



KOALA KOALITION
ECONETWORK PORT STEPHENS INC.

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7/11/23

To: Port Stephens General Manager

Dear Sir,

Re: Submission - Objection to DA 16 - 2023 - 583 – 1 by AB Rise Pty Ltd

263 Gan Gan Rd, Anna Bay 2316 NSW (LOT: 21 DP: 590387)
273 Gan Gan Rd, Anna Bay 2316 NSW (LOT: 901 DP: 634550)
293 Gan Gan Rd, Anna Bay 2316 NSW (LOT: 902 DP: 634550)
321 Gan Gan Rd, Anna Bay 2316 NSW (LOT: 1 DP: 503876)
Subdivision of land (4 into 47 Torrens title lots), drainage infrastructure, community parkland, site works, vegetation removal, earthworks and associated subdivision works

Koala Koalition EcoNetwork Port Stephens (KKEPS) considers that the proposed development from AB Rise Pty Ltd is an overdevelopment of the land along Gan Gan Rd zoned as R2 (low density residential) that will significantly impact on surrounding biodiversity habitat/corridors, and increase flood and fire risk to existing landholders/residents on neighbouring RU2 and R5 lots and have a negative social impact.

Suitability of Site Location – confusion, inaccuracies and limitations

The reports that are provided on the DA Tracker indicate consideration of varying property addresses in Anna Bay, which is confusing for those reviewing the documentation and has presented physical limitations for those preparing reports, making the reliability and veracity of their conclusions questionable. For example, the BDAR report doesn't include 321 Gan Gan Rd - the eastern section of the subdivision where the most serious connectivity and biodiversity issues exist. The BCAR 1-1 Project Area covers 9 lots located on Old Main Rd, Nelson Bay Rd as well as Gan Gan Rd properties. The Bushfire report includes an Old Main Rd property, while the Architectural plan's land use figure doesn't include 321 Gan Gan Rd.

After reviewing all the documentation available on the PSC DA tracker, there is no clear overall map of the proposed subdivision of all the land involved in the proposed development. One of the best is the TSS Proposed Subdivision plan, but it still fails to show a complete map of the whole project area. Particularly, 263 Gan Gan Rd is excluded, which is zoned RU2 with a minimum lot size of 20h according to the NSW EPI Primary Planning Layers. The proponent's intended "4 residual allotments, ranging from 4,380m² to 28.31 hectares (proposed Lot Nos. 50, 51, 52 & 53)" do not seem to meet this minimum zoning requirement. There has not been a rezoning application for this development.

The zoning for the proposal is mostly **R2 Low density** residential, as claimed, but other zonings of RU2 and C3 are clearly included in the project boundaries given in the BDAR fig 1-1 while R5 lie across Gan Gan Rd.

This proposal is disturbing, because when I enquired and spoke by phone with Brock Lamont on 21/3/23 and Matt Knight on 22/3/23 they both told me there was nothing known to be happening near 293-321 Gan Gan Rd regarding the then rumoured name of Anna Bay North. Furthermore, Brock Lamont did not advise of this proposal to community members who met with him on 8/6/23 to speak about strategic planning for Anna Bay, because they were concerned about a developer's extensive land acquisition and proposed development plans shown to landholders. I was unable to attend that meeting, but Brock agreed to us information that was never received.

KKEPS notes that the Cost Estimate Report of this project of \$5.7m is 20% lower than that given in Economic Impact Assessment: "The Capital Investment Value (CIV) for the **subdivision and civil works** (including design and constructions costs) has been estimated at around **\$7.0 million**, based on advice from the client. The CIV for the **building works** is estimated at **\$33.6 million** assuming a cost of around \$700,000 per dwelling. Therefore, the combined **CIV for the subdivision, civil works and building works totals \$40.6 million.**" The CER does not include the property at 263 Gan Gan Rd. This lower cost assessment may have failed to trigger a threshold that requires a higher-level authority to consider whether or not this proposal should be approved.

KKEPS appreciates the wider investigation of Biodiversity issues, but the developer seems to be obfuscating what is truly intended. The development site is strongly rumoured to be the first ~50 of 600 houses. **KKEPS believes a Concept Plan for the whole development is considered more appropriate, prior to approval of a small piece of the bigger picture.**

KKEPS believes that the whole proposed Project Area should be considered at once so that appropriate consideration can be given to possible conservation areas and wildlife connectivity. The cumulative and combined impacts must be assessed by the proponent giving clear and complete mapping for appropriate review, prior to approval being given.

The following two figures show how disparate the mapping is for the location of the overall project.

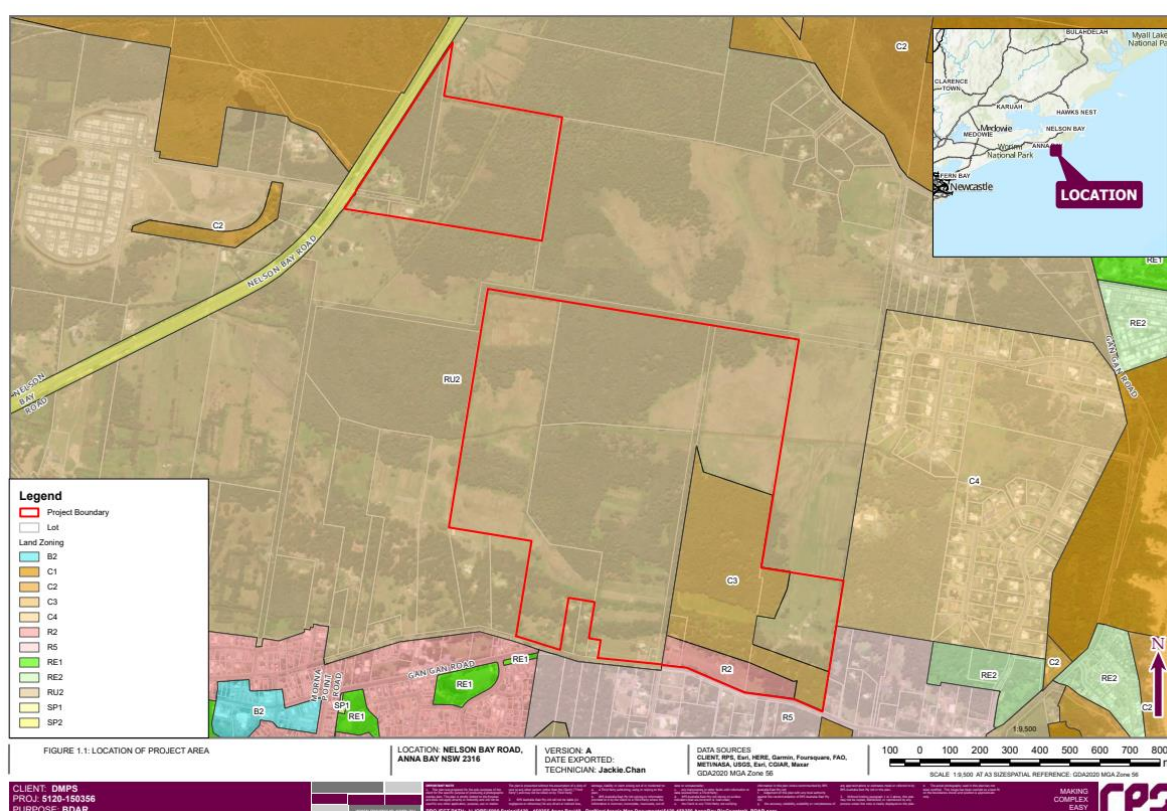
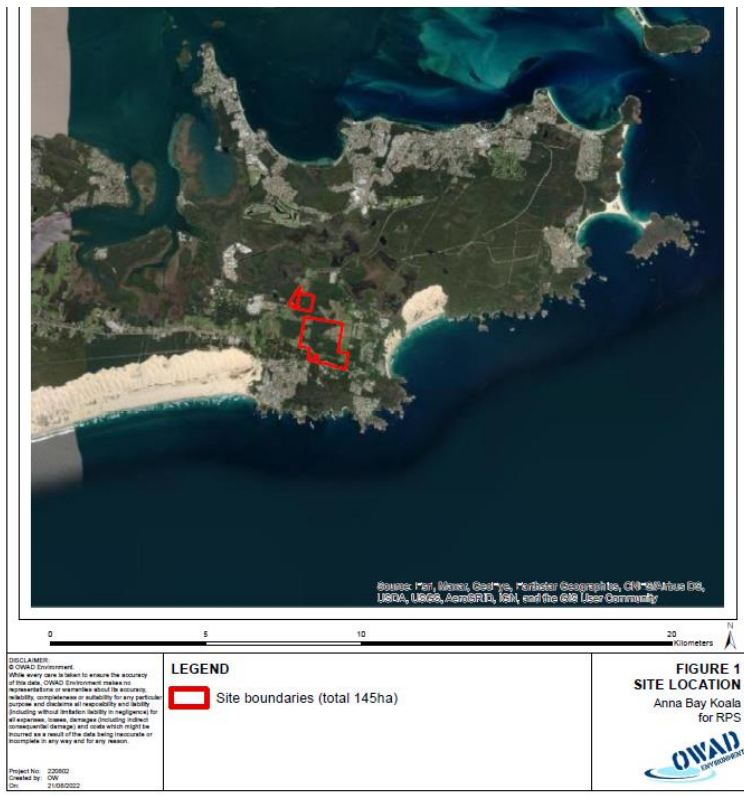




FIGURE 1
The site and its context (extract from Google Earth).

dmgs 2

Fig 1 of the SEE (above) and the OWAD figure (below) show the enormity of the land involved in better context. It is larger in size than the whole of the Anna Bay village. There is no doubt that a proposal on this land is extremely significant to the area environmentally, being central to the wildlife corridor from Anna Bay/One Mile to Salamander and Soldiers Point. This is an Area of Regional Koala Significance (ARKS) and is an actively breeding koala hub.



The SEE 1.2.1 refers to the Anna Bay Strategy & Town Plan 2008. This planning instrument is outdated and is can no longer be said to be indicative of current local community views. Community opinions have not been be considered by the developer or Council. There have been no community consultations, and attempted communication with PSC staff has been evasive, favouring the proponent.

However, even under that outdated 2008 plan for Anna Bay, KKEPS does not agree that the proposal complies with the stated strategic directions as claimed by the proponent in the SEE:

- “• Low Density Residential land use will be facilitated by single dwellings on lot sizes from 400-700m2 and smaller lots where frontage is provided to a park or reserve area.
- Medium Density Residential land use will be facilitated by villas and townhouses with a minimum area per dwelling of 300m2 and concentrated around commercial uses or community facilities.
- Environmental Living will be facilitated by single dwellings with lot at least 1,000m2 to reduce impacts on koala movement corridors and other environmentally sensitive locations.
- Land identified for conservation, including land identified as flood prone or comprising significant vegetation, is unsuitable for residential development and shall be conserved and revegetated over the long term.
- The northern sand ridge forms a scenic backdrop to the town and also has environmental value and should therefore be protected.
- Provide three new local parks located within easy walking distance of new dwellings.”

These six claims are so very misleading; referring to Environmental Living on what may be one single 1,000m2 lot, when the proposal is to subdivide into lots of little more than 500m2. The location of the land identified for conservation has also not been identified within exhibited documents on the DA Tracker due to the lack of detailed mapping for the whole development site. The location of Medium Density Residential land use of 300m2 referred to has not been located either, but this is less than the zoning requires.

The “three new local parks” will not be available to local Anna Bay residents. The new homes will not front a park/reserve because the proposal is for small “pocket parks” located at the north/rear of the development, for the enjoyment of the new residents only. The new houses may restrict the view of this scenic ridge from Gan Gan Rd. These 3 parks will be constructed by disturbing and flattening parts of the southern side of the sand dune ridge that they admit should be protected due to its scenic and environmental value.

The three pocket parks and two water detention basins seem inadequate as a VMP for a development with a capital investment value of \$40.6 million dollars.

The SEE Clause 6.3 – Development Control Plan states that “development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in this clause has been prepared for the land”. The duty planner confirms that there was no DCP prepared at the time the Planning Proposal rezoned this land and concludes that the development is “of a minor nature and is consistent with the objectives of the R2 Low Density Residential Zone”.

The development proposal is not of a minor nature if it were presented as a whole.

KKEPS requests access to more accurate and complete mapping for this development proposal.

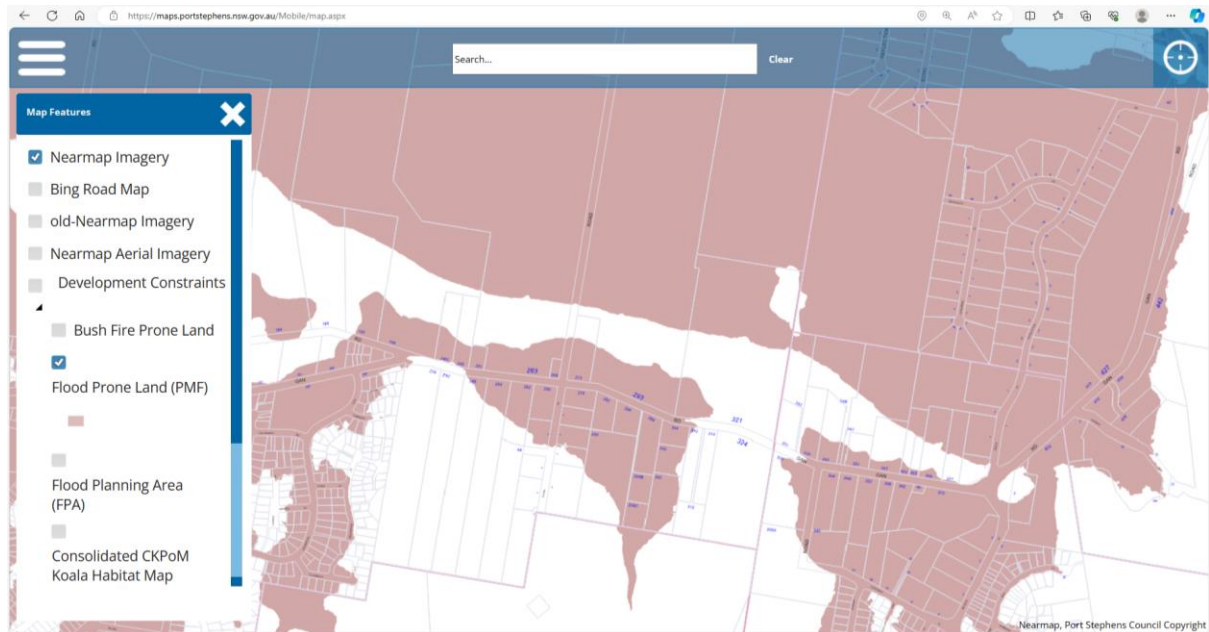
The four simple R2 zoning objectives for Low Density Residential developments, include:

- To protect and enhance the existing residential amenity and character of the area
- To ensure that development is carried out in a way that is compatible with the flood risk of the area.

KKEPS submits that the proposed development site does not meet these R2 zoning objectives, and should be refused.

Flooding problems

The PSC mapping portal provides this overview of flood prone land in the locality that clearly includes the proposal area, excluding only the dune/ridgeline that intersects at 321 Gan Gan Rd to extend to the south.



While KKEPS agrees it is appropriate to provide much needed affordable housing on suitable cleared areas, the flood issues at Anna Bay suggest that large lot sizes are required to minimize the coverage by impermeable surfaces in order to prevent flooding of neighbouring properties on Gan Gan Rd. The cited use of 263 as detention basin in the SEE is likely to put neighbours at higher risk of flood, as will the 1-4m fill proposed to prevent flooding of the new houses, as it will unavoidably direct the flow of stormwater that traditionally settled on the proposed development site into the existing properties/homes opposite.

A suitable mitigation plan for the flooding of other residents is to build up the height of Gan Gan Rd, at great expense to PSC and local ratepayers as it is a local road with no State funding. The expense of this proposed development's mitigation obligations should not fall on the local community.

The BCAR stated intention to use 263 Gan Gan Rd (RU2) as a retention basin, has changed in the civil engineering plans to become a stockpile area, and in the BDAR fig 1-2 is noted as a Laydown area. There is no mention of remediating that area following construction, or any other intention for its use, which suggests another housing proposal is yet to come.

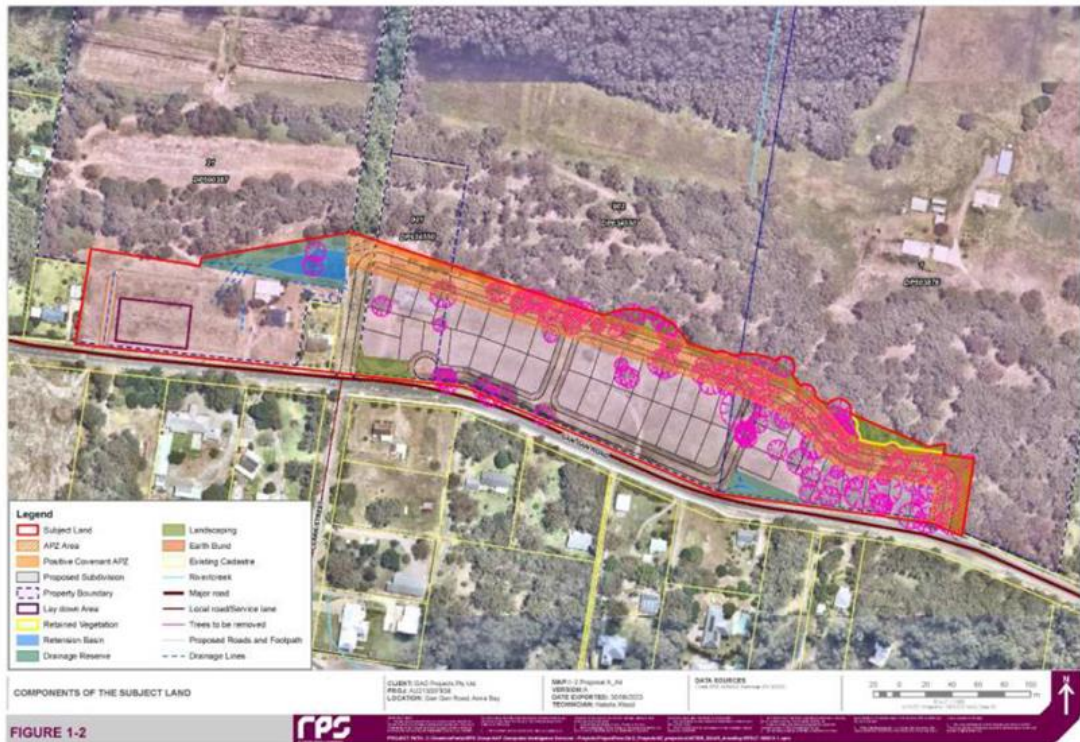


Figure 1-2: Components of the Subject Land

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This area of Anna Bay suffered floods after a rain event on 21/3/21, the effects of which is shown in the following photos that were taken 3 days afterwards, when the floodwater had subsided sufficiently to take them. The section of road between 263-293 Gan Gan Rd was closed for almost 2 weeks. Residents incurred costs to remediate the stormwater/flood damage to their homes, garages, access roads and gardens/ vegetation. Some residents were unable to leave their homes except in 4wd vehicles due to the water having gouged out 30-40cm deep ruts.





These photos clearly show that the neighbouring homes across the road from the proposed development cannot be subjected to any further runoff, that will naturally occur with the 1-4m of fill and impermeable surfaces proposed in the development area.

These photos also demonstrate that the proposed small water retention/detention basins in blocks 44 and 47 will not adequately prevent flood inundation to neighbouring properties.

The likelihood of a flooding event occurring during construction, and the stormwater carrying fill across Gan Gan Rd into the southern neighbouring properties further elevating previous flood levels, has not been mentioned, and no mitigation plans for such an event have been proposed for review. The proponents do not seem to be sufficiently cognisant of the extent of flooding deluges that already descend on the area, and have resulted in appropriate flood zones being applied.

The BDAR pp22-23 notes the objective of R2 as being “To ensure that development is carried out in a way that is compatible with the flood risk of the area” cannot be reasonably thought to be preventable by the mitigation efforts proposed by the developer.

Under “Flood Planning The objectives of Clause 5.21 are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.”

These objectives cannot be met by the developer’s proposed mitigation plans.

KKEPS concurs with the statement on p24 “that Development consent must not be granted within the flood planning area unless the consent authority considers it is compatible with the flood function and behaviour on the land, will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties”.

The R2 zoning objectives for Low Density Residential developments, includes:

- To protect and enhance the existing residential amenity and character of the area
- To ensure that development is carried out in a way that is compatible with the flood risk of the area.

KKEPS submits that the proposed development site does not meet the R2 zoning objectives, and accordingly should be refused.

KKEPS concludes that development consent should be refused due to the highly probable increased risk of flood affecting neighbouring properties should this proposal be approved.

Social impact

This development, if approved, will result in a loss of amenity and a change of character for Anna Bay. Rural zonings and large residential blocks intend to retain the rural atmosphere, but the proposal for the small patch of land zoned R2 is too dense to allow any remaining look or feel of anything rural for neighbours on surrounding R5 and RU2 land, as indicated by the artist’s impression of 2 storey homes in the SEE fig 12.

The height and density of homes may obscure the view of the dune from Gan Gan Rd that the Anna Bay Strategy & Town Plan 2008 states and the proponent’s own reports state should be protected.

The view of the ridge/dune should be able to be seen from Gan Gan Rd, not just from a limited number of newly built homes.

In order to retain the rural character of the subdivision, lot sizes should be increased in size, even though they meet R2 minimum criteria. This would reduce the proposed impact to the southern side of the dune area and the proposed removal of vegetation for the rear access road/APZ, small reserves and the alternate eastern access road.

The impact of Noise on neighbours both human and fauna will be long term with many additional neighbours and probably their pets. No reference to pet ownership/restriction was in the reports. **With so many threatened species near the subject site, KKEPS submits that a policy preventing cats or dogs being outside their homes, would be an advisable mitigating strategy. Further the developer should consider the options for building a koala/wildlife friendly development.**

Any strategy to reduce the noise of the new residents would be welcomed by neighbouring residents who moved to these large rural blocks to enjoy the peace and tranquillity of their homes. Saving Anna Bay residents' rural lifestyle warrants refusing consent to this development proposal and for the proponent to resubmit plans with larger lot sizes.

A consultation process with residents, had it taken place, may have identified issues such as:

- Social amenity impacts from noise, dust, water management and the removal of rural vistas.
- Impacts to decision making systems, particularly the ability of the community to influence matters that impact them.
- Changes to way of life through how people experience their homes.
- Fears for how the development would impact their lives and properties in the future.
- Decreased access to public and private infrastructure by an increase in population, in an area where there is a shortage of GPs and other health services.
- Changes to the local sense and experience of community.
- Fear for their homes and livelihoods with increased flood and fire risk.
- The potential for a decrease in property value.
- Changes to individual or collective sense of place.
- Impacts to the natural environment.
- Health and wellbeing.
- Local culture and heritage.
- Inequity for developer to reap profit, and council to reap rates, while the community bears the impacts.
- Misleading value placed on development of \$5.7m, when the combined CIV for the subdivision, civil works and building works totals \$40.6 million.
- No increase in public reserve/parks for the Anna Bay public where there are no sporting or playing fields, only stormwater detention ponds.
- Inequity of new subdivision having access to 'town water' and sewerage while surrounding properties rely on tank water and septic systems.
- Visual impacts on neighbours

- Stress caused to neighbours by noise, dust and seeing the destruction of threatened species habitat
- Transport / Traffic and the impact in particular on vulnerable groups such as children as soil and building materials are transported through Anna Bay CBD which is already constrained and past the school.
- Impact on businesses in the area and on children's learning derived from construction noise and vibration

KKEPS submits that a Social Impact Assessment be required, including consultation opportunities with local landholders/residents due to the expected Cumulative and Combined impacts on neighbours and the community of Anna Bay.

Traffic Impact Assessment

KKEPS submits that the proposed secondary road access is located in a dangerous location on Gan Rd, being just below the crest of the hill/dune formation obscuring on-coming traffic.

Koala/wildlife conservation – insufficient avoidance and mitigation

The Biodiversity Constraints Assessment report noted: “The Project Area hosts a variety of habitat features that support a diverse range of native flora and fauna. Targeted surveys detected 266 native and 76 exotic flora species, and 117 fauna species within the Project Area.... Threatened Fauna Species Targeted and opportunistic surveys identified 117 fauna species within the Project Area.... Eleven threatened fauna species were detected within the project area”.

This is an area rich in Biodiversity that requires very careful and extensive planning. KKEPS appreciates that the proposed development site has mainly avoided habitat destruction of the Threatened Ecological Communities (TECs) identified to the north of the dune, and proposes some habitat regeneration and plantings to assist with the connection of the wildlife corridor there, but not enough has been done to avoid clearing of vital hollow-bearing trees holding together the dune.

While it is not mentioned in detail in the Port Stephens CKPOM, which is unable to be lawfully updated due to NSW Koala SEPP issues, coastal koalas rely heavily on *Melaleuca quinquenervia* (broad-leafed paperbark). Koalas are particularly attracted to the silvery tips of new growth and the flower buds that emerge after good rain that are full of moisture and nitrogen.

Houses on small blocks with little space for gardens, comprised of mainly impermeable surfaces and dark roofs, are known to create heat sinks and exacerbate climate change, putting people and wildlife at higher risk of ferocious fires.

“The following main factors and processes that operate at a disturbed edge of an ecological community include:

- Microclimate (e.g., localised changes in temperature, wind, light, humidity);
- Hydrology;
- Altered fire frequency and intensity;
- Invasion by exotic plant and animal species;
- Alteration of soil conditions (e.g., increased sedimentation and nutrient availability); and
- Alteration of vegetation structure (e.g., tree death and increased shrub densities).

Potential impacts associated with edge effects are considered long-term, and edge effects have been estimated to occur up to and greater than 50 m from the edge of impacts (Forman et

al. 2003)”.

KKEPS submits that indirect impacts acknowledged in the report will affect not only the habitat adjoining the development site, but will also affect the habitat on neighbouring properties (that are within 50m) subjecting them all to edge effects for the long-term.

“Table 8-4: Summary of proposed mitigation and management measures for residual impacts (direct, indirect and prescribed) If any fauna is identified and requires rescue, a qualified Ecologist, or fauna rescue volunteer, is to be notified. Works should not continue until the animal has been rescued.”

KKEPS recommends the proponent’s ecologists and landscapers carefully consider these resources:

- The rescue advice given in <https://www.econetworkps.org/wp-content/uploads/2023/07/Recognising-a-sick-koala-and-calling-for-rescue-FINAL.pdf>, noting that Port Stephens Koala Hospital is locally at 562 Gan Gan Rd, One Mile, that provides a 24/7 rescue service, is now licensed to accept a wide range of native fauna into care, with a vet staff employed on site, and
- Locally Important Koala Trees in Port Stephens: https://www.econetworkps.org/wp-content/uploads/2023/07/Koala-Trees_Port-Stephens_FINAL_June-2023.pdf,
- The Tomaree planting guide for native habitat species [Why Your Garden Matters – EcoNetwork Port Stephens \(econetworkps.org\)](https://www.econetworkps.org/why-your-garden-matters).

“A total of 37 exotic species were identified within the Subject Land, of which eight are considered high threat weeds (HTW) as listed below. **All weeds require management under the Biosecurity Act 2015.**” BDAR 4.6 High Threat Weeds

Fireweed is known to grow on the subject land, but was not recorded.

KKEPS recommends the proponent consult and engage the Worimi WLALC Green Team based at Murrook Cultural Centre who have been trained by the Firesticks Alliance, to do cool burns to eliminate weeds, and activate native seed banks to effectively regenerate appropriate native species. Continued mosaic fire treatments will rejuvenate the natural habitat and prevent wildfires by keeping fuel loads low.

The BDAR 7.1.1 Proposal location claims “the Proposal has included avoidance principles through strategic positioning of the Proposal in lower quality habitat”. “This process has demonstrated a reduced impact (i.e. avoid and minimise) on native vegetation and habitat by utilising existing cleared lands wherever possible and avoidance of significant breeding habitat for the aforementioned threatened species.”

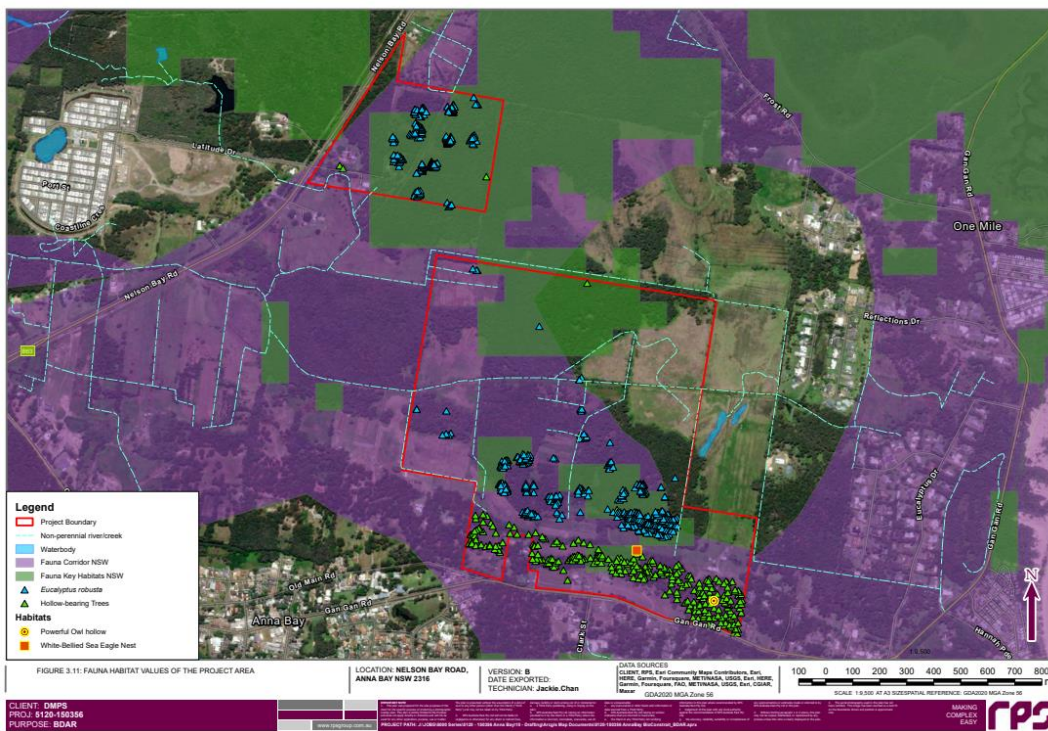
KKEPS refutes the developer has successfully avoided significant breeding habitat for threatened species as claimed, particularly in regard in regard to 3 Endangered species there is insufficient proposed avoidance/mitigation on the impact of clearing of habitat to the Koala, Powerful Owl and White-bellied Sea Eagle.

It is noted that the White-bellied Sea-Eagle location was found 100 m north of the Subject Land (Figure 5-1) and the Powerful Owl just 30 m north of the Subject Land. The koala scat was located within the area to be cleared. A koala was also recorded twice by the camera survey.

In addition, the Mahony’s toadlet has been found on nearby and neighbouring properties in Anna Bay (but not recorded). It has not been located on the proposed development site during surveys. There have been more than 9 sightings of the critically endangered frog within 10kms as claimed in the BCAR table 3-3 (and SEE). KKEPS provides this recent report for Mahony’s toadlet:



As outlined in the Ecological Constraints Assessment (RPS 2023), large areas of Preferred Koala Habitat occur within the greater Subject Property, approximately 93 ha. The location of all habitat is not clearly shown in the mapping provided, possibly due to the confusion of lots included/excluded from reports. KKEPS suggests more careful mapping of the entire area be required prior to approval.



“The eastern end of the proposed development requires clearing of approximately 1.67h of PCT 1646.” Finding the nest sites and koala scat requires a higher commitment to the avoidance of habitat destruction surrounding the sites of these three listed species in order to “ensure avoidance without edge effects and maintaining corridors/connectivity with national parks” as stated in the BDAR pvii.

The plethora of old growth habitat and hollow-bearing trees noted in fig 3.11 (above) cannot be replaced by planting saplings or devising conservation zones on the north side of the dune. These trees along the ridgeline form the clearly mapped Fauna Corridor that extends from the northern to the southern sides of Gan Gan Rd, linking the koala population in the Anna Bay/One Mile to the Tomaree National Park and beyond. There is no alternative area across Gan Gan Rd because of continued developments, so retaining these trees is essential to local biodiversity.

The Arborists report advises against the clearing of old growth trees with hollows, marking them clearly on his reports to be avoided, but this advice has been ignored.



ApX Figure 1: Koala Habitat Planning Map Categories

The proposal encroaches on buffer and supplementary koala habitat according to BDAR ApX fig 1 (above). KKEPS submits this impact should be reduced by avoiding clearance of 1.39h of the clearance area as shown in the following figure.

Koala Data



Decreasing the clearance area will simultaneously provide a more suitable corridor width to the north:

Koala Data



BDAR Table 2-8: Candidate fauna species BAM survey month shows the Koala was surveyed in autumn and winter – outside breeding season. This indicates that it was moving through the landscape of its home territory to browse.

The BDAR 2.4.2 Site condition noted that “recent under scrubbing in the vegetation north of the Subject Land, coincided with *Corybas dowlingii* targeted surveys (see **Plate 2-6**). As there was significant ground disturbance, undisturbed vegetation adjacent the Subject Land was searched. If found in similar vegetation adjacent the Subject Land, this species would be presumed present.” Both present and past owners have been observed under scrubbing the vegetation of the dune many times in the last 10 years. This was mainly confined to the flat land used for cattle grazing, but more recently the whole dune has been under scrubbed, impacting on biodiversity by decreasing small animal hunting opportunities for endangered birds, and preventing flora and fauna finds during surveys.

Table 5.5 Sand Doubletail *Diuris arenaria* [Tomaree Donkey Orchid] concludes that further investigation is not required, but it should be assumed to be present because it is recorded on other nearby sites along Gan Gan Rd. The surveys to find the orchid was carried out in June 2022 which is too early for it to be seen blooming. This year the orchids were found at the end of August.

Several vulnerable, endangered, and the critically endangered Mahony’s Toadlet are mentioned in BCAR 2.4.3.3.1. and is known to be in the area on neighbouring properties.

The bushfire report figure following indicates the proximity of remnant forest essential to wildlife movement across the landscape. It also shows clearly the forest that is intended to be cleared under the proposed development overlaid plan.

The degrees of slopes marked doesn’t include most of 321 Gan Gan Rd where the land inclines to the dune. Ignoring everything under the development plans, gives the false impression that the land there is flatter than it truly is. It is part of the undulation rising to the dune/ridge.

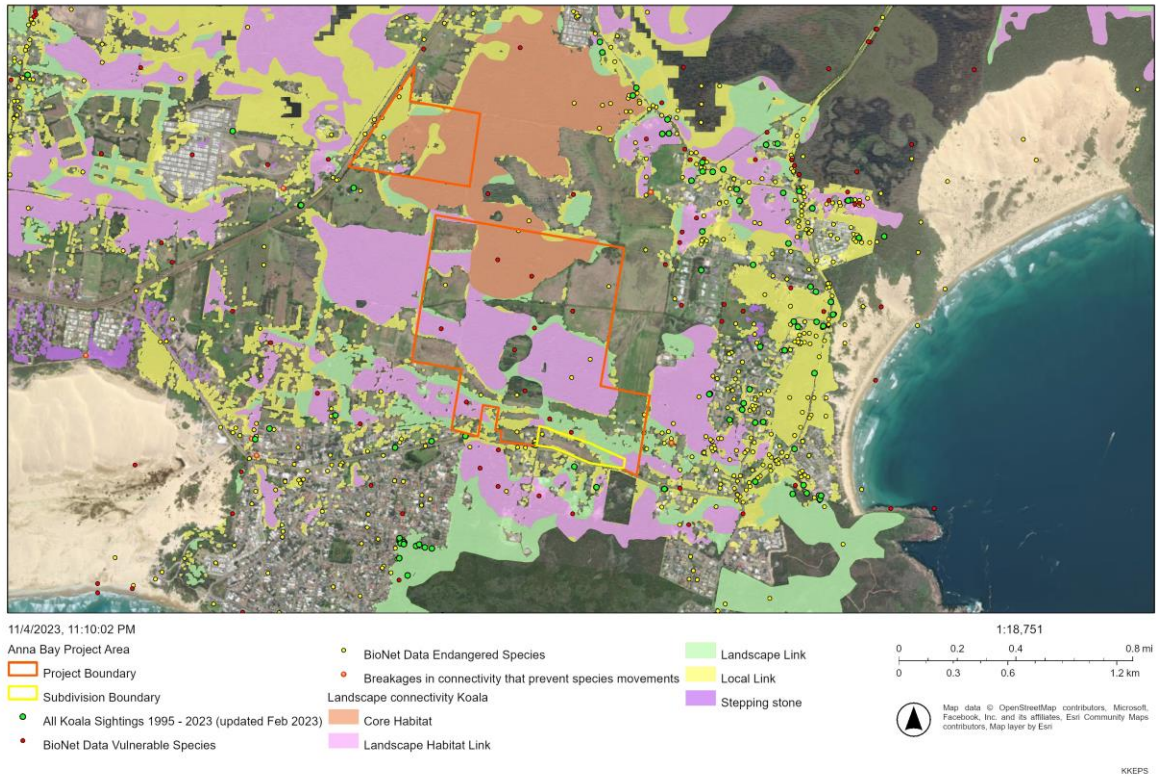


Figure 3: Vegetation & Slope Assessment

The BDAR 2.4.3 Data Availability and Accuracy notes “The collated threatened flora and fauna species records obtained from the BioNet Database for the region are known to vary in accuracy and reliability.” It is extremely important to note that BioNet has recently admitted to a 4 year backlog of data waiting to be uploaded, as reported by the ABC <https://www.abc.net.au/news/2023-09-05/four-years-of-wildlife-records-missing-from-bionet/102814854>.

The following map draws on the PSC koala connectivity report of 2012 and shows the locations of koala rescues and sightings by courtesy of the Port Stephens Koala Hospital. This provides clear context to the value of maintaining the habitat in the south eastern end of the development site being a link to the properties on the other side of Gan Gan Rd and through to the Tomaree National Park.

Koala Data



This area of PCT1646 is considered by the proponent as a small expendable area but it is extremely important to the surrounding landscape by providing hunting areas near the Endangered birds nesting places, the Vulnerable Grey-headed Flying-fox and Large-eared Pied Bat browsing area and refuge/browse areas used by Endangered koalas as they move through the corridor that is clearly evident in many of the reports showing the surrounding remnants of native forest vegetation.

KKEPS disagrees with the conclusion of the Assessments of Significant Impact Criteria undertaken for the listed threatened species (Appendix D), that **“the Proposal is unlikely to significantly impact on any MNES”**.

The proponent should strive to further avoid impact on all species by following the TDBC species specific recommendations in table 5.4 and shown clearly in fig 5.1, 5.2, 5.3 That is KKEPS recommend against clearing and building at eastern end of proposed site, ie “Where koala presence is confirmed, begin by mapping the vegetation zone in which the species was detected as the species polygon. All vegetation zones that are continuous suitable habitat with this vegetation zone should be included.” The prepared species polygons overlay most of the proposed subject site.

It is insufficient to promise to pay additional offsets in the future if mitigation efforts fail these endangered species, as the proponent has suggested as a Residual Impact Mitigation Plan on pviii.

This section of forest is not only significant to habitat connectivity. It is part of the dune landscape and signifies the separation of Anna Bay from Boat Harbour and is significant to Worimi people.

KKEPS is very concerned that removing the vegetation from the side and top of the dune for the rear access road and the eastern section of the development, will cause the dune sand to rapidly destabilise and erode. The trees identified as bearing so many hollows for fauna, are holding the dune together, and must remain on the site, even if this means that the lot yield must be reduced.

“The Proposal design has made provision for koala exclusion/ dog proof fencing provided along

the Subject Land boundary which would minimise the threat of vehicle strike and domestic dogs on the koala.” If the fencing is limited to the northern rear boundary of the property, this is not adequate. KKEPS could not adequately review the fencing intended to ensure it is the correct kind of fencing and that it will not further prevent habitat connectivity. More detail is required from the proponent.

With so many threatened species near the subject site, KKEPS submits that a plan is needed regarding suitable lot fencing preventing cats or dogs exiting their homes and also preventing koalas access, would be an advisable mitigating strategy, if this is not to become a more koala/wildlife friendly development that has different fencing requirements to allow fauna to travel through.

KKEPS supports the BDAR recommendation “that 70% of compensatory hollow installation are completed prior to clearing; and 100% of compensatory hollow installation completed prior to completion of clearing. A minimum of 4 year monitoring and 6 years maintenance period would apply to the compensatory arboreal hollows.

The proposal for “40 km/hr speed limit restrictions” is welcomed, as well as “informational signage located within the proposed picnic shelters as outlined in Figure 7 1”. KKEPS suggests the proponent consults PSC and/or KKEPS about suitable content.

The intended lack of swimming pools is encouraging for koala/wildlife safety, although there are designs with shallow edges that allow for easy egress.

It is encouraging that “Fauna friendly lighting has been recommended as per the Best Practice Lighting Design detailed in the *National Light Pollution Guidelines for Wildlife* (DCCEEW 2020) to minimise the impact of light pollution on wildlife **during operational phase**”, but there seems to be no plan to minimise light pollution after the operational phase. This is a missed opportunity for solar street lighting that can be turned off at night using timers, but remain safe for residents by using movement sensors.

Also supported is the proposed “Vegetation Management Plan (VMP) is recommended to guide the revegetation and rehabilitation worked proposed within the Subject Land and north of the Subject Land as outlined in Figure 7-1.”

REPORT



Figure 7-1: Avoidance principles incorporated into Proposal design

KKEPS notes the location of proposed dog proof mesh fencing along the northern boundary of the subject site. Dogs may simply cross the road, if they are allowed to roam, to nearby habitat. Foxes and domestic dogs have been found in the surveys. However, there has not been sufficient

consideration of the impact of the fencing on corridor viability that must be assessed prior to approval. The type of mesh fencing must also be considered.

KKEPS also recommends further consideration be given to Landscape Plans ensuring the proposed landscape species and design aspects are considerate of local native species, not just native species that are easily obtained. Species may be considered koala feed trees but should not be planted in a way that will lead the way to danger of people, dogs or cars. Moreover, large trees should not be planted near houses or paths, or they will soon cause damage or present a problem necessitating their removal, as often happens. Using large flowering shrubs such as grevilleas that are easy to obtain encourages occupation by the dominating species like rainbow lorikeets and noisy miners, that actively prevent other species finding a space in the habitat.

None of the plans mention any intention to build a koala/wildlife friendly estate, which KKEPS submits the proponent must show to have considered prior to approval.

The statements regarding the koala population on the Tomaree peninsulas being genetically distinct from koalas west of the Pacific Highway, are not relevant to this proposal. These genetics will not have any significant impact on the population for many generations. However, maintaining connectivity within the peninsula can be achieved by decreasing habitat clearance. Connectivity allows all wildlife to cross the landscape to find suitable breeding partners and for the dispersal of young and elderly koalas to locate suitable habitat, ensuring their survival.

The proposed development will make this wildlife survival task more difficult by reducing the amount of habitat connection across Gan Gan Rd and creating a greater risk of vehicle strikes, as their reports admit.

“An increase in noise is to be expected during construction and operation. As the Subject Land is located in a peri-urban area, this may have an impact on any species roosting adjacent to the site during the day that are not adapted to such noises. It is not expected that construction or operation would occur throughout the night, and as such would not impact on nocturnal species that may utilise adjacent habitats. Diurnal species that roost in adjacent habitats would likely be adapted to the noise from the existing road-use of Gan Gan Road.

Construction and operation may increase dust in adjacent habitats. Dust can impact on a plant’s ability to photosynthesise and may increase plant mortality in the adjacent vegetation. It is however not expected that this would have such an impact to decrease the viability of adjacent habitat.”

Noise will affect nocturnal species by being unable to rest properly during the day. A net loss of breeding habitat will occur due to edge effects, even if some trees are still standing. Noise creates an ongoing need to be on alert leading to an ongoing stress reaction. Koalas are known to react to stress through the emergence of the symptoms of latent chlamydial infection; usually ocular or urogenital that causes blindness, infertility and death, if left untreated. Dust can be breathed in affecting lungs or ingested affecting digestion/gut function. Noise is proven to reduce the breeding success of koalas because they rely on vocal calls to find mates, and to discourage competition for their territory and so avoiding fights.

“As previously discussed, construction works may lead to an increase in weed infiltration into adjacent habitat due to enhanced edge effects. It is however not expected that weeds will be transported via human or vehicular traffic into surrounding areas during construction. Fencing is proposed between the Subject Land and retained native vegetation in the north to avoid such indirect impacts occurring during construction and operation.” P100

Aboriginal culture and heritage

KKEPS submits that inadequate aboriginal cultural and heritage consultation has been carried out, as the Worimi Maiangal knowledge holder Carol Ridgeway-Bissett has not been contacted about the significance of the dune ridge and surrounding landscape, or cultural sites.

Carol believes the dune area is a culturally significant landform [Indigenous heritage | Australia state of the environment 2021 \(dcceew.gov.au\)](https://www.dcceew.gov.au/indigenous-heritage/australia-state-of-the-environment-2021). She is very concerned that removing vegetation, including the trees that hold the dune together, will destabilise the sand of the dune and lead to erosion; affecting the landscape and increasing the flood risk concerns of all residents in the area. Carol is willing to be contacted about the significance of this place but does not have access to a computer or internet, except through the library. She is a RAP.

KKEPS strongly objects to the proposed clearing of PCT1646 to accommodate the proposed lots 17-27 and secondary access road in the south-eastern section of the subject site on 321 Gan Gan Rd, as it will have a significant impact on the area's Biodiversity and connectivity to wildlife corridors.

Climate Change Policy Framework

The project should reflect the aspirations of The NSW Climate Change Policy Framework, which commits NSW to achieving net zero emissions by 2050, starting with a 50 per cent cut in emissions by 2030 compared to 2005 levels.

*"The Hunter is at the forefront of collaborative approaches to assist reduce emissions, support clean air, promote a circular economy and low emissions transport. **In response, this regional plan considers the effects of climate change as a guiding principle for all planning decisions.** Further, it aims to stimulate the green economy by facilitating innovation, greener design and place-based solutions, complemented by initiatives to reduce energy use (such as BASIX)".* OBJECTIVE 7: Reach net zero and increase resilience and sustainable infrastructure Part 2 Objectives Hunter Regional Plan 2041 <https://www.planning.nsw.gov.au/sites/default/files/2023-03/hunter-regional-plan-2041.pdf>

The Hunter Regional Plan recognises that climate change is a very real consideration for the area and therefore includes the effects of climate change as a guiding principle for all planning decisions. Further, the plan aims to stimulate the green economy by "facilitating innovation, greener design and place-based solutions, complemented by initiatives to reduce energy use (such as BASIX)" to try to reduce the impact of climate change. If this proposal is allowed to proceed without considering all the applications as one concept development, Anna Bay could lose a functioning carbon sink, and there is no guarantee the remaining vegetation will serve its current ecological functions in the future.

There are simple initiatives the proponents could take, that should be included in their proposal, to reduce their carbon footprint and that of their future residents while reducing their long-term energy costs eg commitment to install solar panels and battery storage, and providing a reserve for the whole of the Anna Bay community to enjoy, solar street lighting with timers to turn them off for the benefit of nocturnal animals and ongoing energy costs.

KKEPS suggests that reducing the land designated for vegetation clearance from the dune, at the southern face and at the eastern end of the development, would be an appropriate consideration of climate change impacts.

Summary of recommendations

- **KKEPS recommends Council refuses this application and/or refers it to a higher authority, rather than approving it.**
- There is a clear need for a Concept Development Plan for the whole development, prior to approval of a small piece of the bigger picture.
- Clear, overall mapping of the whole development area should be provided by the proponent, including any future intentions to extend in the Anna Bay/One Mile area. The proponent should declare/disclose all land lots owned by him in this locality.
- As outlined in the Ecological Constraints Assessment (RPS 2023), large areas of Preferred Koala Habitat occur within the greater Subject Property, approximately 93 ha. The location of all habitat is not clearly shown in the mapping provided, possibly due to the confusion of lots included/excluded from reports. KKEPS requests access to more accurate and complete mapping for this development proposal.
- The proposed development site does not meet these R2 zoning objectives, and should be refused.
- Development consent should be refused due to the clear increased risk of the cumulative effects of flood affecting neighbouring properties.
- KKEPS strongly objects to the proposed clearing of PCT1646 to accommodate the proposed lots 17-27 and secondary access road in the south-eastern section of the subject site on 321 Gan Gan Rd, as it will have a direct and indirect significant impact on the area's Biodiversity and connectivity of wildlife corridors.
- The many threatened species living on/near the subject site, should require a mitigating strategy preventing cats or dogs being outside their homes.
- The proponent should consider further planning options for a koala/wildlife friendly development.
- Indirect impacts acknowledged in the report will affect not only the habitat adjoining the development site, but will also affect the habitat on neighbouring properties (that are within 50m) subjecting them all to edge effects for the long-term.
- A Social Impact Assessment should be conducted, including consultation opportunities with local landholders/residents due to the expected Cumulative and Combined impacts on neighbours and the community of Anna Bay.
- The proposed secondary road access is located in a dangerous location on Gan Gan Rd, being just below the crest of the hill/dune formation, obscuring traffic approaching from the east.
- The proponent should consult and engage the Worimi WLALC Green Team based at Murrook Cultural Centre who have been trained by the Firesticks Alliance, to do cool burns to activate seed and regenerate appropriate native species. Continued treatments will rejuvenate the habitat and prevent wildfires by keeping fuel loads low.
- The proposal plans unfortunately don't mention any intention to build a koala/wildlife friendly estate, which KKEPS would like to encourage them to consider implementing.
- With so many threatened species near the subject site, KKEPS submits that an advisable mitigating strategy policy be implemented so that cats or dogs cannot be outside their homes except on leash. This is particularly important from dusk to dawn.
- The proposed dog mesh fence along the northern boundary is insufficient, without further consideration of potential impact on habitat and wildlife corridor.
- The proposed development will impact the wildlife corridor by reducing the amount of habitat connection across Gan Gan Rd and will create a greater risk of vehicle strikes as their reports admit.
- The proponent should consider further planning for a koala/wildlife friendly development.
- Further consideration should be given to ensuring the proposed Landscape plans ensuring species and design aspects are considerate of local native species.
- Inadequate Aboriginal cultural and heritage consultation has been conducted, as the local Worimi Maiangal knowledge holder Carol Ridgeway-Bissett has not been contacted to

discuss the significance of the dune ridge and surrounding landscape, and/or cultural sites. Carol believes the dune/ridge area to be a culturally significant landform [Indigenous heritage | Australia state of the environment 2021 \(dceew.gov.au\)](#) that must be protected.

Conclusion

The consent authority is required to consider environmental, economic and social impacts in the locality, and to consider the public interest. The public interest includes the object of promoting the social and economic welfare of the community, and the object of ecologically sustainable development, which requires effective integration of social, economic, and environmental considerations in decision-making (*Environmental Planning and Assessment, Act 1979* (EP&A Act, 1979)).

The environmental and social impacts of this development proposal are significant. The Statement of Environmental Effects fails to properly identify and assess these impacts; and suitable management plans have not been proposed. The proposed mitigation strategies are unlikely to be effective in the long-term, unlike the impacts.

KKEPS disputes the proponent's claims that the proposal alleviates environmental concerns by protecting the northern sand ridge or avoiding environmentally sensitive locations, or that the R2 land is suitable for residential development due to concerns about flooding, and contests that the proposal gives the Anna Bay community no additional recreational land as the parks proposed are at the rear of the proposed residential lots and will be inaccessible to other community members.

KKEPS refutes that these impacts have been adequately addressed by the proponent's proposal.

KKEPS submits that this development is not in the public interest of the Anna Bay community.

The proposal is not acceptable on multiple grounds and should be refused by Council.