

## CHAPTER 5.21 EAST SOMERSBY

### 5.21.1 SOMERSBY – EAST OF M1 FREEWAY

Comprising the Lot 12 DP 263427 Reeves Street and Lot 41 DP 771535 Goldsmith Road (Northern Precinct) and Lot 4 DP 261507 Debenham Road (North), (Southern Precinct), Somersby.

These Development Control Plan (DCP) provisions came into effect on the date of the making of the amending LEP as it relates to Lot 12 DP 263427 Reeves Street and Lot 41 DP 771535 Goldsmith Road (Northern Precinct) and Lot 4 DP 261507 Debenham Road North (Southern Precinct), Somersby.

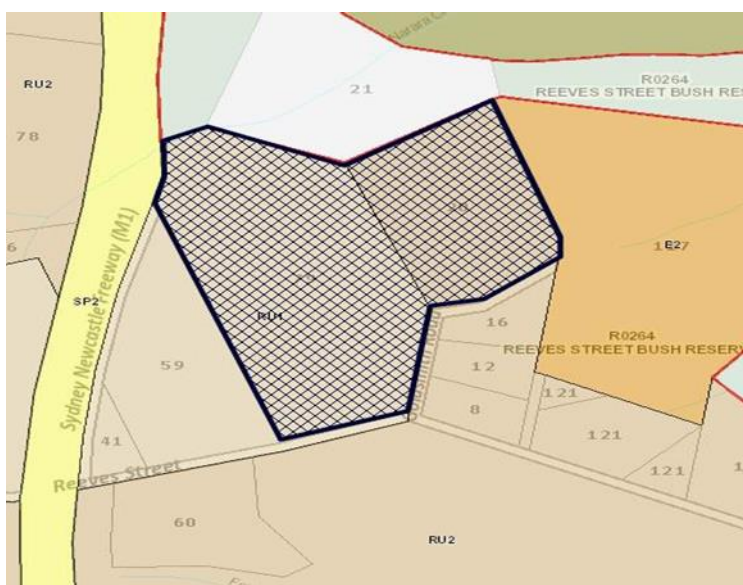
The applicant has submitted some information to-date that should also be used in the assessment of future Development Applications, however, this may need to be supplemented by further information under these DCP provisions and further consultation/investigations to satisfy government agency consultation for future Development Applications. This also may occur on a site by site basis as development/subdivision proceeds.

These DCP chapter amendments also reflect Council's resolution of 24 November 2015, that have resulted in Lot 2051 DP 559231 Debenham Road, Somersby, not being included in the proposal.

### 5.21.2 LAND TO WHICH THIS CHAPTER APPLIES

This DCP Chapter applies to both the northern and southern precincts of land to the east of the M1 Motorway at Somersby, which has been the subject of an amending Local Environmental Plan (LEP) for three lots. The LEP provisions rezoned the land from RU1 and RU2 to C2 Environmental Conservation and C3 Environmental Management, to better reflect its environmental values and to allow for low key "environmental" and "lifestyle" subdivision in appropriate locations as a result of listing in Schedule 1 of Gosford LEP 2014 (and subsequently Central Coast LEP 2022) to allow land subdivision into a specified number of allotments.

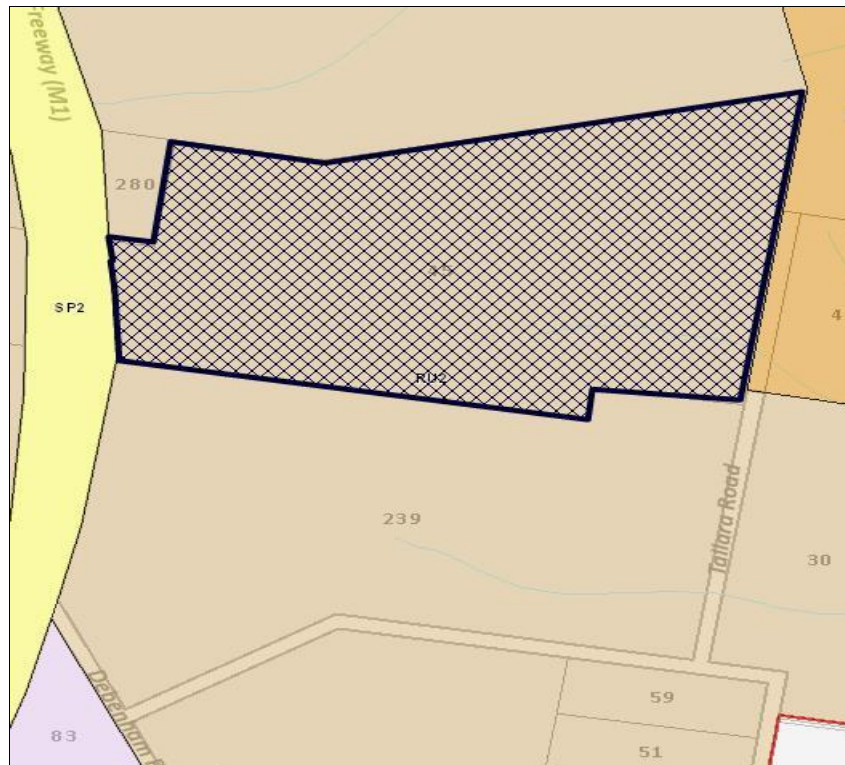
The northern precinct is zoned C2 Environmental Conservation and C3 Environmental Management. It is located off the Somersby end of Reeves Street and comprises Lot 12 DP 263427 (the rear section of which is to be zoned C2) and C3 Environmental Management over the remainder of Lot 12, and also for the whole of Lot 41 DP 771535 (see Figure 1 and Figure 2 below).



**Figure 1 Northern Precinct**

*Note: Different scale to figure 2*

The southern precinct is generally located off Debenham Road at Somersby and is zoned C2 Environmental Conservation under Central Coast LEP 2022. It comprises of land on the eastern side of the M1 Motorway, off Debenham Road, and as a consequence of Council's Resolution of 24 November 2015, now consists of one lot only, being Lot 4 DP 261507 Debenham Road North. Two other lots that were subject of the original planning proposal (being Lot 3 DP 260507 and Lot 2051 DP 559231 Debenham Road) were removed at the request of the owners or their representatives, after the public exhibition period.



**Figure 2 Southern Precinct**

*Note: Different scale to figure 1*

### 5.21.3 LEP PROVISIONS

In addition to rezoning the land to C2 Environmental Conservation and C3 Environmental Management, amending Local Environmental Plan provisions list the allotments and their development potential in Schedule 1 Additional Permitted Uses of Central Coast LEP 2022.

Development on all parts of the precincts is to be designed to minimise impacts on corridors linking Brisbane Water National Park to Ourimbah State Forest and Jilliby State Conservation Area and other proposed reserve/conservation areas, together with other more sensitive parts of the land. All development is to comply with Section 4.15 of the Environmental Planning and Assessment Act and, where required, gain appropriate/relevant approvals and concurrences from state government agencies.

For all dwellings located in the southern precinct (i.e. on Lot 4 DP 261507), their location is to be as close as possible to the Debenham Road frontage and/or confined to previously cleared/disturbed areas. This is to minimise the effects of development on that part of the land that has higher environmental and conservation values and to minimise edge effects to strategic biodiversity corridors.

### 5.21.4 PURPOSE OF THE CHAPTER

The purpose of this chapter is to provide for additional provisions for the development of the land as a rural lifestyle and environmental living "type" subdivision in select locations. This is to take into consideration the

location of the land, its unique locational setting, inappropriateness of previous zonings, its range of environmental values, new zonings and listing in Schedule 1 for land subdivision and future erection of dwelling houses. The site, in particular the southern precinct, is in a key location in the midst of a broad tract of corridor connectivity.

The amending LEP provisions allow greater environmental protection over the majority of the lot in the southern precinct, whilst allowing subdivision in less sensitive areas at the rate specified in Schedule 1 for land subdivision and consequent erection of dwellings. This protection is best achieved through LEP zoning and listing in Schedule 1 Additional Permitted Uses. At the Development Application (DA) stage, Council could contemplate the creation of Restriction as to Users, Vegetation Management Plans, Voluntary Conservation Agreements etc. (in consultation with OEH) where necessary to give greater statutory and management control than that afforded by the DCP provisions alone where required.

The amending LEP and DCP provisions recognise the unique situation of the land, its generally high environmental and scenic qualities and its physical segregation from the bulk of rural and resources lands to the west of the M1 Motorway. The land also drains away from the bulk of rural and resource lands, with it draining to the east towards the city centre.

Although the land is in a favourable position in terms of accessibility, it has valuable environmental and scenic characteristics, including known threatened species and their habitat, archaeological sites, creek lines and a variety of vegetation and soil types that need consideration in the future subdivision and erection of dwelling houses. Hence these DCP provisions are required to ensure a balanced development/environment can be achieved.

There also needs to be 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, landscaping and the like which can be achieved through the statutory planning framework approach.

Consultations with relevant state agencies will still be required at the DA stage as part of due diligence assessment of development applications.

The applicant has already provided some information to Council which can be used to supplement and further inform DA assessment where required, however is not to be used to pre-empt any DA approvals.

## **5.21.5 OBJECTIVES**

The objectives of this chapter are:

- To encourage the orderly development of the land for rural living and environmental lifestyle lots
- To make provision for the protection of the environment (including threatened species, ecologically endangered habitat, aboriginal archaeology and watercourses)
- To make provision for aboriginal archaeological heritage
- To make provision for bushfire protection
- To make provision for access arrangements
- To consider Servicing and Water Management Considerations
- To consider issues associated with Land stability and Site Remediation
- To clarify provisions in relation to Crown roads and Adjoining lands
- To consider issues in relation to the compatibility between the existing Gosford Quarry operations, other uses and proposed dwellings

These objectives are addressed under Specific Requirements as outlined below

## **5.21.6 SPECIFIC REQUIREMENTS**

### **5.21.6.1 Development for rural living and environmental lifestyle**

#### **EXPLANATION**

Some of the allotments have already been developed for dwelling houses (existing/ approved/not legalised) and some of the land is currently vacant. Under the revised approach to the LEP a total of 16 dwellings (including established structures) can occur, with the bulk of dwellings located in the less constrained northern precinct.

#### **REQUIREMENTS**

The land is to be developed only in accordance with the amending LEP that provides for:

- a The rezoning of the northern precinct from RU1 Primary Production and RU2 Rural Landscape to generally C3 Environmental Management with one residue C2 Environmental Conservation lot, with the total number of dwellings/lots specified in Schedule 1 of the amending LEP: Dwellings in this component of the proposal are to be generally interspersed throughout the area and to be located in areas that minimise the removal of vegetation, including habitat trees, ensure satisfactory on-site waste disposal, design access to avoid environmentally sensitive areas and stagger dwelling alignments to facilitate a rural residential amenity and create adequate curtilage areas for the erection of dwellings, provision of on-site services, landscaping, access and maintenance of environmental values and address any additional matters that may be determined through detailed DA assessment.
- b The rezoning of the southern precinct, comprising Lot 4 DP 261057, from RU2 Rural Landscape to C2 Environmental Conservation, the total number of lots/dwellings is specified in Schedule 1 of the amending LEP. Dwellings on this lot are to be located in areas that minimise the removal of vegetation, including habitat trees, ensure satisfactory on-site waste disposal, ensure dwellings are located as close to Debenham Road as possible, and with appropriate road setbacks and maintenance of frontage vegetation to protect the relatively natural setting of parts of Debenham Road North alignment. Dwellings are to be sited in less sensitive areas, previously disturbed and/or cleared areas, and to consider consultations undertaken with relevant government agencies at the time.
- c Concept plans as submitted as part of the planning proposal application are indicative only and not ratified by the amending LEP provisions or this DCP. The location of all dwellings will be subject to detailed consideration by Council and relevant state agencies as part of the DA assessment process.
- d All development is to generally comply with Council's adopted Development Control Plans and Policies.

*Note: Where provisions of adopted DCPs conflict with this DCP, then the provisions of this DCP will prevail.*

## 5.21.6.2 Environmental Protection

### EXPLANATION

Parts of the sites may possess significant vegetation, including some areas of Ecologically Endangered Communities. This vegetation may provide suitable habitat for a range of threatened and non-threatened flora and fauna species. The following threatened species may be present on the land: Somersby Mintbush (*Prostanthera junonis*), Spreading Guinea Flower (*Hibbertia procumbens*), Leafless Tongue Orchid (*Cryptostylus hunteriana*), Eastern Pigmy Possum, Red crowned Toadlet, Giant Burrowing Frog, Little Bentwing Bat, Glossy Black-Cockatoo, Powerful Owl, Sooty Owl as well as endangered ecological communities Duffys Forest EEC and Coastal Upland Swamps EEC. There are also recordings of the Adams Emerald Dragonfly (*Archaeophya admasi* Fraser) also called the Horned Urfly identified in the general area (source: NSW DPI) which is listed as an endangered species. Any species assessment should include an assessment of this species. It is noted that the two lots removed from the proposal would have a greater propensity for threatened species than the remaining lots, due to their closer proximity and features.

The land may have multiple threatened species constraints and uncertainty exists in relation to aboriginal archaeological sites and cultural heritage values. Hence a balanced development/environment approach is required for future development of the land to ensure it is undertaken in a sustainable manner without unacceptable environmental impact.

As the land is not suitable for Biocertification Processes (as identified by the Office of Environment and Heritage), environmental issues need to be given detailed consideration at the DA stage and further appropriate assessments undertaken as may be required and development processes/outcomes responsive to these assessments. This could result a range of other provisions (not related to land use planning and zoning alone) to implement these measures to the satisfaction of Council and in consultation with government agencies to ensure more significant areas are retained through the DA process.

### REQUIREMENTS

- a Future development of both precincts at the subdivision stage is to be supported by an Assessment pursuant to Section 1.7 of the Environmental Planning and Assessment Act 1979 with particular emphasis on threatened species known to exist on the land, which may include: Somersby Mintbush (*Prostanthera junonis*), Spreading Guinea Flower (*Hibbertia procumbens*), Leafless Tongue Orchid (*Cryptostylus hunteriana*), Eastern Pigmy Possum, Red crowned Toadlet, Giant Burrowing Frog, Little Bentwing Bat, Glossy Black-Cockatoo, Powerful Owl, Sooty Owl and the Adams Emerald Dragonfly as well as endangered ecological communities Duffys Forest EEC and Coastal Upland Swamps EEC.
- b The subdivision and subsequent erection of dwellings and ancillary activities is to occur in the manner in accordance with these DCP provisions, in consultation with state agencies as may be required, to demonstrate that best case environmental outcomes can be achieved.
- c Dwellings, access to dwelling sites, bushfire protection measures (including asset protection zones and access/emergency access requirements), effluent disposal/nutrient treatment areas, landscaping areas and boundary fencing etc. are to be sited to minimise the removal of existing native vegetation where possible and subject to appropriate assessment.
- d For both precincts, consideration is to be given to the creation of appropriate legally binding mechanisms, such as Covenants (Restriction(s) as to User(s)) under appropriate provisions, Vegetation Management Plans, Plans of Management, Voluntary Planning agreements, Voluntary Conservation Agreements and the like binding the existing and future owner(s) and Council to provide for:
  - i The protection of Duffys Forest EEC, Coastal Upland Swamps EEC, known or potential areas of *Prostanthera junonis* and other known or identified locations of threatened species and their

habitats, however excluding any areas that may be required to accommodate dwelling house envelopes/curtilages, where delineated as acceptable;

- ii Where necessary, areas of threatened species are required to be disturbed as justified through an assessment under Part 1.7 or a Species Impact Statement, to provide access to supportable dwelling envelopes (including bushfire radiation zones/access required for bushfire, effluent disposal areas, etc.) and as may be identified in the subdivision applications, compensatory planting and native revegetation is to occur on other parts of the site to create a "like for like" situation in relation to the protection and retention of threatened species and their habitats. These areas are to be appropriately managed in accordance with these DCP provisions and to be to the satisfaction of Council;
- iii Restriction as to Users and/or other methods as outlined are to address threatened species locations (both known and as may be identified through the Part 1.7 process or Species Impact Statement) and areas of aboriginal archaeological sites and cultural values (see part c below). The purpose of these measures is to ensure the on-going protection in perpetuity as may be required or appropriately licensed (e.g. Permits to Destroy Aboriginal Archaeological Sites). These measures are to employ the "maintain or improve" principle as advocated by the Office of Environment and Heritage;
- iv Restriction as to Users and/or other methods as outlined are to address threatened species locations (both known and as may be identified through the Part 1.7 process or Species Impact Statement) and areas of aboriginal archaeological sites and cultural values (see part c below). The purpose of these measures is to ensure the on-going protection in perpetuity as may be required or appropriately licensed (e.g. Permits to Destroy Aboriginal Archaeological Sites). These measures are to employ the "maintain or improve" principle as advocated by the Office of Environment and Heritage.
- e Methods to be used to ensure the long-term sustainability of remaining environmental values are to be to satisfaction of Council, in consultation with relevant government authorities and to demonstrate harm minimisation, mitigation and avoidance are integral components in the long-term environmental management of the land. These measures are to be completed and/or satisfactorily progressed to Council's requirements prior to the release of the Subdivision Certificate by Council or the issuing of the Occupation Certificate, whichever occurs first.
- f It should be noted that the need for further environmental assessments for the erection of individual dwellings and their curtilage on individual allotments, may be required depending on the location of dwelling houses and site disturbance which would be determined at the time of the applications and on a case by case basis.
- g All development, including effluent disposal areas, clearing works etc. is to be setback a minimum of 40 metres to any 1st order watercourses and be in accordance with the NSW Office of Water "*Guidelines for Riparian Corridors on Waterfront Land*" and may constitute a controlled activity and require approval under the Water Management Act and the Water Management (General) Regulation 2011.



### 5.21.6.3 Provision for aboriginal archaeological heritage

#### EXPLANATION

An Aboriginal Archaeological Assessment Report was submitted as part of initial documentation relating to the proposed rezoning. Advice from the Office of Environment and Heritage indicates that this is insufficient to enable a full assessment of the proposal. The applicant may choose to confine detailed analysis to areas where specific development and disturbance is likely to occur, provided the remainder of this DCP is satisfactorily complied with and Council is satisfied with the locations of the proposed dwelling envelopes and extent of investigations.

#### REQUIREMENTS

- a 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., on all allotments to be created.
- b Should the Due Diligence Archaeological Assessment identify that there is potential impact upon aboriginal cultural heritage, 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 Aboriginal Heritage Impact Permit (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 [www.environment.nsw.gov.au/licences/achregulation.htm](http://www.environment.nsw.gov.au/licences/achregulation.htm)). (Note: These are OEH legislative requirements).
- 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.
- d Any provisions in relation to the protection of Aboriginal Archaeological heritage are to be incorporated into restrictions as users, Plans of Management, etc. or other methodologies required under item b above in relation to environmental protection.

### 5.21.6.4 Provision for bushfire protection

#### EXPLANATION

Concerns are raised by the NSW Rural Fire Service in relation to the proposal, however, these may be more readily addressed with development in the southern precinct on Lot 4 DP 261507 generally confined to cleared, previously disturbed areas and in proximity to the Debenham Road frontage. There still may be access issues, and the creation of public roads is not an acceptable solution. The NSW RFS will require further consideration in relation to the proposal given the need for compliance with *Planning for Bushfire Protection 2019*, particularly with regard to:

- a Access
  - i Provision of alternative/secondary access as required in Section 4.1(c) where dwellings are located more than 200 metres from a main road;

- ii Provision of through access as required in Section 4.1.3(1) where these are more than 200 metres long;
  - iii Provision of public roads rather than shared right of ways as required in 4.1.3(2) where access is to more than three dwellings (note: this may require variation for Lot 4 DP 261057 Debenham Road for environmental reasons and subject to satisfactory alternative arrangements).
- b Separation from the hazard and provision of defensible space
- i Grouping of rural residential dwellings into clusters as required by Section 4.1.1(b) to allow for the establishment of APZs around a group of relatively clustered dwellings.

## REQUIREMENTS

- a Tallara Road is not to be used for the primary access route for Lot 4 DP 261507 Debenham Road North.
- b Suitable accessways (but not public roads) are to be provided in accordance with *Planning for Bush Fire Protection 2019*. Where accessways/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, however have regard to the minimisation of the removal of vegetation and impact on threatened species.
- 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. These would need to be detailed to the NSW Rural Fire Service, Office of Environment and Heritage and to Council's satisfaction as part of the DA process.
- d All dwellings, asset protection zones and accessways/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 and in consultation with the NSW Rural Fire Service.
- e The residue C2 zoned land in the Northern Precinct, being part of Lot 12 DP 263427 Reeves Street, is to have proposed access provided by way of extension of proposed internal access serving the C3 component, to provide a clear and direct exit path from the lot away from the main bushfire hazards.
- f The provision of secondary emergency access routes are to be considered at the Development Application for Subdivision and subject to detailed investigations in relation to impacts upon vegetation/areas with high conservation values, scenic quality and traffic access and safety for both emergency and occupant vehicles.
- g Where any compensatory plantings are required having regard to bushfire requirements, these are to be included in the requirements of these DCP provisions and encapsulated through appropriate Management Plans, Conservation Agreements and the like and to be to the satisfaction of the NSW Rural Fire Service, Office of Environment and Heritage and Council.

### 5.21.6.5 Provision for access arrangements

#### EXPLANATION

Traffic generation, including access onto Debenham Road (or its extension) for proposed lots is to be considered at the DA stage for subdivision.



## REQUIREMENTS

- a Only one primary vehicular access point is to be provided to Lot 4 DP 261507 in the southern precinct, and to be sited so as to minimise adverse traffic functioning and safety on to Debenham Road. Access requirements are also to consider impact on threatened species, visual and scenic qualities and aboriginal archaeological sites and are to be considered at DA stage for the subdivision.
- b No direct vehicular access is permitted onto the M1 Motorway.
- c General consideration for other access points for the remainder of the precincts are to include:
  - i Type of road frontage;
  - ii Sight distances;
  - iii Intersections;
  - iv Potential conflicts and how to address these.
- d Intersection treatments at the access points onto any primary road access and the engineering standards for internal access ways are to be determined at the Development Application for Subdivision stage.
- e All internal access/rights of carriage ways throughout both precincts are to be designed and sited so as to minimise impacts on Aboriginal sites, significant vegetation (including habitat trees), in particular endangered ecological communities and threatened species and populations, contribute to the rural 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 and Council requirements) and to be determined at the Development Application for Subdivision stage.
- f The western unmade section of Kowara Road located between Lot 2051 DP 559231 and Lot 3 DP 261507 Debenham Road North (that are not the subject of these DCP provisions as these lots have been excluded from the proposal), is not to be constructed to provide access or emergency access for the remaining land in the southern precinct.

### 5.21.6.6 Servicing and water management considerations

#### EXPLANATION

The land is located outside of Council's Water and Sewer Service Area and as such reticulated water and sewer is not available to the land. The land is not required to connect to these services. All waste water and nutrient generation is required to be treated on-site.

#### REQUIREMENTS

- a The Development Application/s for subdivision will be required to be supported by an On-site Wastewater Disposal Feasibility Report in accordance with *Australian Standard 1457 2000 On-site Domestic Wastewater Management* and the Environment and Health Protection Guidelines on-site Management for Single Households. This is to support each application for a dwelling house and to identify the suitability of any proposed on-site disposal of waste water and potential impacts on waters that may flow into areas of high environmental sensitivity, watercourses and the like. The report will be required to identify suitable Primary and Reserve Land Application Areas for individual lots which would be required to be identified on all proposed site plans as restricted areas specifically for On-Site Waste Water Management.

- b The Report will target areas where dwellings are proposed to be located in accordance with requirements of these DCP provisions and 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 and any mitigation measures that may offer more suitable outcomes (note: pump out systems will not be permissible);
  - 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 and any mitigation measures that may be employed to minimise impact;
  - iv an assessment of potential impacts and cumulative impacts over time of establishing on-site sewage management systems where dwelling houses are to be focused;
  - v a recommendation for the most appropriate sewage treatment system and disposal method.
- c 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 will need to be encapsulated in relevant Vegetation Management Plans, Conservation Agreements, Restrictions as to Users as required under these DCP provisions and to be to the satisfaction of Council and OEH.
- d An integrated Nutrient Management plan addressing nutrients generated by development of the three lots and/or the erection of individual dwellings is to be prepared to support the development (noting that Lot 3 exists in isolation in the southern precinct). Application for subdivision/s to demonstrate that all nutrients generated by any subdivision (or component thereof over the 3 lots) can be managed and contained on the particular site the subject of an application, and to ensure that there is no increase in nutrients entering water catchments, having regard to parts of the land being located in the headwaters/tributaries of Narara Creek, together with forming part of the Somersby Reservoir Supply Zone.
- e Any development must not increase the volume of stormwater discharge from the any part of the land the subject of a particular application and comply with the provisions of Council's DCP provisions for Water Cycle Management.
- f Where direct public road access is not available, appropriately located, accessible, screened common garbage bin area is to be proved that is acceptable to Council's contract garbage service provider.

### **5.21.6.7 Issues associated with Land Stability and Site Remediation**

#### **EXPLANATION**

A small section of medium slope instability in the north-eastern corner of Lot 41 DP 771535 Goldsmith Road has been identified as being of medium slope instability, however should be able to remain clear of physical site development. The applicant has also undertaken a Preliminary Site Analysis report, prepared by GHD, dated February 2015.

#### **REQUIREMENTS**

- a Compliance with the requirements and recommendations of the East Somersby Landuse Unit Trust Somersby East Rezoning Phase 1 Contamination Site Assessment report, Revision 0, undertaken by GHD dated February 2015, including:
  - i Further inspection of Lot 4 DP 261507 when site inspection access can be granted;
  - ii Removal of general rubbish illegally dumped on properties. Inspection should be undertaken for potential asbestos containing materials should also be undertaken within these areas;
  - iii Undertake soil sampling in the portions of the site currently and historically used for agricultural purposes to assess the potential impact from herbicide or pesticide use (Phase 2 Report, including sampling and laboratory analysis that may be posed). Targeted sampling is to be undertaken in accordance with the findings of the GHD Report;
  - iv Undertake a hazardous buildings and materials survey of structures on the land which may be demolished as part of the redevelopment.

### **5.21.6.8 Provisions in relation to Crown roads and adjoining lands**

#### **EXPLANATION**

It is noted that the northern extension of Goldsmith Road in the northern precinct and the western section of Kowara Road in the southern precinct are designated as crown lands, however are not formally constructed.

#### **REQUIREMENTS**

- a No impacts are to occur on adjoining Council, crown or Darkinjung land as a result of any components of the development, with details to be demonstrated at the Development Application stage or to Council's satisfaction at the subdivision stage.
- b If any crown roads are required to be constructed or upgraded to Council standard for the purposes of gaining access to a Council approved subdivision (note: this is not supported), then that road section should be transferred to Council under Section 151 of the *Roads Act 1993*. Any road construction is to be undertaken to Council's satisfaction, to be at no cost to Council and land transferred at no cost to Council.
- c The change in zoning should not result in any additional requirements for the management of the Crown Estate, such as increased bushfire mitigation measures within the Crown Estate or any other adjoining lands. It is not available to adjoining landowners for such measures or to facilitate developments on adjoining privately owned lands. Crown estate lands must not be relied upon to implement or facilitate private land developments and associated activities.
- d Land to the immediate north of Lot 4 DP 261507, being Lot 481 DP 1184693, and to part of the west of Lot 4, being Lot 468 DP 729969 were formerly crown lands. These have now been transferred to the Darkinjung Local Aboriginal Land Council. The principles of these provisions (i.e. development not reliant upon works upon adjoining land being created as a result of approved land subdivision) would equally apply to these two lots.

### **5.21.6.9 Compatibility between other land uses and proposed dwellings**

#### **EXPLANATION**

Lands in the northern precinct may be subject to dust, noise etc. from adjoining agricultural operations on land that is zoned RU1 Primary Production. Land in the southern precinct may be subject to existing and/or future affectation from industrial activities in Somersby Business Park. The location of dwellings needs to consider their relationship to adjoining and other land uses in the area that may affect amenity.

It is noted that the M1 Motorway may also affect amenity in terms of background traffic noise, however this is not considered a major constraint to development and would need to be considered in the context of other possible noise/amenity affectation.

#### **REQUIREMENTS**

- a Any future Development Application for subdivision and/or dwellings in the northern precinct are to be supported by a statement addressing potential land use conflicts between the environmental lifestyle living lots and any adjoining agricultural operations.
- b Any future dwellings in the southern precinct are to consider potential impacts of the existing and any possible extensions to the Somersby Business Park in relation to effects on amenity.