

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-39
DA Number	RA20/1000
LGA	Shoalhaven City Council
Proposed Development	Residential subdivision to create 29 Torrens Title allotments, including 28 residential allotments, one (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park, associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services
Street Address	Beach Rd, BERRY - Lot 4 DP 834254
Applicant/Owner	Applicant: Allen Price & Scarratts Pty Ltd Owner: Enid Maude Hall
Date of DA lodgement	17 March 2020
Total number of Submissions Number of Unique Objections	145, with approx. 68 being unique
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Schedule 7 Clause 8 – Coastal subdivision The development involves the subdivision of land within the coastal zone for rural-residential purposes into more than 25 lots and is not in the metropolitan coastal zone.
List of all relevant s4.15(1)(a) matters	• Shoalhaven Local Environmental Plan 2014 • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy (Koala Habitat Protection) 2019 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy – (Coastal Management) 2018 • Shoalhaven Development Control Plan 2014 • No relevant planning agreement have been entered into under section 7.4 as part of this application, or any draft planning agreement that a developer has offered to enter into under section 7.4. A planning agreement (to secure the transfer of the southern part of the subject site that forms part of Coomonderry Swamp land to NPWS) negotiated with Heritage NSW (<i>formerly</i> NSW OEH) was exhibited with the Beach Road Planning Proposal (PP018) and has now been signed and registered on title. • The proposed development is not considered to be impacted by the provisions of the Coastal Zone Management Plan 2018, as the subject site is not located on the coastline. Further to this, no works are proposed within the proposed lot containing Coomonderry Swamp, being the area within the coastal zone.
List all documents submitted with this report	Attachment 1 - Section 4.15 Assessment Report Attachment 2 - Determination Document – Approval subject to conditions

for the Panel's consideration	Attachment 3 - Plans
Clause 4.6 requests	N/A
Summary of key submissions	The concerns raised in submissions particularly related to the following: • Out of character • Loss of rural amenity • Density of development and protection of ridge line and National Park • Vegetation removal and impacts • Insufficient area for effluent management and disposal • Inappropriate building envelopes • Site access • Lack of services and facilities The development is broadly consistent with the relevant EPIs and Council's DCP. The site is suitable for the development and is in the public interest.
Report prepared by	Andre Vernez, Acting Unit Manager - Development
Report date	2 December 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

Executive Summary

The subject site is located approximately 5km to the east of the Berry township and on the southern side of Beach Road. The land is legally identified as Lot 4 DP 834254 and is described as Beach Rd, Berry. The land is 74.85ha in area.

The site consists of open grassed land, native vegetation, a dwelling and ancillary structures. The northern portion of the site is undulating and used for dairy farming and grazing of beef cattle. The southern portion of the site contains part of the Coomonderry Swamp. A ridge extends across the centre of the site.

The site is identified as being partially bush fire prone land, being of aboriginal cultural heritage significance, and potentially contaminated land. This relates to the use of the site for agricultural purposes.

The Council is in receipt of a Development Application (RA20/1000) for Residential subdivision to create 29 Torrens Title allotments, including 28 residential allotments, one (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park, associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services.

The land is zoned R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and E3 Environmental Management under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014). Development for the purpose of “*Subdivision of land*” including associated “*Roads*” and “*Water supply systems*” is permissible with consent in the relevant zones. No works are proposed in the area zoned E1.

In accordance with clause 8 of Schedule 7 of SEPP (State and Regional Development) 2011, the development involves the subdivision of land within the coastal zone for rural-residential purposes into more than 25 lots and is not in the metropolitan coastal zone, and constitutes a regional development application under Schedule 7.

The Southern Regional Planning Panel is the determining authority for the application.

The development application has been assessed against the following relevant environmental planning instrument and demonstrates compliance with the relevant provisions:

- *Shoalhaven Local Environmental Plan 2014*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *State Environmental Planning Policy (Koala Habitat Protection) 2019*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy – (Coastal Management) 2018*

The application has been assessed against the following chapters of the Shoalhaven Development Control Plan 2014 (SDCP 2014):

- G2: Sustainable Stormwater Management and Erosion/Sediment Control
- G3: Landscaping Design Guidelines
- G4: Tree and Vegetation Management
- G5: Biodiversity Impact Assessment
- G7: Waste Minimisation and Management Controls

- G8: Onsite Sewage Management
- G11: Subdivision of Land
- N28: Berry - Beach Road

The development demonstrates general compliance with each chapter of SDCP 2014.

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. 145 submissions were received by Council either objecting to or raising concerns with the proposal. The application and plans were placed on exhibition from 15 April 2020 to 15 May 2020.

The site is suitable for the proposed development in its present form, taking into consideration the present design before Council.

Taking into consideration the above matters it is considered that the proposal is in the public interest.

The proposal is considered worthy of support. This report recommends that the application be approved in accordance with the reasons for approval attached to this report.

1. Detailed Proposal

The Development Application (DA) is seeking development consent for a residential subdivision comprising, 29 Torrens title allotments, including:

- Twenty-eight (28) residential allotments;
- One (1) residue lot containing Coomonderry Swamp, to be dedicated to the National Parks and Wildlife Service (NPWS) as an extension to the adjacent Seven Mile Beach National Park.

Note: A Voluntary Planning Agreement (VPA) has been negotiated with Heritage NSW (formerly NSW OEH) and was exhibited with the Beach Road Planning Proposal (PP018) which proposed the rezoning of the subject site to a mix of large lot residential and environmental protection zones along with the following:

- Apply no minimum lot size to part of the subject land to be zoned E1.
- Apply a 4ha minimum lot size to part of the subject land known as “Jim’s Forest”.
- Apply a 1ha minimum lot size to land north of the ridge line, excluding “Jim’s Forest”.
- Apply a 2ha minimum lot size to land between the ridge line and the E1 zone.
- Apply an Aboriginal Item listing to part of the site on the Heritage Map

The proposed changes to Shoalhaven Local Environmental Plan 2014 (SLEP 2014) were considered consistent with adjoining zones and the land’s environmental and cultural heritage values.

PP018 also proposed a new chapter (Chapter N28) to Shoalhaven Development Control Plan 2014 (SDCP 2014) to provide additional site-specific objectives and controls to ensure that buildings are located north of the ridgeline and that development is sympathetic again to the land’s environmental and cultural heritage values.

Council resolved to finalise PP018 in November 2019, but not to amend SLEP 2014 until the VPA between the landowner and the NSW Environment Minister (to secure the transfer of the southern part of the subject site that forms part of Coomonderry Swamp land to NPWS) had been executed. The VPA provides details of the land contribution the developer is offering to make in connection with the rezoning and change to the minimum lot size standard applying to the site.

The VPA has now been signed and registered on title. As such the LEP Amendment (No. 26) has now been finalised.

- Associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services.

In addition to the creation of the above, the proposal includes the following as indicated in the submitted Statement of Environmental Effects prepared by Allen Price and Scarratts Pty Limited dated 11 March, revised on 9 July and again 27 October 2020, page 8:

- *Remediation of areas of site contamination;*
- *Pruning of the dead and damaged Scarred Tree to a height of 3m to make the area safe for occupation by future residents;*
- *Landscaping and streetscaping;*
- *Retention of the existing dwelling within proposed Lot 2;*
- *Demolition of existing farm fencing;*
- *Demolition of existing farm dams in the non-perennial watercourse through the site;*
- *Demolition of ancillary structures across the site, however this demolition is not to be tied to the release of the Subdivision Certificate. Demolition of ancillary structures may occur following the sale of the individual lots.*

[illegible]

- The subject site consists of open grassed land, native vegetation, a dwelling and ancillary structures. The northern portion of the site is undulating and used for dairy farming and grazing of beef cattle.
- The southern portion of the site contains part of the Coomonderry Swamp. A ridge extends across the centre of the site.
- The subject site is zoned R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and E3 Environmental Management. (Refer to Figure 3 later in this report.)
- The subject site is 74.85ha in area.
- The subject site is identified as being partially bush fire prone land, being of aboriginal cultural heritage significance, and potentially contaminated land (being PCL468). This relates to the use of the site for agricultural purposes.
- The subject site has frontage to Beach Road.
- The subject site adjoins land zoned R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and RU1 Primary Production.

Figure 2 – Site location / aerial view



3. Background

Post-Lodgement

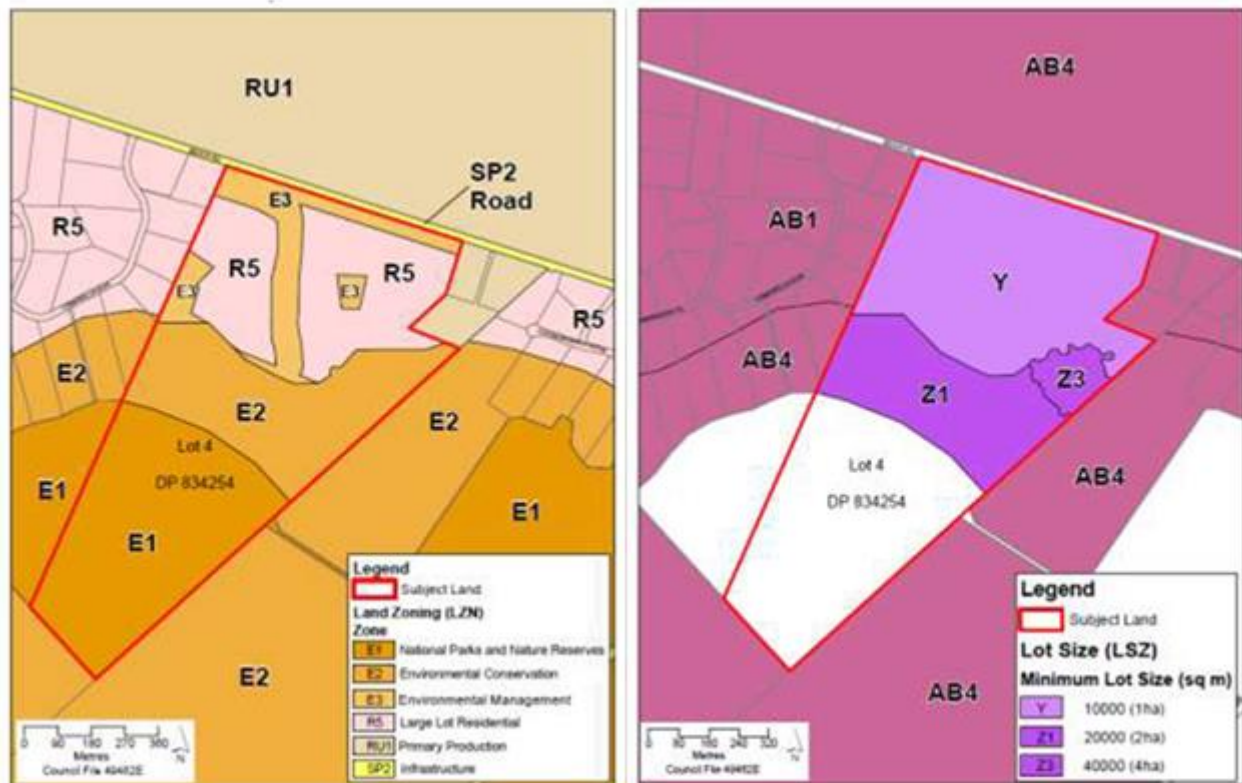
- Council amended the description of this application on 10 July 2020 from *“Residential subdivision to create 32 Torrens Title allotments, including 31 residential allotments; One (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park; Associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services”* to the following as per the applicant’s request dated 9 July 2020.

“Residential subdivision to create 29 Torrens Title allotments, including:

- *28 residential allotments;*
 - *One (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park;*
 - *Associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services.”*
- The site was inspected on 6 August 2020.
 - The applicant confirmed in email dated 7 August 2020 that the VPA pursuant to section 7.6, Environmental Planning and Assessment Act 1979 was registered on title.
 - Amendment No. 26 to Shoalhaven Local Environmental Plan 2014 was notified on the NSW Legislation website on 28 August 2020, formally concluding the Beach Road Planning Proposal (PP018). This enabled residential development and environmental protection for land at the subject site.

The following maps show the new zoning and minimum lot size overlay for the subject site.

Figure 3 – New zoning and minimum lot size extract mapping



NSW Department of Planning, Industry & Environment noted the following in their confirmation of support for Amendment No. 26 to Council dated 25 August 2020:

"I note that in reviewing this proposal the Southern Regional Planning Panel recommended there should not be any further consideration of rezoning proposals for rural residential development until Council has developed a rural residential strategy and has identified regionally important agricultural lands.

I strongly encourage Council to commit to the preparation of a rural lands strategy to provide a robust strategic approach to planning in rural areas of the Shoalhaven. The Department supports a strategic review of rural residential development in the Shoalhaven and requests Council to consider including appropriate actions in the Shoalhaven Local Strategic Planning Statement."

- Council amended the description of this application again on 4 September 2020 to the following as per the additional information submitted by the applicant and registered with Council on 4 September 2020.

"Residential subdivision to create 30 Torrens Title allotments, including:

- *28 residential allotments;*
- *One (1) drainage reserve lot;*
- *One (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park;*
- *Associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services."*
- Council amended the description of this application again on 5 November 2020 to the following as per the additional information submitted by the applicant and registered with Council on 4 November 2020.

“Residential subdivision to create 29 Torrens Title allotments, including:

- *28 residential allotments;*
- *One (1) residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park;*
- *Associated remediation, demolition, and landscaping works and the provision of roads, drainage, and services.”*

Site History and Previous Approvals

- DA84/1881 – Dwelling (Rural) – Approved: 12/06/1984

4. Consultation and Referrals

Internal Referrals			
Referral	Required	Recommendation	Comment
Subdivision Engineer	☒	No objections subject to recommended conditions of consent (dated 21/10/2020). Further to this, there was no objection to an additional condition of consent to require the wetland and inlet pond to be located within a drainage reserve to be dedicated to Council prior to the issue of the Subdivision Certificate (email dated 26/10/2020). It appears that this could be exempt (and not require consent) under clause 2.75(f), Subdivision 38, SEPP (Exempt and Complying Development Codes) 2008, being the “<i>excising from a lot land that is, or is intended to be, used for public purposes, including <u>drainage purposes</u>, rural fire brigade or other emergency service purposes or public toilets</i>”.	Conditions to be imposed with minor amendments, should the application be determined by approval. It is noted that referenced concept civil engineering plans (Revision P2) were superseded by revised plans (Revision P3) as a result of the drainage reserve lot (Lot 30) being combined with Lot 27.
Roads Asset Manager – Asset Management	☒	Refer to Traffic & Transport Unit response <u>below</u> .	Noted.
Traffic & Transport Unit	☒	No objections subject to recommended conditions of consent (dated 28/09/2020).	Conditions to be imposed with minor amendments, should the application be determined by approval. It is noted that there was incorrect reference to the required certificates and

			timing of approval of documentation. Further to this, any traffic control devices, signs and line marking, inclusive of those associated with any bus bays will require reporting to the Shoalhaven Traffic Committee.
Natural Resource & Floodplain Section	☒	No objections subject to recommended conditions of consent (dated 25/09/2020).	Conditions to be imposed with minor amendments (i.e. to ensure restrictions on the use of land are required at Subdivision Certificate stage), should the application be determined by approval. These restrictions go to the construction of dwellings being above the 1%AEP, and fences designed to free flow of water and engineering certification. Conditions are to reference road construction to be at or above 1%AEP as documented in applicant's documentation, and including the design of drainage culverts, flood free emergency access and flood free pedestrian access (referencing the 1%AEP). <i>Note: Annual exceedance probability (AEP) means the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage.</i>
Environmental Assessment Officer	☒	No objections subject to recommended conditions of consent (dated 13/11/2020 & 28/09/2020).	Conditions to be imposed with minor amendments (i.e. excepting conditions already recommended by the Subdivision Engineer and condition in relation to any building footprint and wastewater management area proposed within the catchment area for Coomonderry Swamp).

			These conditions include (but are not limited to) the preparation of a Vegetation Management Plan, and supervision of site works, fencing and animal management. The retirement of ecosystem credits is to be required prior to the commencement of any works.
Waste	☒	No objections subject to recommended conditions consent (dated 15/04/2020).	Conditions in relation to the submitted Waste Management Plan to be imposed, should the application be determined by approval. The conditions go to the issue of construction waste management.
Environmental Health Officer	☒	No objections subject to recommended conditions consent (dated 27/05/2020).	Conditions to be imposed, should the application be determined by approval.
Environmental Health Officer - SMF	☒	No objections subject to recommended conditions consent (dated 25/09/2020).	Conditions to be imposed with minor amendments, should the application be determined by approval. It is noted that the decommissioning of the existing unauthorised spring works is required prior to the issue of a Subdivision Certificate. Further to this, application for section 68 approval is not required until development of each lot. Each onsite sewage management system must be consistent with the recommendations of the Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020), with Appendix 1 – Groundwater Impact Assessment by Larry Cook Consulting Pty Ltd (Reference No. 17134-B, dated 08/03/2018); or an alternative wastewater report

			approved by Council in writing.
Landscape Architect	☒	Raised concern with submitted landscape plans (dated 17/08/2020). Further detail is required. The extent of clearing has been addressed on the submitted plans and by the submitted Biodiversity Development Assessment Report (BDAR).	Conditions to be imposed, should the application be determined by approval.

External Referrals			
Agency	Required	Recommendation	Comment
Rural Fire Service	☒	General Terms of Approval and Bush Fire Safety Authority (dated 12/11/2020) have been issued.	Conditions to be imposed, should the application be determined by approval.
Endeavour Energy	☒	No objections subject to recommendations and comments in advice dated 16/04/2020.	Noted. The applicant is to consider these recommendations and comments as part of the design of the development, relating to network capacity/connection, bush fire, flooding and drainage (as requested in Council's email dated 28/05/2020). A condition can be imposed, requiring the provision of electricity and street lighting to service allotments in the subdivision in accordance with the requirements of Endeavour Energy prior to the issue of a Subdivision Certificate (should the application be determined by approval).
Heritage NSW (formerly NSW OEH)	☒	General Terms of Approval (dated 21/08/2020) have been issued. It was also recommended that should this application be approved; Council include a note on the section 88B Instrument for Lot 14 (that contains site 52-5-	Conditions to be imposed, should the application be determined by approval.

		0886) stating that this site must not be harmed. Heritage NSW clarified by email dated 25/11/2020 that this should refer to Lot 11 instead of Lot 14 as it contains site 52-5-0886. The lot numbering has been revised.	
Local Aboriginal Land Council – Nowra	☒	No response received.	Noted.

5. Other Approvals

Integrated Approvals and Concurrences			
Agency	Required	Recommendation	Comment
Rural Fire Service	☒	General Terms of Approval and Bush Fire Safety Authority (dated 12/11/2020) have been issued.	Conditions to be imposed, should the application be determined by approval.
Heritage NSW (formerly NSW OEH)	☒	General Terms of Approval (dated 21/08/2020) have been issued.	Conditions to be imposed, should the application be determined by approval.

6. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	☒	State Environmental Planning Policy (State and Regional Development) 2011	☒
State Environmental Planning Policy – (Coastal Management) 2018	☒	State Environmental Planning Policy (Infrastructure) 2007	☒
State Environmental Planning Policy No 55 - Remediation of Land	☒	State Environmental Planning Policy (Koala Habitat Protection) 2019	☒

Additional information on the proposal's compliance with the above planning instruments is detailed below in Section 7 (Statement of Compliance/Assessment) of this report.

7. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under Section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental Planning and Assessment Act 1979

Section 4.46 – Integrated Development			
Act	Provision	Approval	Relevant
National Parks and Wildlife Act 1974	S90	grant of Aboriginal heritage impact permit	☒
Rural Fires Act 1997	100B	authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	☒

i) Environmental planning instrument

SEPP (State and Regional Development) 2011

The proposal is regionally significant development as satisfying the criteria of clause 8 of Schedule 7 of this Policy. It involves the subdivision of land within the coastal zone for rural-residential purposes into more than 25 lots and is not in the metropolitan coastal zone. This is the trigger for consideration by a Regional Planning Panel.

SEPP (Coastal Management) 2018

The subject site is identified as “coastal wetlands” and “proximity area for coastal wetlands” (being within the proposed lot containing Coomonderry Swamp) and the provisions of clause 10 and 11 have been considered.

The provisions of clause 10 relate to development on certain land within coastal wetlands and littoral rainforests area. No works are proposed in this area of the site nor development for which consent is required by clause 10(1).

In relation to the provisions of clause 11, which relate to development on land in proximity to coastal wetlands or littoral rainforest, again no works are proposed in this area of the site and in accordance with clause 11(1) Council is satisfied that the development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the coastal wetland.

This conclusion, i.e. that the impacts will not adversely impact the environment, is drawn as a result of the referral responses which have assessed expert reports and recommended conditions of development consent. Conditions can be imposed to ensure that impacts are properly managed and mitigated.

SEPP (Infrastructure) 2007

Pursuant to clause 45(1)(b)(iii) of this Policy, as development is to be carried out within 5m of an exposed overhead electricity power line, written notice was required to Endeavour Energy as the electricity supply authority for the area in which the development is to be carried out. Council must take into consideration any response to this notice.

The application was referred to Endeavour Energy on 06/04/2020 for comment.

A response was provided (as detailed under the 'Referrals' section of this report) and has been considered.

Endeavour Energy confirmed that there are:

- No easements over the site benefitting Endeavour Energy.
- From Campbells Run there is an easement over Lot 18 DP 1046162 (known as 15B Campbells Run, Berry) for low voltage underground cables which continues to an underground to overhead (UGOH) customer owned pole on the site from which an extended low voltage overhead service conductor goes to another customer owned pole and then to the customer connection point for the existing dwelling on the site.
- 11,000 volt/11 kilovolt (kV) high voltage overhead power lines to the opposite side of Beach Road.

The applicant is to consider the recommendations and comments provided by Endeavour Energy as part of the design of the development, relating to network capacity/connection, bush fire, flooding and drainage (as requested in Council's email dated 28/05/2020).

A condition can be imposed, requiring the provision of electricity and street lighting to service allotments in the subdivision in accordance with the requirements of Endeavour Energy prior to the issue of a Subdivision Certificate (should the application be determined by approval).

SEPP 55 Remediation of Land

Question	Yes		No	
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	X	Proceed to Question 3		Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3		Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: ▪ Child care facility ▪ Educational use ▪ Recreational use ▪ Health care use ▪ Place of public worship ▪ Residential use in a commercial or industrial zone		Proceed to Question 5	X	Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	X	Proceed to Question 5		Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	X	Request contaminated site assessment		Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 6 August 2020, with there being no evidence of obvious contamination. However, it is apparent that there is potential for contamination from agricultural uses on this site.

Council's Environmental Health Officer reviewed the submitted Stage 2 Detailed Contamination Assessment in conjunction with the Stage 1 Contamination Assessment, revealing the requirement for remediation works to be undertaken for a number of sites affected by contamination, namely TRH, Zinc and evidence of hydrocarbon staining.

The submitted Remediation Action Plan outlines how the site will be remediated for the site to be made suitable for the proposed development.

No objections were raised with this subject to the Environmental Health Officer's recommended conditions of consent (dated 27/05/2020). Conditions include, but are not limited to ensuring the recommendations in the RAP are followed and implemented.

In accordance with the provisions of clause 7, Council is satisfied that the site will be remediated before it is used for the purpose for which the development is proposed to be carried out.

SEPP (Koala Habitat Protection) 2019

This Policy is required to be addressed for this development as it occurs on a site that has an area of more than 1ha and is within a local government area listed in Schedule 1.

There is no approved Koala Plan of Management applicable to the subject site.

In accordance with section 3.1 of the Koala Habitat Protection Guideline by NSW Department of Planning, Industry & Environment (dated October 2020), the submitted addendum report to the Biodiversity Development Assessment has identified the proposed development as a Tier 1 development meaning that it will have low or no impact on koalas or koala habitat.

Developments that trigger the Biodiversity Offset Scheme threshold are permitted to be a Tier 1 development if Council agrees the proposed development will have low or no impact on koalas or koala habitat on a case by case basis.

The report states that the site contains highly suitable koala habitat due to the presence of a large number of koala feed trees that are listed in Schedule 2 of the Policy but there is not likely to be a local population of koalas as there is only a single recent record within the locality of the site.

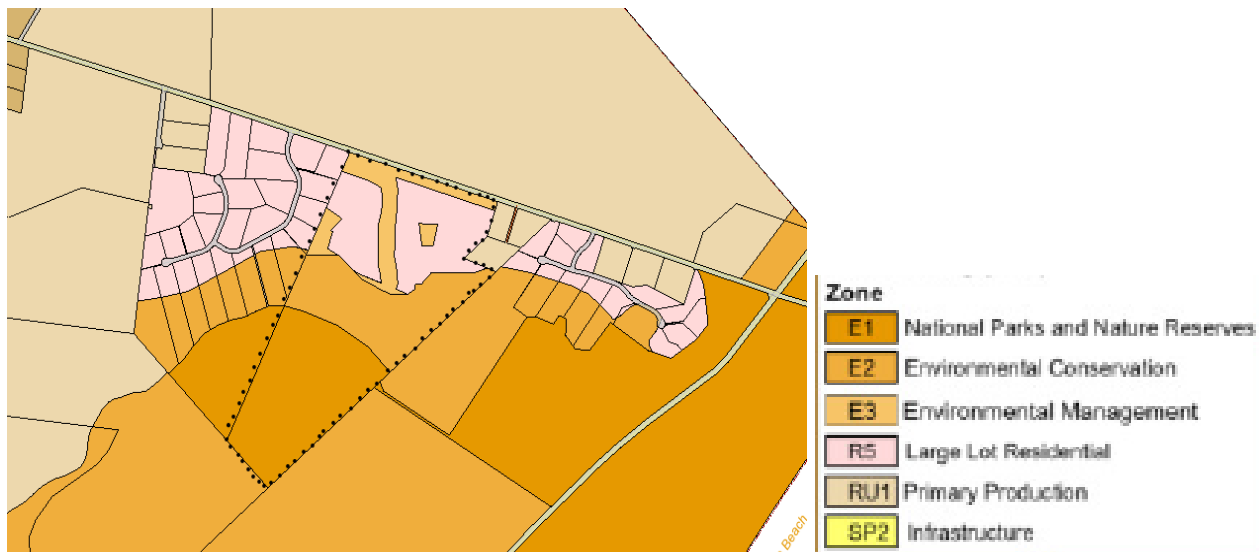
Accordingly, no objections were raised subject to the Environmental Assessment Officer's recommended condition of consent (dated 13/11/2020). In accordance with the provisions of clause 9, Council is satisfied that the proposed development meets the criteria of Tier 1 and will have low or no impacts to koalas, due to the absence of a local population. The application does not require any further surveys or reports with regards to koala impact assessment.

Shoalhaven LEP 2014

Land Zoning

The land is zoned R5 Large Lot Residential, E1 National Parks and Nature Reserves, E2 Environmental Conservation, and E3 Environmental Management under the SLEP 2014.

Figure 4 – Zoning extract map, SLEP 2014
(For a detailed description of the zones, refer to the following explanation)



Characterisation and Permissibility

The proposal is best characterised as *Subdivision of land* including associated *Roads and Water supply systems* under the SLEP 2014.

The proposal is permitted within the relevant zones with the consent of Council. No works are proposed in the area zoned E1.

R5 Zone objectives

Objective	Comment
• To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.	Satisfies the nominated objective.
• To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.	Satisfies the nominated objective.
• To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.	Satisfies the nominated objective.
• To minimise conflict between land uses within this zone and land uses within adjoining zones.	Satisfies the nominated objective.

E3 Zone objectives

Objective	Comment
• To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.	Satisfies the nominated objective.

• <i>To provide for a limited range of development that does not have an adverse effect on those values.</i>	Satisfies the nominated objective.
• <i>To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.</i>	Satisfies the nominated objective.
• <i>To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.</i>	Satisfies the nominated objective.

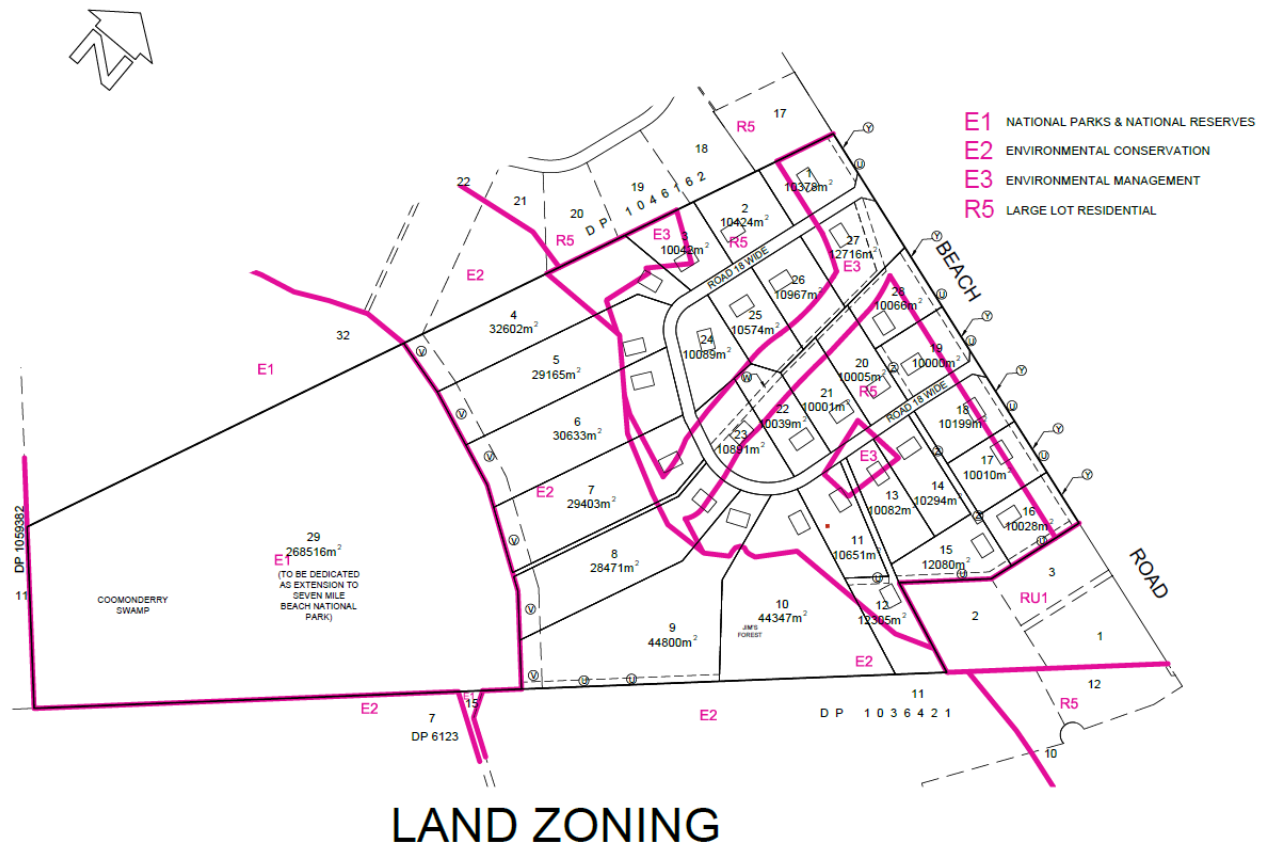
E2 Zone objectives

Objective	Comment
• <i>To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.</i>	Satisfies the nominated objective.
• <i>To prevent development that could destroy, damage or otherwise have an adverse effect on those values.</i>	Satisfies the nominated objective.
• <i>To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.</i>	Satisfies the nominated objective.
• <i>To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.</i>	Satisfies the nominated objective.
• <i>To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.</i>	Satisfies the nominated objective.

E1 Zone objectives

Objective	Comment
• <i>To enable the management and appropriate use of land that is reserved under the National Parks and Wildlife Act 1974 or that is acquired under Part 11 of that Act.</i>	Satisfies the nominated objective.
• <i>To enable uses authorised under the National Parks and Wildlife Act 1974.</i>	Satisfies the nominated objective.
• <i>To identify land that is to be reserved under the National Parks and Wildlife Act 1974 and to protect the environmental significance of that land.</i>	Satisfies the nominated objective.

Figure 5 – Plan of subdivision relative to the zone boundaries



SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/ Consistent
Part 2 Permitted or prohibited development			
2.6	☒	<u>Subdivision – consent requirements</u> Consent sought as part of this application. Torrens Title subdivision proposed.	Yes
2.7	☒	<u>Demolition requires development consent</u> Consent sought as part of this application. Existing ancillary structures and farm fencing are to be demolished.	Yes
Part 4 Principal development standards			
4.1	☒	<u>Minimum subdivision lot size</u> Satisfied. All proposed allotments meet the minimum lot size. It is noted that the site was the subject of a recently notified Planning Proposal (PP018/Amendment No. 26). In relation to this matter, the Amendment sought to apply a 1ha minimum lot size to the north of the ridge and 2ha to the south of the ridge, the latter to “ensure the subdivision responds to the site constraints and environmental values,	Yes

and to ensure that the resulting lots that extend onto the southern side of the ridge have an appropriate width and a development area outside of the catchment of the Coomonderry Swamp catchment”.

This clause applies to the subdivision of any land shown on the Lot Size Map and provides that the size of any lot resulting from such a subdivision is not to be less than the minimum lot size shown on the Lot Size Map in relation to that land. The construction of this clause is based upon the area of the resulting lot, not the area associated with each minimum lot size within the resulting lot.

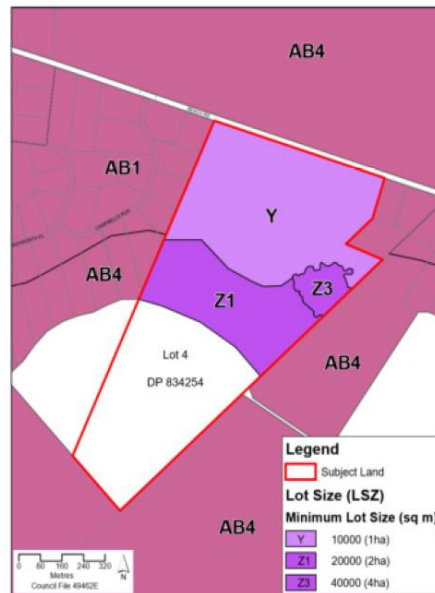


Figure 6 – Lots Size Map

Where there is more than one minimum lot size shown on the Lot Size Map for a given lot, the lot must contain sufficient area to satisfy each relevant minimum lot size specified for that lot. If a resulting lot has two (2) minimum lot sizes, the resulting lot must be greater than the larger lot size area.

Lots 1-3 and 11-28 comply with the minimum lot size requirement of 1ha.

Lots 4-9 comply with the larger minimum lot size requirement of 2ha.

Lot 10 complies with the larger minimum lot size requirement of 4ha.

No minimum lot size requirement applies to Lot 29.

4.2B



Subdivision of certain land in Zone RU1, Zone RU2, Zone RU4, Zone R5 and Zone E4

Although the subject site is identified as prime crop and pasture land, it is not specifically identified as a “Locality” on

N/A

		the Lot Size Map, as listed under subclause (3), and therefore the provisions of this clause are not applicable.	
Part 5 Miscellaneous provisions			
5.10	☒	<u>Heritage conservation</u> The subject site is identified as being of aboriginal cultural heritage significance. The provisions of subclause (8) have been considered. Heritage NSW noted that harm to Aboriginal objects will occur through this development, which includes harm to the culturally modified (scarred) tree (recently fire damaged by a lightning strike) at site 52-5-0886 and harm to the subsurface stone artefact scatter at site 52-5-0949. The following has also been noted: ▪ <i>In the submitted Statement of Environmental Effects, Site 52-5-0886 (scarred tree) is proposed to be retained within private land on Lot 14.</i> ▪ <i>The applicant intends to trim the scarred tree at site 52-5-0886 to 3m in height and to retain a 3m diameter buffer around the tree.</i> ▪ <i>Site 52-5-0949 consists of 11 stone artefacts recovered from nine of the 40 excavated test pits (AMBS 2018, p.27).</i> ▪ <i>It appears that some building envelopes, proposed effluent disposal areas and Driveway 02 will impact the mapped extent of site 52-5-0949 (as per AMBS 2020, p.35 and the 'Plans – Bulk Earthworks' and 'Revised Plans – Proposed Subdivision Sheet 1' provided with the referral).</i> General Terms of Approval have been issued by Heritage NSW, regarding the requirement for an Aboriginal Heritage Impact Permit (AHIP). The Terms of Approval include the requirement for an Aboriginal Heritage Management Plan (AHMP) to be prepared to detail how site 52-5-0886 will be protected and managed both during construction and by any future landowners. It was also recommended that should this application be approved; Council include a note on the section 88B Instrument for Lot 14 (that contains site 52-5-0886) stating that this site must not be harmed. Heritage NSW clarified by email dated 25/11/2020 that this should refer to Lot 11 instead of Lot 14 as it contains site 52-5-0886. The lot numbering has been revised. It is noted that the Nowra Aboriginal Land Council was also notified of this application, with no response received.	Yes

		In addition to the above and to deal with potential unexpected finding, conditions are also recommended to ensure that any other aboriginal archaeological finds are properly considered and managed.	
5.16	☒	<u>Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones</u> This clause is intended to minimise conflict between existing and proposed development. In this regard the existing uses, impacts and compatibility of development need to be considered, including any measures to mitigate impacts. The existing and approved uses of land in the vicinity of the development have been considered and the development is unlikely to have a significant impact nor incompatible, subject to recommended conditions of consent. The type of development is similar to the rural residential uses in the locality. The environmental zoning and ultimate protection of this land by coming into public ownership will ensure that those areas with higher environmental attributes will be protected.	Yes
Part 7 Additional local provision			
7.1	☒	<u>Acid sulfate soils</u> The subject site is identified as Class 2 (being area of residue lot containing Coomonderry Swamp) and 5 land with works only proposed on the Class 5 land. The works proposed to facilitate the development are not likely to lower the watertable. Acid sulfate soils management plan not required.	Yes
7.2	☒	<u>Earthworks</u> The provisions of subclause (3) have been considered. The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent. Conditions referencing the “Blue Book” have been recommended. This is the key resource for managing soil, erosion and water.	Yes
7.5	☒	<u>Terrestrial biodiversity</u> This clause is intended to protect flora, fauna and ecological processes whilst encouraging conservation. The subject site is identified as “Biodiversity – habitat corridor” and “Biodiversity – significant vegetation” on the Terrestrial Biodiversity Map. Following consideration of the provisions of subclause (3), the proposal is unlikely to have any adverse impact, subject to recommended conditions of consent.	Yes

		The objectives of the clause are achieved as the land mapped biodiversity will be dedicated to the National Park. The Forest area is to be retained. Accordingly, the proposal is designed, sited and will be managed to avoid any significant adverse environmental impact.	
7.6	☒	<u>Riparian land and watercourses</u> The subject site is identified as “Riparian Land” (being area of residue lot containing Coomonderry Swamp). This portion of the site is to be dedicated to the National Park. The development is to be sited and will be managed to avoid any significant adverse environmental impact on this land.	Yes
7.11	☒	<u>Essential services</u> Services are available.	Yes

ii) Draft Environmental Planning Instrument

None relevant.

iii) Any Development Control Plan (DCP)

Shoalhaven DCP 2014

Generic Chapters	Relevant
<u>G2: Sustainable Stormwater Management and Erosion/Sediment Control</u>	☒
The provisions of this chapter are intended to manage stormwater, enhance natural areas, mitigate impacts, minimise erosion and good stormwater design. The submitted Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020) and revised design plans have been assessed and found to be satisfactory. The proposed WSUD strategy comprising of rainwater tanks for all residential dwellings, roadside swales for the internal access road and an end-of-pipe stormwater treatment system that comprises a trash rack and constructed wetland is supported by Council. The applicant has identified difficulties achieving the 45% TN pollutant reduction target from the site. This is expected to be occurring as a result of the relatively low area of impervious surfaces for this rural residential development. Whilst only a 42% TN pollutant reduction has been achieved, the MUSIC modelling has demonstrated that the post-development TN load is much lower than the pre-development TN load. This slightly lower TN pollutant reduction is therefore acceptable for this development. The inclusion of an easement over the drainage line (passing through proposed Lots 1, 7-8, 20-23, 25-28 and 30) is supported as this is required to create a legal point of discharge for both public and private stormwater runoff. It is however noted that Lot 24 needs an easement from the	

north-east corner to the easement over the main drainage line. Council's Subdivision Engineer has reviewed the location or drainage easements and provided recommended conditions. The proposed development complies with the provisions of this chapter and Chapter N28. Conditions have been recommended, should the application be determined by approval.	
G3: Landscaping Design Guidelines	☒
The provisions of this chapter are intended to enhance a locality, minimise vegetation removal and restore urban canopy where appropriate. Professional plans prepared by a landscape architect were provided with the application. The provisions of this chapter have been considered. Council's Landscape Architect raised some concerns with the submitted landscape plans. However, the concerns can be addressed in an amended plan and it is not unreasonable to impose a condition to this effect. It is noted that the extent of clearing has been addressed on the submitted plans and by the submitted Biodiversity Development Assessment Report (BDAR).	
G4: Tree and Vegetation Management	☒
The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed.	
G5: Biodiversity Impact Assessment	☒
The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed. The submitted BDAR by Niche Environment and Heritage Pty Ltd (Project No. 5595, dated 03/09/2020) and Addendum by Niche Environment and Heritage Pty Ltd (dated 29/10/2020) have been assessed and found to be satisfactory. The subdivision plan confirms hollow bearing trees to be retained and removed. The location of the proposed dwelling footprint on Lot 10 would result in the removal of a hollow bearing tree. The footprint is to be moved further to the south-west to avoid impacts to this tree. Conditions have been recommended to address this and to ensure the development avoids or minimises impact on the environment, should the application be determined by approval.	
G7: Waste Minimisation and Management Controls	☒
The provisions of this chapter have been considered and Council's Waste Services has raised no objections subject to conditions of consent being imposed.	
G8: Onsite Sewage Management	☒
The provisions of this chapter have been considered and Council's Environmental Health Officer – SMF has raised no objections subject to conditions of consent being imposed. The submitted wastewater report, Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020), with Appendix 1 – Groundwater	

Impact Assessment by Larry Cook Consulting Pty Ltd (Reference No. 17134-B, dated 08/03/2018), have been assessed and found to be satisfactory.	
The site and soil evaluation has been undertaken in regard to all the relevant aspects of AS/NZS 1547:2012 and NSW DLG (1998).	
Conditions have been recommended, should the application be determined by approval.	
G11: Subdivision of Land	☒
The development generally complies with the provisions of this chapter (refer to Appendix A). Conditions are recommended to ensure compliance with Council's standards including supervision of filling and geotechnical testing. Lot classifications will need to be provided for all lots as per AS2870 to determine suitability for residential development. The drainage berms/depressions have not been addressed. A condition is recommended to ensure lots are free draining and clear of any artificial features that may divert or concentrate the flow of stormwater. The ambiguity between the submitted Statement of Environmental Effects and concept engineering plans with respect to the retention of outbuildings on Lot 3 has not been addressed. This is to be conditioned to ensure these structures are removed with the land remediated prior to the issue of a Subdivision Certificate. In relation to the proposed roads and site access, the bus stops have been amended to provide sufficient verge width for pedestrians behind the bus stops. The proposal is considered acceptable. Hardstand areas in accordance with the DSAPT will be required would be conditioned. The Beach Road intersections have also been amended in line with Council's Traffic & Transport Unit recommendations. Width/pavement requirements for the proposed right of way driveways is to be conditioned.	
Area Specific Chapters	Relevant
N28: Berry - Beach Road	☒
The development generally complies with the provisions of this chapter (refer to Appendix B).	

iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Nil with this application.

The VPA negotiated with Heritage NSW (*formerly* NSW OEH) and exhibited with the Beach Road Planning Proposal (PP018) has been signed and registered on title.

iv) Environmental Planning and Assessment Regulation 2000

	Clause	Comment
92 What additional matters must a consent authority take into consideration in determining a development application?		
1.	For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as	

	matters to be taken into consideration by a consent authority in determining a development application: (a) (Repealed) (b) in the case of a development application for the demolition of a building, the provisions of AS 2601, (c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.	(a) Noted. (b) Considered. Condition recommended. (c) Not applicable.
2.	In this clause: AS 2601 means the document entitled Australian Standard AS 2601—1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993. Government Coastal Policy means the publication entitled NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast, as published by the Government (and including any maps accompanying that publication and any amendments to those maps that are publicly notified), a copy of which may be inspected during ordinary office hours: (a) at any of the offices of the Department, or (b) at the offices of any of the councils of the local government areas listed in the Table to this clause	Noted. Subject to condition of consent.
98A Erection of signs		
1.	For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.	Noted. Subject to conditions of consent.
2.	A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: (a) showing the name, address, and telephone number of the principal certifying authority for the work, and (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and	Subject to condition of consent.

	(c) stating that unauthorised entry to the work site is prohibited.	
3.	Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.	Subject to condition of consent.

v) Any [coastal zone management plan](#)

The Coastal Zone Management Plan 2018 was adopted in October 2018. The Plan covers the Shoalhaven open coastline (including Jervis Bay).

Key strategies and action plans within the Plan include:

- *Regulating development in the coastal zone to ensure minimal environmental disturbance and long-term resident safety*
- *Ensuring a balance between beach stability and maintaining user amenity*
- *Providing mechanisms for management and risk mitigation for public and private assets in the coastal zone*
- *Ensuring the Shoalhaven coastline continues to be a valued natural asset for the broader community.*

The proposed development is not considered to be impacted by the provisions of this Plan, as the subject site is not located on the coastline. Further to this, no works are proposed within the proposed lot containing Coomonderry Swamp, being the area within the coastal zone.

Council Policies

Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as a Subdivision development for the purpose of calculating contributions under the Plan. Contributions are to be subject to a recommended condition of consent and payment required prior to the issue of a Subdivision Certificate.

It is noted that Lot 29 (residue lot containing Coomonderry Swamp to be dedicated as an extension to the adjacent Seven Mile Beach National Park) is not considered a “residential subdivision lot” and would not have dwelling entitlement. Therefore, this lot has not been included in this calculation.

Developer Contributions - Internet Explorer

Section 94 ET Calculations - RA20/1000 (UPN: 84352)

Close Reset Print Return Calc

☒ Residential ☐ Non-Residential

Calculation Type: Subdivision

Subdivision

Proposed: 28 Lots

Existing: 1 Lots

Total ETs: 27

NOTE:
Prior to the issue of development consent which requires contributions in accordance with this Plan, credit of the respective ETs or m2 is given to recognise the original approved land use of the development site (i.e. dwelling / building / subdivision).

Project	Description	Rate	Qty	Total	GST	GST Incl
01AREC0009	Planning Area 1 recreational facilities upgrades various locations	\$745.30	27	\$20,123.10	\$0.00	\$20,123.10
01AREC2006	Northern Shoalhaven Sports Stadium	\$582.03	27	\$15,714.81	\$0.00	\$15,714.81
01AREC3007	Nowra Swimming Pool Expansion	\$414.31	27	\$11,186.37	\$0.00	\$11,186.37
01CFAC2012	Nowra District Integrated Youth Services Centre	\$33.16	27	\$895.32	\$0.00	\$895.32
01ROAD3007	Beach (Tannery) Road - Strengthen Pavement & Bridge	\$7,148.51	27	\$193,009.77	\$0.00	\$193,009.77
CWAREC0005	Shoalhaven Community and Recreational Precinct SCaRP Cambewarra Road Bomaderry	\$2,522.83	27	\$68,116.41	\$0.00	\$68,116.41
CWCFAC0007	Shoalhaven Regional Gallery	\$72.29	27	\$1,951.83	\$0.00	\$1,951.83
CWCFAC2002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$1,540.56	27	\$41,595.12	\$0.00	\$41,595.12
CWCFAC2006	Shoalhaven City Library Extensions, Berry Street, Nowra	\$867.56	27	\$23,424.12	\$0.00	\$23,424.12
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	27	\$3,729.51	\$0.00	\$3,729.51
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	27	\$5,455.89	\$0.00	\$5,455.89
CWMGMT3001	Contributions Management & Administration	\$574.39	27	\$15,508.53	\$0.00	\$15,508.53
				Sub Total:		\$400,710.78
				GST Total:		\$0.00
				Estimate Total:		\$400,710.78

(b) The Likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the natural environment.
Built Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

(c) Suitability of the site for the development

Subject to recommended conditions of consent, it is considered that the site will be suitable for the development.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. 145 submissions were received by Council either objecting to or raising concerns with the proposal. The concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
<u>Vegetation removal and impacts</u> Lots 1, 2 and 3 and what appears to be unlimited removal of trees throughout and along Beach Road. The trees along the western boundary currently assist absorption of excess water which flows down the land and into adjacent Lots 17, 18 and 19 DP 1046162 (known as 15B, 15C and 27 Campbells Run, Berry). The mature trees on the west of Lot 2 must be entirely preserved and those to the east should be retained as far as possible, including all hollow bearing and significant trees. A screening corridor of trees should be established along the boundary with Campbells Run. Services should only be laid along the subdivision roadway. Hollow bearing trees are significant vegetation and must be retained. All vegetation should be preserved along the vital Beach Road wildlife corridor, new plantings in a 10m wide "corridor" along the road-side of the property will not be effective in offsetting loss of mature and in many cases hollow bearing trees. Following the completion and release of results of the University of Wollongong Greater Glider scientific study along Beach Road and its surrounds, an independent impact assessment of the proposed development should be conducted regarding the Beach Road and the proposed subdivision vegetation, with special reference to the Berry Wildlife Corridor and potentially occurring threatened species.	<u>Applicant Response:</u> <i>"HBT and precious significant vegetation have been identified and considered. Further investigation has been made with regards to the retention of those trees located to the rear of the existing dwelling on proposed Lot 2 and those located between the proposed road and the building setback for Lot 26- with the view to retaining as many trees as possible.</i> <i>The vegetation has been the subject of targeted surveys following the request for further information from Council's environmental officers. These are addressed in the revised BDAR.</i> <i>The amount of vegetation to be removed on Beach Road will be limited to the safe traffic movements from the development area. Some trees may need the removal of low branches only to achieve this result.</i> <i>The condition of a screening corridor of trees along the boundary with Campbells Run is considered unnecessary. These lots already contain vegetated rear boundaries and future development of these lots will result in further vegetation being planted. It is considered that there will be adequate separation for the purpose of privacy from existing dwellings to any new dwellings.</i> <i>The provision of services to the development will be as per the service providers' requirements. The services for the developments will be underground within the road reserve.</i>

The suggested corridor down the drainage line not shown on the plan must have a minimum width of 25m and be linked to Jim's Forest and to the E1 zone at the swamp, either along the east boundary (25m minimum) or between Lots 9 and 10. The corridor should be planted out with appropriate local native tree and shrub species. Spotlighting surveys should be employed to establish the presence or absence of arboreal species, although hollow bearing trees should be retained in any event as arboreal species may not continuously occupy the hollows. Given that the submitted Statement of Environmental Effects ignores Chapter G4, SDCP 2014, an independent review and conduct of a comprehensive flora and fauna report and an accompanying test of significance should be requested, as advised in Chapter G5, SDCP 2014. No decisions should be made in relation to the removal of trees along Beach Road or within the proposed development until the University of Wollongong's Greater Glider study of mature old growth trees and nest boxes along Beach Road and surrounding areas is completed. It should be specified that all native vegetation plantings must be of locally indigenous species appropriate to the area.	<i>DCP Chapter 4 – Trees and Vegetation management – has been reintroduced to the new Statement of Environmental Effects and merely redirects the reader to the accompanying BDAR.</i> <i>It is intended to retain as many trees as are practical for vehicular safety and the preservation of established vegetation.</i> <i>It should be noted that during the rezoning process, and for the current DA, very detailed Fauna and Flora reports have been completed to ascertain the impact of the development on the local environment. These reports have also had a defining impact on the design of the subdivision. eg retaining all of Jim's Bush in one block.</i> <i>Once developed, the owners of each block will significantly increase the number of trees and shrubs on their respective blocks as has been the case on adjacent estates. These will provide increased opportunities and environments to attract wildlife habitat.</i> <i>Any unavoidable loss of habitat due to the construction of the subdivision will result in the developer being required to purchase Bio Banking credits to offset this loss."</i> <u>Council Comments:</u> Council's Environmental Assessment Officer raised no objections to this development subject to recommended conditions of consent (if approved). Tree and vegetation removal will be necessary to particularly facilitate access to the development based on the layout presented to Council. The conditions of consent would ensure the development either avoids or minimises impact in accordance with the requirements of Chapter 8 of the Biodiversity Assessment Method (BAM). Note that the BAM is established under section 6.7, NSW Biodiversity Conservation Act 2016 (BC Act 2016). The BAM is established for the purpose of assessing certain impacts on threatened species and threatened ecological communities, and their habitats, and the impact on biodiversity values, where required under the
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	BC Act 2016, Local Land Services Act 2013 or the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. It is noted that as required by Chapter N28, SDCP 2014, a rehabilitation and/or landscape plan prepared by/in consultation with a suitably qualified restoration ecologist, will need to be submitted with a development application for the construction of a dwelling on each lot.
<u>Insufficient area for effluent management and disposal</u> Effluent management areas are shown as only 830sqm in size, whereas all such areas within the adjoining Campbells Run estate are 1000sqm. Several portions of this subdivision are noted as “Periodically Saturated and Unsuitable for Effluent Management”. There is particular concern regarding the impact the designated effluent areas on Lots 1, 2 and 3 will have on 15C Campbells Run, particularly after periods of rain. The eastern boundary of 15C Campbells Run is saturated and north-eastern corner is regularly under water after rain due to run off from adjoining properties as this is the lowest point.	<u>Applicant Response:</u> <i>“A revised water cycle report accompanies this application. Any adjustments to the previously proposed systems have been made in accordance with the referrals by Council officers, and the peer review of on-site waste water assessment report by Whitehead & Associates. Water tank sizes will be as recommended in the report as being adequate for the design.</i> <i>Following discussions with Council officers, and the recommendations in the Whitehead review, it is proposed to increase the effluent disposal area on each lot to be a minimum of 992m2. This area would consist of 830m2 of subsurface irrigation and 162m2 of absorption reserve area. It is expected that an 88B restriction would be imposed as a condition of the subdivision consent to ensure that this area would be provided as a minimum with any future development applications for dwellings.”</i> <u>Council Comments:</u> Council’s Environmental Health Officer – SMF raised no objections to this development subject to recommended conditions of consent (if approved). The proposed management areas are compliant with the relevant provisions of SDCP 2014. All proposed effluent areas are located outside of the exclusion area shown in Figure 2 (below). The submitted wastewater report, Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020), with Appendix 1 – Groundwater Impact Assessment by Larry Cook Consulting Pty Ltd (Reference No. 17134-B, dated 08/03/2018), have been assessed and found to be satisfactory.

<u>Out of character</u>	<u>Applicant Response:</u>
Berry is a rural community and many residents who have moved here today have done so because of its rural nature and amenity. No desire for it to be turned into a large suburban landscape like Shellharbour. There are other areas in the Shoalhaven that can be used for such residential development, which will not impact so greatly on the landscape, as has been indicated by the draft Growth Management Strategy (GMS). The precedent that has been set, to maintain Rural Living is the area has not been taken into account regarding the southern end of the property's small frontages and close building alignments compared to the neighbouring estates. This will convert a beautiful rural landscape to a more high density suburbia, completely out of character with any other subdivision along the Beach Road area and will have a negative impact on the semi-rural look and feel of this environment. Lots 4-13 (along the ridgeline) do not match the precedent of the Campbells Run estate. Though the lot sizes are large, the bulk of the lot consists of the south facing slope towards Coomonderry swamp. The usable area for building, water storage and effluent facing towards the north are less than half any lots along the equivalent Campbells Run properties that back onto the swamp (100m). The minimum area of 1ha is not met if only calculated by looking at usable land as has been done on Campbells Run. This could be resolved by merging the 10 lots into five (5) to allow for a wider frontage. Given the proposal is set between two (2) R5 developments on Beach Road, setting precedent it seems reasonable that this proposal would comply with the neighbouring estates. The density and the size of the proposed lots is inconsistent with the adjoining subdivisions and the rural character of the area. Shoalhaven Council's Planning Proposal PP018 dated July 2019 states the intended outcome: <i>"allow the future subdivision of the land with a variety of lot sizes greater than a minimum of 1 hectare, to appropriately reflect the existing rural residential character, ensure lot sizes are consistent with adjacent subdivisions and ensure they can adequately accommodate on-site effluent disposal."</i>	<i>"The application has been modified to reduce the number of lots to 28 residential lots and 1 large environmental lot to be dedicated to National Parks.</i> <i>Three lots have been removed from those adjacent to the proposed NPWS lot, making these lots wider and providing greater space to adapt to the constraints of the land.</i> <i>The potential dwelling sites illustrated on the plans are generous - 20m x 30m (600m2) - and demonstrate the ability of each lot to contain a dwelling of generous proportions within the constraints of the land. These are indicative only. The dwelling sites shown on the plans are far greater in area than the majority of dwellings in Campbells Run.</i> <i>Furthermore- articulated dwelling design, and future landscaping of the sites will limit any perceived negative visual impacts along the ridge line.....</i> <i>Whilst the DCP Chapter - Various Areas V1 - does not apply to this development, potential dwelling envelopes have been illustrated as being forward of the ridge line and show that any visual impact can be limited potentially to four dwellings.</i> <i>The orientation and design of any future dwellings will be the subject of future Development Applications. Potential future landscaping of the sites will further reduce any visual impacts of these developments.</i> <i>...The lot layout and road access to the development have been designed to conform with site constraints.</i> <i>There will be no direct access to Beach Road from any lots, as is the case with the developments east and west of the subject site. The lots sharing boundaries with Campbells Run and Coolaroo Place are consistent with the dimensions of the adjoining lot.</i> <i>The subdivisions on the eastern and western sides of the subject property were approved under the requirements of the Shoalhaven LEP 1985 in the early to late 1990's and registered almost 20 years ago. This development application will be assessed under the</i>

Currently there are 28 lots proposed. On the basis of R5 land area it is over 2 times the density of Campbells Run and 1.5 times the density of Coomonderry Ridge. On the basis of the entire land size, to be consistent with Campbells Run to the west the maximum number of lots would be 24. To be consistent with Coomonderry Ridge to the east the maximum number of lots would be 17. Minimum lot sizes need to be increased and housing density adjusted to align with neighbouring subdivisions. The dwelling density particularly along the ridge line is not in keeping with the district's rural and aesthetic character, despite the lot sizes being the same as Campbells Run. Refer to Control 5.1, Chapter V1: Lot Averaging Subdivision, SDCP 2014, which advises developers' building envelopes should avoid ridgetops and skylines and areas of high biodiversity. The alignment of planned buildings should be adjusted to support a long north-facing roofline.	<i>Shoalhaven LEP 2014. While the two instruments basically provide a structure for similar outcomes, approvals under the current LEP and DCP will result in similar but slightly different outcomes."</i> <u>Council Comments:</u> The adjoining subdivision to the west of the subject site ("Campbells Run estate" consisting of 28 lots and additional lot dedicated to the NPWS) was approved as part of Development Consent SF8941 on 16/02/2001 and pursuant to the provisions of SLEP 1985. The adjoining subdivision to the east of the subject site (consisting of 14 lots and additional lot dedicated to the NPWS) was approved as part of Development Consent SF8942 on 27/12/2000 and again pursuant to the provisions of SLEP 1985. All this land was zoned 1(c) Rural Lifestyle and 7(a) Environment Protection (Ecology). It is noted that the Planning Proposal for the rezoning of the subject site has been finalised and the development satisfies the relevant provisions of SLEP 2014 (as detailed earlier in this report), being the current Local Environmental Plan in place for the Shoalhaven. This development is similar in character to the adjoining subdivisions. As detailed earlier in this report, all proposed allotments meet the minimum lot size requirement of clause 4.1, SLEP 2014. The development is also compliant with the relevant provisions of SDCP 2014. It is noted that the provisions of Chapter V1 are not applicable as they only apply to land within localities 1-8 identified in clause 4.2B, SLEP 2014.
<u>Loss of rural amenity</u> The R5 area on Lots 4-10 is less than the minimum requirement size of 1ha allowing little room for dwelling, garage and any other associated buildings such as sheds, water tanks and swimming pools. This will increase the already dense visual impact of the subdivision. The area to the south of the ridge	<u>Council Comments:</u> As detailed earlier in this report, all proposed allotments meet the minimum lot size requirement of clause 4.1, SLEP 2014. It is noted that the site was the subject of a recently notified Planning Proposal (PP018/Amendment No. 26). In relation to this

described as Z1 in the PP018 - Beach Road was required to have a minimum area of 2ha. The land north of the ridge was required to have a minimum area of 1ha. This means the lots on the ridge line should have a minimum area of 3ha. This requirement was to ensure <i>"the resulting lots that extend onto the southern side of the ridge have an appropriate width"</i>.	matter, the Amendment sought to apply a 1ha minimum lot size to the north of the ridge and 2ha to the south of the ridge, the latter to <i>"ensure the subdivision responds to the site constraints and environmental values, and to ensure that the resulting lots that extend onto the southern side of the ridge have an appropriate width and a development area outside of the catchment of the Coomonderry Swamp catchment"</i>. Lots 4-9 comply with the larger minimum lot size requirement of 2ha. Lot 10 complies with the larger minimum lot size requirement of 4ha. It is noted that the development is similar to other subdivisions in the locality. As a result of the Planning Proposal, it has been determined the land has a capacity for the development. The assessment of this application has required an examination of several issues, all of which have been addressed and are capable of resolution via conditions of consent. The construction impacts of the subdivision can be managed.
<u>Inappropriate building envelopes</u> The size of the proposed building envelopes is 600sqm. The minimum building envelope size in Campbells Run is in excess of 2,000sqm. The small envelope sizes will lead to multiple requests to change the building envelope to allow for a reasonable size house with the necessary outbuildings or a two storey residence on a small lot that will be out of keeping with the rural nature and will lead to a loss of privacy in neighbouring properties. It is best to ensure that these building envelopes are well placed at the development stage. On Lots 8 and 9 the effluent zones are up slope of the building envelope. It is certain that the new owners would request this to be changed resulting in the building envelope being on the ridge line. Due to the small building envelopes proposed, future owners will want to build higher – two storey dwellings – which would accentuate the suburban appearance. To avoid this, Council imposed a 7m height restriction on dwellings in Campbells Run.	<u>Applicant Response:</u> <i>"The potential dwelling sites illustrated on the plans are generous - 20m x 30m (600m²) - and demonstrate the ability of each lot to contain a dwelling of generous proportions within the constraints of the land. These are indicative only. The dwelling sites shown on the plans are far greater in area than the majority of dwellings in Campbells Run.</i> <i>Furthermore- articulated dwelling design, and future landscaping of the sites will limit any perceived negative visual impacts along the ridge line."</i> <u>Council Comments:</u> The proposed building envelopes at 20m x 30m satisfy the requirements of SDCP 2014. Chapter N28, SDCP 2014, requires all buildings to be located outside of the exclusion area shown in Figure 3 (below). The envelopes confirm that all potential dwelling sites are to be outside of the exclusion area.

Currently, there is no such covenant on this site, which would result in the right to build up to 11m in height.	Specifically, in relation to battle-axe lots, rectangular building envelopes with minimum dimensions of 15m x 15m are required. It is considered appropriate to impose restrictions with regard to building height and roof pitch etc. to ensure future development is consistent with development on adjoining estates and particularly along the ridgeline. In this regard, a restriction has been recommended. It is noted that as required by Chapter N28, SDCP 2014, a rehabilitation and/or landscape plan prepared by/in consultation with a suitably qualified restoration ecologist, will need to be submitted with a development application for the construction of a dwelling on each lot.
<u>Lack of services and facilities</u> There are not enough services and facilities to support such population growth as indicated by these residential allotments. Beach Road is a country road, not built to withstand a lot of traffic. Further to this, the proposal does not appear to address how the development will be provisioned (telecommunications) nor how that may impact neighbouring areas.	<u>Applicant Response:</u> <i>"The provision of services to the development will be as per the service providers' requirements. The services for the developments will be underground within the road reserve."</i> <u>Council Comments:</u> Council's Subdivision Engineer and Traffic & Transport Unit raised no objections to this development subject to recommended conditions of consent (if approved). Endeavour Energy raised no objections subject to recommendations and comments in advice provided to Council. Confirmation of the provisioning of utility services would be required prior to the issue of a Subdivision Certificate for the development.
<u>Strategic direction from Planning Panel</u> The Joint Regional Planning Panel advice says that the Illawarra Shoalhaven Regional Plan (ISRP) sets strategic directions for: ▪ Protecting regionally important agricultural lands as an asset to food and fibre production; and ▪ Protecting the region's biodiversity corridors in local planning controls.	<u>Applicant Response:</u> <i>"The rezoning of the land is not the subject of this application. The rezoning was established in accordance with recommendations provided by the Joint Regional Planning Panel Report.</i> <i>That being said, the estates in Coomonderry Ridge and Campbells Run, to the east and the west of this proposed development, are similarly zoned to those on the subject land. This proposal is sandwiched between these</i>

	<i>estates and is considered to provide a rational development between them. Development of the land is limited by the minimum lot sizes and zones on the land. This ensures a level of development consistent with adjoining subdivisions and ensures the protection of Coomonderry Swamp.”</i> <u>Council Comments:</u> As detailed earlier in this report, the Planning Proposal for the rezoning of the subject site has been finalised and the development satisfies the relevant provisions of SLEP 2014. These strategic directions would be satisfied subject to recommended conditions of consent (if approved).
<u>Alienation from agricultural land</u> This land will be alienated from agricultural land just outside of Berry in an area valued for its scenic amenity. There has been financial investment in the Berry Corridor network that has established biodiversity vegetation corridors and helped protect the Coomonderry Swamp via stock exclusion fencing along with vegetation and wildlife, especially the threatened Green and Golden Bell Frog.	<u>Council Comments:</u> As above, the Planning Proposal for the rezoning of the subject site has been finalised and the development satisfies the relevant provisions of SLEP 2014 (as detailed earlier in this report), being the current Local Environmental Plan in place for the Shoalhaven. As detailed earlier in this report, although the subject site is identified as prime crop and pasture land and is partially zoned R5, it is not specifically identified as a “Locality” on the Lot Size Map, as listed under subclause (3), and therefore the provisions of clause 4.2B are not applicable. Therefore, the provisions of Chapter V1, SDCP 2014 are not applicable. Council’s Environmental Assessment Officer raised no objections to this development subject to recommended conditions of consent (if approved).
<u>Impact from Lot 4</u> The building envelope and effluent area on Lot 4 are extremely close to Lot 20 DP 1046162 (known as 37 Campbells Run, Berry) due to the shape of the allotment. The effluent area also is on a slope that directly feeds into this property which will be impacted particularly during rainfall events. The required 40m buffer for surface flow has not been achieved between the effluent disposal areas of any neighbouring properties as outlined in the DCP.	<u>Applicant Response:</u> <i>“It was noted that some of the on-site effluent disposal areas on Lots 1- 4 were close to bounding lots in Campbells Run. These have been relocated in the revised subdivision plan. Furthermore, the effluent disposal areas on the ridge lots have been relocated further to the north of their original location. This has been made possible by the increase in area to each lot following the reduction in lot yield.</i>

The driveway access proposed for Lot 4 will also present issues in rainwater runoff as the hard surface will flow excess rainwater directly to Lots 19 and 20 DP 1046162 (known as 27 and 37 Campbells Run, Berry).	<i>The suggestion that the subdivision will adversely affect the neighbouring blocks with run off is false. The subdivision will not create any additional rainfall and the subdivision is designed to manage excess rainfall down the internal road of the subdivision to Beach Road. The treatment of Waste-water, and the suitability of design to achieve an appropriate standard, is discussed in detail in the accompanying revised report by SEEC and earlier in this response table."</i> <u>Council Comments:</u> The proposed building envelope and effluent areas have been relocated to address the concerns raised and are compliant with the requirements of SDCP 2014. These along with management of rainwater runoff would be subject to recommended conditions of consent (if approved). The submitted wastewater report, Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020), with Appendix 1 – Groundwater Impact Assessment by Larry Cook Consulting Pty Ltd (Reference No. 17134-B, dated 08/03/2018), have been assessed and found to be satisfactory.
<u>Density of development and protection of ridge line and National Park</u> The density of housing is higher than the two (2) adjoining subdivisions, especially the density along the ridgeline which will be visible from afar and does not comply with Control 5.1, Chapter V1: Lot Averaging Subdivision, SDCP 2014. Further to this, there is no 15m exclusion zone and restricted land use (tree planting) on the east west ridge line between R5 and E2 as per Coomonderry Ridge and Campbells Run. The 15m exclusion zone was intended to aid the visual appearance of these properties from the National Park. There is planting shown on this line on the submitted landscape plan, but no protection afforded to this area. An exclusion zone and building height and roof angle restrictions similar to the adjacent subdivisions (maximum 7m height and minimum 30 degree roof pitch restriction in Campbells Run), would help to minimise the	<u>Applicant Response:</u> <i>"Submissions have made particular reference to 22m wide lots which is inaccurate. The majority of lots shown on the originally submitted development design are between 60m-120m in width.</i> <i>The bulk of the lots along the ridge line of the originally submitted layout were over 50m in width. Four of these lots had narrow street frontages (i.e. less than 40m) which widened to a generous lot size.</i> <i>The number of lots along the ridge has now been reduced by 3 and the additional area has been shared by these lots to create a more uniform and generous layout in this area.</i> <i>...The subdivision has been designed to adhere to the minimum lot size requirement. The area available for the development is no longer fully realised with the reduced lot yield. It is considered that the scale of this development is</i>

impact on the National park and benefit the rural vista from neighbouring properties. The current permissible height is 11m. Given all three (3) subdivisions border Seven Mile Beach National Park, the restrictions on all these subdivisions should be consistent.	<i>reasonable and within the capacity of the land. The layout and density within the development will have negligible impact on the visual amenity of adjoining developments, and Beach Road, due to slope of the land and vegetation.</i> <i>...The development will transfer approximately 28 hectares of land to Seven Mile Beach National Park. The 28 hectares are the southern part of the current farm.</i> <i>The proposed development has been designed to ensure that the swamp health is retained. Expert consultants have determined the limits for building exclusion and waste water exclusion on the subject land. These limits, and the location of the ridge have determined the road and lot layout in this area to ensure that there is sufficient space for development on each lot, whilst protecting the swamp and future NPWS land.</i> <i>It is considered that the development will have a strong positive impact on Coomonderry Swamp.”</i> <u>Council Comments:</u> The provisions of Chapter V1 are not applicable as they only apply to land within localities 1-8 identified in clause 4.2B, SLEP 2014. The development is compliant with the provisions of SLEP 2014 and the requirements of SDCP 2014, particularly Chapter N28, in that buildings will be located on the northern side of the ridgeline, significant vegetation will be protected (where possible) and riparian and wildlife corridor through the site to be maintained. The development is similar in character to the adjoining subdivisions. It is noted that the adjoining subdivision were approved pursuant to the provisions of SLEP 1985 and not the current provisions of SLEP 2014. Again, it is considered appropriate to impose restrictions with regard to building height and roof pitch etc. to ensure future development is consistent with development on adjoining estates and particularly along the ridgeline.
<u>Major flaws with lot design</u>	<u>Applicant Response:</u>

The lot design has major flaws as follows: ▪ 40,000L recommendation for water tank supply. ▪ Inexplicable use of bioretention basins “rain gardens”. ▪ Only Lots 1, 28, 30 and 19-23 have north facing roofs oriented to enable the application of energy conservation principles. Additionally, given the restrictions quite correctly imposed on south facing land above Coomonderry swamp, Lots 2, 29 and 4 through 12 are of insufficient size to protect environmental features. It is suggested that Envirocycle waste-water units, with regular scheduled maintenance, should be mandated for all lots. Recommended water tank sizes should be significantly increased to an acceptable standard.	<i>“A revised water cycle report accompanies this application. Any adjustments to the previously proposed systems have been made in accordance with the referrals by Council officers, and the peer review of on-site waste water assessment report by Whitehead & Associates. Water tank sizes will be as recommended in the report as being adequate for the design.</i> <i>Following discussions with Council officers, and the recommendations in the Whitehead review, it is proposed to increase the effluent disposal area on each lot to be a minimum of 992m2. This area would consist of 830m2 of subsurface irrigation and 162m2 of absorption reserve area. It is expected that an 88B restriction would be imposed as a condition of the subdivision consent to ensure that this area would be provided as a minimum with any future development applications for dwellings.”</i> <u>Council Comments:</u> Council’s Subdivision Engineer, Floodplain & Stormwater Quality Engineer, and Environmental Health Officer – SMF raised no objections to this development subject to recommended conditions of consent (if approved). The submitted Concept Surface Water & Water Cycle Management Study by SEEC (Reference No. 19000408-WCMS-01D, dated 03/09/2020) and revised design plans have been assessed and found to be satisfactory. The proposed WSUD strategy comprising of rainwater tanks for all residential dwellings, roadside swales for the internal access road and an end-of-pipe stormwater treatment system that comprises a trash rack and constructed wetland is supported by Council. It is noted that future development of allotments would need to consider energy conservation principles and protection of environmental features.
<u>Site access</u> There should be only one (1) road entrance and exit at the crest. Should fire legislation mandate an alternative this should be through the existing driveway.	<u>Applicant Response:</u> <i>“A through traffic development provides a safer emergency access route and is the preferred option in the Planning for Bushfire guidelines. These guidelines were not in place when the adjacent developments were approved. This</i>

	<i>road design is cognisant of modern safety requirements with regards to emergency vehicle access to properties.</i> <i>The traffic study undertaken for this application states that vehicle traffic movement along Beach Road is very low and the addition of 28 blocks of land will only moderately increase the volume of traffic and is within the capacity of Beach Road.</i> <i>Once developed, 510 Beach Road will add one additional traffic entry point onto Beach Road as the current vehicle entry to the 510 Beach Road farm will no longer be utilised.</i> <i>...Providing a single access point with alternative access via the existing driveway to No. 510 is not feasible or practical. This access would require rights of way across multiple lots and would restrict fencing and development across the affected lots.”</i> <u>Council Comments:</u> No concerns have been raised with regard to the proposed site access. NSW Rural Fire Service raised no objections to this development and issued General Terms of Approval and a Bush Fire Safety Authority.
<u>Speed limit</u> A reduced speed limit of 80kph should be imposed along Beach Road.	<u>Applicant Response:</u> <i>“This is for Council’s consideration and should consider both this proposed development and the adjacent estates.</i> <i>With regards to traffic volume on Beach Road, it would be reasonable to conclude that the newly constructed Princes Highway by-pass of Berry and Gerringong has reduced the amount of traffic on Gerroa Road. Subsequently this would result in a reduction of traffic on Beach Road for vehicles previously using this route to connect from Gerringong/Gerroa to the Princes Highway.”</i> <u>Council Comments:</u> No reduction to the current speed limit has been recommended by Council’s Traffic & Transport Unit.
<u>Increase noise impact</u>	<u>Council Comments:</u>

Noise impact from the increase in future dwellings and their density along with significant increase in vehicles accessing the development.	Noise resulting from future development of this site must not cause transmission of vibration to any place of different occupancy; or 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.
<u>Increased bush fire risk</u> The density of housing and small lot sizes is not only inconsistent with surrounding developments but would increase the difficulty of controlling bush fires for the adjacent Beach Road area. The entire subdivision requires 20,000L of water to be held on each site at all times in case of fire. The minimum size water tank would need to take this into consideration.	<u>Council Comments:</u> NSW Rural Fire Service raised no objections to this development and issued General Terms of Approval and a Bush Fire Safety Authority.
<u>Request for public access to Seven Mile Beach National Park</u> Public access is requested from Agars Lane down to the swamp and continued around the northern edge of the swamp to Seven Mile Beach National Park. By having the subdivider donate a corridor of land along the edge of the swamp, the public would then be able to have a walkway from Bundeena at the northern end of the Royal National Park to Berry. The Coomonderry Swamp is rich in wildlife and Indigenous history, a perfect gateway into the Shoalhaven's vibrant Indigenous people. Interpretation signs and the story of the local Bunyip, ceremonial sites could be shared if deemed appropriate by the local Indigenous communities.	<u>Council Comments:</u> It is noted that the residue lot containing Coomonderry Swamp is proposed to be dedicated as an extension to the adjacent Seven Mile Beach National Park. The Planning Agreement has been executed. Accordingly, this matter would need to be discussed with Heritage NSW separate to this application.

(e) The Public Interest

The proposed development generally complies with the provisions of SLEP 2014 and is broadly consistent with the SDCP 2014. Subject to conditions of consent the development is not expected to have any unacceptable negative impacts on the environment, or the amenity of the locality as detailed in this report warranting refusal of the development.

The proposal will provide additional housing supply and variety of housing.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the proposal is regionally significant development as satisfying the criteria of clause 8 of Schedule 7 of SEPP (State and Regional Development) 2011, the application must be determined by the Regional Planning Panel.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. RA20/1000 be approved subject to appropriate conditions of consent.

Appendix A – Assessment Checklist: Chapter G11 - Subdivision of Land

5.9 – Utility Services

A66.1 Design and provision of utility services, including broadband, conforms to the requirements of the relevant service authorities.

Comment: Subject to recommended conditions of consent.

A67.2 Compatible services are located in common trenching.

Comment: Noted.

A67.3 Subdivisions are located where there is adequate water for domestic and fire-fighting purposes.

Comment: Satisfied.

A67.4 Subdivision is staged to ensure that each stage is fully serviced before a new area is released.

Comment: Noted.

A67.5 Water supply and sewerage networks are accessible, easy to maintain and cost effective based on life cycle costs.

Comment: Satisfied.

A67.6 Adequate buffers between utilities and houses are provided, to protect residential amenity and health provide.

Comment: Satisfied.

A67.7 Underground electricity supply is provided to residential areas, except where major technical difficulties are encountered, such as the presence of significant rock.

Comment: Noted.

A67.8 Provision of reticulated gas is subject to requirements of the service provider.

Comment: Noted.

A67.9 Underground telecommunications service, including NBN, is to be installed where underground electricity is to be provided.

Comment: Noted.

A67.1 Where required, the subdivider is to provide, at no cost to Council:

- Suitable easements for water and sewer rising main;
- An agreed area of land for pumping stations;
- Easements or land for access to pumping stations;

Comment: Noted.

5.10 – Stormwater Drainage

A68.1 Design and construction of systems is in accordance with the requirements of this Section and Council's *Engineering Design Specifications - D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

A69.2 Detention basins may be considered/required where downstream systems are inadequate. Design is to be based on the 1% AEP storm event.

Comment: Noted.

A69.1 Provide an overland flow path capable of containing the 1% AEP rainfall event and/or provide adequate detention storage.

Comment: Satisfied.

A70.2 Connection of a new system to an existing system with capacity less than 1% AEP:

- Satisfies the requirement of the 1% AEP event; and
- Provides a suitable transition between the systems.

Comment: Not applicable.

A70.1 Habitable floor levels are consistent with the requirement in Chapter G9: Development on Flood Prone Land of this DCP.

Comment: Not applicable.

A71.2 Subdivision and engineering plans show minimum floor levels adjacent to drainage paths, including roads where they are used as overland flow paths in the design concept.

Comment: Not applicable. No buildings are proposed as part of this application.

A71.1 Waterways and riparian/wetland vegetation, where they exist, are incorporated into the drainage design, with respect to threatened species and their habitats.

Comment: Satisfied.

A72.2 Sports grounds and other less flood sensitive land uses are incorporated into the local drainage corridor.

Comment: Not applicable.

A72.3 Detention basins, where necessary, are located to control stormwater subject to preserving and/or enhancing the natural integrity of the stream.

Comment: Satisfied.

A72.4 System design ensures there are no flow paths that increase the risk to public safety and property.

Comment: Satisfied.

A72.1 Design and construction of minor storm drainage systems is in accordance with this Section and *Engineering Design Specifications Section D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

A73.2 Drainage networks are well defined to ensure there are no hidden flow paths that could reduce their capacity to convey design flows.

Comment: Noted.

A73.3 Design of minor systems takes full account of existing downstream systems.

Comment: Noted.

A73.1 Minor road drainage systems are designed for the 20% AEP event.

Comment: Noted.

A74.2 Low flow pipes within public reserves contain 25% of the 10% AEP flow.

Comment: Noted.

A74.1 Design and construction of minor storm drainage systems is in accordance with this Section and *Engineering Design Specifications Section D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

A75.2 Access for maintenance is available where a portion of the minor system lies within a site.

Comment: Satisfied.

A75.3 Selection of materials is based on their suitability, durability, maintainability and cost effectiveness.

Comment: Noted.

A76.1 Where site topography prevents the discharge of stormwater directly to the street gutter or a Council controlled piped system, inter-allotment drainage is provided to accept runoff from all existing or future impervious areas that are likely to be directly connected.

Comment: Subject to recommended conditions of consent.

A77.2 Easements favouring the benefiting allotments are created over inter-allotment drainage.

Comment: Subject to recommended conditions of consent.

A77.3 Stormwater discharge from a development site, including inter-allotment drainage, is in accordance with *Engineering Design Specifications Section D5 Stormwater Drainage Design*.

Comment: Subject to recommended conditions of consent.

5.11 – Stormwater Quality Management

Comment: The proposal is considered to satisfy the requirements of Chapter G2, subject to recommended conditions of consent.

5.12 – Residential Streetscape

Comment: A landscape plan has been submitted and subject to recommended conditions of consent.

5.13 – Residential Allotment Layout

General

A78.1 Minimum standard residential lot size in any *residential* subdivision is 500m².

Comment: This requirement relates to conventional urban lots. The lots proposed are larger in size. The minimum requirements below in A79.2 are met.

A79.2 Lot shape and dimension:

Rectangular non-corner lots

16m square width minimum

30m minimum depth

Rectangular corner lots

Square width 20 metres

Depth 30 metres

Irregular shaped lots

Square width 12m

Width at building line 16m

Mean width 18 m

Depth 30m

Corner Splays 4m minimum

Comment: Satisfied.

A79.3 Small scale infill subdivision on flood prone land – For small scale infill subdivisions a nominal building envelope of approximately 15m wide and 21m deep, sited in accordance with the requirements of Chapter G12: Dwelling Houses, Rural Worker's Dwellings, Additions and Ancillary Structures be provided above the 1% flood level on each proposed lot in the subdivision.

Comment: Not applicable.

A79.1 The subdivision lot design positively responds to:

- Slope and desirability of minimising earthworks/retaining walls associated with dwelling construction.
- Natural or cultural features;
- Soil erosion and bushfire risk;
- Special features such as trees and views, including identification of mature stands of trees to be retained and supplementary planting.

Comment: Satisfied. The proposed lot areas and dimensions take into account the site's natural opportunities and constraints.

A80.1 Each lot is to have coincidental legal and practical access in a rural and/or residential subdivision.

Comment: Satisfied.

Battle-axe lots

A81.1 Battle-axe lots to have a minimum lot size of 650m², excluding access handle.

Comment: Satisfied (in relation to Lots 12, 15 and 29).

A82.1 Multiple use access corridor as follows:

Access Minimum	No. of Lots	Pavement Width
4.0m	1 to 2	3.0m
6.0m	3 to 6	5.0m

Comment: Satisfied.

A83.2 The right of way pavement to be of reinforced concrete for 3 or more lots as detailed in Council's *Engineering Design Specification*, chapter D1.

Comment: Subject to recommended conditions of consent.

A83.1 Rectangular building envelope with minimum dimensions of 15m x 15m is available.

Comment: Satisfied.

A84.1 Side boundary building setbacks of 5m to adjoining property boundaries, except where a lesser dimension is provided.

Comment: Satisfied.

Large lot residential subdivision

A88.1 Minimum dimensions for low density residential lots 2000m² to 4000m²:

Rectangular corner lots

- 35m square width;
- 55m depth;
- 2000m² area.

Rectangular non-corner lots

- 30m square width;
- 55m depth;
- 2000m² area.

Irregular shaped lots

- 30m mean width or
- battle-axe lots;
- 55m mean depth;
- 2000m² area, excluding access handle.

Access corridors to battle-axe lots

- Single access width 6m;
- Multiple use right of way as detailed for battle-axe lots A83.1.

Building line

- 12.5m from front boundary;
- 5m from side boundary;
- 6.3m side boundary setback to street.

Comment: Not applicable.

A89.2 Minimum dimensions for low density residential lots 4000m² to 10,000m²:

Rectangular corner lots

- 40m square width;
- 65m depth;
- 4000m² area.

Irregular shaped or battle-axe lots

- 40m mean width;
- 65m mean depth;
- 4000m² area, excluding access handle.

Access corridors to battle-axe lots

- Single access width 6m;
- Multiple use right of way as detailed for battle-axe lots A83.1.

Building line

- 20m from front boundary;
- 7.5m from side boundary;
- 10m side boundary setback to street.

Comment: Not applicable. No lots are within this range. Lots are 1 ha or greater in area. The lots sizes and configuration are however acceptable and have ample areas available for rural residential development.

A89.1 80% of lots in a new subdivision have 5 star solar access, and the remainder either 4 or 3 stars.

Comment: Satisfied. Orientation for solar access requirements are able to be complied with by future dwelling designs proposed for each lot.

A90.2 Lot sizes reflect reasonable consideration of the impact of topography and expect to maximise solar access.

Comment: Satisfied.

A90.3 Lots are of a suitable shape to permit the location of a dwelling with suitable solar access and private open space.

Comment: Satisfied.

A90.4 Lots should be orientated so that one axis is within 300 east and 200 west of true solar north (see Figure 11).

Comment: Noted.

A90.5 North-facing slopes improve opportunities for solar access. Small lots are best suited to north-facing slopes with gradient of less than 15% (or 1:9). South facing slopes impose a penalty on solar access, large lots/lowest densities are therefore best suited to south facing lots.

Comment: Noted.

A90.6 Sloping sites are suitable for medium to large lots only.

Comment: Noted.

A90.7 Subdivision design to consider the variation in the sun path during the year.

Comment: Noted.

A90.8 Locate 350m² – 450m² lots on land with less than 15% (1:9) slope across the frontage.

Comment: Not applicable.

A90.9 Lots > 450m² are capable of containing a building platform rectangle 10m x 15m.

Comment: Satisfied.

A90.10 Variable setbacks and zero building lines are a means of maximising solar opportunity, especially with small or narrow lots. Setbacks are manipulated to maximise solar access for all lots.

Comment: Noted.

5.14 – Geotechnical

A90.1 Subdivision designs exclude locating lots in areas with slope stability problems; or provide suitable advice from a practising certified geotechnical engineer.

Comment: Satisfied.

A91.1 Subdivisions are NATA Laboratory tested and subdivision design creates:

- all lots above flood level;
- minimum surface grade of 1% falling to the road or drainage system
- approved fill material placed in 150mm consolidated layers;
- minimum density 95% Standard Proctor Compaction Test AS1289;
- Where depth of fill exceeds 300mm, an 88B Restriction is imposed on the requiring foundation design in accordance with AS2870 1986.

Comment: Subject to recommended conditions of consent.

5.16 – Rural Subdivision – General

A93.1 Subdivision boundaries and lot layout are determined in response to the following information:

- Slope analysis to identify land steeper than 1 in 5 (20%);
- location and delineation of landscape for buffer areas and screening;
- identification of significant views from the coast and into the site from external viewing points; and
- Means of access.

Note: Refer also to Chapter G1: Site Analysis, Sustainable Design and Building Materials in Rural, Coastal and Environmental Areas

Comment: Satisfied.

A94.1 Prevent extinction and promote recovery of threatened species populations and ecological communities.

Comment: Satisfied.

A95.2 Protect critical habitat of endangered threatened species, populations and ecological communities;

Comment: Subject to recommended conditions of consent.

A95.3 Eliminate or manage processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities;

Comment: Subject to recommended conditions of consent.

A95.4 Ensure proper assessment of the impact or potential impact of any action affecting threatened species, populations and ecological communities;

Comment: Satisfied.

A95.5 Encourage the conservation of threatened species, populations and ecological communities by adoptions of measures involving cooperative management.

Comment: Satisfied.

5.17 – Rural Road Network

A95.1 Access is provided by:

- New roads to be dedicated and constructed;
- Presently formed public roads to be constructed;
- Presently formed crown roads to be dedicated and constructed;
- Presently formed public roads wholly within the road reserve constructed and maintained by Council;
- Right-of-way over adjoining private property or within the proposed subdivision and providing access to no more than four allotments, existing or proposed in the subdivision.
- Rural roads are to comply with Table 12 in Section 6.3.

Comment: Satisfied.

A96.1 Existing roads are widened to provide for a design speed of 80 km/h.

Comment: Not required.

A97.2 A lower design speed may be negotiated for areas considered by Council to be environmentally sensitive.

Comment: Noted.

A97.1 Re-erect fences on new front boundary alignment.

Comment: Not applicable. However, 'entry walls' are proposed at the site access, being 4m x 1.2m dry packed walls.

A98.2 Provide indented rural access in accordance with Council's Engineering Design Specifications D1.2.

Comment: Subject to recommended conditions of consent.

A98.3 Ensure that each lot has coincidental practical and legal vehicular access.

Comment: Satisfied.

5.19 – Natural Environment

A98.1 Designation of building envelopes and landscaping where deemed necessary by Council.

Comment: Satisfied.

A99.2 The use of Section 88B restrictions to define appropriate building materials, colours and regulate height of buildings in sensitive locations.

Comment: Noted.

A99.1 No further subdivision on active dune systems or other unstable areas will be permitted.

Comment: Not applicable.

5.20 – Rural Services

A100.1 The design and provision of utility services conforms to the requirements of the relevant service provider and Council's *Engineering Design Specifications Chapter D1*.

Comment: Subject to recommended conditions of consent.

Appendix B – Assessment Checklist: Chapter N28 - Berry – Beach Road

5 – Controls

A1.1 All effluent application areas are located outside of the exclusion area shown in Figure 2.

Comment: Satisfied and subject to recommended conditions of consent. All proposed effluent areas are located outside of the exclusion area shown in Figure 2 (below).

A1.2 Any existing bores are to be decommissioned prior to development occurring.

Comment: Existing bores are to be decommissioned, subject to recommended conditions of consent.

A2.1 All buildings are located outside of the exclusion area shown in Figure 3 (below).

Comment: Satisfied and subject to recommended conditions of consent. All potential dwelling sites are shown to be outside of the exclusion area as shown in Figure 3. It is noted that no buildings area proposed as part of this application.

A3.1 Development within the area of Potential Archaeological Deposit (PAD) shown in Figure 4 that will involve excavation or ground disturbance, shall not occur until:

- a. Satisfactory completion of an Aboriginal Cultural Heritage Assessment (ACHA); and
- b. If necessary, the issue of an Aboriginal Heritage Impact Permit (AHIP).

Comment: Satisfied. The potential dwelling sites are not located within the PAD area shown in Figure 4 (below). The scarred tree (site 52-5-0886) is to be retained. No development is proposed within close proximity of this site.

General Terms of Approval have been issued by Heritage NSW, regarding the requirement for an Aboriginal Heritage Impact Permit (AHIP). The Terms of Approval include the requirement for an Aboriginal Heritage Management Plan (AHMP) to be prepared to detail how site 52-5-0886 will be protected and managed both during construction and by any future landowners.

It was also recommended that should this application be approved; Council include a note on the section 88B Instrument requiring that site 52-5-0886 must not be harmed.

A3.2 Development does not occur in proximity of the Aboriginal scarred tree remains identified in Figure 4 unless any approvals required under the National Parks and Wildlife Act 1974 have been obtained.

Notes

1. Any impact to the Aboriginal heritage site, including trimming of branches or felling or removal of the tree, will require an AHIP.
2. Any trimming of the scarred tree should be limited to that necessary to prevent the risk of limb fall or collapse of the trunk and should be guided by advice from a suitably qualified arborist. The portion of the trunk containing the cultural scars should remain.
3. If the tree is to be retained onsite, temporary fencing shall be established prior to construction. The radius of the fenced area shall be at least the height of trimmed tree to prevent accidental damage.

Comment: Satisfied. As above.

Subdivision stage

A4.1 Any proposed development within or adjacent to the groundwater discharge zone (spring) buffer areas (Figure 2) shall be supported by a detailed Geotechnical Report detailing how discharge of flows from the groundwater discharge zones (springs) will be captured and drained to a pipe network within the road reserve and/or the natural drainage line. The report will address:

- a. Tenure and management arrangements of any drainage works including maintenance schedules and establishment of easements.
- b. Monitoring during and after construction.

Comment: Satisfied.

A4.2 Groundwater will not be discharged directly to open swales or roadside table drains.

Comment: Satisfied, subject to recommended conditions of consent.

A4.3 Construction materials selected for proposed structures within the groundwater discharge buffer zone should be appropriate to withstand both chemical and physical attack.

Comment: Satisfied, subject to recommended conditions of consent.

Development of individual allotments

A4.4 Development of individual allotments will not compromise the effectiveness of any drainage installed at subdivision stage to address the groundwater discharge zone (springs) buffer areas shown in Figure 2.

Comment: Satisfied.

Subdivision stage

A5.1 Tree/shrub planting corridors are identified in a landscape plan to be provided with the subdivision application as follows:

- a. Adjacent to Beach Road, 10m wide (total).
- b. Along the drainage line, 10m wide.
- c. Between Beach Road and Jim's Forest, 10m wide (average, refer to note 1 below).
- d. Between Jim's Forest and Coomonderry Swamp, 10m wide (average).
- e. Adjacent the E1 National Parks and Nature Reserves zone, 30m wide.

Comment: Council's Landscape Architect raised concern with the submitted landscape plans. Further detail is required and subject to conditions of consent being imposed. Tree/shrub planting along the drainage line at 10m wide will also need to be demonstrated as it appears this has not been included.

Development of individual allotments

A5.2 A rehabilitation and/or landscape plan prepared by/in consultation with a suitably qualified restoration ecologist, will be submitted with the development application for the dwelling and is to include:

- a. A map identifying the extent and dimensions of the corridor.
- b. Information regarding weed removal and site establishment.
- c. A planting schedule including proposed densities of locally occurring species.
- d. A schedule of works to be completed.
- e. A proposed monitoring plan.

Notes

1. 'Average' corridor width is to ensure dwelling yield is not impacted and construction standard does not exceed BAL 29.
2. Positive covenants will be required to be established at the subdivision stage including the planting and maintenance of corridors of local native shrubs and trees.
3. The level of detail required in the landscape/rehabilitation plan will depend on the existing condition and size of the site.
4. Berry Landcare may be able to assist with local native tube stock, guards etc.
5. Planting in relation to A5.2 is to be undertaken prior to occupation of dwellings.

Comment: Not applicable. No dwellings proposed as part of this application.

However, the tree/shrub planting corridors required by A5.1 will need to be established and maintained.



Figure 2: Wastewater Exclusion Map

