa.sultmann@dpi.nsw.gov.au](mailto:vanessa.sultmann@dpi.nsw.gov.au)

The General Manager  
Kempsey Shire Council  
PO Box 3078  
West Kempsey NSW 2440

Our ref: 30 ERM2015/0011  
File No: 9059027  
Your Ref: T6-14-62

**Attention: Erin Fuller**

18 March 2015

Dear Sir/Madam

**Re: Development Application T6-14-62  
32 Waianbar Avenue, South West Rocks**

I refer to Council's previous correspondence on this matter and provide the following comments and recommendations for Council's consideration.

#### **Comments**

It is unclear on the difference between the proposed base of the bio retention basins and the water table at those locations.

NOW does not support unlined bio retention basins if situated within 1m of the water table. This is due to the short circuiting of the water quality treatment process potentially resulting in excess nutrients and other contaminants entering the groundwater system and subsequent adjacent surface water systems (Saltwater Lagoon)

Typically the model for urban stormwater improvement conceptualisation (MUSIC modelling) undertaken presents changes in water quality based on a certain water quality entering the treatment device, being treated through identifiable processes, then exiting at an end point (eg down gradient or base of basin) once the water has gone through the identified process. Direct connection to the groundwater system can result in water entering the treatment device then going straight into the water table without any of the modelled treatment processes to reduce pollutants having taken place.

#### **Recommendations**

- The requirements of the model for urban stormwater improvement conceptualisation (MUSIC) for bio retention basin systems are such that the proposed filter media depth should not include the transition layer and the drainage layer (the proposed filter media depth for the development is 0.4m). As such, NOW recommends that, in high water table environments, the system be either a closed system with designated identifiable entry and exit points with the filter media situated above the transition and drainage layers (ie 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.

- It is recommended that Council ensures that no water quality treatment devices, including trenches, swales, and bio retention basins, are "cut" into the water table without an appropriate licence through this department. 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 Sulfate Soils causing irreversible impacts 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 of the site for future stages.
- It is recommended that Council ensure compliance with an Acid Sulfate Soil (ASS) assessment in accordance with their LEP. It is noted that the development application commits to ASS testing where stormwater treatment devices are proposed.
- It is recommended that the proposed "soak away" basins be altered to allow appropriate treatment of 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.

Please direct any questions or correspondence to Vanessa Sultmann,  
[vanessa.sultmann@dpi.nsw.gov.au](mailto:vanessa.sultmann@dpi.nsw.gov.au).

Yours sincerely



Vanessa Sultmann  
Water Regulation Officer  
**Office of Water** - Water Regulation, North & North Coast





Your reference:  
Our reference: DOC15/41537  
Contact

9 February 2015

Mr David Rawlings  
General Manager Kempsey Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Dear Mr Rawlings

**RE: Statement of Environmental Effects – Saltwater Subdivision T6-14-62**

I refer to the *Development Proposal Saltwater Residential Subdivision and the Statement of Environmental Effects* currently on public exhibition and closing 9 February 2015. The National Parks and Wildlife Service (NPWS), as a direct neighbour to the Saltwater Property has reviewed the Statement of Environmental Effects (SofEE) in relation to:

1. Hat Head National Park
2. Proposal to locate ancillary development in Hat Head National Park
3. Saltwater Lagoon SEPP 14 Wetland
4. Bushfire Management
5. The Environmental Conservation Zone (E2 Zone)
6. Aboriginal Cultural Heritage.
7. Cumulative impacts on Hat Head National Park and Saltwater Lagoon.

It is apparent from this SofEE, particularly Appendix A and Appendix F, together with the *Saltwater South West Rocks Information Memorandum (2012)* that the intent for the entire Saltwater property is a medium to high density residential development of up to 800 houses.

Please note that both the NPWS and the Office of Environment and Heritage (under its former title as DECC & DEC) have made several submissions to proposals relating to the Saltwater property in June 2008, November 2009 and August 2010. All of these submissions carry a similar theme stating that the NPWS and the OEHL has concerns about the short term and cumulative long term impacts of

the proposal/s on the biodiversity and ecosystem values within this Saltwater Property, Hat Head National Park and Saltwater Lagoon.

With regard to the current *Development Proposal Saltwater Residential Subdivision*, the NPWS has determined that further studies, refinement and consultation is required before the development proposal can be considered further.

### **Hat Head National Park**

The SofEE does not acknowledge Hat Head National Park as the neighbouring land tenure along the entire eastern boundary of the Saltwater property. Saltwater Lagoon is contained within Hat Head National Park. The SofEE assesses impacts within the aquatic zone of Saltwater Lagoon without recognising its land tenure status.

Between the aquatic boundary of the Lagoon and the E2 zone is a terrestrial area of the Park. This section of Park contains:

- Old growth coastal blackbutt forest with many hollows and fallen logs for threatened species arboreal mammal species and osprey;
- Wet heath and shrubland providing suitable habitat for threatened species such as wallum froglett, *Cryptostylis hunteriana* and *Allocasurina littoralis*;

There is no assessment of the impact of the residential subdivision on Hat Head National Park.

### **Proposal to locate ancillary development in Hat Head National Park**

Throughout the SofEE and Annexure A (Concept Masterplan) are references for locating recreation infrastructure within and adjacent to lands reserved as Hat Head National Park. Specifically the SofEE suggests a cycleway, interpretative trail, boardwalk and bird hide be located in the Park and within the confines of the SEPP 14 Wetland.

Any proposal to construct this infrastructure within the Park:

- Would require a separate planning approval process subject to the provisions of the *National Parks and Wildlife Act*;
- Must be consistent with the objectives of the *National Parks and Wildlife Act* and the management intent for a national park; and,

- Must be consistent with the Hat Head National Park Plan of Management.

Furthermore, Mr Lex Tall on behalf of Saltwater Property made representations to the NPWS in January 2014. A summary of the NPWS considerations advised at the time included:

*In providing opportunities for and managing visitor use in the South West Rocks area the current focus for the NPWS is on the significant and popular existing facilities in Arakoon National Park at the Trial Bay Gaol and camping area, and Little Bay; and at Hat Head National Park in the Smoky Cape and Hat Head precincts.*

*The NPWS has limited capital and recurrent funds and the priority in relation to visitor facilities is to devote these resources to maintain and enhance existing infrastructure.*

*The Hat Head National Park (which includes Saltwater Lagoon) Plan of Management actively encourages visitation and has allowed for appropriate facility development and maintenance to support current and future visitation. The Plan has not currently identified a requirement or need for facilities such as a boardwalk or bird hide at Saltwater Lagoon.*

## **Bushfire Management**

The Bushfire Risk Assessment report in Annexure C is not adequate in addressing fire management for the Saltwater Property and adjacent lands. The following issues need to be addressed and re-submitted to the Regional Planning Panel for further deliberation:

1. Images contained in the report do not provide an accurate representation of the native vegetation condition on the ground. Assessment by NPWS staff (conducted 31 January 2015) have determined that the current overall fuel hazard risk in the dry sclerophyll forest is very high to extreme. This is within the E2 Zone immediately adjacent to several lots in Stage 1B.
2. A clear map indicating the proposed 21m buffer, the proposed 10m APZ, the E2 zone and Hat Head National Park needs to be provided in order to show how fire will be managed adjacent to the residential dwellings.
3. A fire management plan for the entire Saltwater property must be prepared in consultation with the Lower North Coast Bushfire Management Committee, Rural Fire Service and the NPWS.

The NPWS does not consider that an adequate separation zone has been established between the boundary of Hat Head National Park, E2 zone and the residential lots to create an APZ in Stage 1B, particularly lots 24, 22, 23, 15 and 21. Under the proposed configuration of the residential lots extensive vegetation clearing in the E2 zone and possibly Hat Head National Park would be required to create a fuel reduced area.

The NPWS does not support the creation of any additional fire mitigation or fuel management zones in Hat Head National Park to those already contained in the Reserve Fire Management Strategy.

### **The Environmental Conservation Zone (E2 as defined in the LEP)**

Development within the E2 zone must be consistent with the objectives of that zone as outlined in the LEP which is to:

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

Throughout the SofEE there are contradictory statements relating to the intended management of that zone. For instance, Annexure A and Annexure F indicate ancillary developments will be located in this E2 Zone including a cycleway, fire trail, access to the Lagoon, infiltration swales, sediment fencing and an overflow from the bioretention area. Whilst Annexure H states that the E2 zone will be set aside for conservation.

The SofEE also shows the E2 Zone to be located adjacent to the connector road in those areas identified for future development areas. The E2 Zone contains mapped SEPP 14, provides habitat for threatened species including the wallum froglet, *Cryptostylis hunteriana* and *Allocasurina littoralis*.

As stated in the Kempsey Development Control Plan 2013 (DCP) a 50m buffer should be established to provide a vegetation protection zone between the residential lots and the E2 zone. The SofEE has requested an amendment from the requirements of the DCP to create a 21m buffer. The buffer will be located on private property.

Given the high conservation wetland and old growth coastal blackbutt forest values contained in the E2 zone, the NPWS does not support the request for an amendment to the size of the buffer size. It is also recommended that part of the buffer is not located on land zoned for residential properties which may require a refinement of the proposed residential lot layout.

### **Aboriginal Cultural Heritage**

The NPWS in consultation with the Kempsey Local Aboriginal Land Council commissioned an Aboriginal Oral History of Smoky Range (2014). Local people provided stories and shared knowledge of Country as well as the location of unrecorded sites in the South West Rocks and Arakoon areas.

The South West Rocks area and Smoky range contain many landscapes that are important to the Aboriginal Community. There are burials, middens, a bora ring and scared trees recorded with 5km of the Saltwater property that forms a link from the River, the coast, the wetland and Smoky Range.

The NPWS strongly encourages new consultation with the Aboriginal community to build in the information contained in the SoEE.

### **Cumulative impacts on Hat Head National Park and Saltwater Lagoon**

The SoEE does not address the long term cumulative impact of the residential development on the conservation values within the E2 Zone, regional wildlife corridors, the riparian corridor, the SEPP wetland or Hat Head National Park.

The NPWS advises that there will be long term environmental impacts from gradual creep of urban area into the bushland interface such as:

- Encroachment from adjoining properties;
- Vegetation clearing associated with fire mitigation;
- Too frequent fire resulting in loss of plant species diversity;
- Construction of fire trails and access roads associated with bushfire control;
- Weed infestation (it should be noted that there is less than 2% weeds at present in the E2 and Hat Head National Park);
- Rubbish dumping and littering;
- Track creation from walkers, bicycles and trail bikes;

- Predation of wildlife from domestic cats and dogs; and
- Decrease in the water quality in Saltwater Lagoon and its tributary from urban surface water runoff.

In light of the issues raised above, the NPWS has determined that further studies, refinement and consultation are required before the development proposal can be considered further.

I thank you for the opportunity to provide comment on the proposal. Should you wish to discuss this submission please contact me at [russell.madeley@environment.nsw.gov.au](mailto:russell.madeley@environment.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Russell Madeley', with a stylized flourish at the end.

**RUSSELL MADELEY**  
**Macleay Area Manager**  
**National Parks and Wildlife Service**  
**Office of Environment and Heritage**  
**Department of Premier and Cabinet**





Office of  
Environment  
& Heritage

Your reference: D14/6381, T6-14-62, LA32884  
Our reference: DOC15/7294  
Contact: Dimitri Young 02 6659 87272

The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Attention: Ms Erin Fuller

Dear Mr Rawlings

**Re: DA T6-14-62, LOT 35 DP1167775, 32 Waianbar Ave, South West Rocks Staged Development  
Application – “Saltwater” Residential Subdivision – Stage 1 Comprising 29 Lots**

Thank you for your letter dated 7 January 2015 regarding the above proposal requesting comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

OEH has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service estate, flooding and estuary management. Matters relating to noise, air and water quality and any licensing requirements under the *Protection of the Environment Operations Act 1997* should be addressed separately to the Environment Protection Authority as that authority is now independent of OEH.

OEH has reviewed the documents supplied and advises that a number of issues are apparent with respect to general planning matters and the assessments for biodiversity, Aboriginal cultural heritage, acid sulphate soils and impacts to NPWS estate. These issues are discussed in detail in **Attachment 1**, which includes specific OEH recommendations.

In summary, the proposal should be designed to comply with relevant planning instruments and to protect the integrity and conservation values of the E2 zone and the adjoining national park. All direct and indirect biodiversity impacts should be avoided and mitigated to the greatest extent possible and remaining impacts offset.

An Aboriginal cultural heritage assessment of the project area should be conducted to inform the decision making process. Furthermore, the area suitable for development on the part of the land subject to the concept approval stage should be refined, to avoid and protect areas of high conservation and heritage value.

Should you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact me on telephone 02 6659 8722.

Yours sincerely

6 February 2015

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Region**  
**Regional Operations**





## **Attachment 1: Detailed OEH Comments – Saltwater Subdivision South West Rocks**

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### **General Planning Matters**

The proposal seeks a variation to the Kempsey Development Control Plan 2013 (DCP) to enable building works within 50m of the E2 zone boundary. OEH's review suggests that Council's consultants engaged to identify the E2 zone boundary at that time, determined the area of land with high conservation values that should be subject to the E2 zone. Council appears to have subsequently considered that a 50m setback to development from this E2 zone boundary was required to protect the integrity and conservation values of that land and this has been incorporated into the DCP.

Without the 50m buffer to the E2 zone boundary, indirect impacts of development such as clearing under the 10/50 Code, would impact the E2 zone. OEH recommends that the proposal be redesigned to comply with the Kempsey Development Control Plan 2013 regarding buffers to the E2 zone.

The development application seeks staged consent for subdivision of Stage 1 and for Concept Approval for the remainder of the site in accordance with a Concept Master Plan. OEH notes that there is limited information in the application regarding the constraints to development for the part of the site subject to the Concept Master Plan, which severely restricts the ability of OEH to assess this part of the proposal.

The information available indicates that parts of this land may be significantly constrained by threatened species. OEH recommends that prior to granting consent Council should require the applicant to refine the area suitable for development on the land subject to the concept approval stage to ensure that areas of high conservation and heritage value are avoided and suitably protected. This will necessitate the provision of additional information by the applicant.

### **Biodiversity**

As stated in the Statement of Environmental Effects (SEE), Stage 1 of the proposal involves the clearing of the whole Stage 1 site, which is approximately 3.24ha of modified native vegetation. This vegetation provides habitat or potential habitat for a range of threatened species. It also forms part of a mapped regional wildlife corridor.

As such, OEH recommends that a suitable biodiversity offset be provided in accordance with the 13 OEH Offset Principles (Attachment 2) to mitigate the loss of these values prior to any granting of approval. The BioBanking Assessment Methodology should be used to determine the offset required. OEH also recommends that offset planning would best be done for the whole "Saltwater Development Area" to ensure a sound outcome and provide greater certainty to all parties.

Commitments outlined in the Vegetation Management Plan need to be revised to use definitive language. For example, words such as "may" and "should" need to be replaced to make definitive statements.

The proposed "Environmental Conservation Area" within the Saltwater Development Area appears to refer to areas that are zoned E2. The stated primary purpose of these areas is not considered consistent with the stated 'secondary' purpose of providing areas for recreation by local residents. These areas are of high conservation value and should be managed accordingly to avoid gradual degradation through non-passive uses. All bushfire asset protection zones and infrastructure, including drainage structures, sewer infrastructure and recreational facilities such as bicycle paths, sports fields and pedestrian boardwalks, should be excluded from high conservation value areas, including the E2 zones.

Furthermore, the Stage 1 proposal has lots directly adjoining conservation areas. The proposal should be designed so that perimeter roads adjoin conservation areas instead of housing lot boundaries.



Reference is made to the potential for use of existing E2 zoned land near the Sewage Treatment Plant as “offset habitat” for the Wallum Froglet (p 24 of SEE). Use of existing E2 zoned lands as offsets is not considered appropriate as these areas are already dedicated for conservation purposes. As stated above, offsets should accord with the 13 OEH offset principles (Attachment 2).

In addition, it appears that this area is also being considered for development of sporting fields as part of the Saltwater Development Area. These two land uses are incompatible with one another and clarification should be sought as to what this land is intended to be used for. Sporting fields are not considered appropriate uses under E2 zoning provisions.

Assessment of the likely incidence of predation on native fauna by domestic cats associated with residences is considered by OEH to be underestimated. The flora and fauna report relies on a study on cat predation behaviour that was conducted in a very different environment, which features much lower densities of native fauna than what is expected at the subject site. In addition, the assumption that cat ownership rates at the subject site will be comparable to those in Canberra in 1997 is not validated. Therefore, OEH considers that native wildlife predation by cats is a much greater risk to threatened species such as Squirrel Glider, Brush-tailed Phascogale, Glossy Black-cockatoo, Wallum Froglet and threatened microbats than is estimated in the flora and fauna report.

The flora and fauna report recommends that signage be erected adjacent to threatened species habitat areas to remind residents to be responsible pet owners. OEH is of the view that this measure is unlikely to successfully mitigate predation by domestic animals. One approach for minimising this impact is to restrict the ownership of cats and dogs within new residential areas that adjoin habitats for high conservation value fauna. OEH recommends that Council considers the placing of a covenant under the *Conveyancing Act 1919* on the title of new lots prohibiting the keeping of domestic cats and dogs.

The effects of roads and vehicle movements on Wallum Froglet will be of critical importance in assessing impacts to this species that are likely to occur as a result of future stages of the development. Consideration should be given to the provision of appropriate mitigation to protect this species, such as frog exclusion fencing beside roads that traverse or are on the edge of known habitat areas. Well-designed frog exclusion fencing has been used successfully to reduce impacts on this species at other locations, such as within the Tugun Bypass.

### **Aboriginal Cultural Heritage**

OEH has reviewed the SEE with regard to Aboriginal cultural heritage issues. OEH notes that an Aboriginal Heritage Information Management System (AHIMS) search of the immediate project area indicates that no known sites exist within the project area. OEH further notes that an archaeological survey was conducted over the subject lands in 2004 which concluded that, based on historical disturbance levels and an absence of visible surface objects, that the likelihood of Aboriginal objects being present could be considered as very low.

OEH concurs that historical surface disturbance has occurred over the subject lands, but the depth of the disturbance within the subsurface soil profile is unclear. OEH notes that an AHIMS search over a three kilometre radius of the subject lands perimeter identifies over 60 registered Aboriginal sites. These include numerous burials, shell middens, artefact scatters/deposits and a number of other significant site types.

OEH further notes that the archaeological assessment referred to in the SEE is over ten years old. OEH advises that, as a general rule, any archaeological assessments that are over five years old are not considered adequate to inform the planning approval decision making process.

OEH considers that, given the high density of significant registered Aboriginal sites in the immediate landscape and the likelihood for taphonomic processes to have altered the surface expression of any Aboriginal objects within the subject lands, that an Aboriginal cultural heritage assessment of the project



area be conducted to inform the decision making process. This assessment should include consultation with the local Aboriginal community and a thorough archaeological survey of the subject lands. OEH also recommends consultation with the local Aboriginal community be conducted in such a manner as to ensure that any known cultural values relevant to the project are identified prior to any approval being granted.

### **NPWS Estate**

The proposal adjoins Hat Head National Park which raises significant issues for the park and the lagoon area arising from the proximity of the proposed housing. The required 50 metre buffer to the E2 zone referred to in the Kempsey Development Control Plan 2013 (DCP) is not evident in the proposed development plans. A vegetated buffer between the national park and the proposed housing that will not be encroached upon by any future asset protection zone clearing activities or infrastructure needs to be assured. OEH recommends that the E2 zone be fully vegetated to effectively mitigate potential impacts on the national park. Development should be sited 50m from the boundary of the E2 zone in accordance with the Kempsey Development Control Plan 2013 so that there is no impact on the E2 zone arising from bushfire asset protection zones or the 10/50 Code entitlement area.

The documentation provided to support the development proposal appears to be inconsistent with the environmental consultant's report that it references. Reliance in the documentation on dated mapping imagery fails to reflect the current environmental condition of the subject lands. OEH recommends that the SEE should be updated to reflect the current condition of the subject lands.

For example current observations reveal less than 2% weed growth throughout the entire subject land with very little disturbance evident. The heath has been slashed and there has been strong native vegetation regeneration. In 3-5 years the vegetation has the potential to be 90% recovered. Observations have been recently recorded of Wallum Froglets in the E2 area adjacent to the national park as well as an Osprey nest just within the park near the E2 area.

The amount of fill that will be required onsite to enable proposed development to address the wet nature of the subject land and the cumulative impacts of the proposed development on the SEP14 wetland area may have significant impacts on the hydrology of the park and wetland. OEH recommends that these matters be given further consideration and that appropriate impact mitigation is identified so that there is no net change to hydrology.

More detailed comments will be forwarded from the National Parks and Wildlife Service Macleay Area independently.

### **Acid Sulphate Soils**

OEH notes that a preliminary assessment of the site was undertaken pursuant to clause 7.1 of the Kempsey Local Environmental Plan (LEP) (p. 40). Soil testing was undertaken in January 2003, for the Local Environmental Study. Only six pits were excavated and from these, 17 samples were subject to the preliminary peroxide test. These returned generally negative results.

The subject site comprises an area of 65.53 ha (p. 4, 7). Although the 29 Stage 1 lots will be a fraction of that, this development proposal also provides for the overall Concept Master Plan for the residue of the site, including residential lots). The Acid Sulfate Soils (ASS) Assessment Guidelines state at p. 20 that at least two holes are required per hectare for sites > 4 ha. The present testing regime therefore falls well short of the guidelines. Neither are the locations from which the samples were obtained available within the SEE, nor the actual results themselves.



Nevertheless, the ASS Risk Maps indicate that the majority of the site is a Pleistocene sandplain, with a low risk for ASS. These sands are visible on aerial photographs. Experience elsewhere has consistently shown that Pleistocene sands are generally not sulfidic to an extent that would result in ASS impacts.

A preliminary assessment is intended not only to determine whether ASS are present on the site, but whether the works are likely to affect ASS if they are present (Assessment Guidelines p. 7). The site elevation plan for the revised concept Masterplan (p. 32) shows that Stage 1, as well as most of the future stages of the development are above RL 3.5 m AHD. The only exceptions are in the southern part of the area (within the environmental protection zone), where elevations are between 3 - 3.5 m AHD. It is also noted that the bulk of the site (including all areas zoned R2) is mapped as Class 4 on the ASS Planning Maps. This means that works more than 2 metres below the natural ground surface (or works by which the water table is likely to be lowered more than 2 metres below the natural ground surface) trigger the assessment provisions of cl. 7.1. At p. 40 of the SEE, it is noted that no works will be carried out more than 2 metres below the natural ground surface, nor works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.

OEH therefore agrees with Douglas Partners (p.4) that the majority of the site is mapped as having a low risk of ASS, and that if ASS are present in these areas they would be at a depth of greater than 3 m depth (excepting the southern environmental protection zone where there is a mapped high risk of ASS within 1 m of the ground surface).

Therefore, it is unlikely that the proposed development will disturb ASS, even if present. In the event that deep excavations (to < 1 m AHD) are proposed, OEH recommends that a preliminary ASS assessment is undertaken in accordance with the Assessment Guidelines [Ahern C R, Stone, Y, and Blunden B (1998). Acid Sulfate Soils Assessment Guidelines. Published by the Acid Sulfate Soil Management Advisory Committee, Wollongbar, NSW, Australia] to determine the presence of sulfidic material. If present, excavated materials should be mixed with agricultural lime and neutralised according to a default ratio of 150 kg/lime per 1 tonne of material.

## **OEH Recommendations**

On the basis of the comments above OEH recommends that prior to consent being granted:

1. The proposal should be redesigned to comply with the Kempsey Development Control Plan 2013 regarding buffers to the E2 zone.
2. The applicant should refine the area suitable for development on the part of the land subject to the concept approval stage, to ensure that areas of high conservation and heritage value are avoided and suitably protected.
3. The proposal should be redesigned so that all infrastructure, including drainage structures, sewer infrastructure and recreational facilities, such as bicycle paths, sports fields and pedestrian boardwalks, are excluded from the E2 zones and other areas of high conservation value.
4. Development should be sited so that there is no impact on the E2 zone arising from bushfire asset protection zones or the 10/50 Code entitlement area.
5. The proposal should be redesigned so that perimeter roads adjoin all conservation areas, including the E2 zone.
6. A suitable biodiversity offset should be provided in accordance with the 13 OEH Offset Principles (Attachment 2) to compensate for the loss of biodiversity values. The BioBanking Assessment Methodology should be used to determine the offset required, which should be secured in perpetuity.

7. Offset planning should be done for the whole “Saltwater Development Area” to ensure a sound outcome and provide greater certainty to all parties.
8. The Vegetation Management Plan should be revised to use definitive language.
9. Council should consider placing a covenant under the Conveyancing Act 1919 on the title of new lots prohibiting the keeping of domestic cats and dogs.
10. Appropriate mitigation to protect the Wallum Froglet should be incorporated into the proposal, such as frog exclusion fencing beside roads that traverse or are on the edge of known habitat areas.
11. An Aboriginal cultural heritage assessment of the project area should be conducted to inform the decision making process. This assessment should include consultation with the local Aboriginal community and a thorough archaeological survey of the subject lands. Consultation with the local Aboriginal community should be conducted in such a manner as to ensure that any known cultural values relevant to the project are identified.
12. The E2 zone should be fully revegetated to effectively mitigate potential impacts on the adjoining national park.
13. The Statement of Environmental, Effects should be updated to reflect the current condition of the subject lands.
14. Further consideration should be given to the impacts of filling the land and the cumulative impacts of the proposed development on the hydrology of the national park and wetland to identify appropriate impact mitigation so that there is no net change to hydrology.
15. In the event that deep excavations (to < 1 m AHD) are proposed, a preliminary Acid Sulfate Soils assessment is undertaken in accordance with the Acid Sulfate Soils Assessment Guidelines to determine the presence of sulfidic material. If present, excavated materials should be mixed with agricultural lime and neutralised according to a default ratio of 150 kg/lime per 1 tonne of material.





## **Attachment 2: OEH Principles for the use of Biodiversity Offsets in NSW**

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These principles have been developed by the Office of Environment and Heritage (OEH) to provide a useful framework when considering biodiversity impacts and appropriate offset requirements.

They are intended to be used for proposals other than those for state significant development (SSD) or state significant infrastructure (SSI). A Biodiversity Offsets Policy for Major Projects has been developed to deal with proposals for SSD and SSI.

### **1. Impacts must be avoided first by using prevention and mitigation measures.**

Offsets are then used to address the remaining impacts. This may include modifying the proposal to avoid an area of biodiversity value or putting in place measures to prevent offsite impacts.

### **2. All regulatory requirements must be met.**

Offsets cannot be used to satisfy approvals or assessments under other legislation, such as assessment requirements for Aboriginal heritage sites and for pollution or other environmental impacts (unless specifically provided for by legislation or additional approvals).

### **3. Offsets must never reward ongoing poor performance.**

Offset schemes should not encourage landholders to deliberately degrade or mismanage offset areas in order to increase the value from the offset.

### **4. Offsets will complement other government programs.**

A range of tools is required to achieve the NSW Government's conservation objectives, including the establishment and management of new national parks, nature reserves, state conservation areas and regional parks, and incentives for private landholders.

### **5. Offsets must be underpinned by sound ecological principles.**

They must:

- include the conservation of structure, function and compositional elements of biodiversity, including threatened species
- enhance biodiversity at a range of scales
- consider the conservation status of ecological communities
- ensure the long-term viability and functionality of biodiversity.

Biodiversity management actions, such as enhancement of existing habitat and securing and managing land of conservation value for biodiversity, can be suitable offsets. Reconstruction of ecological communities involves high risks and uncertainties for biodiversity outcomes and is generally less preferable than other management strategies, such as enhancing existing habitat.

### **6. Offsets should aim to result in a net improvement in biodiversity over time.**

Enhancement of biodiversity in offset areas should be equal to or greater than the loss in biodiversity from the impact site.

Setting aside areas for biodiversity conservation without additional management or increased security is generally not sufficient to offset the loss of biodiversity. Factors to consider include protection of existing

biodiversity (removal of threats), time-lag effects, and the uncertainties and risks associated with actions such as revegetation.

Offsets may include:

- enhancing habitat
- reconstructing habitat in strategic areas to link areas of conservation value
- increasing buffer zones around areas of conservation value
- removing threats by conservation agreements or reservation.

**7. Offsets must be enduring – they must offset the impact of the development for the period that the impact occurs.**

As impacts on biodiversity are likely to be permanent, the offset should also be permanent and secured by a conservation agreement or reservation and management for biodiversity. Where land is donated to a public authority or private conservation organisation and managed as a biodiversity offset, it should be accompanied by resources for its management. Offsetting should only proceed if an appropriate legal mechanism or instrument is used to secure the required actions.

**8. Offsets should be agreed prior to the impact occurring.**

Offsets should minimise ecological risks from time-lags. The feasibility and in-principle agreements to the necessary offset actions should be demonstrated prior to the approval of the impact. Legal commitments to the offset actions should be entered into prior to the commencement of works under approval.

**9. Offsets must be quantifiable – the impacts and benefits must be reliably estimated.**

Offsets should be based on quantitative assessment of the loss in biodiversity from the clearing or other development and the gain in biodiversity from the offset. The methodology must be based on the best available science, be reliable and used for calculating both the loss from the development and the gain from the offset. The methodology should include:

- the area of impact
- the types of ecological communities and habitat or species affected
- connectivity with other areas of habitat or corridors
- the condition of habitat
- the conservation status and/or scarcity or rarity of ecological communities
- management actions
- level of security afforded to the offset site.

The best available information or data should be used when assessing impacts of biodiversity loss and gains from offsets. Offsets will be of greater value where:

- they protect land with high conservation significance
- management actions have greater benefits for biodiversity
- the offset areas are not isolated or fragmented
- the management for biodiversity is in perpetuity, such as secured through a conservation agreement.

Management actions must be deliverable and enforceable.



#### **10. Offsets must be targeted.**

They must offset impacts on the basis of like-for-like or better conservation outcomes. Offsets should be targeted according to biodiversity priorities in the area, based on the conservation status of the ecological community, the presence of threatened species or their habitat, connectivity and the potential to enhance condition by management actions and the removal of threats.

Only ecological communities that are equal or greater in conservation status to the type of ecological community lost can be used for offsets. One type of environmental benefit cannot be traded for another: for example, biodiversity offsets may also result in improvements in water quality or salinity but these benefits do not reduce the biodiversity offset requirements.

#### **11. Offsets must be located appropriately.**

Wherever possible, offsets should be located in areas that have the same or similar ecological characteristics as the area affected by the development.

#### **12. Offsets must be supplementary.**

They must be beyond existing requirements and not already funded under another scheme. Areas that have received incentive funds cannot be used for offsets. Existing protected areas on private land cannot be used for offsets unless additional security or management actions are implemented. Areas already managed by the government, such as national parks, flora reserves and public open space, cannot be used as offsets.

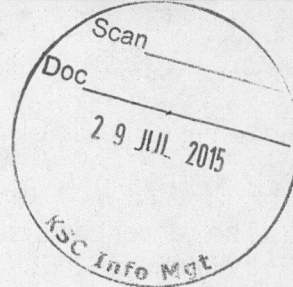
#### **13. Offsets and their actions must be enforceable through development consent conditions, licence conditions, conservation agreements or contracts.**

Offsets must be audited to ensure that the actions have been carried out, and monitored to determine that the actions are leading to positive biodiversity outcomes.





Office of  
Environment  
& Heritage



Your reference: DA T6-14-62  
Our reference: DOC15/238309  
Contact: Krister Waern 6640 2503

General Manager  
Kempsey Shire Council  
PO Box 3078  
West Kempsey NSW 2440

Attention: Ms Erin Fuller

Dear Mr Rawlings

**Re: DA T6-14-62, Lot 35 DP1167775, 32 Wainanbar Ave, South West Rocks Staged Development  
Application – “Saltwater” Residential Subdivision – Stage 1 Comprising 29 Lots**

Thank you for your letter dated 26 June 2015 about Stage 1 of the Saltwater Residential Subdivision requesting comments from the Office of Environment and Heritage (OEH) on the applicants' response to submissions. I appreciate the opportunity to provide input.

We have reviewed the response to submissions prepared by Geoff Smyth & Associates dated 19 June 2015. A number of issues are apparent with respect to the assessments for biodiversity and Aboriginal cultural heritage. These issues are discussed in detail in **Attachment 1** to this letter.

In summary the OEH recommends that:

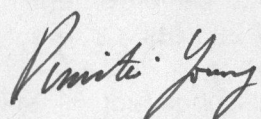
1. The consent authority should satisfy itself that the proposed development does not impact the vegetated areas referred to as the hind dune area adjacent to Phillip Drive in the north-east corner of the area of assessment or the existing forest along Saltwater lagoon as reflected in Recommendation 3 of the assessment undertaken by Myall Coast Archaeological Services.
2. The consent authority 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.
3. In determining the application the consent authority should consider the biodiversity impacts of stage 1 and all of the subject site which incorporates the concept plan footprint. These important biodiversity values need to be considered up front and should not be left for pending future subdivision applications.
4. The consent authority should ensure that it has enough information to be able to determine whether the proposal, including future stages as per the concept plan, is likely to have a significant effect on threatened species, populations, ecological communities, or their habitats. This may include obtaining further information and/or an expert opinion regarding the presence of the Wallum Froglet on the site, the habitat for the Wallum Froglet to be impacted by the proposal and the significance or otherwise of those impacts pursuant to section 5A of the *Environmental Planning and Assessment Act 1979*.



5. The consent authority should ensure that suitable buffers including perimeter roads are provided to the land zoned E2 to reduce the likelihood of indirect impacts on the biodiversity values of that land.
6. The consent authority should consider the applicants' response to submissions as incomplete as there has not been an adequate assessment of the total biodiversity impacts in relation to a suitable offset proposal.
7. An offset proposal should be prepared for the biodiversity impacts proposed by the development. The OEH recommends use of the BioBanking Assessment Methodology to identify 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 '*OEH principles for the use of biodiversity offsets in NSW*'. The OEH is willing to assist the consent authority in determining a suitable offset for the proposal to ensure biodiversity values are improved or maintained.

Should you require further information or clarification, or should Council be in possession of information that suggests OEH's statutory interests may be affected, please contact Mr Krister Waern, Senior Operations Officer, on 6640 2503.

Yours sincerely

 24 July 2015

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Region**  
**Regional Operations**

## **Attachment 1: Detailed OEH Comments – Response to Submissions –Saltwater Subdivision Stage 1**

### **Aboriginal cultural heritage comments**

The OEH has reviewed the response regarding the provision of an updated Aboriginal cultural heritage assessment to inform the proposal and provides the following comments for consideration.

An important component of the environmental assessment process undertaken in support of development proposals is the consideration of Aboriginal cultural heritage values. The importance of protecting Aboriginal cultural heritage is reflected in the provisions of the *National Parks and Wildlife Act 1974* (NPW Act).

The provision of an updated assessment is to provide clarity that the conclusions and recommendation documented in the previous archaeological assessment that was undertaken for a different purpose are still relevant to the current proposal.

The NPW Act clearly establishes that Aboriginal objects and places are protected and may not be damaged, defaced or disturbed without appropriate authorisation. Importantly, approvals under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act) do not absolve the proponent of their obligations under the NPW Act.

OEH supports all three recommendations documented in the assessment.

#### **Recommendation:**

- The consent authority should satisfy itself that the proposed development does not impact 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.
- 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.

### **Biodiversity comments**

The OEH has reviewed the further information response to submissions prepared by Geoff Smyth & Associates dated 19 June 2015, and the following points are provided for Council's consideration:

- OEH previously recommended that further survey work be undertaken to determine the habitat of the Wallum Froglet. The applicant has responded by indicating that the Connell Wagner survey in April 2004, being more than 12 year old data, should be sufficient for council to consider the significance of the proposed impacts. For Council to adequately assess the significance of the proposed impacts, either further surveys should be undertaken or Council should assume presence of the Wallum Froglet over of the subject site where there is suitable habitat for this species.

The information provided in relation to the habitat of the Wallum Froglet appears to be trying to categorise types of habitat as either, critical habitat, degraded habitat, or other terms such as foraging habitat. These terms are not helpful when determining the significance of the proposed impacts on this threatened species. OEH considers that all habitat needs to be considered. The OEH Threatened Species Assessment Guidelines (2007) do not differentiate types of habitat in the assessment of significance.



- In determining the application council should consider the biodiversity impacts of stage 1 and all of the subject site which incorporates the concept plan footprint. These important biodiversity values need to be considered up front and should not be left for pending future subdivision applications.
- The OEH acknowledges that the applicant now proposes to remove any infrastructure from the E2 Environmental Protection zones. However, we still have concerns that adequate buffers have not been incorporated into the proposed development to reduce the indirect impacts on the biodiversity values contained in the E2 zones.
- The ecological reports prepared for the site fail to discuss or evaluate an appropriate offset in relation to the impacts on biodiversity. The OEH notes that in response to our previous recommendation that a suitable offset be provided for the impacts to biodiversity, the applicant has stated, *"The flora and fauna assessment concluded that the loss of 3.24 ha of modified native vegetation would not be likely to have a significant impact and a Species Impact Statement is not required. There is no justification for a biodiversity offset in the circumstances."*

The OEH does not know how the applicant has reached the conclusion that no offset is justified. All impacts to biodiversity should be offset, regardless of whether it has been determined to be significant or not.

The beginnings of an offset has been offered by the applicant, with regard to the rehabilitation of part of an area that is currently degraded within the E2 zone and further Wallum Froglet habitat that can be provided within drainage lines and bioretention basins within the concept subdivision area.

The above proposed offset lacks detail and appears to be inadequate compared to the biodiversity impacts proposed. The OEH requires greater certainty that acceptable environmental outcomes will be achieved. We advocate that all impacts on biodiversity should be adequately offset in a transparent and repeatable manner.

The offset should accord with the 'OEH principles for the use of biodiversity offsets in NSW'. These principles have been developed by the OEH to provide the framework for considering biodiversity impacts and appropriate offset requirements and can be accessed at: <http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>

A suitable metric should be used to calculate the biodiversity values of the losses and gains associated with the proposal in a repeatable and transparent way. Without a suitable metric the offsetting discussion and negotiation will be arbitrary. We recommend use of the BioBanking Assessment Methodology to identify the type and quantum of offsets needed to compensate for the direct and indirect impacts of the proposal on biodiversity.

The OEH is willing to assist council in determining a suitable offset for the proposal to ensure biodiversity values are improved or maintained.

#### Recommendation:

- In determining the application council should consider the biodiversity impacts of stage 1 and all of the subject site which incorporates the concept plan footprint. These important biodiversity values need to be considered up front and should not be left for pending future subdivision applications,
- Council should ensure that it has enough information to be able to determine whether the proposal is likely to have a significant effect on 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 for the Wallum Froglet to be impacted by the proposal and the significance or otherwise of those impacts pursuant to section 5A of the *Environmental Planning and Assessment Act 1979*.

- 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.
- Council should consider the applicants' response to submissions as incomplete as there has not been an adequate assessment of the total biodiversity impacts in relation to a suitable offset proposal.
- An offset proposal should be prepared for the biodiversity impacts proposed by the development. OEH recommends use of the Biobanking Assessment Methodology to identify 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 *'OEH principles for the use of biodiversity offsets in NSW'*.



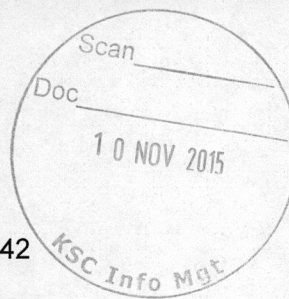
All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Telephone: 1300 NSW RFS  
e-mail: csc@rfs.nsw.gov.au

Headquarters  
Locked Bag 17  
Granville NSW 2142

Facsimile: 8741 5433



The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Your Ref: T6-14-62  
Our Ref: D14/0843  
DA14040191537 BS

**ATTENTION:** Erin Fuller

5 November 2015

Dear Ms Fuller

**Integrated Development for 32 Waianbar Avenue South West Rocks 2431**

I refer to your letter dated 15 September 2015 seeking general terms of approval for the above Integrated Development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000.

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

1. The proposed: subdivision, identified as Stages 1A and 1B, and Saltwater concept plan, have been assessed against information referred to the NSW RFS by Kempsey Shire Council dated 26/6/15 and 15/9/15.

The referred plans that this BFSA has been assessed against are identified as follows;

- Subdivision Plan prepared by de Groot and Benson, numbered DA-10, amendment No. DA5, dated 19 June 2015, and
- Concept plan titled "Bushfire Concept Plan", prepared by de Groot and Benson, further described as Project No. 13056, Drawing No. MP9, amendment No. DA5, dated 19/4/15.

The above referenced material is amended by the following listed conditions.

**Asset Protection Zones**

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



2. At the issue of subdivision certificate and then in perpetuity the entire property (both Stages 1A and 1B), but not including the residual lot, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

This requirement also applies to the Reserve (for WUSD purposes).

3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed lots: 14-16, and 21-24 within the subdivision, that prohibits the construction of buildings upon land that is within 21m of the E2 zone boundary, located generally to the East and South-east of the proposed lots, and as depicted on the plan prepared by de Groot and Benson titled "Stage 1 Concept Plan", Project No. 13056, Drawing No. DA-10, amendment No. DA5 and dated 19/6/15.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

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

### **Access**

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

5. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except for the following:
  - A perimeter road is not required for Stages 1A and 1B.
  - A temporary turning area is required to be provided at the Southern end of proposed Road 2, located upon Pt Lot 30. This temporary turning area may be removed when further road works associated with future subdivision stages are approved and constructed.

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

6. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006', except for the following:
  - The incomplete fire trail, created in Stage 1A (that does not yet link to road 3), shall include provision for turning (as detailed in 4.1.3 Access (3) Fire Trails of PBP 2006) and be located upon proposed lot 21.
  - The temporary turning area, required for Stage 1A, shall be removed upon completion of the fire trail in Stage 1B that completes the link to the Northern cul-de-sac (Road 3).

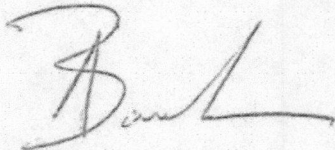
### **General Advice – consent authority to note**

- Hydrants are to be located to enable coverage in accordance with the requirements of Planning for Bushfire Protection 2006 (PBP 2006). In this regard the unobstructed separation between the street hydrant and the most distant part of a likely future dwelling is to be no greater than 70m.
- This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.
- This Bushfire Safety Authority has been assessed against the access provisions of Planning for Bushfire Protection 2006 (PBP 2006) acknowledging that the existing Waianbar Avenue will be compliant with the requirements of PBP 2006 as a "perimeter road".
- This Bushfire Safety Authority relates to Stages 1A and 1B only. Future stages will require separate assessment for compliance against Planning for Bushfire Protection 2006.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 25 August 2015.

For any queries regarding this correspondence please contact Bradford Sellings on 1300 NSW RFS.

Yours sincerely



Alan Bawden

**Team Leader - Development Assessment and Planning**

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



File No: NTH09/01551; CR2015/000092  
Your Ref: D14/6381; T6-14-62; LA32884; EF:KMP

The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Attention: Ms Erin Fuller – Town Planner

Dear Sir / Madam,

**Proposed Concept Plan for ‘Saltwater’ Staged 338 Lot Residential Subdivision and Stage 1 (29 Lot) Subdivision,**

I refer to your letter of 7 January 2015 regarding the abovementioned development application forwarded to Roads and Maritime Services for comment.

**Roles & Responsibilities**

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

Waianbar Avenue is an unclassified (local) road. Kempsey Shire Council is the ‘Roads Authority’ responsible for setting standards and determining priorities on this road and all other public roads in the locality. Council’s approval is required under Section 138 of the *Roads Act 1993* prior to works being undertaken on an unclassified public road.

In accordance with *State Environmental Planning Policy Infrastructure 2007* (ISEPP) Clause 104, Roads and Maritime is given the opportunity to review and provide comment on the subject development application as it meets the requirements under Schedule 3, Column 2 of the ISEPP.

**Roads and Maritime Response**

Roads and Maritime has reviewed the referred information and provides the following comments to assist Council in making a determination:

1. It is understood that the development application seeks concept design approval for a staged 338 lot residential subdivision with associated infrastructure and consent for Stage 1 of the subdivision to establish an initial 29 residential allotments with access to Phillip Street via Waianbar Avenue.

2. Strategic planning previously undertaken to inform the rezoning identified the need for a north-south link road to provide an additional network connection for this urban release area. This is supported by Roads and Maritime. An additional network connection will provide an alternate route for traffic reducing future demand and congestion on Gregory Street, which is a classified (Regional) road (MR460).
3. It is noted that a channelised right-turn (CHR) treatment is recommended on Phillip Drive at Waianbar Avenue. Regulatory devices on local and regional roads require the endorsement of Local Traffic Committee prior to Council approval.
4. Any intersection improvements should be consistent with the current Austroads Guidelines and be designed to accommodate the largest design vehicle requiring access to the subdivision.
5. Council should ensure the width of Waianbar Avenue is sufficient to accommodate two-way traffic flows generated by those stages of subdivision proposed prior to establishment of an alternative access point.
6. Appropriate pedestrian, cyclist and public transport links from the development to the surrounding network should be provided in accordance with Council's adopted strategies. Where gaps exist consideration should be given to appropriate measures to improve connectivity.

#### **Advice to the Consent Authority**

Upon determination of the application, it would be appreciated if Council could forward a copy of the Notice of Determination for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Matt Adams on 6640 1362 or via email at: [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au)

Yours faithfully



10 February 2015

Monica Sirol  
Network & Safety Manager, Northern Region

File No: NTH09/01551

Your Ref: D15/10440; D15/23521; T6-14-62; LA32884; EF:KMP

The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Attention: Ms Erin Fuller – Manager Development Assessment

Dear Sir / Madam,

**Additional Information for DA T6-14-62 'Saltwater' Staged 338 Lot Residential Subdivision of Lot 35 DP 1167775, 32 Waiianbar Ave, South West Rocks**

I refer to your letter of 26 June 2015 requesting comment from Roads and Maritime Services in relation to additional information submitted in support of the abovementioned development application.

**Roles & Responsibilities**

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

As the proposed subdivision is a Traffic Generating Development listed under schedule 3 of the *State Environmental Planning Policy Infrastructure 2007*, Roads and Maritime is given the opportunity to review the development application and provide comment to assist Council in making a determination.

**Roads and Maritime Response**

Roads and Maritime has reviewed the additional information and provides the following comments;

1. Roads and Maritime reiterates its support for the provision of a north-south link road within the development as stated in our previous response to Council of 10 February 2015. It is noted on page 5 of the submission that this response has not been acknowledged. The requested variation to Council's Development Control Plan requirement for a north-south link road within the development is not supported.
2. The following comments are provided in response to the Traffic Impact Assessment (TIA) of 19 June 2015;
  - The TIA does not provide a clear justification for the origin and destination of trips used to inform the traffic distribution.

**Roads & Maritime Services**

- 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'Conner 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.
3. Council may wish to request that additional sensitivity analysis be undertaken to demonstrate the likely network 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'Conner Street intersection. Additionally, further modelling of impacts on the Belle O'Conner St / Gregory St roundabout should be undertaken of this scenario.
4. 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'Conner Street and Arakoon Drive.

### **Advice to the Consent Authority**

Upon determination of the application, it would be appreciated if Council could forward a copy of the Notice of Determination for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Liz Smith, Manager Land Use Assessment on (02) 6640 1362 or via email at: [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au)

Yours faithfully



20 July 2015

for Monica Sirol  
Network & Safety Manager, Northern Region