

WILLOWTREE PLANNING



27 October 2023

Ref: WTJ23-159
Contact: Sally Prowd



STATEMENT OF ENVIRONMENTAL EFFECTS:

CONCEPT DEVELOPMENT APPLICATION - RESIDENTIAL & MIXED USE

Lot 2 Phillip Drive, South West Rocks
Lot 2 DP 1091323

—
Prepared by Willowtree Planning Pty Ltd
on behalf of Rise Projects

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In the spirit of reconciliation and recognition, Willowtree Planning acknowledges the Traditional Owners of this Country throughout Australia and their continuing and ongoing connections to land, waters and community. We show our respect to Elders – past and present. We acknowledge that we stand on this Country which was and always will be recognised as Aboriginal Land. We acknowledge the Traditional Owners of the Lands in this Local Government Area, belonging to the local Aboriginal People, where this Proposal is located upon.

DOCUMENT CONTROL TABLE			
Document Reference:	WTJ23-159		
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3	Architectural Plan	Rise Projects
4	ADG Compliance Statement	Rise Projects
5	Visual Analysis	Urbis
6	Civil Letter	Xavier Knight
7	Flood Impact Assessment	Water Modelling Solutions
8	Geotechnical Assessment	Regional Geotechnical Solutions
9	Acid Sulfate Soil Management Plan	Regional Geotechnical Solutions
10	Groundwater Monitoring Report	Aquatic Science and Management
11	PFAS Letter	NSW Environment Protection Authority
12	Preliminary Site Investigation	ECON Environmental
13	Aboriginal Cultural Heritage Assessment Report	Everick Heritage Pty Ltd
14	Transport Impact Assessment	Varga Traffic Solutions
15	Kempsey Development Control Plan Assessment	Willowtree Planning



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PART A SUMMARY

1.1 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared by Willowtree Planning Pty Ltd (Willowtree Planning) on behalf of Rise Projects (the Applicant) and is submitted to Kempsey Shire Council (Council) in support of a Development Application (DA) at Phillip Drive, South West Rocks (Lot 2 DP 1091323) (subject site).

This DA seeks development consent for a Concept Development Application (DA) for Residential and Serviced Apartments with a mix of shops and food and drink premises at the ground floor, at the subject site, including other necessary works, as described in **PART C** of this SEE.

The subject site is zoned R3 Medium Density Residential, pursuant to the *Kempsey Local Environmental Plan 2013* (KLEP2013), which is intended to:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage urban infill and redevelopment in areas that surround existing or proposed facilities and services.*

The Proposal is permitted within the R3 Medium Density Residential zone and aligns with the zone objectives.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Part 3 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation). Assessment against the relevant matters for consideration under Section 4.15(1) of the EP&A Act has also been carried out under **PART D** of this SEE.

This SEE describes the Site and proposed development, provides relevant background information and responds to the proposed development in terms of the relevant matters set out in relevant legislation, environmental planning instruments and planning policies.

The structure of the SEE is as follows:

- **PART A SUMMARY**
- **PART B SITE ANALYSIS**
- **PART C PROPOSED DEVELOPMENT**
- **PART D LEGISLATIVE AND POLICY FRAMEWORK**
- **PART E ENVIRONMENTAL ASSESSMENT**
- **PART F CONCLUSION**

Based on the assessment undertaken, it is recommended that favourable consideration to the approval of the DA be given.



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1.2 PRE-LODGE MENT CONSULTATION

A pre-lodgement meeting was held with Council on 20 September 2023 with Michael Jackson, Retha De Preez, Melissa Ziade, Ruben de Roa Herrero, and Phil Veneris. **TABLE 1** below outlines the notes provided by Council on the 12 October 2023 and commentary against each matter.

TABLE 1. PRE-LODGE MENT NOTES	
Council Comments	Applicant Response
The proposed development of 4x 5 storey residential flat buildings, albeit with no overall RL height limit provided, does not align with the principles, aims or objectives of a number of Council’s adopted strategic plans/strategies.	Further consideration has been given to the strategic alignment of the proposal in Section 4.5 .
The proposed development does not align with: <ul style="list-style-type: none"> ▪ 2042 Your Future Community Strategic Plan (2022) ▪ Future Macleay, Growth & Character – Local Strategic Planning Statement (2020) ▪ Kempsey Local Growth Management Strategy (KLGMS) 2041 (2023) ▪ South West Rocks Structure Plan (2023) 	Further consideration has been given to the strategic alignment of the proposal in Section 4.5 .
Council raised concern’s in the meeting with the visual impact on Gregory Street and advised this would need to be addressed as per the SWR Structure Plan. The visual impacts shall include the latest approved DA instead of referencing the zombie DA as Council is under the assumption that the zombie consent is to be surrendered.	A Visual Analysis has been prepared and is attached at Appendix 5 .
Furthermore, Council would also like to see a visual aspect perspective of the development from the projected view from the SWR SLSC Lookout (below) as opposed to the beach view offered below this point:	A Visual Analysis has been prepared and is attached at Appendix 5 .
Furthermore, Council would also like to see a visual aspect perspective of the development from the projected view from the SWR SLSC Lookout (below) as opposed to the beach view offered below this point:	A Visual Analysis has been prepared and is attached at Appendix 5 .
Prior to lodgement of the DA, all relevant documents/reports shall be lodged and recommendations of the current PFAS findings/levels documented accordingly.	All relevant documents have been included and appended to this SEE.
Community Consultation was mentioned in the meeting to be undertaken prior to the lodgement of any application to Council. Council was curious as to who the community consultation would occur with (eg. Locals) and how this would be achieved (face to face, online survey etc...). Council also raised the question as to whether any community suggestion/criticism would be considered, and the final plans amended accordingly after the consultation period. Council will consider all of these factors when the results of the community consultation are finalised.	Community consultation is ongoing, and is being undertaken by an experienced Social Planner. Submissions made during exhibition will also be considered by the Social Planner and a comprehensive Consultation Report can be provided to Council after public notification. The findings will also be



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	considered in the detailed design stage of future applications.
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1.3 REQUIREMENTS FOR CONCURRENCE / OTHER APPROVALS

The Proposal would require referral to the following agencies:

- NSW Rural Fire Service;
- Heritage NSW;
- Environment, Energy & Science Group
- National Parks and Wildlife Service

The Proposal will require the concurrence of Natural Resource Assessment Regulator (NRAR), as an activity approval is required.



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PART B SITE ANALYSIS

2.1 SITE LOCATION AND CHARACTERISTICS

The subject site comprises Phillip Drive, South West Rocks, legally identified as Lot 2 DP1091323. The subject site exhibits a total land area of approximately 4.82 hectares (ha).

The subject site is irregular in shape and has approximately 284m of frontage to Phillip Drive to the south. The subject site is currently vacant, with sparse vegetation and some trees located mainly towards Phillip Drive and the south-east triangular corner. The subject site has largely been cleared of vegetation, as permitted under the existing development consent (T4-91-195), which is further detailed within **Section 2.2**. The existing site, has established vegetation along Phillip Drive, with all other trees largely cleared or being cleared, and the rest of the site is predominantly exotic grass species (refer to **Figure 3**).

On the southwestern side the subject site is bounded by several low density residential dwellings. Saltwater Creek lies to the north and east of the site, which is predominantly vegetated. Further to the north is Trial Bay Beach. Front Beach and the Trial Bay area to the north and north east of the site are vegetated with minimal access points and contain a historic site (Trial Bay Gaol), at the top of the headland. Further to the east of the subject site is the Arakoon National Park.

To the south across Phillip Drive, is low density residential development, with a mix of large lot residential and smaller traditional blocks. Further to the south of the site is the Saltwater Lagoon, which is fed into by Saltwater Creek.

The subject site is accessible via Phillip Drive to the south, which connects to Gregory Street the main access into South West Rocks. The recently approved Stage 1 Townhouse Development (**DA2200404**) allows for a private road to be built through the Site which would enable access to both Stage 2 and Stage 3. Phillip Drive is the main road connection between South West Rocks and Arakoon.

Figure 1 provides the cadastral boundary of the Site and **Figure 2** illustrate the current Site context and surrounding area.



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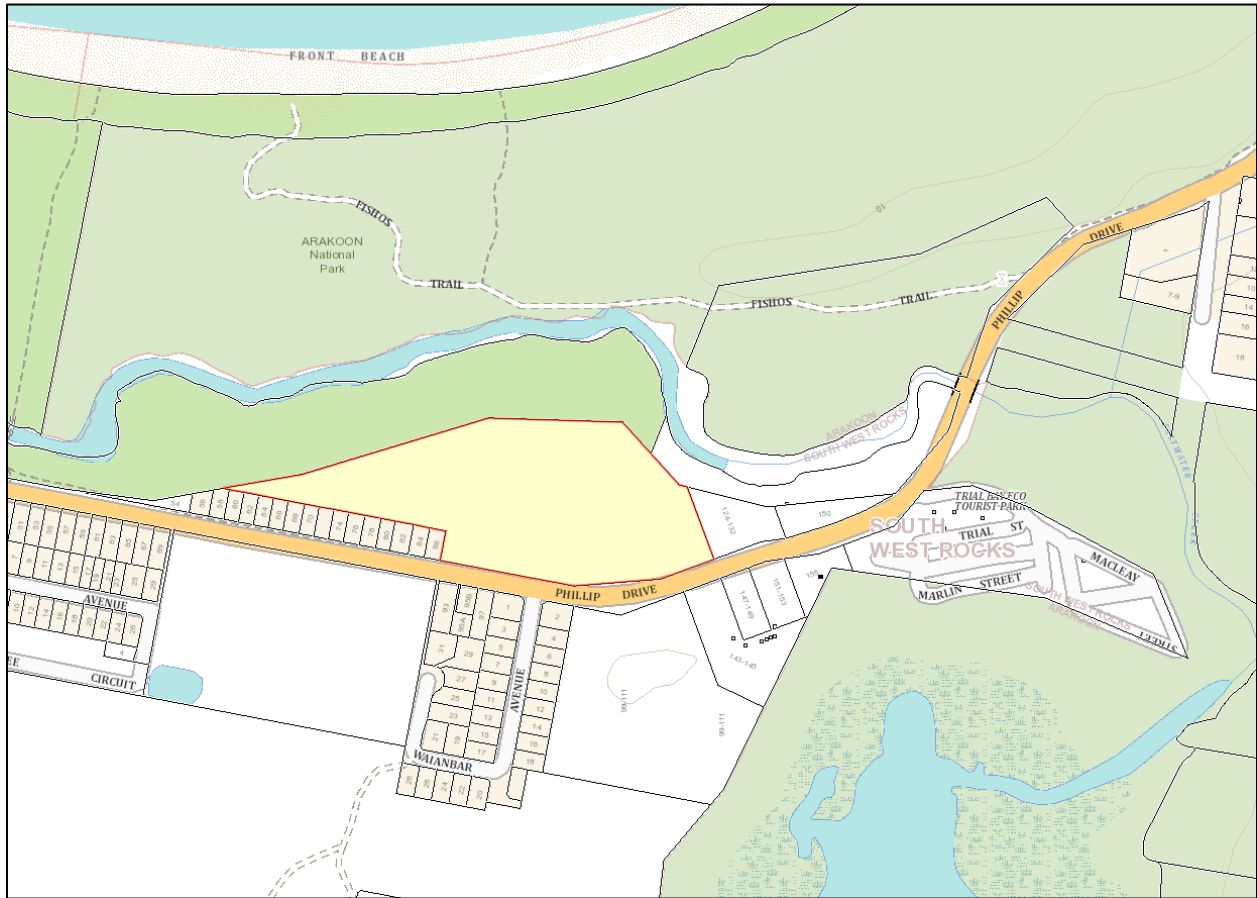


Figure 1. Cadastral Map (Source: SIX Maps, 2023)



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Figure 2. Aerial Map (Source: Kempsey Council, 2023)



Figure 3. Site Photographs (Source: Rise Projects, 2023)



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The subject site is located in South West Rocks within the Kempsey Local Government Area (LGA) on the Mid North Coast region of New South Wales. The surrounding region is known for its coastal beaches and national parks.

The nearest major town is Kempsey which is located some 27km south west of South West Rocks. The subject site is 1.7km from the main centre of South West Rocks. The Macleay River is located 4km west of the subject site with Arakoon National Park approximately 1km to the east and Hat Head National Park 1.5km to the south east of the subject site.

Refer to **Figure 4** below.



Figure 4. Site Context Map (Source: Six Maps, 2023)



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2.2 DEVELOPMENT HISTORY

TABLE 2 outlined below provides a summary of the DAs, pertaining to the Site and of relevance to the Proposal, that have been determined or are under assessment.

TABLE 2. EXISTING CONSENTS		
DA Reference	Summary	Approval Date
T4-91-195	<i>Resort complex comprising 180 residential units (being 6X4 bed, 87X2 bed and 59X1 bed), together with a commercial and administration complex comprising shops, bar areas, conference auditoriums, restaurants/ dining areas and administrative areas together with support car parking, recreation facilities and landscaping. Note: This consent is currently active as agreed by way of Section 56A appeal (case no. 2022/88745).</i>	24 February 1993
DA2300643	<i>Subdivision of one into two lots. Designated development.</i>	Withdrawn
DA2200404	<i>Multi dwelling housing, residential flat building and mixed use development and associated road.</i>	Approved 15/08/2023

T4-91-195

The current consent T4-91-195 is an active consent and vegetation clearing work, as permitted under this consent, has recently been undertaken on site. in the Site has been cleared in accordance with this consent, as shown in **Figure 5**. cleared.The proposed development would be of a similar nature to the existing proposal, but the proposed development is considered to provide a better development outcome, more suited to the surrounding environment.



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Figure 5. Vegetation Clearing (Source: Rise Projects, 2023)



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DA2200404

This development consent is for the land located in the western portion of the subject site and approved:

- Stage 1A – Intersection and internal private road works, including cut/fill earthworks & stormwater infrastructure;
- Stage 1B – Multi-dwelling housing (18 two-storey townhouses) and parking provisions;
- Stage 1C – Commercial building including 6 shop tenancies and café, and multi-dwelling housing (12 two-storey units), including communal areas, swimming pool and parking provisions

This Stage 1 development would fully integrate into the proposed Concept DA, and the road proposed would form part of the access for future buildings proposed.



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PART C PROPOSED DEVELOPMENT

3.1 DEVELOPMENT OVERVIEW

The subject proposal seeks development consent for residential flat buildings and associated shops and food and drink premises and serviced apartments. The following objectives have been identified as forming the basis of the proposed development, as well as being consistent with the aims set out within the KLEP2013, including:

- Design the site to achieve a viable economic return;
- Ensure minimal environmental and amenity impact;
- Ensure ongoing compliance with all operational legislative requirements;
- Promote the regional economy through support for ongoing tourism;
- Provide for an employment-generating land use; and
- Ensure development is compatible with surrounding development and both the local and regional context.

The subject site and proposed design are considered to meet the objectives of the proposed development, as it allows for development on a land portion that is currently undeveloped; would be suitably located; and is zoned accordingly for such permissible tourism and residential purposes.

A preliminary Site Plan and Elevations are illustrated below within **Figure 6** and **Figure 7**.



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3.2 DEVELOPMENT STATISTICS

The proposal is for a concept development application for a mixed use residential and serviced apartment redevelopment with ancillary shops and food and drinks premises, including:

- Stage 2, including four Residential Flat Buildings;
 - Providing 10% affordable units by GFA (approximately 1,150m² GFA)
 - Approximately 108 units, with a mix of 1 to 4 bedroom typologies
 - Driveways and basement car parking
 - Maximum buildings heights ranging from 16.5m to a maximum RL of 24.95m
 - Approximately 5 storeys
- Stage 3, including 5 buildings of a mix of Residential, Serviced Apartments, shops and food and drink premises;
 - Provision of approximately 175 units, with a mix of 1 to 3 bedroom typologies
 - Driveways and basement car parking
 - Maximum buildings heights ranging from 19m to a maximum RL of 27.7m
 - Approximately 6 storeys
- Associated landscaping; and
- Basement carparking.

The Concept Proposal seeks to secure the following elements:

- Building envelopes for Stages 2 and 3, as shown in the Architectural Plans at **Appendix 2**;
- Maximum Building Heights for Stage 2 of RL 24.95m
- Maximum Building Heights for Stage 3 of RL 27.7m
- Maximum GFA for Stage 2 of 12,000m²
- Maximum GFA for Stage 3 of 21,000m² for residential purposes
- Minimum non-residential Gross Floor Area (GFA) of 3,00m²
- Minimum 50% open space/ landscaping provision, including minimum deep soil planting of 20% of site area.
- Minimum tree planting of 40 trees across Stages 2 & 3
- Car parking rates as follows:
 - 205 parking spaces for Stage 2 (maximum)
 - 386 parking spaces for Stage 3 (maximum)

3.2.1 Built Form

The concept proposal seeks consent to secure building footprints and building envelopes, including maximum heights and setbacks as shown in the Architectural Plans in **Appendix 3**. The following plans are sought to be stamped and approved:

- DA-CST2&3-04.02 STAGING PLAN – Rev A
- DA-CST2&3-05.02 BUILDING ENVELOP - 00 GROUND FLOOR- Rev A
- DA-CST2&3-05.03 BUILDING ENVELOP - 01 FIRST FLOOR- Rev A
- DA-CST2&3-05.04 BUILDING ENVELOP - 02 SECOND FLOOR- Rev A
- DA-CST2&3-05.05 BUILDING ENVELOP - 03 THIRD FLOOR- Rev A
- DA-CST2&3-05.06 BUILDING ENVELOP - 04 FOURTH FLOOR- Rev A
- DA-CST2&3-05.07 BUILDING ENVELOP - 05 FIFTH FLOOR- Rev A
- DA-CST2&3-05.08 BUILDING ENVELOP - SECTIONS- Rev A
- DA-CST2&3-07.01 TYPICAL SECTIONS- Rev A



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Figure 7. 3D Concept View (Source: Rise Projects, 2023)



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PART D LEGISLATIVE AND POLICY FRAMEWORK

4.1 CONTROLS AND POLICY OVERVIEW

This Part of the SEE addresses and responds to the legislative and policy requirements relevant to the proposed development at the Site in accordance with the EP&A Act.

The following current and draft Commonwealth, State, Regional and Local planning controls and policies have been considered in the preparation of this DA.

Commonwealth Planning Context

- *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*

State Planning Context

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Water Management Act 2000*
- *Biodiversity Conservation Act 2016*
- *Coastal Management Act 2016*
- *Rural Fires Act 1997*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*

Local Planning Context

- *Kempsey Local Environmental Plan 2013*
- *Section 7.11 Contributions Plans*
- *Kempsey Development Control Plan 2013*

Strategic Context

- *NSW 2021*
- *NSW Housing 2041*
- *North Coast Regional Plan 2041*
- *2042 Your Future Community Strategic Plan 2022*
- *Future Macleay, Growth & Character – Local Strategic Planning Statement 2020*
- *Kempsey Local Growth Management Strategy 2023*
- *South West Rocks Structure Plan 2023*



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4.2 COMMONWEALTH PLANNING CONTEXT

4.2.1 Environment Protection and Biodiversity Conservation Act 1999

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), any action (which includes a development, project or activity) that is considered likely to have a significant impact on Matters of National Environmental Significance (MNES) (including nationally threatened ecological communities and species and listed migratory species) must be referred to the Commonwealth Minister for the Environment. The purpose of the referral is to allow a decision to be made about whether an action requires approval on a Commonwealth level. If an action is considered likely to have significant impact on MNES, it is declared a “controlled action” and formal Commonwealth approval is required.

The subject site is not identified as containing any MNES. The proposal does not warrant significant impacts on MNES, therefore no further consideration of the EPBC Act is required.



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4.3 STATE PLANNING CONTEXT

4.3.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principal planning and development legislation in NSW.

4.3.1.1 Section 4.15(1) of the EP&A Act – Considerations

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **TABLE 3** below.

TABLE 3. SECTION 4.15(1)(A) CONSIDERATIONS	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The KLEP 2013 is the relevant Environmental Planning Instrument (EPI) applying to the Site, which is assessed in Section 4.4 of this SEE.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There are no draft instruments applicable to the Site.
Section 4.15(1)(a)(iii) any development control plan, and	The <i>Kempsey Development Control Plan 2013</i> (KDCP 2013) applies to the Site and is addressed in Section 4.4.2 and Appendix 15 of this SEE.
Section 4.15(1)(a)(iia) 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, and	There are no planning agreements that apply to the Site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The EP&A Regulation is addressed in Section 4.3.2 of this SEE.
Section 4.15(1)(b)-(c)	These matters are addressed in PART E of this SEE.
Section 4.22(5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.	The proposal is for a concept approval, including two stages of development that will be subject to future development applications which will have regard for Section 4.15 requirements.



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Pursuant to Division 4.4 of the EP&A Act, the application seeks consent for a Concept Approval. The consent authority for the proposed development is the Northern Regional Planning Panel, as the project is regionally significant development as it has a CIV greater than \$30 million, subject to the provisions of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

4.3.1.2 Section 4.46 of EP&A Act - Integrated Development

Section 4.46 of the EP&A Act defines 'integrated development' as matters that require consent from the consent authority and one or more authorities under related legislation. In these circumstances, prior to granting consent, the consent authority must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development, pursuant to Clause 42 of the EP&A Regulation.

The proposed development is identified as Integrated Development pursuant to Section 4.46 of the EP&A Act, as it would require approval from NRAR, as further outlined in **Section 4.3.3**.

4.3.2 Environmental Planning and Assessment Regulation 2021

The Proposal has been prepared in accordance with the provisions of the EP&A Regulation. Division 1 of Part 3 of the EP&A Regulation stipulates how a DA must be "made". This DA satisfies the relevant criteria of the Regulation as follows:

TABLE 4. HOW THE DA IS MADE	
Considerations	Response
Division 1 - Making development applications	
<i>Section 23 - Persons who may make development applications</i>	
<i>(1) A development application may be made by— (a) the owner of the land to which the development application relates, or (b) another person, with the consent of the owner of the land.</i>	This DA is made by Rise Projects. The owner of the land has provided consent in accordance with Clause 23(1) of the EP&A Regulation to allow for the DA to be made.
<i>Section 24 - Content of development applications</i>	
<i>(1) A development application must— (a) be in the approved form, and (b) contain all the information and documents required by— (i) the approved form, and (ii) the Act or this Regulation, and (c) be submitted on the NSW planning portal.</i>	The DA includes all relevant information including details of the development, address and formal particulars, estimated cost of development, owner's consent, supporting documents including detailed plans and SEE. This DA is submitted via the NSW planning portal.
<i>Section 25 - Information about concurrence or approvals</i>	
<i>A development application must contain the following information— (a) a list of the authorities –</i>	This application provides a list of concurrence agencies within Section 1.3 .



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<p>(i) from which concurrence must be obtained before the development may lawfully be carried out, and</p> <p>(ii) from which concurrence would have been required but for the Act, section 4.13(2A) or 4.41,</p> <p>(b) a list of the approvals of the kind referred to in the Act, section 4.46(1) that must be obtained before the development may lawfully be carried out.</p>	Relevant approvals required are covered within the Section 4.3.
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4.3.3 Water Management Act 2000

The objective of the *Water Management Act 2000* (WM Act) is the sustainable and integrated management of the state's water for the benefit of both present and future generations.

Section 91 relates to Activity Approvals and outlines that a controlled activity approval confers a right on its holder to carry out a specified Controlled Activity at a specified location in, on or under Waterfront Land.

For the purposes of the WM Act, Controlled Activity means:

<p>(a) the erection of a building or the carrying out of a work (within the meaning of the <i>Environmental Planning and Assessment Act 1979</i>), or</p> <p>(b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or</p> <p>(c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or</p> <p>(d) the carrying out of any other activity that affects the quantity or flow of water in a water source.</p>

Waterfront Land means:

<p>(a) the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, or</p> <p>(a1) the bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, or</p> <p>(a2) the bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, or</p> <p>(b) if the regulations so provide, the bed of the coastal waters of the State, and any land lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the coastal waters, where the prescribed distance is 40 metres or (if the regulations prescribe a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance. Land that falls into 2 or more of the categories referred to in paragraphs (a), (a1) and (a2) may be waterfront land by virtue of any of the paragraphs relevant to that land.</p>



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The proposed works result in stormwater discharge points within 40m of the Saltwater Creek and as such would require a Clause 91 Controlled Activity approval under the WM Act. Furthermore, it is considered that the proposed basements would impact on groundwater and as such would require an aquifer interference approval.

4.3.4 Coastal Management Act 2016

The *Coastal Management Act 2016* (CM Act) is the key piece of legislation in NSW relating to the protection and management of the coastal environment of NSW. The purpose of the CM Act is to protect, enhance natural coastal process and coastal environments and facilitate ecologically sustainable development within the coastal zone to promote sustainable land use planning.

The subject site is identified as being located within the proximity of coastal wetlands and littoral rainforests area as identified within **Figure 8**. A small portion of the subject site contains mapped coastal wetlands. Clause 6(2) of the CM Act provides the following management objectives for the coastal wetlands and littoral rainforests area:

- (a) to protect coastal wetlands and littoral rainforests in their natural state, including their biological diversity and ecosystem integrity,*
- (b) to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests,*
- (c) to improve the resilience of coastal wetlands and littoral rainforests to the impacts of climate change, including opportunities for migration,*
- (d) to support the social and cultural values of coastal wetlands and littoral rainforests,*
- (e) to promote the objectives of State policies and programs for wetlands or littoral rainforest management.*

The proposed development has been designed to consider the lands close proximity to the coastal wetlands. The proposed development has been designed to protect the coastal wetlands in its natural state, including their biological and ecosystem integrity.

Additionally, the subject site is also located within the coastal use area and coastal environment area, as identified within **Figure 11**. Clause 8(2) of the CM Act provides the following management objectives for the coastal environment area:

- (a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
- (b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
- (c) to maintain and improve water quality and estuary health,*
- (d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,*
- (e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,*



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(f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

The concept proposal would ensure continued natural processes of coastal waters and would not impact on the biological diversity or ecosystems surrounding the subject site. The proposed development would maintain the beach systems and ensure water quality is controlled from any run off.

Clause 9(2) of the CM Act provides the following management objectives for the coastal use area:

- (a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—*
 - (i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and*
 - (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and*
 - (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and*
 - (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and*
 - (v) the use of the surf zone is considered,*

The proposed development has been designed to protect and enhance the scenic, social and cultural values of the coast through its proposed bulk, scale and size. The proposed development has been designed with consideration of its surrounding area and the natural scenic quality of the coast. The proposed development does not create any adverse impacts on cultural and built environmental heritage.

A letter has been prepared by a Wetland Ecologist to further detail the wetland environment and has considered that Stage 2 and 3 generally accord with the requirements of the DPE guidelines for riparian corridors on waterfront land (**Appendix 16**).



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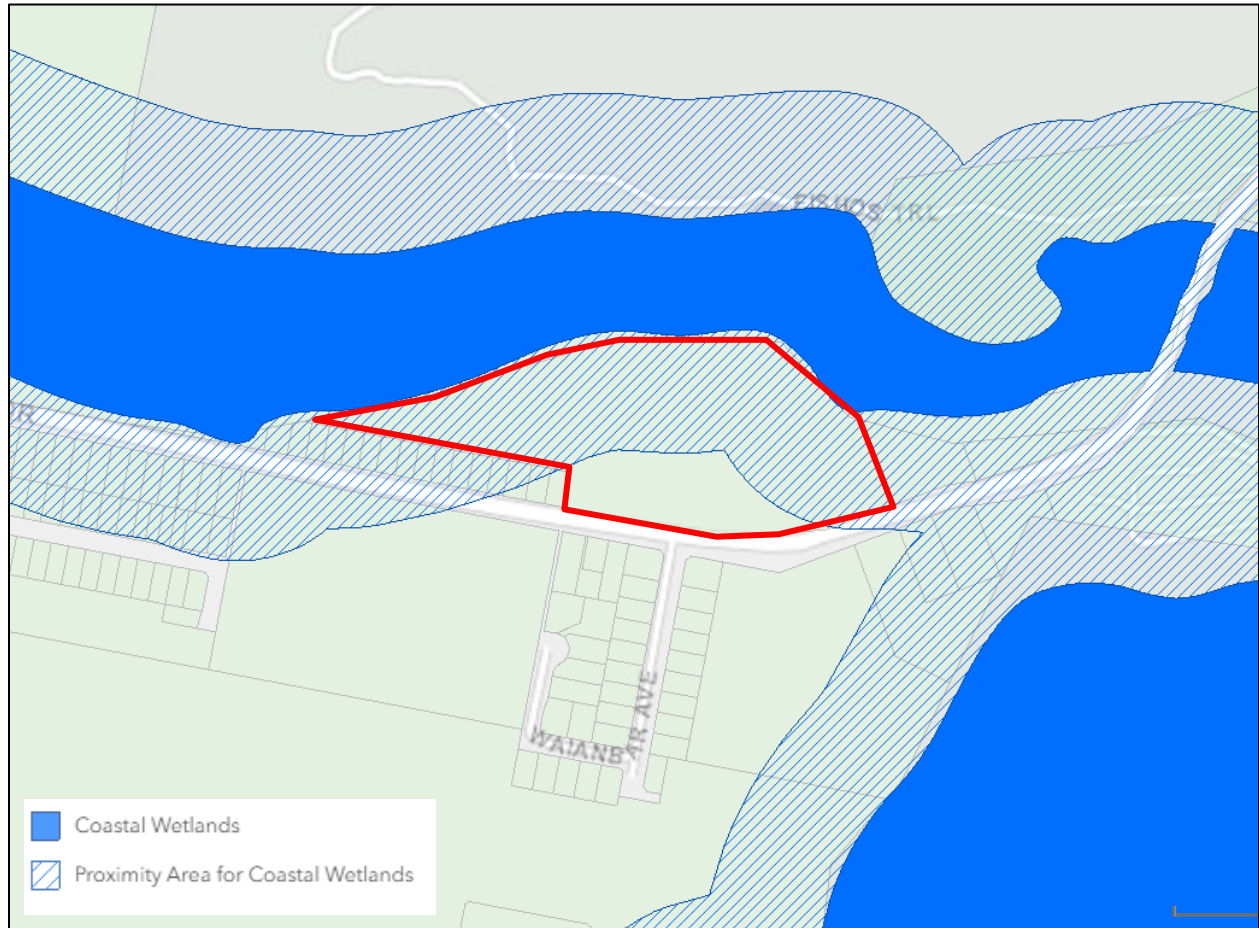


Figure 8. Coastal Wetland and Proximity Mapping (Source: NSW Legislation, 2023)

4.3.5 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) is the key piece of legislation in NSW relating to the protection and management of biodiversity and threatened species. The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greater well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development. The BC Act is supported by a number of regulations, including the *Biodiversity Conservation Regulation 2017* (BC Regulation).

Part 7 of the BC Act sets out requirements for biodiversity assessments and approvals under the EP&A Act. Pursuant to Section 7.2(1) of the BC Act, development or an activity is likely to significantly affect threatened species if:

(a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or



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- (b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or
(c) it is carried out in a declared area of outstanding biodiversity value.

The subject site contains a portion of land mapped as containing biodiversity values as shown in **Figure 9**. This portion of land is not being impacted by the proposed concept development. The subject site has recently been cleared of vegetation, and as such it is not considered that the proposed development would impact on any endangered ecological communities (EECs).

The concept proposal does not involve the clearing of any further vegetation on the subject site. However, any future detailed application would need to consider any native vegetation clearing at the time of the application.

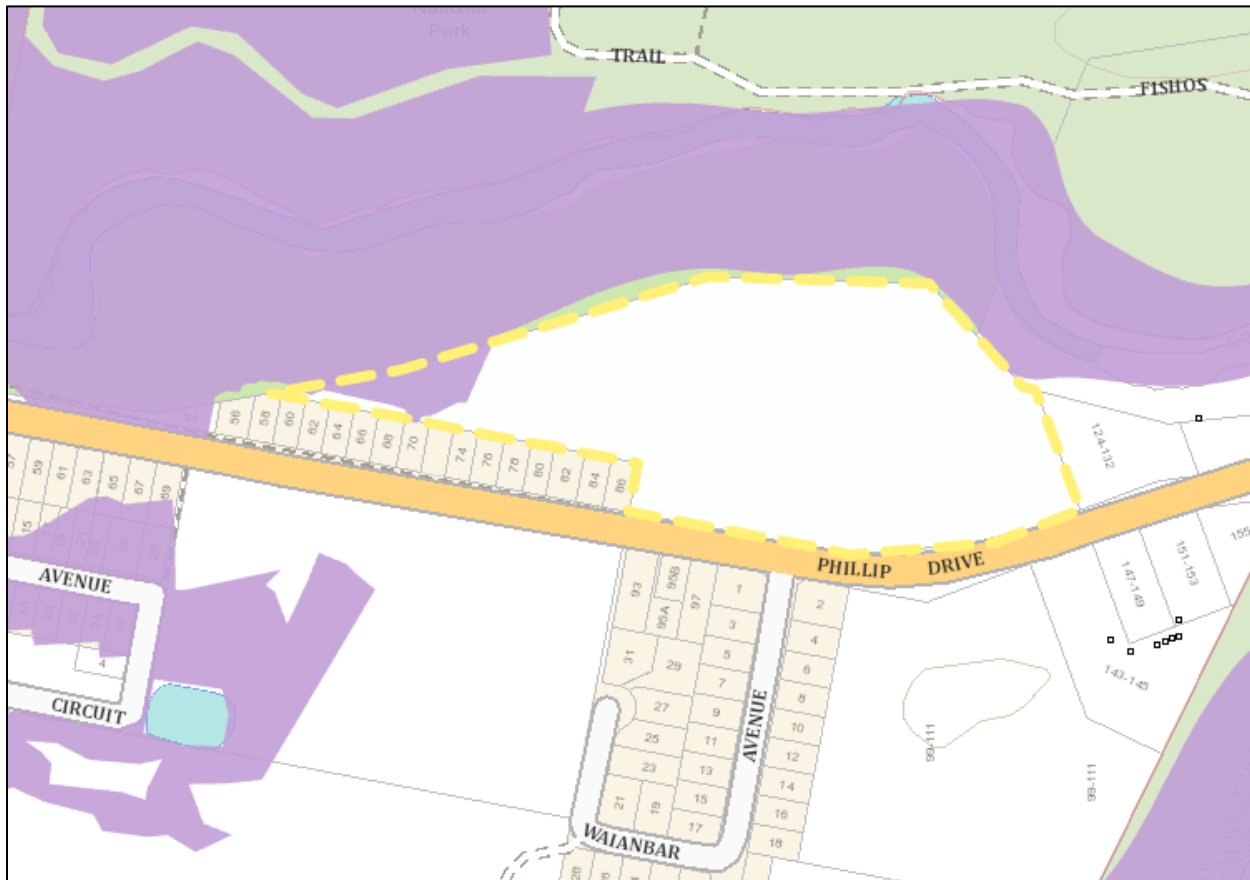


Figure 9. Biodiversity Values Map (Source: NSW Legislation, 2023)



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4.3.6 Rural Fires Act 1997

The *Rural Fires Act 1997* (RF Act) applies to the proposed development as it is on bushfire prone land and includes both hotel and residential development. The subject site contains Vegetation Category 3, bushfire prone land as shown in **Figure 10**. A Bushfire Report has been prepared is provided at **Appendix 17**. It is considered that the concept proposal would be able to meet the requirements of the *Planning for Bushfire Protection 2019* (PBP), and where there are two non-compliances these would be able to achieve alternate solutions which would be acceptable. It is noted that detailed development applications will ensure that the proposal would meet the requirements of this masterplan and the relevant bushfire regulations.

The concept proposal includes an inner protection zone and outer protection zone, which would form the Asset Protection Zone (APZ) and be appropriately managed and landscaped.

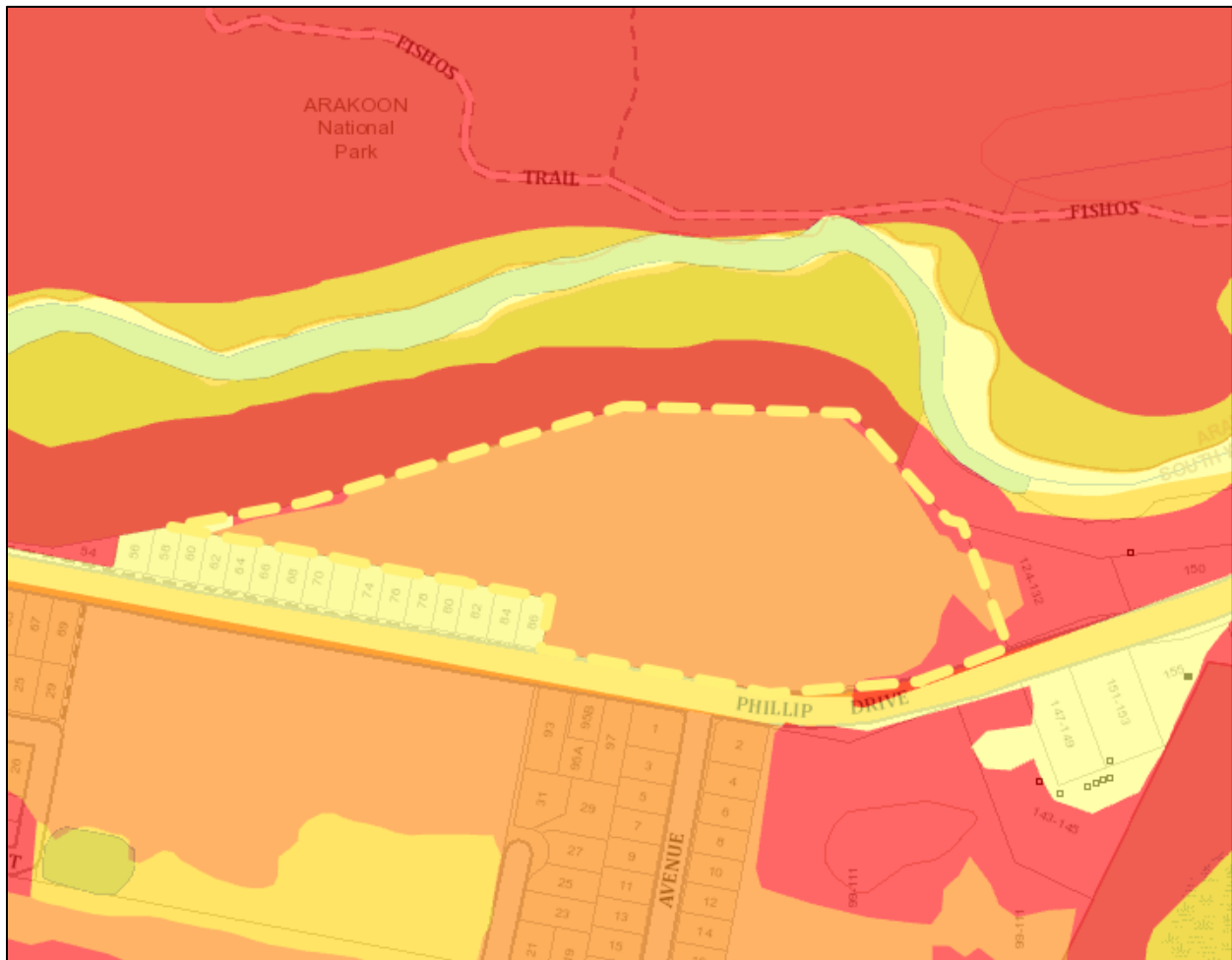


Figure 10. Bushfire prone land map (Source: NSW Legislation, 2023)



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4.3.7 State Environmental Planning Policy (Resilience and Hazards) 2021

The *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP) contains planning provisions relating to:

- land use planning within the coastal zone, in a manner consistent with the objects of the *Coastal Management Act 2016*.
- management of hazardous and offensive development.
- remediation of contaminated land and to minimise the risk of harm.

In relation to the subject site, the following matters are highlighted.

Chapter 2 – Coastal management

Section 5 of the CM Act provides that the coastal zone means the area of land comprised of the following coastal management areas—

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

The subject site is located within the coastal use area, coastal environment area, and has a small portion of land to the northern eastern edge which is considered coastal wetland, and as such is also within the coastal wetland proximity area, as shown in **Figure 11**.



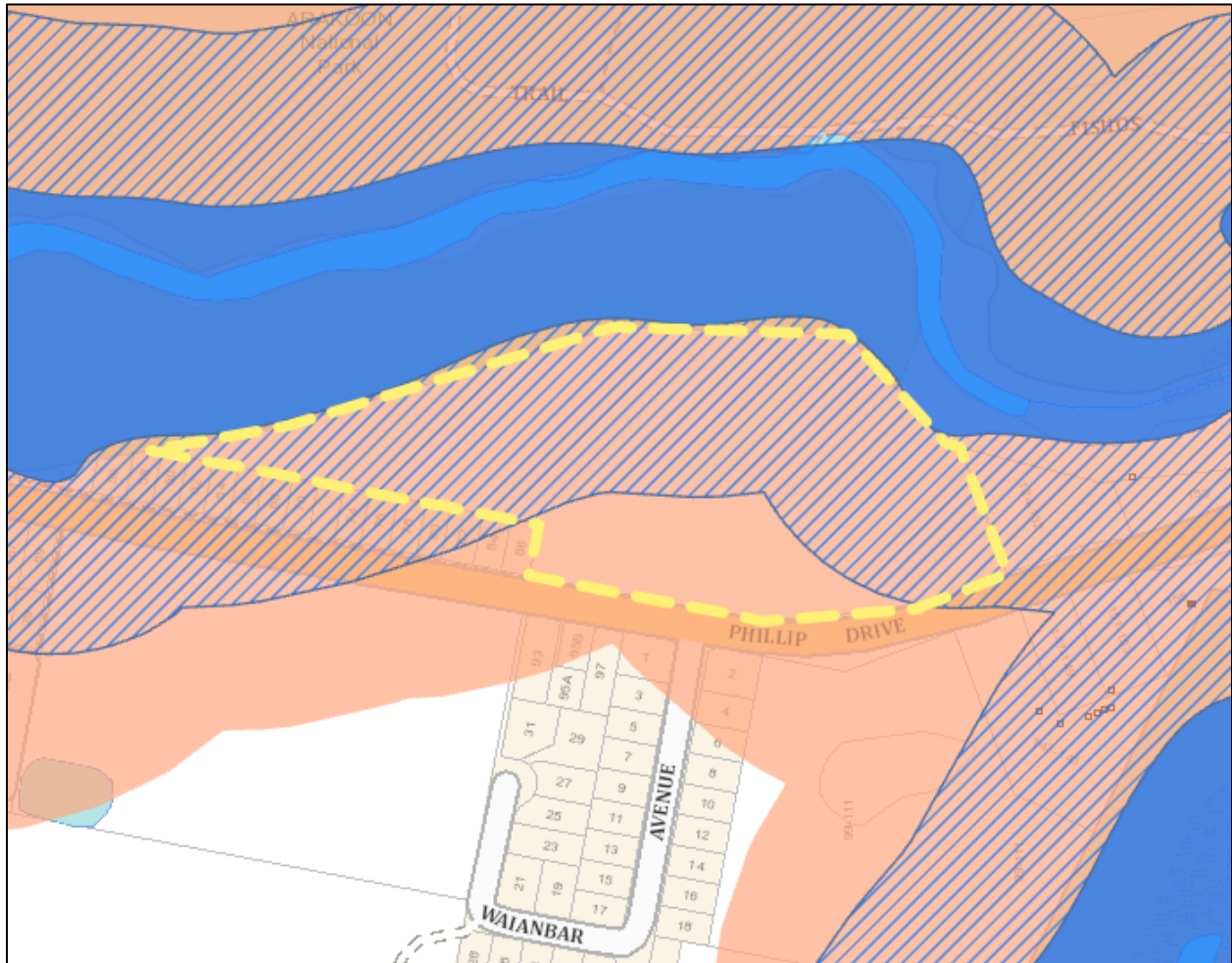


Figure 11. Coastal Mapping (Source: NSW Legislation, 2023)

The proposal does not propose any development on the land which is identified as coastal wetland on the subject site and as such does not trigger designated development, under Clause 2.7(2) of the Resilience and Hazards SEPP.



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Compliance with the relevant provisions of Resilience and Hazards SEPP, with regards to Coastal management areas is considered within **TABLE 5**.

TABLE 5. COASTAL MANAMGENET AREAS	
Clause	Comment
<i>Division 1, Clause 2.7 - Development on certain land within coastal wetlands and littoral rainforests area</i>	The proposed development has avoided any development of land identified as coastal wetlands and as such would not trigger designated development.
<i>Division 1, Clause 2.8 - Development on land in proximity to coastal wetlands or littoral rainforest (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on— (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</i>	The proposed development will not impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland. Detailed quantity and quality of surface flows would be considered as part of future development applications. A letter from a Wetland Ecologist has been provided at Appendix 16 .
Division 3, Clause 2.10 - Development on land within the coastal environment area	
<i>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following— (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (b) coastal environmental values and natural coastal processes, (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1, (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, (e) existing public open space and safe access to and along the foreshore, beach, headland or rock</i>	The proposed development has consideration for the following: <ul style="list-style-type: none"> ▪ Groundwater and the current hydrology of the subject site have been considered and may be impacted due to the provision of basements. Further consideration of this will be provided within the EIS. The proposed development wholly avoids the areas of the site mapped as coastal wetland and as containing biodiversity values. ▪ Coastal environmental values and processes will not be altered from the proposal. ▪ The proposal will have regard for water quality. ▪ No marine vegetation, vegetation or habitats would be impacted. The proposal avoids the biodiversity zone



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TABLE 5. COASTAL MANAMGENET AREAS	
Clause	Comment
<p>platform for members of the public, including persons with a disability, (f) Aboriginal cultural heritage, practices and places, (g) the use of the surf zone.</p>	<p>and coastal wetland area and the subject site has already been cleared of a majority of vegetation.</p> <ul style="list-style-type: none"> ▪ The proposal does not result in any impact to public open space or access to the beach. ▪ The proposal would not result in impacts to Aboriginal Cultural heritage, practices or places as demonstrated in the ACHAR. ▪ The proposal is not within the surf zone.
<p>2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>The proposed development is designed, sited and will be managed to avoid adverse impacts as outlined above and where possible these impacts will be minimised and mitigated.</p>
Division 4, Clause 2.11 - Development on land within the coastal use area	
<p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (a) has considered whether the proposed development is likely to cause an adverse impact on the following— (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage, and</p>	<p>The proposed development:</p> <ul style="list-style-type: none"> ▪ will not have an adverse impact on access to the beaches or headland; ▪ will not result in overshadowing or wind funnelling or loss of views for or from any public places; ▪ will not negatively impact on the visual amenity and scenic qualities of the coast as it is in keeping with the surrounding character and not visible from the beach or headland; ▪ will not result in any impacts on Aboriginal cultural heritage, practices and place or any other cultural or built environmental heritage. <p>A Visual Analysis has been prepared at Appendix 5.</p>



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TABLE 5. COASTAL MANAMGENET AREAS	
Clause	Comment
<p><i>(b) is satisfied that—</i></p> <p><i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i></p> <p><i>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p><i>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i></p>	<p>The development has been designed and sited to avoid any adverse impacts on the coast and headlands.</p>
<p><i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i></p>	<p>The proposal has taken into consideration the surrounding environment and further justification regarding design will be incorporated into future detailed development applications.</p>
Division 5 General	
<p><u>Clause 2.12 Development in coastal zone generally—development not to increase risk of coastal hazards</u></p> <p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</i></p>	<p>The proposed development will not result in increased risk of coastal hazards on the land or on any other adjoining lands.</p>
<p><u>Clause 2.13 Development in coastal zone generally—coastal management programs to be considered</u></p> <p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</i></p>	<p>The proposed development is not subject to a coastal management program.</p>
<p><u>Clause 2.14 Other development controls not affected</u></p> <p><i>Subject to section 2.5, for the avoidance of doubt, nothing in this Part—</i></p> <p><i>(a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or</i></p> <p><i>(b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.</i></p>	<p>Noted. The proposal is permissible with consent.</p>



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TABLE 5. COASTAL MANAMGENET AREAS	
Clause	Comment
<i>Clause 2.15 Hierarchy of development controls if overlapping</i> <i>If a single parcel of land is identified by this Chapter as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency—</i> <i>(a) the coastal wetlands and littoral rainforests area,</i> <i>(b) the coastal vulnerability area,</i> <i>(c) the coastal environment area,</i> <i>(d) the coastal use area.</i>	Noted. These have been addressed above.

Chapter 4 – Remediation of land

Under the provisions of Chapter 4 of the Resilience and Hazards SEPP, where a DA is made concerning land that is contaminated, the consent authority must not grant consent unless (as stipulated by Clause 4.6 of the SEPP):

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The Preliminary Investigation (PSI) and Detailed Site Investigation have been prepared by Econ Environmental and is provided within **Appendix 12**.

The report was based on the guidelines that have been set out by the NSW Environmental Protection Agency (EPA) in the form of the following Acts/Regulations:

- *Protection of the Environment Operations Act (1997)*
- *Protection of the Environment Operations Regulation (2008)*
- *Contaminated Land Management Act (1998)*

Representative soil sampling within the site were undertaken for analysis and characteristics purposes. Based on the results of the investigation, it is considered that the risks to human health and the environment associated with soil contamination at the subject site are low within the context of the proposed use of the subject site for the purposes of residential development. The PSI has confirmed that the subject site is considered suitable for the proposed development and intended land use. The PSI



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outlines that previous soil and groundwater contamination, including resultant groundwater contamination plumes were fully remediated in 1998. The recent letter from the Environment Protection Authority (EPA), details that per- and poly-fluoroalkyl substances (PFAS) have been detected in groundwater at the subject site. The EPA has recommended that appropriate management and mitigation measures are implemented during construction, which would be conditioned accordingly as part of any future detailed development application.

The PSI has made the following recommendations for the proposed development:

- *If there are any proposed plans for the subject site to include excavations of underlying or stockpiled soils, and the disposal of those underlying or stockpiled soils to a NSW EPA licenced facility, as part of the redevelopment of the subject site, then a Waste Classification report of soils is to be prepared in accordance with the NSW EPA Waste Classification Guidelines: Part 1 Classifying Waste (2014).*

This recommendation would be required for all future detailed development consents which include excavation.



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4.3.8 State Environmental Planning Policy (Industry and Employment) 2021

The *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP) contains planning provisions relating to:

- employment land in western Sydney.
- advertising and signage in NSW.

Signage would be considered as part of any future development application; and the provisions of Chapter 3 and the requirements under Schedule 5 of the Industry and Employment SEPP would be appropriately incorporated.

4.3.9 State Environmental Planning Policy (Housing) 2021

With the changing needs of housing across NSW, the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) intends to provide for more affordable homes, more choice of homes and new types of homes to meet these changing needs.

The concept proposal does not trigger the Housing SEPP, even though an affordable proportion of housing is proposed as part of Stage 2. The subject site sits outside the 800m distance to an existing centre. Any future development application would have regard to the relevant Housing SEPP provisions at the time of application, however it is not considered that any future DA would trigger the Housing SEPP.

4.3.10 State Environmental Planning Policy (Transport and Infrastructure) 2021

The *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) contains planning provisions relating to:

- infrastructure in NSW, such as hospitals, roads, railways, emergency services, water supply and electricity delivery.
- child-care centres, schools, TAFEs and Universities.
- planning controls and reserves land for the protection of three corridors (North South Rail Line, South West Rail Link extension and Western Sydney Freight Line).
- land use planning and assessment framework for appropriate development at Port Kembla, Port Botany and Port of Newcastle.

Of these, the proposed development must have regard to the following chapters:

Chapter 2 – Infrastructure

The proposal is not considered to be traffic generating development as noted under Clause 2.122 of the T&I SEPP. Stage 2 and 3 proposes a maximum of 283 residential units which would not meet the threshold of 300 dwellings under Schedule 3 of the Transport and Infrastructure SEPP.



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4.3.11 State Environmental Planning Policy (Planning Systems) 2021

The Planning Systems SEPP contains planning provisions relating to:

- State or regionally significant development, State significant Infrastructure, and critical State significant infrastructure.
- consideration of development delivery plans by local Aboriginal land councils in planning assessment.
- election of the Planning Secretary to be the concurrence authority for certain development that requires concurrence under nominated State environmental planning policies.

Chapter 2 – State and regional development

Chapter 2 of the Planning Systems SEPP identifies development that is state and regionally significant development.

Pursuant to Clause 2.19 of the Planning Systems Act, development that has a capital investment value (CIV) of more than \$30 million is declared regionally significant development for the purposes of the Act. A QS Report is attached at **Appendix 18**. The proposed development exceeds the \$30 million threshold, and therefore, is classified as regionally significant development.

4.3.12 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (BC SEPP) provides various development controls and policies associated with vegetation clearing, koala habitat management, bushland and catchment management across NSW. The following chapters are of relevance to the proposed development.

Chapter 4 – Koala Habitat Protection 2021

Kempsey Shire Council has adopted a Comprehensive Koala Plan of Management (CKPoM), and Clause 4.8 states that a development application must be consistent with the approved CKPoM that applies to the land. The subject site is identified as containing Secondary (Class A) preferred Koala habitat and unknown, as shown in **Figure 12**. It is noted that a majority of the subject site has been cleared of vegetation and previous investigations across the subject site did not record any koalas or evidence of koalas. The concept proposal does not propose removal of any trees. The landscape strategy considers use of native plant and tree species including koala food tree species including Swamp Mahogany (*Eucalyptus Robusta*), along the northern boundary (refer to Architectural Plans at **Appendix 2**).



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Figure 12. CKPoM Mapping (Source: Biodiversity Australia, 2023)

4.3.13 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

The proposed development incorporates more than 4 residential units within a block and is over 3 storeys in height. As such the proposal has regard for the *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65). It is considered that the development footprints would allow future development that is capable of achieving the requirements of SEPP 65 and would adhere to the standards outlined within the Apartment Design Guide (ADG). An initial review of the proposal against the ADG has been undertaken and a Design Verification Statement is provided at **Appendix 4**. It is considered that the concept proposal would allow for compliance with the ADG for future stages of residential development.

4.3.14 State Environmental Planning Policy (Sustainable Buildings) 2022

The *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) encourages the design and delivery of more sustainable buildings across NSW and commenced on 1 October 2023. It sets sustainability standards for both residential and non-residential development and contributes to NSW's target of achieving net zero by 2050.

Chapter 2 – Standards for residential development - BASIX



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Any future DA would require an assessment against Chapter 2 of the Sustainable Buildings SEPP and would provide a relevant BASIX certificate to ensure the delivery of sustainable buildings on the subject site.

Chapter 3 - Standards for non-residential development

Any future DA would require an assessment against Chapter 3 of the Sustainable Buildings SEPP where the proposal is not for residential development. It is considered that the future applications would be capable of ensuring a highly sustainable built form outcome.



4.4 LOCAL PLANNING CONTEXT

4.4.1 Kempsey Local Environmental Plan 2013

The KLEP2013 is the primary Environmental Planning Instrument that applies to the subject site.

The relevant provisions of KLEP2013 as they relate to the subject site are considered in the following subsections.

4.4.1.1 Zoning and Permissibility

The subject site is located within the R3 Medium Density Residential zone under the KLEP2013 as shown in **Figure 13**.

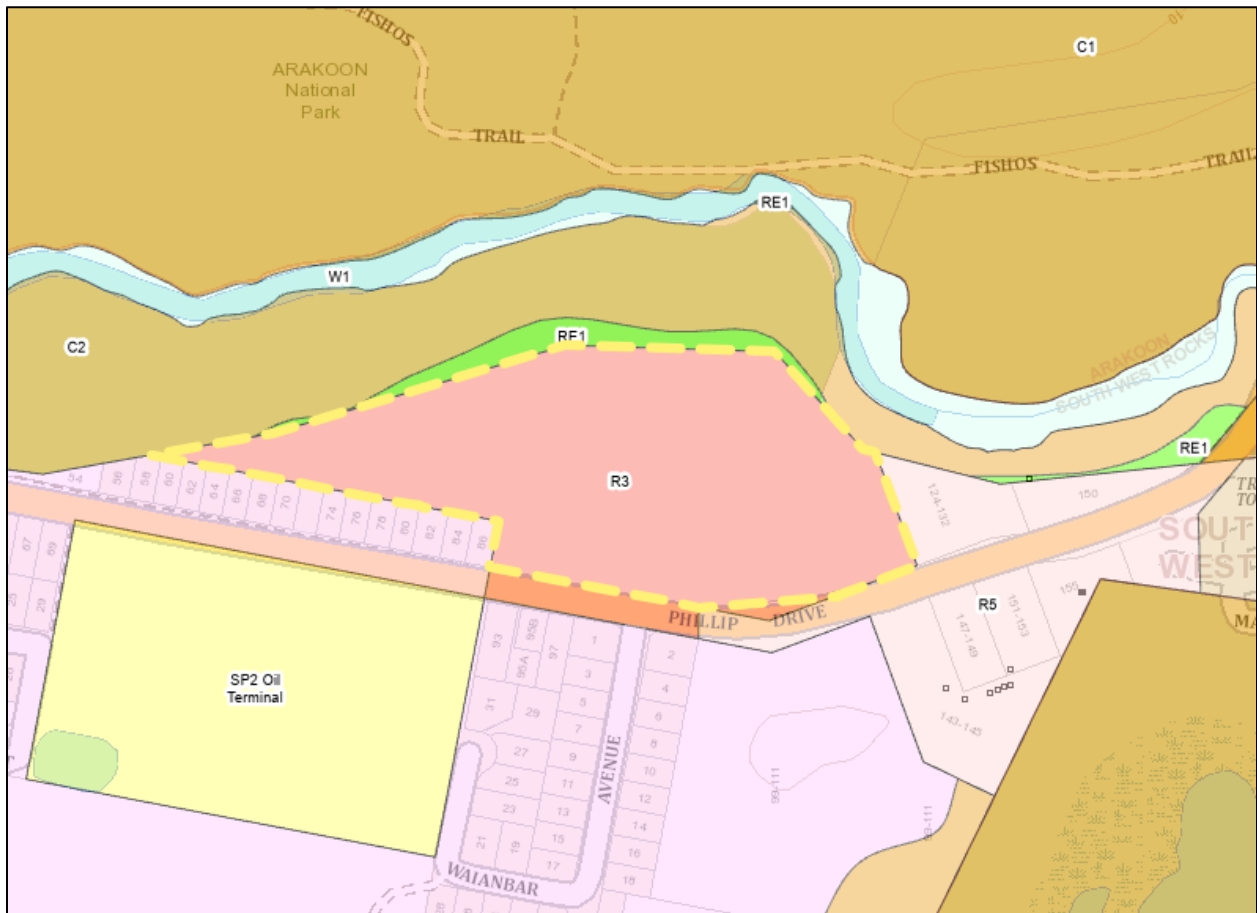


Figure 13. KLEP2013 Zoning Map (Source: NSW Legislation, 2023)

The objectives of the R3 Medium Density Residential zone include:

- *To provide for the housing needs of the community within a medium density residential environment.*



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- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage urban infill and redevelopment in areas that surround existing or proposed facilities and services.*

The proposed development effectively aligns with the objectives of the R3 Medium Density Residential zone in that it provides a variety of housing types and housing needs to the South West Rocks community. Furthermore, this development promotes the efficient utilisation of currently vacant land for residential purposes and strategically situates it in close proximity to essential amenities and services. The proposed development would provide other land uses that would service the existing and future population, without compromising the existing neighbourhood centre, including provision of shared open spaces and shops or food and drink premises.

Within the R3 Medium Density Residential zone, the following development is permitted without consent:

- *Environmental protection works; Home-based child care; Home occupations*

Within the R3 Medium Density Residential zone, the following development is permitted with consent:

- *Attached dwellings; Boarding houses; Centre-based child care facilities; Community facilities; Group homes; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4*

Within the R3 Medium Density Residential zone, the following development is permitted with consent:

- *Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Local distribution premises; Marinas; Mooring pens; Mortuaries; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies*

It is noted that pursuant to Schedule 1 of the KLEP2013, additional permitted uses are allowed on the subject site including, development for the *purposes of food and drink premises, residential accommodation, shops and tourist and visitor accommodation* is permitted with development consent.

The proposed development includes the following uses:



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- Residential accommodation;
- Shops;
- Food and drink premises.

The proposed development is therefore wholly permissible with consent within the R3 zone.

4.4.1.2 Development Standards

TABLE 6 outlines the developments consistency and compliance with the relevant development standards and controls under KLEP2013.

TABLE 6. DEVELOPMENT STANDARDS	
Clause	Comment
Clause 4.3 – Height of Buildings	There is no maximum building height identified across the subject site. The proposed development would have a maximum height of 27.7m.
Clause 5.21 – Flood Planning	The subject site is located within the Saltwater Creek catchment, with part of the site identified within the 1% Annual Exceedance Probability (AEP) event level. A Flood Impact Statement has been prepared (Appendix 7).
Clause 7.1 – Acid Sulfate Soils	The subject site is identified as containing Class 2b and Class 4 Acid Sulfate Soils as shown in Figure 14 . An Acid Sulfate Soils Management Plan has been prepared (Appendix 9).
Clause 7.2 – Earthworks	Bulk earthworks are proposed for creation of the basements. A Geotechnical Report has been prepared at Appendix 8 and Groundwater Report at Appendix 10 . An initial Civil Letter has been prepared at Appendix 6 , however detailed Civil Plans will be prepared for future applications.
Clause 7.4 – Koala Habitat	The subject site is identified as containing Secondary A and unknown koala habitat. No tree removal is proposed as part of this development as the subject site is already been largely cleared under the previous active development consent. Koala food trees are proposed to be planted along the northern boundary.
Clause 7.9 – Essential Services	The subject site will be connected to all the relevant infrastructure and services including water, sewer, stormwater, electricity and telecommunications. It is considered that there is existing capacity to connect future development to all services. An Infrastructure and Services Report will be prepared as part of future applications.



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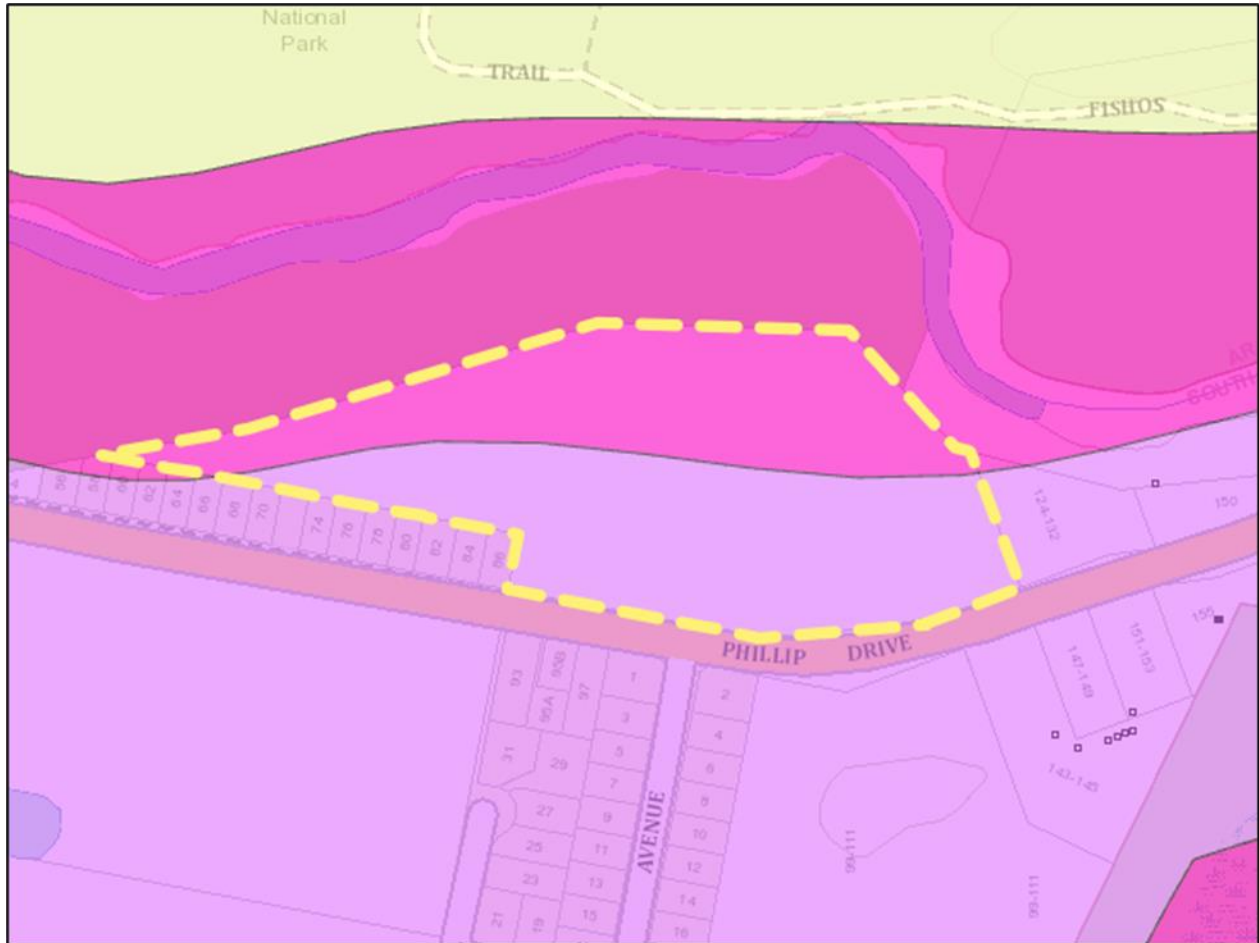


Figure 14. KLEP2012 Acid Sulfate Soils Map (Source: NSW Legislation, 2023)

4.4.2 Kempsey Development Control Plan 2013

The KDCP2013 provides detailed planning and design guidelines to support the planning controls of the KLEP2012.

An assessment of the Proposal against the relevant sections of the KDCP2013 is provided at **Appendix 15**.



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4.4.3 Section 94 South West Rocks Contributions Plan 2008

Section 94 South West Rocks Contributions Plan (Contributions Plan) applies to the Site. It authorises Council to grant consent to development to which this Plan applies, subject to a condition requiring the applicant to pay a levy based on the proposed cost of carrying out the development.

It is expected that any contributions required would be imposed as a condition of consent as part of future detailed development applications.



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4.5 STRATEGIC PLANNING CONTEXT

4.5.1 NSW 2021

The *NSW 2021* is a 10-year plan to guide policy and budget decision making and, in conjunction with the NSW Budget, to deliver on community priorities. It sets long-term goals and measurable targets, and outlines immediate actions to achieve these goals. These reflect the Government's commitment to whole of state growth and delivery, to improve opportunities and quality of life for people in regional and metropolitan New South Wales. NSW 2021 includes the following goals:

- Goal 5 – Place downward pressure on cost of living
 - Improve housing affordability and availability.
- Goal 20 – Build Liveable Cities

The proposed development would assist in providing a range of housing opportunities, including the provision of affordable housing within regional NSW.

4.5.2 Housing 2041 – NSW Housing Strategy

The *Housing 2041 – NSW Housing Strategy* (Housing 2041), represents a 20 year vision for housing in NSW and sets goals and ambitions to deliver better housing outcomes by 2041, including housing in the right locations, housing that suits diverse needs and housing that feels like home. The four key pillars of housing need are supply, diversity, affordability and resilience. Housing 2041 aims to:

- Deliver housing supply in the right locations, at the right time
- Provide housing that is diverse and meets varied and changing needs;
- Provide housing that is affordable and secure; and
- Deliver enduring and resilient housing.

The proposed development would allow for housing supply within an existing zoned and largely cleared site, which would be staged to become available in response to the increasing demand and allow infrastructure and servicing to be delivered alongside the development. The concept approval seeks the opportunity for a diverse mix of housing typologies, including 1 bed to 4 bedroom units, including a provision of affordable housing product. The concept proposal will ensure that future development would meet the sustainability targets of NSW at the time for application, and allows for sustainable design. The proposal is considered to align with the aims of Housing 2041.

4.5.3 North Coast Regional Plan 2041

The *North Coast Regional Plan 2041* (Regional Plan), sets a 29 year strategic land use planning framework for the region aiming to protect and enhance the regions assets and plan for a sustainable future. The Regional Plan sets out a series of goals and objectives to guide land use planning within the region.

The regional plan includes a goal whereby 40% of new housing by 2036 will either be 'multi-dwelling', like apartments, town houses, villas, or small lot housing, as well as identifying that tourism is a key economic driver that should be enhanced and supported throughout the region. The proposed development would assist in meeting this by providing apartments and the opportunity of serviced apartments that may be utilised by tourists or visitors to the region. The proposed development supports the following objectives of the regional plan:



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- OBJECTIVE 1: Provide well located homes to meet demand;
 - The proposal would allow for delivery of housing to meet the increasing demand.
- OBJECTIVE 2: Provide for more affordable and low cost housing;
 - The proposal includes provision of affordable housing stock and diverse housing which would offer an alternative price point than low density dwellings.
- OBJECTIVE 3: Protect regional biodiversity and areas of high environmental value;
 - The proposal has considered the location and avoids impacts on areas of high environmental value.
- OBJECTIVE 4: Understand, celebrate and integrate Aboriginal culture;
 - The proposal would not disrupt Aboriginal cultural heritage and aims to maintain the important view corridors from surrounding areas.
- OBJECTIVE 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change;
 - The proposal includes diverse housing stock which is of a high quality and can be designed to be responsive to natural hazards and climate change through the latest building techniques.
- OBJECTIVE 6: Create a circular economy;
 - The proposal would include a minor element of shops and food and drink premises, and allow for some visitor accommodation which would increase the employment opportunities in South West Rocks.
- OBJECTIVE 12: Create a diverse visitor economy;
 - The proposal would cater to increase tourist economy and provision of services to support this industry.
- OBJECTIVE 16: Increase active and public transport usage;
 - The proposal would improve active transport routes and is in close proximity to an existing bus stop.
- OBJECTIVE 18: Plan for sustainable communities;
 - The proposal considers the needs of the community now and into the future, and would ensure sustainable development can be created on the site.
- OBJECTIVE 20: Celebrate local character.
 - The proposal respects the surrounding built and natural character of South West Rocks. Future applications would consider appropriate design features, façade development and landscaping to minimise the visual impacts of the development and present a high quality built form environment that is compatible with the existing local character of South West Rocks.

The proposed development will support the delivery of the Regional Plans objectives, through providing a well located development that protects key areas of biodiversity, promotes the economy and tourism sectors and is respectful of the local character.

The Kempsey Narrative within the Regional Plan includes the following:

- Deliver housing at South West Rocks, in addition to West and South Kempsey.
- Maintain the unique character of the area's towns and villages.
- Develop opportunities to achieve a diverse range of housing products across multiple towns that are fit for purpose.

The proposal would assist in delivering housing in South West Rocks, would not impact on the character of the town in a negative way and would increase the diversity of housing products.

4.5.4 2042 Your Future Community Strategic Plan



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The *2042 Your Future Community Strategic Plan 2022 (CSP)*, outlines a 20 year plan for the Kempsey Shire Community. The CSP outlines four focus areas including:

- Enhancing and protecting our natural and built environment;
- Boosting and evolving Kempsey shire’s prosperous economy;
- Creating and celebrating a supportive, connected community; and
- Valuing, informed leadership that engages and inspires the community.

The proposed concept development would ensure that the surrounding natural environment is retained and protected, with the subject site mostly cleared of vegetation. The concept proposal envisages additional landscaped elements which would enhance the natural environment. The proposed built environment would be further developed in detailed development applications to ensure a high quality outcome which respects the existing and future character of the area.

The proposal would continue to boost the local economy, providing jobs through construction and ongoing through the shops and food and drink premises, and allow for the increased visitor economy with the provision of serviced apartments. The proposal would further develop a community that is connected and can utilise shared spaces on the subject site.

4.5.5 Future Macleay – Growth and Character Local Strategy Planning Statement

The *Future Macleay, Growth & Character – Local Strategic Planning Statement 2020-2040 (LSPS)* applies to the subject site and aims to deliver on the key planning priorities. The following planning priorities are considered relevant to the proposed development:

- Planning priority H1: Deliver growth that does not compromise the Shire’s rich biodiversity;
 - The concept proposal retains the nearby dense bushland vegetation, and would provide additional landscaping and planting to enhance biodiversity.
- Planning priority W2: Enable the growth of tourism;
 - The proposal includes serviced accommodation which may be used to support visitors, as well as providing small scale shops and food and drink premises.
- Planning priority C2: Provide great places to live and work;
 - The proposal aims to deliver high quality residential development and small work opportunities, and would allow for those to continue to live and work within the LGA.
- Planning priority C3: Develop healthy, safe, socially engaged and well-connected communities;
 - The proposal would support casual meeting spots through shared open spaces, walking paths and would support active transport opportunities within South West Rocks. The proposal supports a diverse array of housing which would ensure communities can stay within the area throughout their life.
- Planning priority C6: Maintain the Shire’s distinctive built character;
 - The proposal would change the existing low density character of this portion of South West Rocks, but is considered to allow for a high quality built environment, which does not detract from important views and vistas from the town centre of nearby Gaol. The proposal would create a positive and distinctive built character within this precinct of South West Rocks.
- Planning priority S1: Plan for housing demand;
 - The proposal would provide an increase supply of housing to be delivered in stages in response to the demand over time.
- Planning priority S2: Increase housing diversity and choice; and
 - The proposed development significantly increases the diversity of housing choices, offering an array of apartment typologies and sizes.
- Planning priority S3: Deliver more opportunities for affordable housing.



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- The proposal includes 10% affordable housing to be delivered within Stage 2.

4.5.6 Kempsey Local Growth Management Strategy

The *Kempsey Local Growth Management Strategy 2041* (KLGMS) applies to the subject site and notes the following projections for South West Rocks:

- Average annual growth rate of 1.9% for housing (highest in the LGA);
- Average annual employment growth rate of 1.4%;
- Vision to maintain its coastal setting, lifestyle and promote key tourism destinations as a major attractor to the town;
- To accommodate an additional 1,580 dwellings to 2041;
- To facilitate 500 additional jobs between 2016-2041.

The proposed development will include the provision of housing to support a considerably high growth rate, and provide opportunities to support ongoing tourism. The proposal would directly respond to the need to accommodate an additional 1,580 dwellings including providing a diversity of dwellings and would assist in creating additional jobs during construction and ongoing through operation.

The KLGMS also aims to ensure that South West Rocks:

- maintains its picturesque coastal setting through the management of development height, scale and density and protection of significant vegetation and key scenic view corridors;
- is the key coastal lifestyle and tourism township for Kempsey Shire, providing a range of housing densities and types, supported by commercial, retail and industrial development appropriate for the scale of the township; and
- Does not allow growth in residential development to occur at the expense of maintaining important scenic and environmental values.

The proposal has been developed to ensure that the heights proposed do not impact on key scenic view corridors, and to maintain South West Rocks coastal setting. The proposed would significantly increase the housing typologies available within South West Rocks and would also support appropriate shops and food and drink premises that would not directly compete with the town centre. The proposal would not result in any impacts to the small area of biodiversity values located to the west of the subject site.

Within the KLGMS it notes that “*the South West Rocks Structure Plan will address the ability for South West Rocks to accommodate an additional 1580 dwellings to 2041, including approximately 200 semi-detached and approximately 360 flats/apartments. This includes changes to the Kempsey LEP building heights which have been proposed in Appendix A (Table 2) of the South West Rocks Structure Plan*”.

The proposal will include the provision of approximately 280 residential apartments within South West Rocks, which would directly target the requirements of the KGLMS. It is noted that the change to building heights within the existing developed areas of South West Rocks largely reflect the existing built form, and the opportunity for redevelopment of these areas is considered to be low due to the existing strata ownerships and costs to demolish existing 3 storey buildings to replace with 3 storey buildings which are unlikely to yield greater unit numbers.



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4.5.7 South West Rocks Structure Plan 2023

The *South West Rocks Structure Plan 2023* (Structure Plan) aims to balance accommodating growth while retaining the existing character of the place. The Structure Plans vision is outlined below:

The picturesque coastal setting of South West Rocks is maintained through the management of development height, scale and density, and the protection of significant vegetation and key scenic views corridors. In addition to its distinctive natural setting and coastal landforms, the character of the town is also strongly influenced by its Aboriginal cultural and maritime heritage. The vision also seeks to continue to improve the quality of the public realm and deliver street tree planting throughout residential areas to improve the pedestrian amenity of the whole town.

The subject site is identified as a current development area and envisions low scale dwellings and apartment buildings. The proposal would deliver apartment buildings. The Structure Plan identifies surrounding areas as being tourism attractors. The subject site is identified as being within the Phillip Drive neighbourhood, which is a key accessibility link to the tourist attractors of South West Rocks (Trial Bay Gaol and Little Bay) and the Arakoon area. It is identified that Phillip Drive should be preserved and enhanced with an active transport link. The proposal has considered improved active transport opportunities through the subject site and along Phillip Drive and would support an active transport link along the frontage of Phillip Drive.

The Structure Plan proposes to bring in a height restriction onto the subject site of 8.5m. It is considered that the proposed development would still ensure an appropriate built form outcome, that would assist in delivering the overarching aims of the Structure Plan and the wider Strategic Planning Framework. The proposed development aligns with the intentions of the Structure Plan.



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PART E LIKELY IMPACTS OF THE DEVELOPMENT

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15(1) of the EP&A Act.

5.1 CONTEXT AND SETTING

The proposed concept approval would allow for residential flat buildings ranging from 3 storeys to 6 storeys in height, located within a residential neighbourhood, with a heavily vegetated bushland area to the north. The subject site is zoned for medium density residential development, and the concept proposal provide an increased density while being respectful of the predominant 2 storey character of the nearby residential dwellings to the east. The proposed development allows for the staged redevelopment of a largely cleared site, which transitions from a lower density form, including the approved Stage 1, two storey townhouses through to the higher density being contained within the middle of the subject site.

The concept proposal would utilise the approved new road to allow access into the future buildings. The development of the subject site has avoided areas of established native trees along Phillip Drive and to the north eastern edge to assist in retaining the bushland character of the area.

The proposal will not result in any adverse amenity impacts to the adjoining neighbouring properties and is considered that future development will be of a high quality design which would be compatible with the surrounding character of the area. The proposed development considers the future context and setting of South West Rocks as the second largest urban area within Kempsey Shire Council and delivers increased housing density to support the growing demand for housing. The proposal is considered compatible with the subject site and surrounding context and setting.

5.2 BUILT FORM

The concept approval seeks to secure building envelopes and building heights, which would guide future development. The future built form would be designed to a high quality. The proposed layout of the buildings and footprints responds to the surrounding context and view corridors, with height being retained in the centre of the subject site, where it is least visible. Architectural Plans have been provided at **Appendix 3** which consider the scale and context of the building heights.

The proposed site layout responds to the site constraints and surrounding characteristics, thus providing a highly functional development form which is compatible with the existing character of the area.

5.2.1 Height

There is no prescribed height limit on the subject site. The proposal would incorporate stepped buildings ranging in height from 3 storeys up to 6 storeys. The buildings fronting Phillip Drive retain a three storey form and are setback 12m from Phillip Drive. A section through the front building envelope to Phillip Drive is shown in **Figure 15** below, and demonstrates that from eye level at Phillip Drive, the proposed development envelope is retained within the 27 degree angle of view. All buildings propose a stepped building envelope to minimise bulk and scale of the upper levels and increase building separation to ensure visible lines through the subject site. Furthermore, the existing and proposed new trees along Phillip Drive would further reduce the perceived height of the building envelopes.



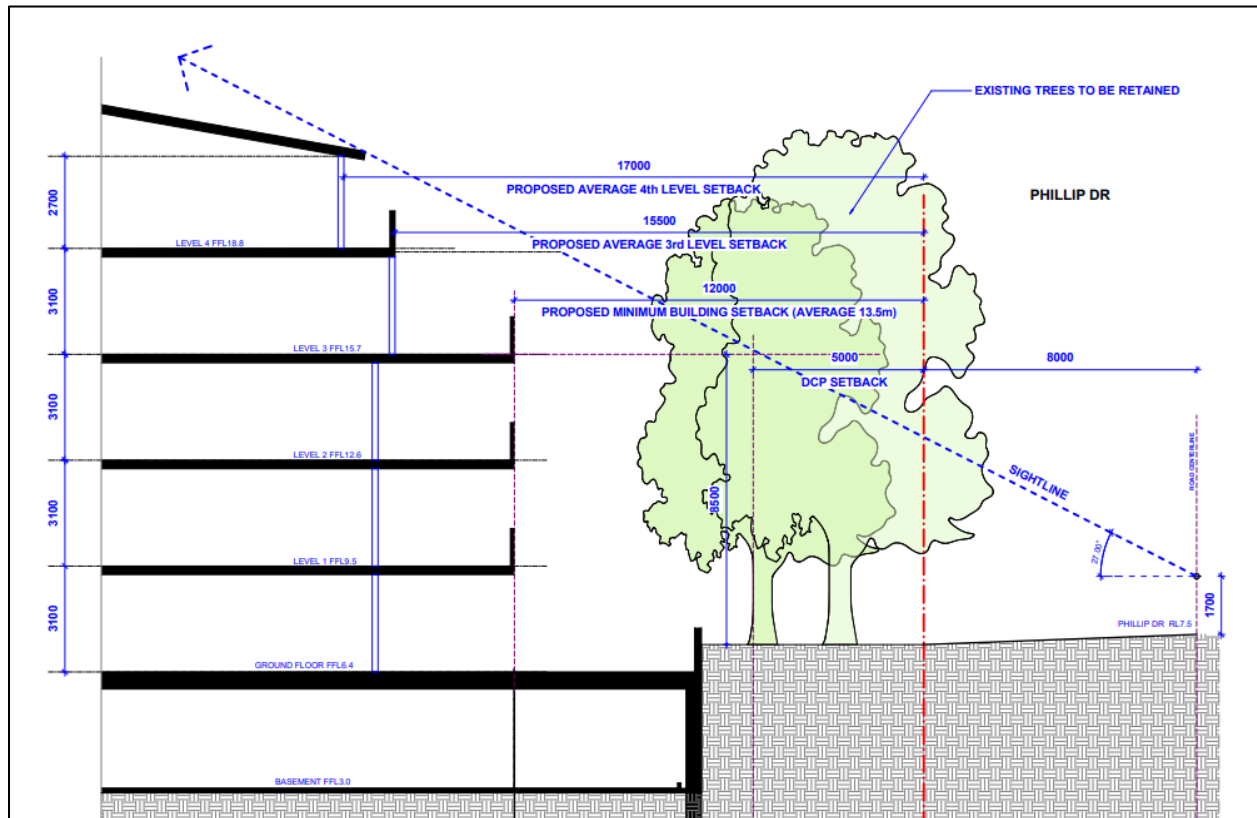


Figure 15. Section from Phillip Drive (Source: Rise Projects, 2023)

While the Structure Plan considers an 8.5m height limit, it is not considered that this is appropriate to allow medium density residential development. The R3 zone allows for a mix of residential development typologies not just low rise medium density typologies such as multiple dwellings or attached dwellings. It is considered that given the topography of the subject site and the surrounding context, the proposed height would not have any detrimental impacts in terms of overshadowing or impacts on views and vistas to and from important landmarks.

5.2.2 FSR

There are no floor space ratio controls on the subject site.

5.2.3 Landscaping

An initial concept landscaping plan has been developed, including a species palette to be incorporated into future detailed applications. The concept landscape plan is provided within **Appendix 3**. The landscaping includes native species including koala food trees and targets a canopy cover of 15% in the inner protection zones and 30% in the outer protection zone, which corresponds to the requirements in relation to Bushfire protection along the northern boundary. Further large trees are proposed along Phillip Drive, including at least 4 Eucalyptus Signata. Planting details and locations will be provided during future detailed applications.



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5.3 AMENITY

The proposed development does not result in unacceptable amenity impacts on the adjoining existing residential development, and ensures adequate internal amenity to all new proposed dwellings, including the approved Stage 1 townhouses.

Initial shadow diagrams relating to the building envelopes have been prepared, Appendix 1, and demonstrate that the open space areas and surrounding residential areas would achieve at least 2 hours of solar access in mid winter. It is considered that the future development would be able to ensure internal amenity to all units, subject to future detailed design.

The proposed development will not impact on the visual amenity of surrounding residents. As described above the building envelopes will be stepped and setback from Phillip Drive. Key views are maintained between important features of South West Rocks, and the development would largely sit below the existing tree line north of the subject site.

It is not considered that the proposed development would allow for overlooking into neighbouring properties and internal privacy would be considered as part of the detailed design of the buildings.

It is considered that the proposed dwellings would not result in additional acoustic impacts, being residential in nature. Minimal additional traffic is proposed along Phillip Drive which would not result in detrimental noise impacts to existing residential dwellings. Future shops and food and drink premises would be required to operate with Plans of Management, and ensure appropriate acoustic attenuation.

5.4 MOSQUITO RISK ASSESSMENT

The subject site is located adjacent to Saltwater Creek and is in close proximity to coastal wetlands, therefore it is likely to provide habitat for a range of mosquito species. It is not considered that the subject site would contain considerable habitat locations, mainly occurring on nearby bushland and lagoon areas. The mosquitos may present an occasional pest impact to the proposed future development, however it is unlikely this would result in any significant greater risk than other residential areas within Kempsey Shire.

Future detailed applications would be designed to minimise the potential for areas to provide habitat, namely ensuring there are no areas that would retain rainfall, with adequate drainage proposed across the subject site.

The APZ zones across the subject site will be maintained as required and should provide adequate dispersal of mosquito populations. The proposed concept development is not considered to result in an increase in population or presence of mosquitos on the subject site and as such is considered acceptable.

5.5 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposed design has considered the principles of Crime Prevention through Environmental Design (CPTED), and it is considered that future built form would be able to respond to these principles.

Natural Surveillance - The proposed development parcels would allow buildings to face both the internal street, Phillip Drive and to the surrounding open space elements.



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Access Control - The proposed development allows easy movement through spaces and reduces opportunities for dead ends and areas which would have minimal views. Future development would consider opportunities for controlled access into various entries and the basement.

Territorially - Future development will consider the use of features and design elements to delineate private and semi private spaces. It is intended that the ground floor plane across the development would largely be for public use by.

Maintenance - Any future development would include appropriate management and maintenance to ensure high quality spaces are retained to a high standard.

5.6 TRAFFIC & TRANSPORT

Gregory Street, South West Rocks Road and Plummers Lane are classified by TfNSW as Regional Roads and provides the key north-south road link in the area between South West Rocks and Clybucca. It typically carries one traffic lane in each direction, with parking permitted in the kerbside lane on both sides of the road.

Phillip Drive is a local, unclassified road which perform the function of a collector route through the local area, linking between South West Rocks town centre in the west and Arakoon National Park in the east. Unrestricted parking is permitted on both sides of the road. There is an existing bus route with a bus stop situated adjacent to the subject site on Phillip Drive, operating between South West Rocks via Smithtown and Frederickton to Kempsey.

5.6.1 Traffic Generation

The concept proposal may result in an additional 98 vehicle trips per hour during the weekday AM peak and approximately 91 vehicle trips per hour during the weekend PM peak. It is considered that the proposed shops and other uses on the subject site would largely be those within close proximity and are unlikely to result in significant additional vehicle trips. It is considered that both intersections onto Phillip Drive would continue to operate at a Level of Service A.

5.6.2 Parking

The concept proposal incorporates 205 parking spaces in Stage 2 and 386 parking spaces in Stage 3, which would be considered sufficient to cater to future development. Detailed parking layouts would be provided as part of any future application and would include appropriate provision of accessible spaces.

Cycle parking spaces would be incorporated into any future detailed application.

5.6.3 Access and Loading

The existing internal road has been designed to allow for Council waste vehicles to access the subject site. It is considered a small private waste vehicle may be used for the developments, and use basement service areas, as well as two on-street loading bays along the internal private road. Further detail of access and loading would be provided during future detailed applications.



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An emergency vehicle pathway and pedestrian pathway has been indicatively proposed on the northern boundary within Stage 3, it is noted that detailed design of this would be incorporated into future applications, but would ensure emergency access to the whole of the subject site.

5.7 STORMWATER AND EROSION & SEDIMENT CONTROL

The Stage 2 stormwater drainage and water quality design has been considered in the approved Stage 1 (DA2200404) and stub lines from the proposed pits in the Road MC01 have been provided to the stage 2 buildings. The stage 1 design had the stormwater drainage lines discharge into two bioretention basins and an infiltration swale running adjacent to proposed Road MC01. As part of the stage 2 and 3 development. The bioretention basins and infiltration trench will be relocated and expanded to accommodate the new development. The piped drainage from Stage 1 and 2 will be modified to drain into the new basin while new stormwater drainage piping will be proposed as part of the Stage 3 detailed design to drain into the two bioretention swales. An initial concept plan for drainage and water quality design is included within **Appendix 6**.

Detailed Civil Plans would be required for any future development applications. It is considered that stormwater and erosion could be appropriately managed during construction.

The subject site is known to contain acid sulfate soils, and as such an acid sulfate soils management plan has been prepared at **Appendix 9**.

It is considered that the proposed basements would impact on groundwater which will be considered in detailed design. However, a Groundwater Monitoring Report (**Appendix 10**), was prepared and considers that groundwater levels and quality. There was spatial variability in hydraulic conductivity, groundwater levels and groundwater quality across the subject site. Groundwater levels decreased fairly consistently across the subject site in a mostly south to north direction. Hydraulic conductivity, which was very high towards the eastern end of the subject site, tended to reduce somewhat inconsistently in a westerly direction. Groundwater quality appears to be influenced more by location than by weather or season, although at most of the testing sites there was some variability within the parameters measured. Although median concentrations of some of the parameters were above relevant default guideline values there is no evidence of groundwater pollution among the parameters measured. High measurements are considered likely to result from the natural biogeographical features of the site and surrounds.

The EPA provided advice in relation to PFAS present in the groundwater (**Appendix 11**), and it noted that PFAS was present at the subject site, and therefore appropriate management measures during construction activities to minimise contact and exposure, for both human and environmental health, and to prevent mobilisation of PFAS impacted groundwater. It is considered that appropriate conditions of consent to ensure appropriate measures are implemented during construction would be required.

5.8 FLOODING

A portion of the subject site is flood prone land and a Flood Report has been prepared to consider the impacts for a fully development site (**Appendix 7**).



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5.9 BUSHFIRE

The subject site is identified as Bushfire Prone Land and the concept proposal has been designed with regard to the PBP. A Bushfire Report is provided at **Appendix 17**. Vegetation on the subject site has been largely cleared and the entire site considered managed land. The vegetation surrounding the subject site consists of a mixture of Northern Hinterland Wet Schlerophyll Forest, Coastal Swamp Forest and Coastal Dune Dry Schlerophyll Forest Vegetation.

The subject site is bordered to the north by the unmanaged bushland associated with Crown land and Arakoon National Park, to the east by a partially managed parcel of private land, to the west by existing residential development and bushland and to the south by a mixture of developed and undeveloped general residential lots and a managed infrastructure site. Saltwater Creek is located approximately 80 meters to the north of the subject site, which supports the Coastal Swamp Forest riparian corridor that runs adjacent to the water course.

The surrounding landscape has been highly modified over time, resulting in highly fragmented native vegetation both within and external the site. The resulting fragmented native vegetation would not support large landscape scale bushfires in the surrounding landscape.

It is considered that suitable APZ zones can be provided and the subject site has adequate access for emergency vehicles. Detailed assessment against the PBP would be required during further detailed applications for development. It is considered that the land would be suitable for the proposed use.

5.10 CONTAMINATION

A Preliminary Site Investigation and Detailed Site Investigation has been undertaken (**Appendix 12**) and the subject site is not considered to be contaminated and would be suitable for the proposed development. The subject site has been vacant and as such historical uses are not expected to have caused any contamination. Surrounding land uses have been considered, and after testing of 10 soil samples taken across the subject site, it was found that all samples were below the relevant threshold. It is considered that the subject site has a low potential for contaminants and would be suitable for residential use.

It is considered that human exposure to potential contaminants on the subject site is considered low, and that appropriate conditions of consent would ensure that any unexpected contamination would be appropriately managed on site during construction.

Groundwater was encountered during soil samples, and it is understood that groundwater contamination, including resultant groundwater contamination plumes were fully remediated in 1998 and therefore suitable for the future residential use.

The EPA provided advice in relation to PFAS present in the groundwater (**Appendix 11**), and it noted that PFAS was present at the subject site, and therefore appropriate management measures during construction activities to minimise contact and exposure, for both human and environmental health, and to prevent mobilisation of PFAS impacted groundwater. It is considered that appropriate conditions of consent to ensure appropriate measures are implemented during construction would be required.



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5.11 VISUAL IMPACTS

A Visual Analysis has been undertaken (**Appendix 5**) and considers the surrounding view points and topography to understand where the concept proposal may be visible from. Six views have been analysed and considered, including from Trial Bay Gaol and the Beach near the town centre. The existing dense vegetation associated with Saltwater creek and within the Aarakoon National Park block the majority of views of the proposed concept building envelopes.

Views from Phillip Drive and nearby residential dwellings along Phillip Drive are likely to have significant change as the current site is undeveloped. The visual changes would be screened by existing and proposed vegetation along Phillip Drive and a significant setback from the street has been incorporated to further set the buildings back. Furthermore, the visual change is unlikely to be detrimental from internal dwellings given the limited line of view from windows that would be likely. Further detailed design of the facades of the proposed buildings would also alleviate any detrimental visual impacts.

While the views along Phillip Drive would result in a notable change (**Figure 16**), it is not considered that the visual impacts would be detrimental to the existing character of the area, and further design development would ensure that the facades are of a high visual quality.

The subject site is visually and physically isolated from the main town of South West Rocks and its beaches and therefore the concept proposal would have no visual effect or impact on the character or setting of South West Rocks in these locations. Key views and vistas would be retained from Trial Bay Gaol and the beaches, with the development sitting below the established dense vegetation line. The building envelopes are largely only visible from close range views, and any development on the subject site would result in a significant change from the currently vacant undeveloped land parcel. It is not considered that the proposed development would result in an unacceptable visual impact, as the view is from limited vantage points, by a small number of residents or by those moving along Phillip Drive and as such would be infrequent.

Mitigation for any potential views and visual impacts would be provided through high quality architectural design and colours and materials as well as through extensive landscaping and tree planting. The proposed large setbacks from Phillip Drive allow for sufficient planting and reduce the visual presence of the building onto the street. These measures will be incorporated within future detailed applications.



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Figure 16. View from Phillip Drive (Source: Urbis, 2023)

5.12 EMISSIONS

Future applications will consider sustainability in the design and assist in achieving the net zero emissions target.

5.13 WASTE

Waste generated throughout the construction phase would be disposed of in accordance with a Waste Management Plan, which would include provisions for recyclables and suitable off-site disposal.

The internal road would allow waste vehicles to utilise this access, and waste collection points would be nominated in the detailed design phase. It is considered that waste is likely to be collected at ground level utilising service bays. A detailed Waste Management Strategy would be prepared with any future detailed application. Clean Away have detailed that they would be able to service the commercial waste of the concept proposal (**Appendix 19**).

5.14 HERITAGE

An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared to consider the subject site and cultural heritage values (**Appendix 13**) and did not identify any Aboriginal sites. The Kempsey Local Aboriginal Land Council is not aware of any midden sites within the area and had no objection to the proposal noting that early works on the higher parts of the land should be monitored for any unexpected finds.



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Appropriate mitigation and management measures will be undertaken where Aboriginal heritage items or artefacts are identified at the subject site, and can be conditioned accordingly.

5.15 FLORA AND FAUNA

The subject site contains a portion of biodiversity value which is not being impacted by the proposed development. The subject site is largely cleared of trees and the concept proposal does not require any tree removal.

The proposed development would result in the loss of some exotic grassland areas which may be used by local flora for habitat and feeding. It is understood that the Wallum Froglet, Eastern False Pipistrelle, East Coast Freetail Bat, the Little Bent-wing Bat, The Large Bent-winged Bat and the Greater Broad-nosed Bat and two species of gliders have been identified on the subject site (Sugar Glider and an unconfirmed Feathertail Glider). It is considered that to ensure there are minimal impacts to these species from the proposed development the following measures may be put in place:

- Implementation of soil and sediment control measures during earthworks;
- Weed control measures;
- Minimising artificial light sources;
- Landscaping to include native plants where possible.

Further detailed assessments will be undertaken during detailed design phase.

The subject site is located near a coastal wetland the design is generally in accordance with the DPE Guidelines for riparian corridors on waterfront land, to insure minimal impacts on the nearby coastal environment (**Appendix 16**). Further detailed assessment would be required to be undertaken during detailed application stage.

5.16 CONSTRUCTION

No construction is proposed as part of this concept development application. It is considered that all construction impacts would be considered at the time of future detailed applications. Construction impacts will be managed through the implementation of a Construction Environmental Management Plan. The Construction Management Plan (CEMP) will provide details in relation to the following:

- Construction hours;
- Method of demolition;
- Sediment control;
- Site access and safety;
- Noise and dust emission control;
- Traffic management; and
- Protection of neighbouring and public property.

Subject to the preparation and implementation of the CEMP, the impacts arising from the construction of the proposed development can be mitigated and managed.

5.17 BUILDING CODE OF AUSTRALIA

It is considered that future buildings would ensure compliance with the BCA or relevant codes at the time of a detailed application.



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5.18 ACCESSIBILITY

The subject site is relatively flat, and future detailed applications would ensure sufficient accessibility requirements. The concept plan has considered accessible parking spaces and adaptable units in the initial design to ensure there is sufficient space to accommodate these.

5.19 SOCIAL AND ECONOMIC IMPACTS

The proposed development is considered to result in a positive social and economic impact on South West Rocks and the North Coast Region. The proposal would provide diverse housing to meet the needs of the existing and future community, would support ageing in place and provides a proportion of affordable housing products. It is noted that there is very limited affordable housing provided within South West Rocks. Link Wentworth are in support of the affordable housing provision within the development, as noted in the letter at **Appendix 20**.

The proposal would also provide some small shops which provides local jobs and would also provide serviced apartments to support the visitor economy. It is considered that while the proposal may have some short term social impacts during construction stages, and there would be permanent changes to the visual context given the subject site is currently undeveloped, there would be an overall social benefit due to the provision of much needed housing supply and through the provision of semi-public areas of landscaping and paths.

5.20 SERVICES

The subject site is not currently connected to any services, however all services are available within the immediate area. The proposed development will be connected to existing Council services through extensions to existing services. It is considered that there is sufficient capacity in the existing infrastructure to cater to the proposed future development. An Infrastructure staging plan will be provided as part of any future detailed application.

5.21 ENGAGEMENT

Community consultation is being undertaken to guide future detailed development applications to ensure that the built form and shared spaces are informed through collaboration with the community.

5.22 SUITABILITY OF SITE FOR DEVELOPMENT

The proposed development is permitted with consent within the R3 Medium Density Residential zoning of the subject site. The proposal includes the provision of up a variety of housing typologies of a medium to high density. The proposal would not result in inappropriate amenity impacts on the surrounding neighbourhood in terms of overshadowing or overlooking. Detailed designs of the proposed buildings would be development to ensure that the architecture is of a high quality and compatible with the surrounding low density residential and bushland areas.



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The surrounding context is a mix of bushland and residential development and the design of the dwellings and landscaping is considered to be compatible with this character. The proposal has avoided areas of high value environmental retention. As demonstrated in the strategic plans for the locality and region, there is considerable demand for new housing of a medium density to which this proposal will provide. It is considered that the subject site is suitable for the proposal.

5.23 SUBMISSIONS

The public exhibition of the Proposal will occur in accordance with the requirements of the EP&A Act and the relevant Council planning provisions. Any submissions received by Council during the public exhibition period will need to be reviewed and considered within the assessment of the development application.

5.24 THE PUBLIC INTEREST

The proposed development provides essential housing and opportunities to the existing and future residents of South West Rocks. The proposal would not have any undue environmental, social, cultural or visual impacts and is not considered to impact on the public interest. The proposal would allow for development and additional landscaping on a vacant site, which would enhance the connectivity through the subject site for walking and the community and provide places for social gatherings.



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PART F CONCLUSION

The purpose of this SEE has been to present the proposed concept proposal including Stage 2 and Stage 3 for a residential led development on Lot 2, Phillip Drive, South West Rocks and to assess its potential impacts having regards to Section 4.15(1) of the EP&A Act

The Proposal has been prepared after taking into consideration the following key issues:

- The development history of the site;
- The context of the site and locality;
- The relevant heads of consideration under Section 4.15(1) of the EP&A Act;
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments; and
- The pre-lodgement advice received from Kempsey Shire Council.

The Proposal is considered to warrant a favourable determination for the following reasons:

- The proposal is wholly permissible with consent within the R3 zone under the KLEP2013;
- The proposal would allow for considerable delivery of a diverse array of housing, including affordable housing within South West Rocks;
- The proposal would align with the strategic intentions of the State, region and Kempsey;
- The proposal would not have any undue impacts on the environment; and
- The proposal would allow for delivery of sustainable development.

The proposed development is permissible within the zone and is compatible with the zone objectives. As stipulated previously in this SEE, the matters for consideration under Section 4.15(1) of the EP&A Act have been satisfactorily addressed.

In light of the merits of the proposed development and in absence of any significant environmental impact, the proposed development warrants support by Council.

