

CHAPTER 5.20 SOMERSBY – WISEMANS FERRY ROAD/PEATS RIDGE ROAD (SOMERSBY FIELDS SITE)

5.20.1 LAND TO WHICH THIS CHAPTER APPLIES

This DCP chapter applies to Lot 41 DP 1046841 Wisemans Ferry Road/Peats Ridge Road Somersby as shown on the map below.



Figure 1 – Land to which this chapter applies

5.20.2 PURPOSE OF CHAPTER

The purpose of this chapter is to provide for additional provisions for the development of the land as an environmental lifestyle subdivision and allow an additional transmission tower within the environmental contextual setting of the land, and its relation to surrounding land uses. It is proposed to create six (6) environmental lifestyle lots of approximately 3 ha each (using lot averaging provisions) on the C3 land, one residue C2 lot, and lots associated with the excision of the existing/future transmission tower(s).

The land is in a unique situation given that it was previously identified as being a regionally significant extractive resource (for clay- shale) within a preferred location for extractive industries in the Somersby region. However it is also located in close proximity to a primary school, dwelling houses being used for rural living purposes and a clustering of “community” orientated activities. The Minister for Planning previously refused a Development Application for the sand mine and the land is now excluded for use as a commercial extractive industry.

The land also has valuable environmental characteristics, including known threatened species and their habitat, and other constraints to development. These DCP provisions are required to ensure there is a balance between development and environmental values can be achieved.

There also needs to be some flexibility at the development application stage in relation to the general siting of dwelling houses, clearing works required for bushfire protection, access to dwellings, effluent disposal areas and the like. Where required, assessment of future components of the Development Application will be required to be supported by relevant specialist technical studies as may be necessary.

5.20.3 OBJECTIVES

The objectives of this chapter are to:

- Encourage the orderly development of the land for rural living environmental lots and;
- Make provision for the protection of the environment (including threatened species) and natural resources; and
- To make provision for aboriginal archaeological heritage; and
- Make provision for bushfire protection; and
- Make provision for access arrangements; and
- To ensure the land is adequately serviced and nutrients are managed; and
- Ensure satisfactory site remediation during the development stage; and
- To make provision for the development of the SP2 component of the land; and
- Delineate conceptual information for the development of the land.

5.20.4 SPECIFIC REQUIREMENTS

5.20.4.1 Orderly Development

- a The land is to be developed only in accordance with the amending Local Environmental Plan (LEP) that provides for the rezoning of the land to C3 Environmental Management, C2 Environmental Conservation and SP2 Infrastructure and the development control provisions in this chapter.
- b This Chapter is to be read in conjunction with Central Coast LEP 2022 and in particular the provisions of Clause 7.13 - Subdivision and erection of dwelling house—certain land at Wisemans Ferry Road Somersby. Where there is any inconsistency between the provisions within this DCP Chapter and the LEP, the provisions of the LEP will apply.
- c The subdivision of the C3 component of the land is to incorporate lot averaging provisions as provided for within the amending LEP. The lot averaging yield is in the vicinity of 3 hectares per allotment;
- d The land to be zoned SP2 Infrastructure is only to be developed for the purposes of infrastructure (transmission towers) and does not have dwelling entitlements;
- e Development is to be generally in accordance with the concept plan(Figure 2) to these DCP provisions, referenced "Project: Proposed Rural Rezoning", "Plan Title: Concept Subdivision Plan to Support Planning Proposal" "Project No 190016P SK 003 Rev 1", with the exception of the centralised access road and the provisions of Clause 7.13 of Central Coast LEP 2022, most notably regarding lot yield (note: the subsequent revised concept plan submitted during consultation, showing the internal access road and primary access onto Peats Ridge Road for Lots 26 and 27 is not supported);
- f All development is to generally comply with Council's adopted Development Control Plans and Policies. Note: where provisions of adopted DCPs conflict with the provisions of this DCP chapter, the provisions of this DCP chapter will prevail.

- g Nothing in these DCP provisions implies that the existing airstrip is a legal entity nor possesses relevant approvals

5.20.4.2 Environmental Protection and Natural Resources

- a Future development of the land is to be supported by an Assessment pursuant to the *Biodiversity Conservation Act 2016* with particular emphasis on threatened species known to exist on the land, which include:: Somersby Mintbush (*Prostanthera junonis*), Spreading Guinea Flower (*Hibbertia procumbens*), *Darwinia glaucophylla*, Eastern Pigmy Possum, Red crowned Toadlet, Giant Burrowing Frog, Little Lorikeet, Little and Common Bentwing Bat, Eastern Freetail-bat, Grey-crowned Babbler, Gang-Gang Cockatoo and Grey-headed Flying foxes;
- b The subdivision is to occur in the manner shown on the attached concept plan and in accordance with these DCP chapter provisions, and where best case environmental outcomes can be achieved;
- c Dwellings, access to dwelling sites, effluent disposal areas, landscaping areas etc. are to be sited to minimise the removal of existing native vegetation where possible and subject to appropriate assessment;
- d The dwelling to be located on the proposed C2 allotment is to be located as close as possible to the proposed C3 land to minimise impact;
- e Creation of a Covenant (Restriction(s) as to User(s)) under appropriate legislative provisions binding the existing and future owner(s) and Council to provide for:
- i A minimum of 50 metre area to protect the core habitat area for *Prostanthera junonis* sub-population 6A, adjacent to Peats Ridge Road (with the exception of a restricted area for emergency access only, the appropriate location of which is to be determined at the Development Application stage);
 - ii An environmental protection area in the central section of the proposed C3 land (note the access way/road shown in the Concept Plan is not endorsed for the purposes of this DCP);
 - iii An environmental protection area on the majority of the C2 lot (other than an area required to accommodate a dwelling house and curtilage, including bushfire radiation/asset protection zone and effluent disposal area located adjacent to the C3 land) to ensure the on-going maintenance and protection of the environmental values of this lot (note: not shown on concept plan);
 - iv The Restriction as to User is to be created prior to the registration of the Plan of Subdivision;
 - v No development (other than emergency access) is to occur in the areas to be protected;
 - vi Future subdivision will be subject to Section 5A assessment (or amending provisions with particular emphasis on *Prostanthera junonis* Sub-population 6A;
 - vii Residual bushland areas, including the bushland located on the C2 and C3 zoned land (even if not identified as containing threatened species, but containing vegetative support to these areas) will be subject to on-going ecological management, as supported by an appropriate Plan of Management to be submitted as part of the Development Application for subdivision. The Plan of Management is to be to the satisfaction of Council and demonstrate that harm minimisation, mitigation and avoidance are integral components in the long term environmental management of the C2 and C3 sections of the land;
 - viii Any variations sought to the requirements for the Restriction as to User is to be considered at the Development Application stage and to be supported by relevant studies that provides demonstrable improvements to environmental outcomes and having regard to legislative provisions such as the *Threatened Species Conservation Act*.

- f Consideration is to be given to the reuse of extractive material gained during the excavation stage of any proposed development (including construction of accessways, dwelling houses etc.);
- g The erection of a hangar on the C2 component of the land is not considered suitable and would be subject to separate Development assessment on its merits;
- h The erection of any dwelling, landscaping, clearing, earthworks, effluent disposal area etc. on both the C3 and C2 components are to have regard to proximity to natural vegetation and to minimise edge effects into significant bushland areas. Effects and minimisation of impacts are to be addressed in the Plan of Management outlined above.

5.20.4.3 Aboriginal Archaeological Assessment

- a Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW is to be undertaken at the Development Application stage for the subdivision in relation to the location of site works associated with access, erection of dwellings, vegetation and land disturbance for bushfire, effluent disposal etc.
- b Should the Due Diligence Archaeological Assessment identify that there is potential impact upon aboriginal cultural heritage due to the proposed development, the proponent must investigate, assess and report on the harm that may be caused. An Aboriginal Cultural Heritage Assessment report will be required to support any application to detail assessment and recommendations for actions to be taken before, during and after an activity to manage and protect objects and places. Where harm cannot be prevented or avoided and to support any application made to OEH for an AHIP, the following documents must be referenced:
 - i Aboriginal cultural Heritage Consultation Requirements for Proponents (2010);
 - ii Code of Practice for the Archaeological Investigations of Aboriginal Objects in New South Wales (2010) (information available at <http://www.environment.nsw.gov.au/licences/achregulation.htm>);
- c Consultation in relation to Aboriginal Archaeology is to be undertaken with all interested groups, including Darkinjung Local Aboriginal Land Council and Guringai Tribal Link.

5.20.4.4 Bushfire Protection

- a All future development is to comply with the requirements of *Planning for Bushfire Protection, 2019* and to be supported by appropriate reports prepared by a bushfire consultant;
- b Roads/access ways are to be provided in accordance with design the specification set out in *Planning for Bush Fire Protection, 2019*. Where access ways/rights of carriageway are to be provided these are to be to the satisfaction of the NSW Rural Fire Service and to incorporate measures for the safe transit and passage of fire tankers, whilst having regard to the minimisation of the removal of vegetation and impact on threatened species, and environmental amenity;
- c Asset Protection Zones are to be provided in accordance with *Planning for Bushfire Protection, 2019*. Where Asset Protection Zones may affect areas of threatened species habitat, compensatory "offset" type revegetation of alternative areas may be an appropriate outcome to satisfy environmental objectives;
- d All dwellings, Asset Protection Zones and access ways/rights of carriageways are to be sited to minimise the need to remove vegetation to satisfy bushfire requirements and will be subject to detailed assessment at the Development Application stage for subdivision;

- e The residue C2 zoned lot is to have proposed access provided by way of extension of the proposed internal access serving the C3 lots, to provide a clear and direct exit path from the lot away from the main bushfire hazards to the east, north-east and south-west
- f The provision of a secondary emergency access route from the eastern end of the proposed access way (by way of a private right of way) out onto Peats Ridge Road from either proposed Lot 26 or 27 is to be considered at the DA stage and subject to detailed investigations in relation to impacts upon vegetation, scenic quality, traffic access and safety on Peats Ridge Road.

5.20.4.5 Access Arrangements

- a Only one primary vehicular access point is to be provided to the site via Marabunga Road and then on to Wisemans Ferry Road. This is to be sited in the western section of the land, to the general north-east of the consolidated transmission tower/s.
- b Intersection treatments at the access point onto Marabunga Road, and at the intersection of Wisemans Ferry Road and Marabunga Road are to be considered at the DA stage for the subdivision and to meet required engineering standards, with any upgrading costs to be met by the applicant;
- c Internal roads/rights of carriageways are to be designed to be located away from the central environmentally sensitive area of the land (that is to be protected by way of a Restriction as to User and these DCP provisions), with engineering standards to be determined at the Development Application stage;
- d In addition to (iii) above, all internal accesses/rights of carriage ways are to be designed and sited so as to minimise impacts on vegetation, in particular threatened species, contribute to the environmental living amenity and have regard to the amenity of dwelling envelopes with alternate engineering standards (drainage swales etc.) (subject to satisfaction with NSW Rural Fire Service requirements) and to be determined at the DA stage;
- e The main street address for any allotment, including the residue C2 lot, is not to be Peats Ridge Road. Primary access for lots is to be gained from the internal access system within the C3 component;
- f One emergency ingress/egress point is to be provided onto Peats Ridge Road, the final siting of which is to be determined having regard to the assessment undertaken under relevant environmental assessments and having regard to traffic safety and functioning onto Peats Ridge Road.

5.20.4.6 Servicing Considerations

- a Any Development Application for subdivision will be required to be supported by an On-site Wastewater Management Plan in accordance with the methodology recommended in the Environment and Health Protection Guidelines – On-site Sewage Management for Single Households. The Report will include:
 - i an overview of the soil and landscape (topography, geology, groundwater, vegetation, rock outcrops) features across the area, taking into account the degree and location of constraints that could affect the siting, design, sizing, installation and maintenance of on-site sewage management systems;
 - ii a description of the extent and nature of any environmentally sensitive areas, including endangered ecological communities, creeks, bores and dams, and the potential for impacts upon these;
 - iii collection of information on groundwater vulnerability, the nature of any aquifers, the location of bores, watertable heights, and the nature and extent of any groundwater quality and use;

- iv an assessment of potential impacts and cumulative impacts over time of establishing on-site sewage management systems within the planning proposal area;
 - v a recommendation for the most appropriate sewage treatment system and disposal method;
 - vi where effluent disposal systems may have an adverse impact on threatened species habitat or areas of significance, compensatory areas for revegetation may be considered and are to be incorporated into the overall Plan of Management.
- b A Nutrient Management Plan is to be prepared to support any Development Application for subdivision to demonstrate that all nutrients generated by development can be managed and contained on-site, effectively managed without causing environmental effect, and that there is no net increase in nutrients entering water catchments, having regard to parts of the land being located in Ourimbah Creek and Mooney Mooney Creek Catchment areas;
- c A suitable, centralised area is to be identified within the public road reserve off the primary public road access (Marabunga Road) for a centralised garbage bin service associated with the development, to the satisfaction of Council's waste contractor. This facility is to be appropriately screened/landscaped consistent with a rural living type subdivision;
- d It should be noted that a conventional garbage service may not be available within the subdivision (depending on the requirements of Council's contract waste provider).

5.20.4.7 Site Remediation and Land Stability

All development is to comply with the *Preliminary Contamination Assessment* report, prepared for ADW Johnson Pty Ltd by Coffey Environments Australia Pty Ltd dated 17 October 2014. Specific requirements of this Report include:

- a The site should be kept secure to minimise the potential for further illegal dumping;
- b A Phase 2 Contamination Assessment, including sampling and laboratory analysis, is to be carried out to support the Development Application to quantify the risks posed by the exposure pathways identified in the Report;
- c An Environmental Management Plan to be implemented during construction of the building envelopes in order to manage on-site fill and to account for unexpected contamination issues;
- d Parts of the land have been identified as being subject to immediate high hazard slope instability. Future development may be required to be supported by appropriate geotechnical investigations to be support development, to be submitted at the Development Application stage.

5.20.4.8 Development of SP2 Zoned Land

- a The development of land to be zoned SP2 Infrastructure is to be for transmission towers only and subject to the relevant approvals;
- b The erection of any transmission tower is to be in accordance with relevant statutory provisions and comply with all necessary Australian Standards;
- c Transmissions towers are to be located on that part of the site to be zoned SP2 Infrastructure (note: due to map scaling issues and aerial photography distortions there may be some limited flexibility/variation as to the location of the zone line in relation to the existing tower.
- d The creation of allotments associated with the transmission towers do not have the entitlement for the erection of a dwelling house to be erected upon them;

- e The erection of any transmission tower/s is to have regard to the visual amenity and character of the adjoining environmental living subdivision and surrounding lands.

5.20.4.9 Conceptual Development

- a Development is to generally occur in accordance with the provisions of these DCP provisions and the attached conceptual subdivision plan in relation to the location of dwelling envelopes, areas of environmental protection and the like;
- b The road shown dissecting the area (see plan below) in the central part of the site (orange spots) which contains significant environmental habitat is not to be constructed, with alternative access arrangements being considered at the time of subdivision through the creation of roadways, rights of carriageway, etc as may be appropriate.
- c Council will give consideration to variations to these provisions only where it can be clearly demonstrated that improved environmental outcomes can be achieved through detailed site assessment and development planning having regard to threatened species, remnant bushland, visual and scenic quality, access arrangements, bushfire considerations, dwelling house locations, effluent disposal areas and other matters as may be relevant. Such amendments would need to be supported by relevant assessments as required under the *Biodiversity Conservation Act 2016* or other detailed studies as may be relevant.
- d The development application for the subdivision is to be supported by an appropriate Plan of Management for On-site Vegetation to encapsulate the provisions of this DCP, including off-sets areas, compensatory revegetation/plantings on the site having particular regard to threatened species and their habitats, and other bushland areas, more detailed design and siting issues associated with dwelling houses, access (including emergency access), bushfire radiation zones, effluent disposal areas, potential aboriginal archaeological sites and the like but only where no practical alternative exists and appropriate approvals/permits are obtained. This Plan of Management is to be prepared in consultation with Council and to have regard to issues raised by government agencies. Once finalised, the Plan of Management is to inform final details to be specified in the covenant binding the existing/future owner(s) and Council under the appropriate legislation and to be registered prior to the release of the Subdivision Certificate.

Note: location of Proposed Lot 28 (containing the existing transmission tower/possible future tower), may be at variance to the LEP as made due to the scale of mapping. Reliance should be made on the LEP plan, rather than this DCP plan. Full construction of the length of the centralised access road is not supported as contained in these DCP provisions).is not supported as contained in these DCP provisions).



Figure 2 – Concept subdivision plan