

# **Sussex Location 413 Yallingup — Smiths Beach Development Guide Plan**

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**Canal Rocks Pty Ltd**

**Report and recommendations  
of the Environmental Protection Authority**

**Environmental Protection Authority  
Perth, Western Australia  
Report 1318  
April 2009**

### **Environmental Impact Assessment Process Timelines**

<b>Date</b>	<b>Progress stages</b>	<b>Time (weeks)</b>
<b>22/9/05</b>	<b>Level of Assessment set (following any appeals upheld)</b>	
<b>27/8/07</b>	<b>Proponent Document Released for Public Comment</b>	<b>100</b>
<b>22/10/07</b>	<b>Public Comment Period Closed</b>	<b>8</b>
<b>6/10/08</b>	<b>Final Proponent response to the issues raised</b>	<b>50</b>
<b>14/4/09</b>	<b>EPA report to the Minister for the Environment</b>	<b>24</b>

Released: 20/4/09  
Appeals Close: 4/5/09

ISSN 1836-0483 (Print)  
ISSN 1836-0491 (Online)

Assessment No. 1597

## Summary and recommendations

This report provides the Environmental Protection Authority's (EPA's) advice and recommendations to the Minister for Environment on the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup.

Section 44 of the *Environmental Protection Act 1986* (EP Act) requires the EPA to report to the Minister for Environment on the outcome of its assessment of a proposal. The report must set out:

- the key environmental factors identified in the course of the assessment; and
- the EPA's recommendations as to whether or not the proposal may be implemented, and, if the EPA recommends that implementation be allowed, the conditions and procedures to which implementation should be subject.

The EPA may include in the report any other advice and recommendations as it sees fit.

The EPA is also required to have regard for the principles set out in section 4A of the *Environmental Protection Act 1986*.

### Key environmental factors and principles

The EPA decided that the following key environmental factors relevant to the proposal required detailed evaluation in the report:

- (a) landscape and visual amenity;
- (b) native terrestrial vegetation and flora; and
- (c) conservation areas.

There were a number of other factors which were very relevant to the proposal, but the EPA is of the view that the information set out in Appendix 3 provides sufficient evaluation.

The following principles were considered by the EPA in relation to the proposal:

- (a) the precautionary principle;
- (a) the principle of intergenerational equity; and
- (b) the principle of the conservation of biological diversity and ecological integrity.

### Conclusion

The EPA has considered the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup.

The EPA considers that development to the full extent of the "developable area" identified by the proponent would not meet the EPA's objective for "landscape and visual amenity". The EPA considers the modeled views of the area from the north (from Torpedo Rocks / Yallingup) to be of most concern and that the views show an

unacceptable visual impact on the headland and on the upper slopes of the development site. However, the EPA considers that some development could be acceptable. An acceptable area for development would exclude development out onto the headland and the slopes of the ridge outlining the headland, and would also exclude development on the higher portions of the site towards Canal Rocks Road. It has therefore set out a “SEA Developable Area” that shifts development just east of an existing cleared track and restricts it to below the 35 metre height contour.

Using the “SEA Developable Area” defined through its assessment the EPA has also identified areas of high conservation value that should be added to the Leeuwin-Naturaliste National Park. These areas include regionally significant vegetation units and other good quality vegetation that should not be developed. The EPA considers that these areas should be ceded to the Conservation Commission prior to any development.

The EPA has also identified key attributes that derived proposals (i.e. derived from this strategic proposal) would need in order to meet environmental objectives for the environmental factors it has assessed. These include: the need for all development to be limited to the “SEA Developable Area”; height restrictions on development; the adoption of an acceptable colour palette for buildings; limits on clearing; and measures to limit indirect impacts on the national park.

The EPA has therefore concluded that it is unlikely that the EPA’s objectives would be compromised, provided future proposals have the key attributes identified by the EPA and are subject to the recommended conditions set out in Appendix 4, and summarized in Section 4.1.

In addition, the proponent has set out an environmental offset to address the relatively small loss of Western Ringtail Possum habitat within Sussex Location 413. This offset involves the revegetation of degraded areas of the national park in the local area and so would increase the relatively small area of this type of habitat currently secured in the conservation estate.

## **Recommendations**

The EPA submits the following recommendations to the Minister for Environment.

1. That the Minister notes that the strategic proposal being assessed are plans for the future development of Sussex Location 413.
2. That the Minister considers the report on the key environmental factors and principles as set out in Section 3.
3. That the Minister notes that the development and development area as proposed is environmentally unacceptable.
4. That the Minister notes that the EPA has concluded that development on a smaller development area is unlikely to compromise the EPA’s objectives, provided future proposals have the key attributes identified by the EPA and are subject to the recommended conditions set out in Appendix 4, and summarized in Section 4.1.
5. That the Minister applies the Implementation Statement recommended in Appendix 4 of this report to the strategic proposal.

## **Conditions**

The EPA has developed an Implementation Statement for the strategic proposal that the EPA recommends be applied to the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup, if it is approved for implementation. This Implementation Statement is presented in Appendix 4. Matters addressed in the Implementation Statement include the following:

- (a) identification of derived proposals, including:
  - (i) delineation of a “SEA developable area”; and
  - (ii) description of key characteristics;
- (b) conditions to be applied to derived proposals, namely:
  - (i) to cede the land identified for conservation to the Conservation Commission for eventual inclusion into the Leeuwin-Naturaliste National Park; and
  - (ii) revegetation of approximately 22.4 hectares within the Leeuwin-Naturaliste National Park as an environmental offset for impacts to Western Ringtail Possum habitat.

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# **1. Introduction and background**

This report provides the advice and recommendations of the Environmental Protection Authority (EPA) to the Minister for Environment on the key environmental factors and principles for the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup.

The proposed development of Sussex Location 413 was referred to the EPA by the proponent in August 2005 with a request that the development of the nominated area be assessed as a Strategic Environmental Assessment (SEA). The EPA set the level of assessment in September 2005 as a SEA with an 8 week public review period. This level was set due to the potential for impacts on flora, fauna, visual amenity, and water quality.

Prior to this, a number of referrals to the EPA have been made under Part IV of the *Environmental Protection Act 1986* (EP Act) in relation to this location; however, none of these has resulted in an environmental impact assessment that has been taken through to completion. Proposals were referred to the EPA under section 38 of the EP Act in 1989 and 1993 which were withdrawn from the assessment process in 1992 and 1994 respectively.

In addition, two amendments to the Shire of Busselton's Town Planning Scheme No. 20 (TPS) have been referred to the EPA under section 48A of the EP Act. The first, Amendment No. 56, was initiated in response to a gazetted amendment to the Western Australian Planning Commission's (WAPC) "Leeuwin Naturaliste Ridge Statement of Planning Policy" (LNRSP, reference WAPC 2003), and at the request of the WAPC and the Minister for Planning, rather than the landowner. The EPA set a formal level of assessment on 8 August 2003. The Shire appealed against the Drafting Instructions, because it would have the responsibility for preparing the Environmental Review for the Amendment which had only sought to give effect to the LNRSP. During consideration of the appeal, the Minister for Environment explored an option whereby the Shire of Busselton prepare a new amendment in such a manner that it would fulfill the requirements of the LNRSP, but not trigger the need for formal environmental assessment. Consequently, since then, the EIA process for Amendment No. 56 has been held in abeyance. Following the Minister for the Environment's suggestion, the second amendment (TPS Amendment No. 92), which only dealt with text changes to the TPS, was referred to the EPA and on 12 September 2005, the EPA set the level of assessment on the Amendment as "Not assessed, non-binding advice given".

Further details of the proposal are presented in Section 2 of this report. Section 3 discusses the key environmental factors and principles for the proposal. The Conditions and Commitments to which the proposal should be subject, if the Minister determines that it may be implemented, are set out in Section 4. Section 5 presents the EPA's conclusions and Section 6, the EPA's Recommendations.

Appendix 6 contains a summary of submissions and the proponent's response to submissions and is included as a matter of information only and does not form part of

the EPA’s report and recommendations. Issues arising from this process, and which have been taken into account by the EPA, appear in the report itself.

## 2. The proposal

This proposal is a ‘Strategic Proposal’ as defined under section 37B of the EP Act and has been assessed as a Strategic Environmental Assessment (SEA).

SEA provides the means for a proponent to voluntarily refer a strategic proposal for assessment by the EPA, even if the proposal itself does not have an immediate significant effect on the environment. In essence, a strategic proposal might be a plan, program, or conceptual development, that will lead to future specific proposals with likely environmental impacts.

When a future proposal is referred to the EPA, which is under the umbrella of, and consistent with, a previous strategic assessment, the EPA may declare that this proposal is a ‘derived proposal’. Conditions from the strategic assessment would then be applied by the Minister for Environment to this ‘derived proposal’ and no further assessment by the EPA would be required.

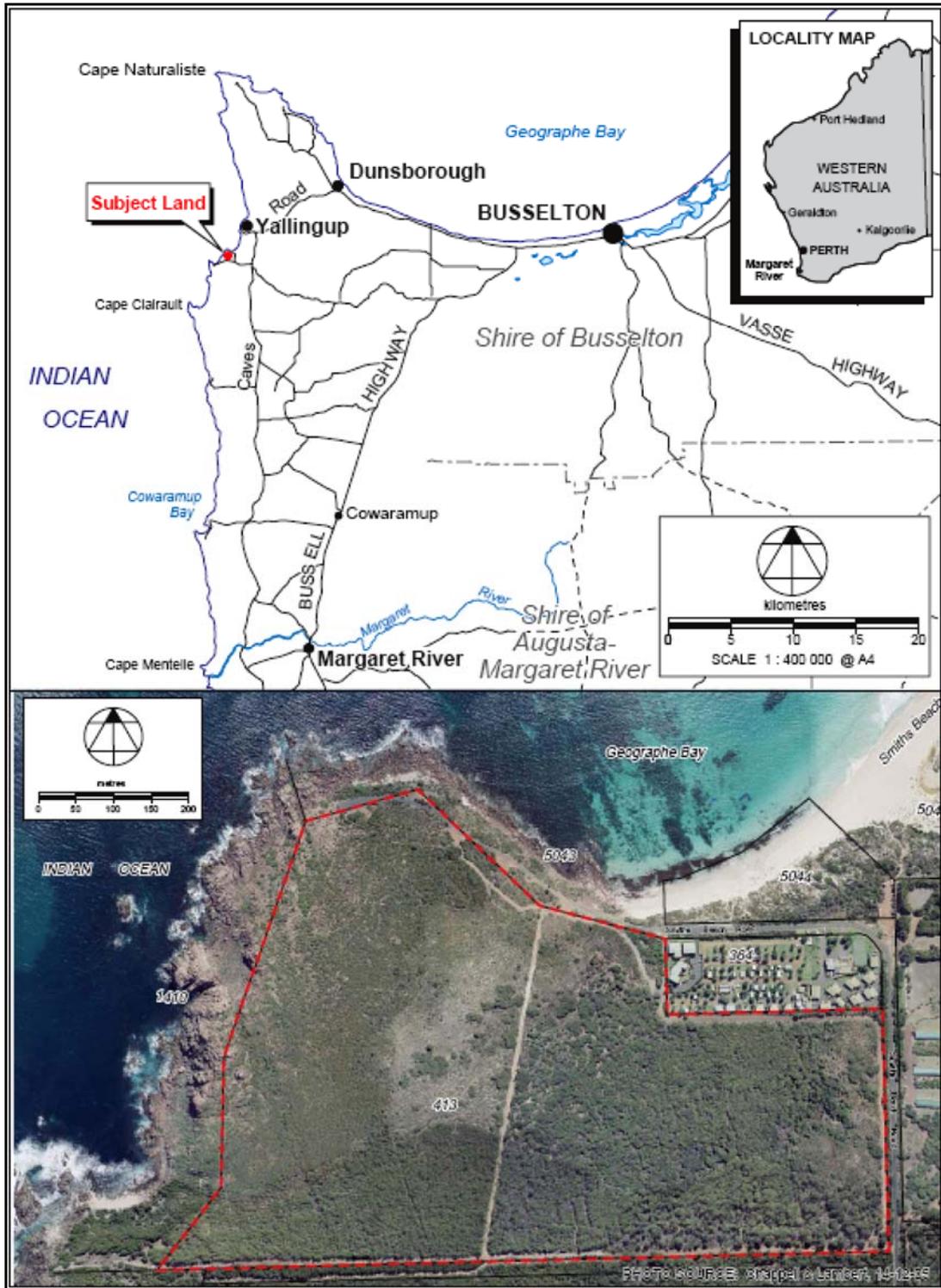
This strategic proposal relates to the future development of Sussex Location 413, Yallingup (Figure 1). The future development set out by the proponent in the SEA review document (ATA, 2007) is for a mix of residential and tourist development for part of the site, with the remainder being managed for conservation.

The Draft Development Guide Plan (refer to Figure 2) in the SEA review document proposed to develop 21.3 ha of the 40.4 ha total area of Location 413 consisting of the following components.

**Table 1: Components of the draft Development Guide Plan**

<b>Land Use</b>	<b>Area (ha) approximate</b>
Principal Ridge Protection Area	9.7
Tourist - Beach Club Resort - Cape Spur Tourist Lodge - Camping and Chalets - Attached Units - Semi-detached Units - Cottage Units - Backpacker Camping	14.9
Residential - Green title Residential - Strata Residential	6.4
Privately Managed Conservation Area	5.7
Other Privately Managed Open Space	0.6
Foreshore Reserve and Public Open Space	2.4

The potential impacts of the proposal initially predicted by the proponent in the SEA review document (ATA 2007) and their proposed management are summarised in Table 18 of the proponent’s document.



**Figure 1:** Sussex Location 413 (ATA, 2007)

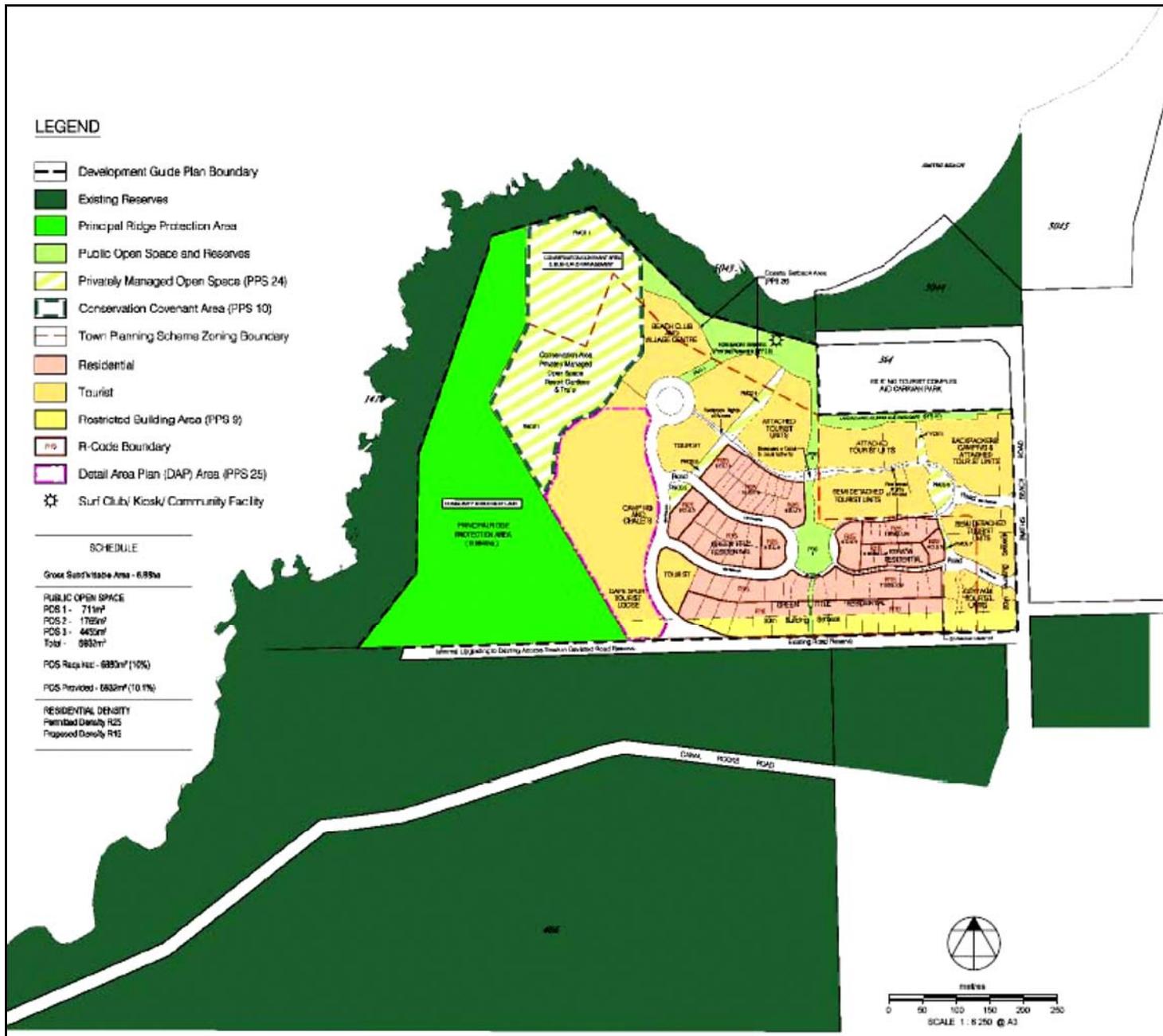


Figure 2: Draft Development Guide Plan (ATA, 2007)

### **3. Key environmental factors and principles**

Section 44 of the *Environmental Protection Act 1986* requires the EPA to report to the Minister for Environment on the environmental factors relevant to the proposal and the conditions and procedures, if any, to which the proposal should be subject. In addition, the EPA may make recommendations as it sees fit.

The identification process for the key factors selected for detailed evaluation in this report is summarised in Appendix 3. The reader is referred to Appendix 3 for the evaluation of factors not discussed below. A number of these factors, such as sustainability, protected flora and fauna, terrestrial fauna, surface water quality, groundwater quality, air quality, noise, and Aboriginal heritage are very relevant to the proposal, but the EPA is of the view that the information set out in Appendix 3 provides sufficient evaluation.

It is the EPA's opinion that the following key environmental factors for the proposal require detailed evaluation in this report:

- (a) landscape and visual amenity;
- (b) native terrestrial vegetation and flora; and
- (c) conservation areas.

The above key factors were identified from the EPA's consideration and review of all environmental factors generated from the SEA document and the submissions received, in conjunction with the proposal characteristics.

Details on the key environmental factors and their assessment are contained in Sections 3.1 - 3.3. The description of each factor shows why it is relevant to the proposal and how it will be affected by the proposal. The assessment of each factor is where the EPA decides whether or not a proposal meets the environmental objective set for that factor.

The following principles were considered by the EPA in relation to the proposal:

- (a) the precautionary principle
- (a) the principle of intergenerational equity; and
- (b) the principle of the conservation of biological diversity and ecological integrity.

#### **3.1 Landscape and visual amenity**

##### **Description**

Sussex Location 413 is located next to a generally rugged coastline, with a large sandy beach just to the north and west. The site contains a prominent headland that juts out into the ocean and is visible up and down the coast. The site also has an 'amphitheatre' shaped area that slopes down toward the ocean and finishes behind the coastal dunes.

The site is located in an area of high visual amenity as viewed from various scenic viewpoints along the coast. These include:

- the Leeuwin Naturaliste National Park (Torpedo Rocks, Rotary Lookout, Canal Rocks, and Canal Rocks Road);
- the Cape to Cape Walk Trail; and
- Smiths Beach.

The construction of buildings and service infrastructure will alter the existing views of the landscape and could have an unacceptable impact on this area of high visual amenity if not appropriately sited and managed.

The proponent has applied sophisticated computer modelling to model the visual impacts and to guide development. This modelling and the simulated views from key locations were provided in Appendix 13 of the SEA review document (ATA 2007). In order to manage visual impacts the proponent has excluded development from the western area of the site and would impose conditions on the height and colours of buildings in the developable area it has defined. The developable area defined by the proponent excludes the Principal Ridge Protection Area and an area of the ridge/headland which is set aside for conservation (Figure 2). This allows development within the ‘amphitheatre’ area with some development extending onto the headland and up the higher slopes of the ‘amphitheatre’ area. This reduces the visual impacts of any development when viewed from the south and the southwest. The height of buildings would be restricted by a “Special Height Control Area Plan” (refer to Figure 3) under the Busselton District Town Planning Scheme. Control over the colour and form of buildings would be applied through Design Guidelines which would be applied to each building before seeking development approvals or building licenses from the Shire of Busselton. The proponent has submitted draft design guidelines as part of its response to submissions (Appendix 6) which includes a palette of colours intended to blend with the existing environment and which are consistent with colours used in the computer modelling. To a lesser extent, retention of native vegetation and plantings of appropriate plants species would also reduce the visual impact of development.

At the request of the EPA the proponent also commissioned a peer review of the landscape report for the SEA (Appendix 13 of ATA 2007). Subject to some caveats, the conclusion of this peer review (refer to Appendix 6) was that the report had fully addressed the requirements of the agreed landscape study methodology and that the outcomes were a reasonable and appropriate response to the agreed methodology. The reviewer also commented that in some cases there was limited discussion of the analysis results and so an in-depth review of the findings was not always possible. In addition the reviewer also felt that the significance of the national park had been understated and that a more appropriate response would have been to further reduce the density in the vicinity of the headland.



## **Submissions**

Public submissions were divided into two main groups: those opposed to the development as described by the proponent and which raised issues that required a response; and those making statements of support and which required no response. Only those submissions requiring a response are discussed in this section. A full summary of submissions is provided in Appendix 6.

Many public submissions were concerned that the visual impacts of the proposal were underestimated by the modeling and that a proposal of the size described by the proponent would have an unacceptable impact on the visual amenity of the area. Submitters contended that there would be less screening vegetation than modeled by the proponent as a result of clearing needed for the implementation of the Fire Management Plan. Submitters were also concerned that the methodology for visual assessment was not applied properly and that it was biased to producing a larger developable area than was acceptable. In particular it was considered that buildings like the Beach Club Resort and Cape Spur Lodge may be too far upslope and too far west when viewed from the north. It was generally felt that a much smaller and less dense development had been envisaged by the community and that the proponent's larger development area would have an unacceptable visual impact on an area of high scenic value.

The Department of Environment and Conservation (DEC) made a submission on this issue in its role of manager of the Leeuwin Naturaliste National Park and the Cape-to-Cape walk trail. The DEC submitted that the Beach Club Resort needed to be moved eastward if the proponent was to optimise the visual amenity of the development, as it is important in protecting the landscape/seascape interface at the Smith's Point promontory. While the DEC accepted that walkers on Cape-to-Cape walk trail would enter a visual zone dominated by the development when they were close to it, the DEC was concerned that the Cape Spur Lodge would be prominently visible to walkers in the wilderness-like zone between Smiths Beach promontory and where the Cape-to-Cape walk trail leaves the coast. The DEC was also generally concerned that other buildings may be more visible than they appear in the landscape study and the role of vegetation screening needed to be specified. It also expressed a lack of confidence in Special Height Control Area Map as a mechanism for managing visual impacts and felt that there should be a better explanation and demonstration of it.

## **Assessment**

The EPA's environmental objective for this factor is to ensure that aesthetic values are considered and measures are adopted to reduce adverse visual impacts on the surrounding environment as low as reasonably practicable.

The EPA notes that by situating any development east of the main ridgeline (refer to Figure 4) of the Principal Ridge Protection Area visual impacts as viewed from the south and southwest are generally avoided. However the EPA is concerned about the impact on views from the north and northwest, particularly from the key viewpoint of Torpedo Rocks within the Leeuwin Naturaliste National Park. From this direction it is the extent of development out onto the headland and upslope of the amphitheatre area that is of most concern to the EPA.

The EPA considers that the modelling provides sufficient information for the EPA's assessment regardless of the criticisms of it. For the EPA it is the extent of development along the headland and upslope that is the critical factor in determining the visual impact of this proposal. While it is argued that the modelling understates the final impact, the EPA notes the peer reviewer's comments that the modelling was of very high standard. The EPA also believes that the proponent has adequately addressed concerns about the modelling of vegetation being inconsistent with the Fire Management Plan through its response to submissions (Appendix 6), in which the proponent presents landscaping plans for the development areas that are consistent with the Fire Management Plan and the visual modelling inputs. The EPA is therefore confident that the projected areas of visual impact presented in the modelling are reasonably accurate. As viewed from Torpedo Rocks the area of visual impact as modelled by the proponent extends some way out onto the headland and a fair way upslope in the amphitheatre area. It is the EPA's view that this level of visual impact from a key viewpoint is not acceptable.

The EPA considers that an acceptable area for development would exclude development out onto the headland and the slopes of the ridge outlining the headland, and would also exclude development on the higher portions of the amphitheatre area. It has therefore set out a "SEA Developable Area" that shifts development just east of the existing cleared track and restricts it to below the 35 metre height contour (Figure 5). Development proposals within this area have the potential to be considered as derived proposals as they would not have an unacceptable visual impact if appropriately designed.

The "SEA Developable Area" addresses many of the other concerns raised by submitters. In particular, concerns about the Beach Club Resort being too prominent on the headland and the Cape Spur Lodge being too high upslope are addressed by excluding these areas from development. Such buildings, or alternatives, would need to be located within the "SEA Developable Area".

Development would still need to be restricted with respect to height and colour within the "SEA Developable Area" in order to limit impacts on visual amenity. The EPA therefore considers that derived proposals would need to comply with the Special Height Control Area Map and include development guidelines specifying an acceptable colour palette. This means that development would be limited to 7-10 m in height for most of the developable area defined by the EPA.

The EPA recognises that an access road and other infrastructure will need to be provided and that this could occur above the 35 m contour without unacceptably affecting the visual impact. Provided the road is within the 45 m contour it would be largely hidden by the development. Some allowance to go above the 45 m contour might also need to be made on the southeastern corner of Sussex Location 413 to accommodate a safe road alignment. However, a road could not be accommodated outside the western boundary of the "SEA Developable Area" without affecting visual impact, as it would project too far out onto the headland.

It is also recognised that by limiting the development to this "SEA Developable Area", the density of development becomes a factor of lesser importance in limiting visual impacts. The proponent may therefore wish to develop the area to a higher

density (up to that allowed under the planning framework) to maximise the tourism value of the site for the long term benefit of the community. Hence the EPA has not chosen to include density as a limitation on derived proposals.

### Summary

The EPA considers that the development to the full extent of the “developable area” identified by the proponent would not meet the EPA objective for landscape and visual amenity and would therefore be environmentally unacceptable. However, the EPA has set out an “SEA developable area” that could be developed and meet this objective, provided that derived proposals:

- are within the “SEA developable area”;
- area compliant with the Special Height Control Area Map; and
- include Development Guidelines specifying an acceptable colour palette.

## 3.2 Native terrestrial vegetation and flora

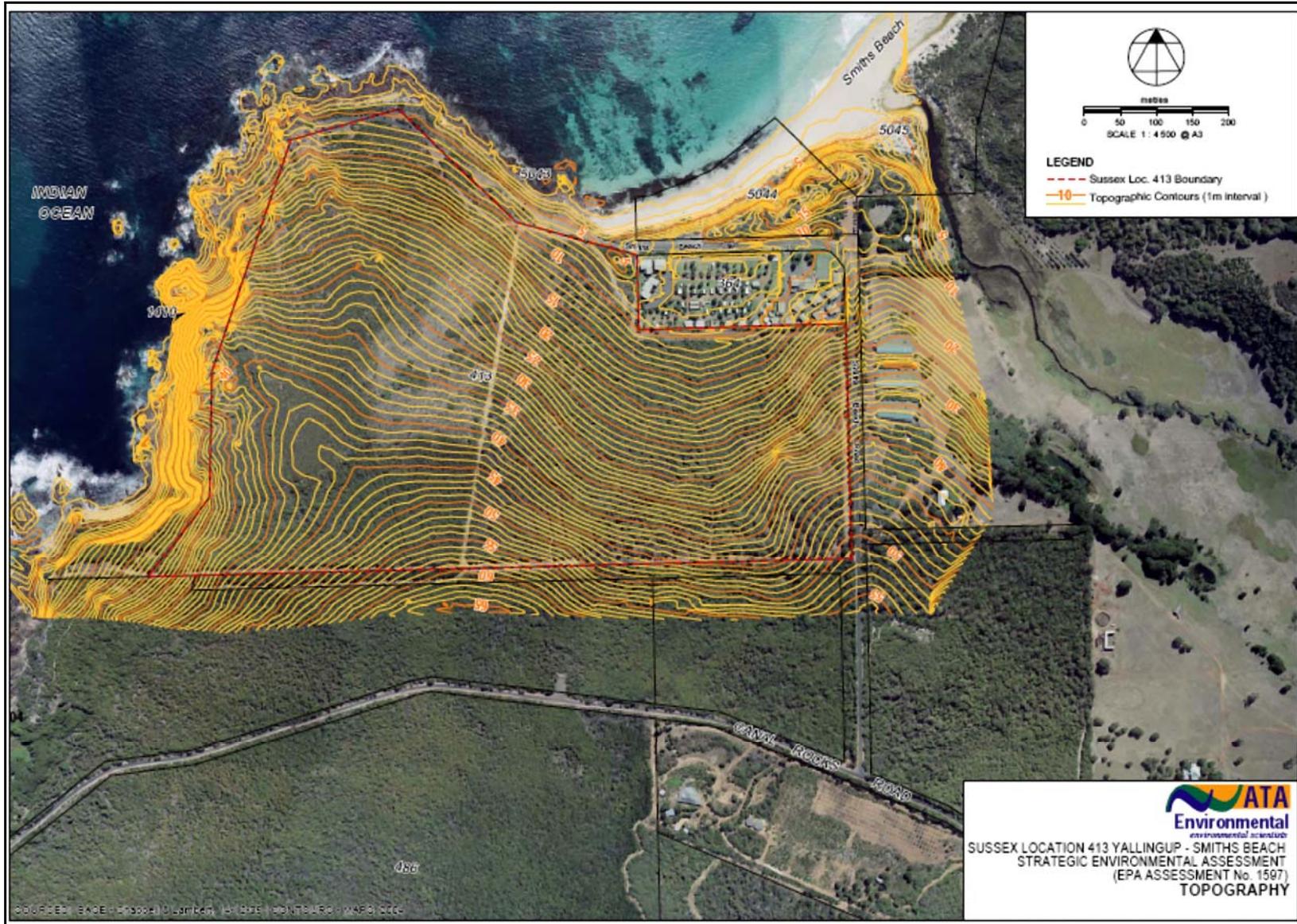
### Description

The vegetation of Sussex Location 413 has been surveyed and mapped at a number of scales, but at a regional scale there are two vegetation complexes composed of the broad plant communities as listed below.

**Table 2: Vegetation complexes and broad communities**

Wilyabrup (We) complex <i>Community 1</i>	A <i>Kunzea ciliata</i> dominated heath on shallow loam soils in among exposed granite rock on the near coastal most westerly exposed parts of the location.
Wilyabrup (We) complex <i>Community 2</i>	A mixed heath community with occasional dwarf marri and peppermint on shallow loam soils over granite rock that is occasionally exposed at the surface. This association is on the next most exposed part of the location (i.e. directly on the lee-side of Community 1) and at the eastern extent of the location where the land rises to a high point again.
Wilyabrup (We) complex <i>Community 3</i>	A <i>banksia attenuata</i> and/or <i>Agonis flexuosa</i> woodland on orange sand soils in the valley between the surrounding high points.
Gracetown (GE complex)	A dense coastal heath on exposed slopes of the west coast of the Leeuwin-Naturaliste Ridge with sand soils over limestone. At this location the broad dominants of the plant community are <i>Maelaleuca huegellii</i> , <i>Spyridium globulosum</i> , and <i>Acaia rostelifera</i> . This complex is found on the higher slopes of the western half of the southern boundary.

Figure 6 is a mapping of vegetation associations at a local scale, which when combined with Table 3 below, allows vegetation units at the differing scales to be compared and mapped.



**Figure 4:** *Topography of Sussex Location 413 (ATA, 2007)*

SEA Developable Area - 35m Contour Boundary

Map Version: 1  
Map Create Date: 26/02/2009  
Map Create By: E. Sutherland



LEGEND

 SEA Developable Area

Image Source: Busselton (2007)

LOCALITY MAP

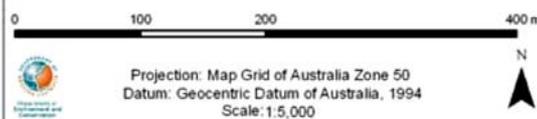


Figure 5: SEA Developable Area

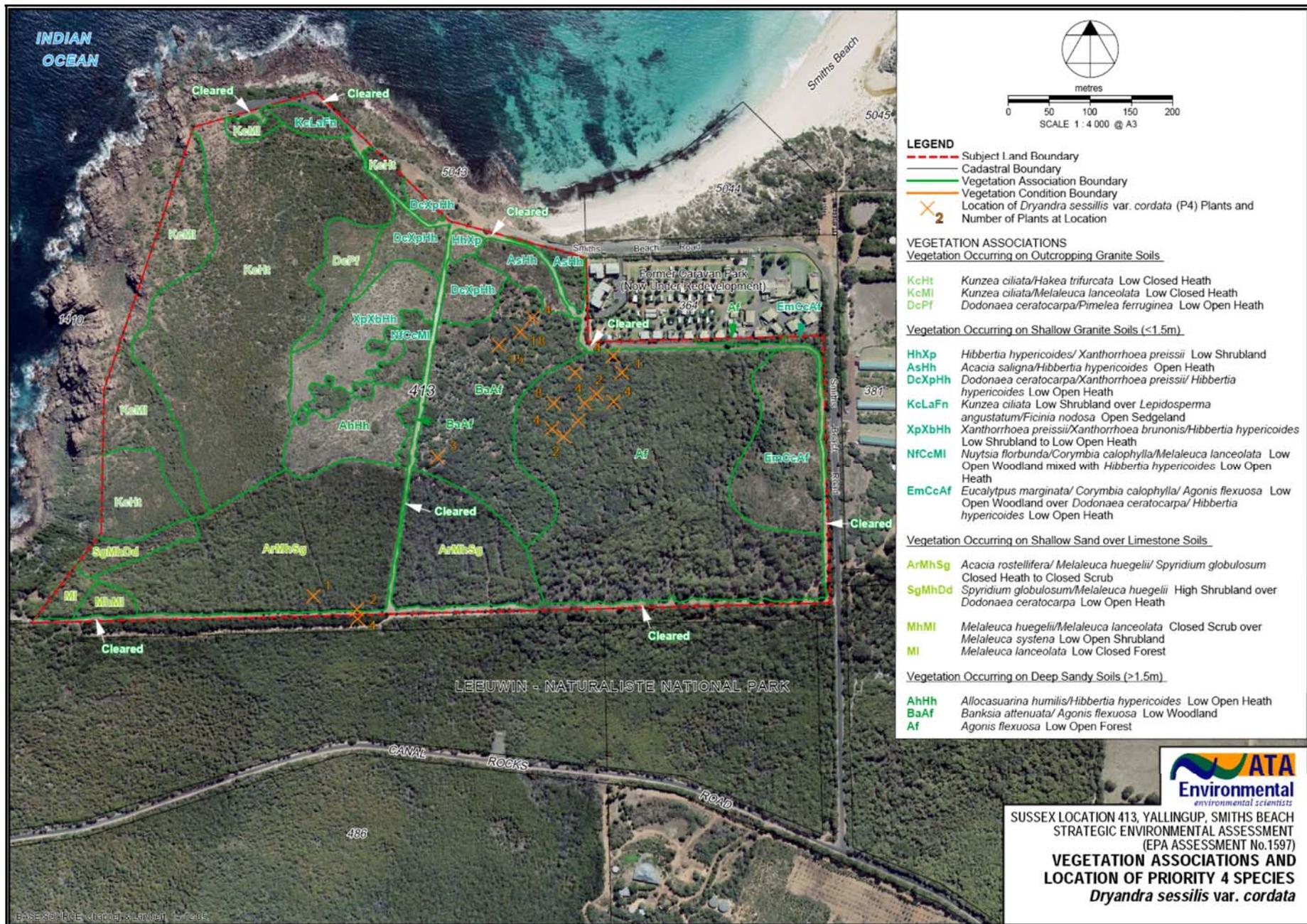


Figure 6: Vegetation associations (ATA 2007)

**Table 3: Association of vegetation mapping units**

<b>RFA Vegetation complex</b>	<b>Maunsell and Partners (1987)</b>  (refer to Appendix 6 of ATA 2007)	<b>Bennett (2001)</b>  (as depicted in Figure 6)	<b>DEC broad community (2008)</b>
We	GH4, DH1	KcMl KCLaFn KcHt	Broad Community 1
We	SH1, SH9	DcPf DcXpHh HhXp AsHh XpXbHh NfCcMl AhHh EmCcAf	Broad Community 2
We	BaAg, Aw2	Af BaAf	Broad Community 3
GE	LH3, LH1	ArMhSg Ml MhMl SgMhDd	Not applicable

Clearing for residential and tourist development would affect about 21 ha of the site (based on the developable area described by the proponent). While some vegetation would be maintained wherever possible (subject to development practicalities and fire management needs), the ecological function and conservation values of the vegetation in these areas would be affected and decline over time.

### **Submissions**

The DEC submitted that all of the GH4 vegetation unit and some of the SH9 vegetation unit should be conserved. From information presented in the SEA document (ATA 2007) the GH4 vegetation unit is of high conservation value and hence should be conserved and incorporated in the national park. The SH9 vegetation type on shallow soils over granite may have high conservation value, however, as only two occurrences are recorded, its significance can only be proven by extensive plot based vegetation surveys and analysis over the range of typical site types of the Leeuwin-Naturaliste Ridge. Nevertheless, given it could be a fringing type associated with GH4 it is probably at least a regionally significant vegetation unit and so some of this vegetation unit should be conserved.

Some members of the public were concerned that there was a conflict between the intention to conserve vegetation within the developable area and the need to manage fuel loads in an area of high-to-extreme fire hazard. They felt that a plan showing the extent of vegetation loss due to development and fire management needed to be produced as their own analysis showed there was minimal opportunity to retain vegetation between buildings or to replant following development.

Submitters also questioned the conservation significance of the vegetation on the site at the scale of regional vegetation units (as mapped through the Regional Forest Agreement project). In particular, it was noted that only the 21.1% of pre-clearing

extent remained 'W2' and that the 'We' complex may meet criteria for a Threatened Ecological Community due to its pre-European extent of only 136 ha, with 67 ha in conservation reserves.

Some submitters felt that the density of the development should be reduced so as to enable natural vegetation corridors to be incorporated into the proposal and retain habitat trees on individual properties, while allowing compliance with the Fire Management Plan.

### **Assessment**

The EPA's environmental objective for this factor is to maintain the abundance, diversity, geographic distribution, and productivity of flora at species and ecosystem levels through the avoidance or management of adverse impacts and improvement in knowledge.

With regard to vegetation generally, the EPA conservatively assumes that for most of the areas proposed for development (with the possible exception of the camping area) the environmental values would be lost. Although it is proposed to keep as much vegetation as possible for aesthetic reasons; buildings, roads, and implementation of the Fire Management Plan (FMP) will either clear or significantly modify much of the vegetation in the development areas. In making this assumption, issues about the exact effects of the Fire Management Plan and the density of development on vegetation within the development, are no longer relevant to assessment of this factor. Nevertheless, the EPA believes that the aim of maintaining as much of the overstorey as possible is worthwhile for other reasons and should be supported, as it would provide some fauna habitat and also serve to reduce visual impacts to some extent. As a result the EPA would expect any derived proposals to include building envelopes that place limits on clearing.

For the purpose of this assessment the EPA has chosen the scale of vegetation mapping used in 1987 Maunsell and Partners survey (refer to Appendix 6 of ATA 2007) as the appropriate scale for analysis. The EPA has been guided in this choice by the DEC which has provided advice on the significance of vegetation on the site. It is noted that at the scale of the Regional Forest Agreement the 'We' vegetation complex has a small extent and is therefore of regional significance. This has then been used as the starting point for looking at the vegetation at the finer scale of the 1987 mapping and determining which vegetation needs to be conserved. It should also be noted that on closer inspection the 'W2' vegetation complex is not considered to occur within Sussex Location 413.

The EPA agrees with the DEC advice that all of GH4 vegetation unit should be conserved and some of SH9 vegetation unit should be conserved. The GH4 vegetation unit is taken to be the vegetation associations KcMI, KCLaFn, and KcHt of Figure 6 over the western portion of Sussex Location 413. The DEC also advises that for the purposes of delineating an area of the SH9 vegetation unit to be conserved that vegetation associations XpXbHh, AhHh, NfCcMI, and DcXpHh (of Figure 6) are an appropriate definition. The EPA notes that using this definition the existing north-south firebreak bisecting Sussex Location 413 provides a natural conservation boundary for the SH9 vegetation unit. Under the Draft Development Guide Plan in the SEA document most of the GH4 but very little of the SH9 vegetation unit would

have been conserved. However, based on its assessment of landscape and visual amenity the EPA has identified a different developable area (Figure 5). Using the EPA's "SEA developable area" all of GH4 vegetation unit and a viable area of SH9 vegetation unit would be excluded from development, thus meeting the objective for this factor. Section 3.3 deals with the land tenure under which this vegetation would be conserved and protected.

### **Summary**

Based on the "SEA developable area" identified through assessment of the factor of "landscape and visual amenity", the EPA considers that derived proposals could meet the objective for the factor of "native terrestrial vegetation and flora" provided they:

- are within the "SEA developable area"; and
- include building envelopes that place limits on clearing.

## **3.3 Conservation areas**

### **Description**

Sussex Location 413 is located in close proximity to the Leeuwin Naturaliste National Park which could be affected negatively, through indirect impacts of development; or positively, through additions to the national park.

Sussex Location 413 abuts the national park on the southern boundary and is located in a gap between larger areas of the park to the southwest and the northeast. The national park includes sections of scenic coastline and the EPA has previously advised that the area in the vicinity of Smiths Beach was a priority area for making additions to the national park (EPA 1998). The SEA review document has identified areas of high conservation value that the EPA believes should be considered for addition to the national park. In addition, development has the potential to negatively affect the park through increased access to people and pets, and the introduction of weeds.

In SEA review document it was proposed that lands identified for conservation become either community endowment land or privately managed land.

### **Submissions**

The Conservation Commission of Western Australia was of the view that the lands identified in the SEA review document for conservation should be added to the Leeuwin Naturaliste National Park. The commission also noted that while various management plans were generally adequate in scope, that these plans should be reviewed to the satisfaction of the DEC to ensure that impacts on the national park were addressed in detail. Although not directly related to the proposal, the commission sought the support of the EPA for Unallocated Crown Land 1410 that is on the coastal strip adjacent to the proposed 'Community Endowment Land' to also be an addition to the national park.

The DEC submitted that the Principal Ridge Protection Area and the Conservation Area should be added to the national park and managed by DEC. This action would ensure appropriate levels of protection and management through the agency of the

DEC and under the guidance of the Leeuwin Naturaliste National Park Management Plan. The DEC stated that this land should be ceded directly to the State and the Conservation Commission without cost. In particular, the DEC emphasised that the GH4 vegetation unit should become national park and that a portion of the SH9 vegetation unit should be reserved (contiguous with the GH4 association) and ceded to the national park due to its restricted extent.

While some members of the public were satisfied with the areas set aside for conservation in the SEA review document, others felt that the area of conservation was too small and that private management of the conservation areas was not appropriate.

### **Assessment**

The EPA's environmental objective for this factor is to protect and enhance the environmental values of areas identified as having significant environmental attributes.

Through the development of the SEA review document and submissions on it, areas of high conservation value have been identified that would be best conserved through additions to the Leeuwin-Naturaliste National Park. The SEA review document identified the "Principal Ridge Protection Area" (PRPA) and the "Conservation Area Privately Managed Open Space — Resort Gardens & Trails" as areas of high conservation value that should be conserved. In addition to these areas, the EPA has also concluded that some area of the SH9 vegetation unit be conserved and that the north-south firebreak provides a natural conservation boundary. The EPA also accepts the advice of the Conservation Commission and the DEC that these lands should be managed as part of the national park as these are of high conservation value and are adjacent to the national park. Hence it is the conclusion of the EPA that land to the west of the "SEA developable area" boundary should be ceded to the Conservation Commission for inclusion into the national park.

Furthermore, since a key outcome of this assessment is the identification of areas which can, and cannot, be developed, it is a natural consequence that other areas which should not be developed and which have environmental values ought also be added to the conservation estate. This is relevant to the area to the south of the "SEA developable area" boundary. This area has very good quality vegetation that would make worthwhile addition to the adjacent area of national park. Not only does this add to the value of the conservation estate, it also has the benefit of eliminating any expectations that remaining areas could be developed in the future. It therefore provides a more certain outcome for development and conservation.

It should, however, be noted that some infrastructure (in particular, an access road) may be located outside of the "SEA developable area" on the southern boundary and this would influence the delineation of a workable management boundary along this length. Firstly, it is obvious that the land ceded to the Conservation Commission would need to exclude land needed for infrastructure. Secondly, in Section 4.1 it is noted that infrastructure could occur outside the "SEA developable area" and that it might deviate significantly from the southeastern boundary of that area. If this is the case then any area cut off by a road reserve might be better left outside of the conservation estate, to be managed privately or by the local government. Hence, the

exact boundary of the land to be ceded to the Conservation Commission should be resolved between the commission, the Shire of Busselton, and the proponent as part of determining the road reserve needed to support the development.

The exact boundary of the area to be ceded to the Conservation Commission may also need to make allowance for the responsibility of fire management and will require further negotiation between the commission and the proponent. In defining the “SEA developable area” the EPA assumes that all buildings and the first 5 m of the building protection zone will be contained inside the “SEA developable area”. Beyond this 5 m distance, further clearing of vegetation may be needed in order to provide protection from fire as set out in the Fire Management Plan (an updated version of this is included as part of Appendix 6). The extent of this management depends largely on the fuel loading of the surrounding vegetation. On the western boundary, fuel loads are generally low and would not require much management. On the southern boundary fuel loads are higher and significant management will be needed throughout the 50 m fire Hazard Separation Zone. Therefore the Commission may prefer that this management is carried out by others and that part, or all, of the Fire Hazard Zone is excluded from the land ceded to the commission.

In summary the EPA recommends that it be a condition on any derived proposal that the proponent cede, or otherwise cause to be ceded, to the Conservation Commission those lands to the west and south of the EPA’s defined ‘developable area’, subject to allowances made to accommodate necessary infrastructure and agreed fire management responsibilities.

With regard to indirect impacts on the national park, the EPA considers that after taking into account the recommended additions to the national park that these impacts can be adequately managed as proposed. The proponent has set out draft design guidelines that would restrict plantings to an approved plant species list of appropriate native plants and prohibits fencing apart from private courtyard. This would reduce the potential for weeds to be introduced to the national park and would discourage the keeping of domestic pets. The EPA considers these key measures that should be included in any derived proposal.

Although not directly relevant to this assessment, the EPA agrees with the Conservation Commission that Unallocated Crown Land 1410 that is on the coastal strip adjacent would be a sensible addition to the national park.

### **Summary**

The EPA considers the issue of “conservation areas” has been adequately addressed and that derived proposals could meet the EPA’s objective for this factor provided any derived proposals:

- are within the “SEA developable area”
- restrict plantings to an approved plant species list of appropriate native plants;
- prohibit fencing apart from a private court; and
- have a condition imposed to cede the land identified for conservation to the Conservation Commission for eventual inclusion into the Leeuwin-Naturaliste National Park.

### **3.4 Environmental principles**

In preparing this report and recommendations, the EPA has had regard for the object and principles contained in s4A of the *Environmental Protection Act (1986)*. Appendix 3 contains a summary of the EPA's consideration of the principles.

## **4. Conditions and Commitments**

Section 44 of the *Environmental Protection Act 1986* requires the EPA to report to the Minister for Environment on the environmental factors relevant to the proposal and on the conditions and procedures to which the proposal should be subject, if implemented. In addition, the EPA may make recommendations as it sees fit.

### **4.1 Recommended conditions**

The EPA has developed an Implementation Statement for the strategic proposal that the EPA recommends be applied to the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup, if it is approved for implementation. This Implementation Statement is presented in Appendix 4. Matters addressed in the Implementation Statement include the following:

- (a) identification of derived proposals, including:
  - (i) delineation of a "SEA developable area"; and
  - (ii) description of key characteristics;
- (b) conditions to be applied to derived proposals, namely:
  - (i) to cede the land identified for conservation to the Conservation Commission for eventual inclusion into the Leeuwin-Naturaliste National Park; and
  - (ii) revegetation of approximately 22.4 hectares within the Leeuwin-Naturaliste National Park as an environmental offset for impacts to Western Ringtail Possum habitat.

## **5. Conclusions**

The EPA has considered the strategic proposal by Canal Rocks Pty Ltd, setting out the future development of Sussex Location 413, Yallingup.

The EPA considers that the development to the full extent of the "developable area" identified by the proponent would not meet the EPA's objective for "landscape and visual amenity". The EPA considers the modeled views of the area from the north (from Torpedo Rocks / Yallingup) to be of most concern and that the views show an unacceptable visual impact on the headland and on the upper slopes of the development site. However, the EPA considers that some development could be acceptable. An acceptable area for development would exclude development out onto the headland and the slopes of the ridge outlining the headland, and would also exclude development on the higher portions of the site towards Canal Rocks Road. It has therefore set out a "SEA Developable Area" that shifts development just east of an existing cleared track and restricts it to below the 35 metre height contour.

Using the “SEA Developable Area” defined through its assessment the EPA has also identified areas of high conservation value that should be added to the Leeuwin-Naturaliste National Park. These areas include regionally significant vegetation units and other good quality vegetation that should not be developed. The EPA considers that these areas should be ceded to the Conservation Commission prior to any development.

The EPA has also identified key attributes that derived proposals (i.e. derived from this strategic proposal) would need in order to meet environmental objectives for the environmental factors it has assessed. These include: the need for all development to be limited to the “SEA Developable Area”; height restrictions on development; the adoption of an acceptable colour palette for buildings; limits on clearing; and measures to limit indirect impacts on the national park.

The EPA has therefore concluded that it is unlikely that the EPA’s objectives would be compromised, provided future proposals have the key attributes identified by the EPA and are subject to the recommended conditions set out in Appendix 4, and summarized in Section 4.1.

In addition, the proponent has set out an environmental offset to address the relatively small loss of Western Ringtail Possum habitat within Sussex Location 413. This offset involves the revegetation of degraded areas of the national park in the local area and so would increase the relatively small area of this type of habitat currently secured in the conservation estate.

## **6. Recommendations**

The EPA submits the following recommendations to the Minister for Environment.

1. That the Minister notes that the strategic proposal being assessed are plans for the future development of Sussex Location 413.
2. That the Minister considers the report on the key environmental factors and principles as set out in Section 3.
3. That the Minister notes that the development and development area as proposed is environmentally unacceptable.
4. That the Minister notes that the EPA has concluded that development on a smaller development area is unlikely to compromise the EPA’s objectives, provided future proposals have the key attributes identified by the EPA and are subject to the recommended conditions set out in Appendix 4, and summarized in Section 4.1.
5. That the Minister applies the Implementation Statement recommended in Appendix 4 of this report to the strategic proposal.

# **Appendix 1**

## **List of submitters**

**Organisations:**

Save Our Foreshore Inc.  
Smiths Beach Action Group  
Cape to Cape Catchments Group

Conservation Commission  
Department of Environment and Conservation  
Department of Water

**Individuals:**

Martine Peasley  
Terry Moore  
Ken Phillips  
Dr Evan M Jenkins  
Stephanie Cregan  
Jamie Cregan  
Felicity Perry  
Stephanie Slanzi  
M Chandler  
Lawrie Schlueter  
Nita Pratt  
Jose Granado  
Robert K Croker  
Gemma Ruello  
Anthony Miller  
Alex Maskiell  
Ronald Graham McDonald  
Lauren Aylmore  
Graham Gautry  
Debra Wright  
Dale Lorene Croker  
Sally Chandler  
Karen L Fleay

Lynette Nickell  
Edwin Samuel Fleay  
Clare Maskiell  
Jill Maskiell  
Malcolm Patton  
Joni Patton  
Tim Larcombe  
Tim Colegate  
Grant Revell  
Michael Best  
Callie Fleay  
Brad Pawlenko  
Tom Engelke & Beth Walker  
Colin Walker  
Ron Glencross  
D C Hosking  
Nimal Somasundaram  
Rachel Ridout  
Jermayne Fabling  
Rosbo Pty Ltd  
Ron Shearwood  
Stuart & Nola Lee

# **Appendix 2**

## **References**

ATA 2007, *Sussex location 413 Yallingup – Smiths Beach – Strategic Environmental Assessment*, (EPA Assessment No. 1597) Version 4: 4 July 2007.

EPA 1998, *Leeuwin-Naturaliste Ridge Draft Statement of Planning Policy Report — A submission to the Western Australian Planning Commission prepared under Section 16 of the Environmental Protection Act*. Environmental Protection Authority Bulletin 883, March 1998.

Smiths Point 2007, *Location 413, Smiths Beach, development Guide Plan July 2007*, July 2007.

Western Australian Planning Commission 2003, *STATEMENT OF PLANNING POLICY No. 6.1, LEEUWIN-NATURALISTE RIDGE POLICY*

## **Appendix 3**

**Summary of identification of key environmental factors and principles**

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
<b>INTEGRATION</b>			
<p>Sustainability</p>	<p>The DGP would allow the development of approximately 21 ha of the site for residential, tourist use, and accommodation, with much of the remainder of the site (approximately 15 ha) managed for conservation.</p> <p>Residents and tourists will utilise resources through services such as electrical power, potable water, wastewater disposal, and roads and transport.</p>	<p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Support for the project as it appears to be very sensitive to the environment and has taken on board ecological and environmental issues.</li> <li>• The proposal needs to be redesigned with a view to a reduced footprint to minimise loss of vegetation with high conservation value, improve opportunities to retain important habitat for fauna species, improve the width of the buffer between the development and the Leeuwin Naturaliste National Park and improve opportunities to effectively manage stormwater on site by reducing the overall hardstand area.</li> <li>• The development should produce power, use solar power or renewable energy, and solar hot water should be mandatory.</li> <li>• The development should develop waste recycling.</li> <li>• Rainwater capture and storage should be mandatory, and grey water re-use should be considered.</li> <li>• There is insufficient evidence of alternative transport.</li> <li>• Sustainability should be considered in building materials and design.</li> <li>• Nothing to assure that the development will not proceed in an unsustainable manner.</li> <li>• The sustainability checklist in the SEA is flawed (i.e. there is no public transport).</li> <li>• Limits on air conditioning should be mandatory.</li> <li>• Conservation objectives should be integral to the design.</li> <li>• Efficiency measures should be considered.</li> </ul>	<p>Assessment of the balance between conservation and development on this site is considered under the environmental factor of “Conservation areas”.</p> <p>The development is close enough to existing development that it can connect to existing water, power, and transport infrastructure.</p> <p>The proponent has provided draft Design Guidelines for development that encourage, or require, adoption of efficiency measures. These measures include passive solar design and rainwater harvesting and storage systems. The Design Guidelines are a requirement under the Sire of Busselton District Town Planning Scheme (TPS 20).</p> <p>Given that the development does not raise any sustainability issues beyond those common for residential/tourist development, the EPA considers that sustainability issues can be adequately addressed through local government planning processes.</p> <p><b>Not a relevant environmental factor</b></p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<ul style="list-style-type: none"> <li>• Sustainability of walk/bike paths should be considered.</li> <li>• Proposal should be reviewed against initiatives for the Gracetown expansion particularly with respect to energy, sewerage, and water provision.</li> </ul>	
<b>BIOPHYSICAL</b>			
Native terrestrial vegetation and flora	Clearing for residential and tourist development will affect about 21 ha of the site. While some vegetation will be maintained wherever possible (subject to development practicalities and fire management needs), ecological function and conservation values of the vegetation in these areas would be affected.	<p><u>EPASU</u></p> <ul style="list-style-type: none"> <li>• Information on the proportion of <i>Kunzea ciliata</i> / <i>Hakea trifurcata</i> Low Closed Heath and the <i>Kunzea ciliata</i> / <i>Melaleuca lanceolata</i> Low Closed Heath that will be impacted by the development is unclear, and needs further detail.</li> </ul> <p><u>DEC</u></p> <ul style="list-style-type: none"> <li>• GH4 vegetation associations should become national park.</li> <li>• A portion of the SH9 association should be reserved (contiguous with the GH4 association) and ceded to the national park due to its restricted extent.</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• The amount of clearing of near pristine vegetation on the site and for road verges is of concern. Trees will inevitably be destroyed.</li> <li>• The retention of areas of native vegetation is supported. The planting of natives will help preserve biodiversity and the area's natural state / replanting with natives supported.</li> <li>• The retention of granite heath communities is supported.</li> <li>• The proposal intrudes into the western heathland.</li> <li>• Loss of communities that are unusual, important and restricted at both local and regional scale, namely: <ul style="list-style-type: none"> <li>○ the 'W2' complex at 21.1% of pre-clearing extent, with 8.9% of remaining area in reserves (1.9% of pre-</li> </ul> </li> </ul>	<b>Considered to be a relevant environmental factor</b>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p>clearing extent); and</p> <ul style="list-style-type: none"> <li>○ the ‘We’ complex may meet criteria for a Threatened Ecological Community due to its pre-European extent of only 136ha, with 67ha in conservation reserve. The proposal will clear 18-20ha of the 90ha that currently exists.</li> <li>• SH9 vegetation type only known from 2 locations, both of them small, and over half will be cleared in the development area.</li> <li>• Clearing required is in conflict with LNRSP, principle (v) of the clearing principles (Environmental Protection Act, 1986), National Biodiversity Targets and Town Planning Scheme No 20)</li> <li>• The density of development should be adjusted so as to enable natural vegetation corridors to be incorporated into the proposal and retain habitat trees on individual properties, while allowing compliance with the Fire Management Plan</li> <li>• The Fire management plan is in total conflict with the vegetation retention plan. A plan showing the extent of vegetation loss due to development and fire management needs to be produced as the Smith’s Beach Action Group’s analysis shows that there is minimal opportunity to retain vegetation between buildings or to replant following development.</li> </ul>	
<p>Terrestrial flora — declared rare flora, priority flora, and flora of conservation significance (including Threatened Ecological Communities)</p>	<p>There are no declared rare flora species nor threatened Ecological Communities on the site.</p> <p>There are 84 plants of the Priority 4 flora species <i>Dryandra sessilis</i> var. <i>cordata</i> on the site. Many of these plants would be destroyed by clearing for development.</p>	<p><u>EPASU</u></p> <ul style="list-style-type: none"> <li>• Further discussion with the DEC regarding Priority Ecological Communities (PECs) may be required by the consultant / proponent to investigate whether further survey is required to determine whether examples of these PECs are located within the site. Several PECs have been identified by DEC in the region, including: <ul style="list-style-type: none"> <li>○ <i>Melaleuca lanceolata</i> forests, Leeuwin Naturaliste Ridge – Priority 2</li> </ul> </li> </ul>	<p>Further discussion with the DEC has occurred in relation to possible PECs on the site. The results of this discussion and further analysis by the proponent are that:</p> <ul style="list-style-type: none"> <li>• the <i>Melaleuca lanceolata</i> vegetation is likely to be a PEC, but is in the areas designated for conservation, not development;</li> <li>• only one area matches the low shrublands on acidic grey-</li> </ul>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<ul style="list-style-type: none"> <li>○ Low shrublands on acidic grey-brown sands of the Gracetown soil-landscape system – Priority 2</li> <li>○ Granite community dominated by the shrubs <i>Calothamnus graniticus subsp. graniticus</i>, <i>Acacia cyclops</i>, <i>A. saligna</i>, <i>Hakea oleifolia</i>, <i>H. prostrata</i> and <i>Jacksonia furcellata</i> (Sugar Loaf Rock) – Priority 1</li> <li>• The draft development guide plan shows that apart from a small number of plants, most of the approximately 65 <i>Dryandra sessilis var cordata</i> within the site will be lost and does not provide an indication of the likely proportion of <i>Dryandra sessilis var cordata</i> impacted by development</li> <li>• A <i>Eucalyptus</i> specimen tentatively considered to be <i>E. marginata</i> collected at the site during a recent DEC site visit requires further identification work. This species is of an unusual low mallee form that was found in several large uniform clumps, which may indicate that it is clonal. Expert advice is being sought regarding the identification of the specimen, and will be provided as soon as possible, but it should be considered potentially significant.</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• <i>Kunzea ciliata</i> is endemic to the national park, and only known from a small handful of locations. Communities dominated by this species have only been found in two other locations with a total area of 3ha.</li> <li>• Large number of priority species <i>Dryandra sessilis</i> will be lost, and other populations are not considered in detail as to their security.</li> <li>• DRF (some critically endangered) in road reserves at risk from clearing for services.</li> </ul>	<p>brown sands PEC and this area is designated for conservation;</p> <ul style="list-style-type: none"> <li>• the granite community PEC does not occur on the site.</li> </ul> <p>The proponent has advised that the <i>Dryandra sessilis var. cordata</i> population on the site is very small compared with other known populations in nearby locations such as Torpedo Rocks and Injidup Beach, where the populations are at least 1 000 individuals.</p> <p>After further investigation the <i>Eucalyptus</i> specimen was not considered to be a species of conservation significance.</p> <p>The vegetation associations supporting <i>Kunzea ciliata</i> are outside of the developable area delineated by the proponent and are generally within areas that would be managed for conservation.</p> <p>While an indicative alignment of for water services is provided in the SEA, this infrastructure is not part of this assessment and would form an separate and independent proposal. However, it is noted that it is proposed to be constructed under one half of the road and in this case would be unlikely to significantly impact any declared rare flora.</p> <p><b>Not a relevant environmental factor</b></p>

<b>Preliminary Environmental Factors</b>	<b>Proposal Characteristics</b>	<b>Government Agency and Public Comments</b>	<b>Identification of Key Environmental Factors</b>
Terrestrial fauna	Clearing for residential and tourist development will affect about 21 ha of the site. While some vegetation will be maintained wherever possible (subject to development practicalities and fire management needs), the habitat values of the vegetation in these areas would be affected.	<p><u>EPASU</u></p> <ul style="list-style-type: none"> <li>• Statements about limited habitat potential for the Rainbow Bee-Eater appear to be incorrect. Inspection of the study area by DEC officers in October 2007 indicated a range of habitat types within the study area that provide suitable breeding areas particularly along the tracks and fire breaks and the more open habitats.</li> </ul> <p><u>DEC</u></p> <ul style="list-style-type: none"> <li>• Finds the developer’s undertakings for native fauna management and protection satisfactory and expects the Fauna Management Plan will cater for active development stages.</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Species of birds, lizards and snakes will disappear from loss of habitat and attraction of foxes and cats.</li> <li>• Bandicoots are likely to disappear.</li> <li>• Development and increased traffic will negatively affect wildlife.</li> <li>• Size and density of current plan will remove significant fauna entirely from the site.</li> <li>• Flora and fauna will be impacted by people and pets.</li> <li>• Retaining native bushland and peppermints will maintain the habitat of native fauna.</li> </ul>	<p>With regard to fauna generally (i.e. fauna that is not listed as specially protected), it is conservatively assumed in this assessment that clearing within the development area will alter the habitat to the extent that many species will not persist within the developed area. Nevertheless, the proponent’s intention to retain and replant native vegetation is still encouraged, as it would lessen this impact.</p> <p>The proponent advises that while the Rainbow Bee-Eater may be recorded on habitats available at Smiths Beach, these are not limiting to the breeding or feeding needs of the Rainbow Bee-Eater. The Rainbow Bee-Eater has been recorded in many locations across the south-west, and in many different types of habitats.</p> <p>Possible offsite impacts of people and pets on the fauna of the adjacent national park is discussed under the environmental factor of “Conservation areas”.</p> <p>The fauna surveys have not identified any fauna species that appear to be critically dependent on this site. This, coupled with the relatively small size of the development when compared to the area of remnant vegetation along the coastline (including the adjacent national park), implies that this loss of habitat will not</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
			<p>significantly affect fauna in the region.</p> <p><b>Not a relevant environmental factor</b></p>
<p>Terrestrial fauna — specially protected (Threatened Fauna)</p>	<p>Fauna surveys of the area have recorded the following specially protected fauna on the site:</p> <ul style="list-style-type: none"> <li>• Western Ringtail Possum – schedule 1;</li> <li>• Baudins Black Cockatoo – schedule 1;</li> <li>• Carpet Python – schedule 4; and</li> <li>• Southern Brush Tailed Phascogale – priority 3.</li> </ul>	<p><u>EPASU</u></p> <ul style="list-style-type: none"> <li>• The likely impact on Western Ringtail Possums may be considerably greater than inferred, since the status and likely impact of the proposal on the EPBC Act and WA Wildlife Conservation Act Schedule 1 listed species, is not comprehensively addressed in the SEA. The survey for Ringtail possums relied on spotlighting on nights when inclement weather was likely to lead to few individuals being recorded.</li> <li>• A survey of food plants used by Western Ringtail Possums in the project area has not been conducted. The assumption that Agonis is the main food tree of this species is not correct as it is known to feed on a number of species (including Kunzea , Nuysia, Banksia, Acacia, Eucalyptus) many of which are present in the study area. The reality is that the study area is likely to contain a number of food plants for this species and some of these could occur in habitats outside the areas where dreys are located.</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• The development conflicts with principle 2 of the DEC clearing principles – ‘native vegetation should not be cleared if it is significant habitat for fauna’, in this case the fauna includes: <ul style="list-style-type: none"> <li>○ Western Ringtail Possum – schedule 1;</li> <li>○ Baudins Black Cockatoo – schedule 1;</li> <li>○ Chuditch (roadkill and photographic evidence) – schedule 1;</li> <li>○ Carpet Python – schedule 4;</li> <li>○ Southern Brush Tailed Phascogale – priority 3; and</li> </ul> </li> </ul>	<p><u>Western Ringtail Possum</u></p> <p>Further surveys of the area have been conducted which confirm that although the site has a high number of possum dreys, (41) the actual possum population is much smaller (6 individuals were found). In a wider context, of the pre-1750 extent of possum habitat, only 6.6% now remains, with less than 1% in (~100 ha) secured in the conservation estate.</p> <p>The DEC recovery team for the Western Ringtail Possum advises that it does not believe there will be any permanent deleterious outcomes for the local population and that there is a reasonable potential for the development to provide some desirable habitat, albeit reduced in area, through landscaping and planting.</p> <p>In addition, the proponent has also described an offset proposal which would increase habitat for both the Western Ringtail Possum and the Baudins Black Cockatoo through revegetation of degraded areas of the national park in the local area. This would increase the relatively small area of habitat currently secured in the conservation estate. This offset has been negotiated</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<ul style="list-style-type: none"> <li>○ Forest Red-tailed Black Cockatoo (anecdotal evidence within 5km) – schedule 1 and vulnerable.</li> <li>• Density of development in the site will lead to clear-felling of peppermint trees. The level of clearing should be such that possums can co-exist with the development, which requires reduced density.</li> <li>• Habitat reduction means possum population reduction, not redistribution.</li> <li>• Relocation of possums is not very successful.</li> <li>• Large number of peppermint trees are being kept, and possums are happy to live in developed areas.</li> <li>• Survival of possums in old, urbanised areas does not compare to the chances of survival in this development.</li> <li>• The possum population at the site is separate to Busselton-Dunsborough populations, and little is known about viability</li> <li>• There will be a high risk of possum mortality during development due to extensive clearing, earthworks, and the use of heavy machinery.</li> <li>• The development risks mortality from dog attacks, which are a much more common form of mortality than cat attacks.</li> <li>• Compliance with the fire management plan will make maintenance of vegetation and possum habitat in the development area impossible.</li> <li>• Baudins Black Cockatoo recorded feeding at site and majority of feeding habitat to be cleared.</li> </ul>	<p>with the Commonwealth Department of Environment, Water, Heritage, and the Arts (DEWHA) and is likely to be a condition of any Commonwealth approval. However, it would also be included as a draft condition in any State Implementation Statement until this is confirmed.</p> <p><u>Baudins Black Cockatoo</u></p> <p>Baudin’s Black Cockatoos have been observed feeding the area, but no breeding hollows occur in the development site. Therefore the implementation of the proposed offset would satisfactorily address the loss of feeding area.</p> <p><u>Chuditch</u></p> <p>This species has not been recorded in two surveys of the site and so is not likely to be significantly affected by development.</p> <p><u>Carpet Python</u></p> <p>This species is known to inhabit the site and is expected to utilise all habitat types in the study area. It is also expected to utilise habitat in the adjacent national park and so is unlikely to be significantly affected by development.</p> <p><u>Southern Brush Tailed Phascogale</u></p> <p>Only on individual of this species has been recorded on the boundary</p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
			<p>of the site and is thought to have been a transient rather than an individual that lived on the site, due to the lack of suitable habitat.</p> <p><u>Forest Red-tailed Black Cockatoo</u></p> <p>This species has not been recorded in two surveys of the site and so is not likely to be significantly affected by development.</p> <p><b>Not a relevant environmental factor</b></p>
<p>Conservation areas</p>	<p>The development site is adjacent to the Leeuwin Naturaliste National Park and contains areas of vegetation that are considered to be of high conservation value.</p> <p>In the SEA document it is proposed that some areas identified for conservation would be publically managed and some would be privately managed.</p> <p>Development of tourist and residential areas adjacent to the national park and other conservation areas, would be expected to have some indirect impacts, through improved access for people, weeds, and domestic pets.</p>	<p><u>Conservation Commission of WA</u></p> <ul style="list-style-type: none"> <li>• Management plans should address the impact on the national park.</li> <li>• Unallocated Crown Land 1410 that is on the coastal strip adjacent to the proposed ‘Community Endowment Land’ should be supported by the EPA for addition to the national park</li> </ul> <p><u>DEC</u></p> <ul style="list-style-type: none"> <li>• Principal Ridge Protection Area and the Conservation Area should be added to the national park and managed by DEC. This action will ensure appropriate levels of protection and management through the agency of the DEC and under the guidance of the Leeuwin Naturaliste National Park Management Plan. It is noted that the Initial Development Guide Plan (December 2000) showed some of this land becoming a national park.</li> <li>• Land should be ceded directly to the State and the Conservation Commission without cost.</li> <li>• GH4 vegetation associations should become national park.</li> <li>• A portion of the SH9 association should be reserved</li> </ul>	<p><b>Considered to be a relevant environmental factor</b></p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p>(contiguous with the GH4 association) and ceded to the national park due to its restricted extent.</p> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Pleased that 19ha will be used for public spaces and reserves, particularly buffer to national park, and preservation of the western headland.</li> <li>• Management of the bushland on the western side is positive as it does not appear to be actively managed at the moment, and this will protect flora and fauna.</li> <li>• Principal ridge area must be community endowment land</li> <li>• Whole western part should be included in the conservation area</li> <li>• Private conservation area unviable when fire setbacks, degradation, erosion, and escaping rubbish are considered.</li> <li>• Areas of <i>Kunzea ciliata</i> are proposed for private ownership and development of trails and gardens.</li> <li>• Conservation areas should be larger to reduce impact, and should include: <ul style="list-style-type: none"> <li>○ upper portion of peppermint woodland AF adjoining the Leeuwin-Naturaliste National Park;</li> <li>○ protection of all of poorly represented W2 complex; and</li> <li>○ more of the We complex.</li> </ul> </li> <li>• The Principal Ridge Protection Area and proposed privately managed conservation area should be added to the national park due to its biodiversity and landscape values and the general intent of the State Planning Policy with respect to the consolidation of the national park. Notwithstanding the Statement of Planning Policy, the granite heath complex (GH4) on the western ridge is recognised in the Strategic Environmental Assessment as being environmentally</li> </ul>	

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p>significant and worthy of reservation in a national park.</p> <ul style="list-style-type: none"> <li>• There will be offsite impacts on the adjoining Leeuwin Naturaliste National Park</li> <li>• The DGP fails to provide adequate buffer to national park, beyond the extent of the low-fuel zone, which will be cleared of understorey and vulnerable to invasive weeds.</li> </ul>	
Landscape and landforms	<p>The development site is located next to a generally rugged coastline, with a large sandy beach just to the north and west. The site also contains a prominent headland that juts out into the ocean and is visible up and down the coast. The site also has an ‘amphitheatre’ shaped area that slopes down toward the ocean and finishing behind some coastal dunes.</p> <p>The development described in the SEA document has development within the ‘amphitheatre’ area with some development extending onto the northern side of the headland and up the higher slopes of the ‘amphitheatre’ area.</p>	<p><u>DEC</u></p> <ul style="list-style-type: none"> <li>• Managing landscape / seascape interaction of the development is an important environmental considerations for the proposed marine park. Consideration should be given to shifting the Beach Club Resort eastward if the proponent is to optimise the visual amenity of the development as it relates to protecting the landscape / seascape interface at the Smith’s Point promontory..</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Bush along the Cape to Cape Walk Trail would be maintained, and it will retain its rugged natural feel.</li> <li>• The proposal protects and enhances the walk.</li> <li>• Insertion of development into the coastal environment will have significant consequences.</li> </ul>	<p><b>Considered to be a relevant environmental factor and discussed under “Landscape and visual amenity”</b></p>
Karst	Geological investigations of the site have shown that it has no significant karst features and that the limestone is too thin to support any significant karst features.	No comments received	<p><b>Not a relevant environmental factor</b></p>
<b>POLLUTION</b>			
Surface water quality	Development will alter the runoff characteristics of the land and input typical pollutants associated with roads and	<p><u>DEC</u></p> <ul style="list-style-type: none"> <li>• Control of pollution from the development is an important environmental consideration for the proposed marine park. The</li> </ul>	The stormwater management strategy has been reviewed and supported by the Department of Water. In addition, the proponent

<b>Preliminary Environmental Factors</b>	<b>Proposal Characteristics</b>	<b>Government Agency and Public Comments</b>	<b>Identification of Key Environmental Factors</b>
	<p>residential properties.</p> <p>A stormwater management strategy has been prepared that seeks to promote at-source infiltration and has constructed systems to manage extreme stormwater events.</p>	<p>development engineering and infrastructure design detail will provide for pollution control.</p> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Pollution will affect the coastal environment</li> <li>• The proposal needs to be redesigned with a view to improving opportunities to effectively manage stormwater on site by reducing the overall hardstand area.</li> <li>• Shallow soils on granite bedrock and steep slopes limit opportunities for infiltration at source. This, coupled with the extensive hardstand area at the density and area proposed mean that some type of piped stormwater discharge will be needed to deal with the large quantity of stormwater that will be generated.</li> <li>• There is insufficient detail to judge compliance of water sensitive urban design standards.</li> <li>• It is doubtful that the revised plan will satisfy water sensitive urban design concepts due to: <ul style="list-style-type: none"> <li>○ steep slope;</li> <li>○ degraded vegetation coverage;</li> <li>○ shallow soil;</li> <li>○ building density;</li> <li>○ lack of contour buffers of undisturbed vegetation;</li> <li>○ lack of clear plans for treatment before discharge; and</li> <li>○ erosion hazard.</li> </ul> </li> <li>• A detailed and adequate stormwater management plan should be in place before site guide plan is submitted, and urban design approach should include stormwater management from the outset (Framework for “Achieving integrated water cycle</li> </ul>	<p>has undertaken to retain up to 1 in 100 year rainfall events on site.</p> <p>Given the general acceptance of the overall approach for stormwater management, the EPA concludes that this issue can be adequately managed through the development of detailed stormwater management plan through the planning process.</p> <p><b>Not a relevant environmental factor</b></p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<p>management” DPI).</p> <ul style="list-style-type: none"> <li>• There are a lack of plans to manage and treat stormwater before it discharges to the beach</li> <li>• Support commitment to an Urban Water Management Plan prior to commencement and approved by DoW and the Shire of Busselton</li> <li>• Density and limited POS available for treatment make incorporation of Water Sensitive Urban Design principles limited.</li> </ul>	
Groundwater quality	<p>Site investigations have not identified any significant groundwater system at the site.</p> <p>The development will be connected to reticulated sewerage.</p>	<p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Sewage and waste disposal will damage the environment.</li> <li>• Environmentally appropriate water and sewerage will benefit the area, and prevent the contamination of the beach and Gunyulgup Brook.</li> <li>• A small waste water treatment plant on nearby degraded land should be investigated.</li> <li>• Water sensitive urban design principles do not appear to have been incorporated into the DGP.</li> </ul>	<p>Given that the development will be connected to reticulated sewerage and that the only source of pollution would be infiltration from residential and tourist areas, the EPA concludes that there is little risk of groundwater contamination.</p> <p><b>Not a relevant environmental factor</b></p>
Air quality — dust and particulates	Construction activities that involve earthworks would have the potential to generate dust.	<p><u>Public</u></p> <ul style="list-style-type: none"> <li>• Adjacent tourist business will be adversely affected by dust and noise during construction.</li> </ul> <p><u>DEC Air Quality Management Branch</u></p> <ul style="list-style-type: none"> <li>• Management measures for dust during construction appear reasonable and are in accordance with EPA Guidance Statement 18.</li> <li>• The proponent should specify dust targets for perimeter sensory alarms (Air Quality NEPM 24-hour PM10 is an appropriate ambient target)</li> </ul>	<p>The dust management measures set out in the Construction Management Strategy are sufficient to deal with this issue.</p> <p><b>Not a relevant environmental factor</b></p>

<b>Preliminary Environmental Factors</b>	<b>Proposal Characteristics</b>	<b>Government Agency and Public Comments</b>	<b>Identification of Key Environmental Factors</b>
Air quality — greenhouse gases	The development would not be a significant source of greenhouse gas emissions.	No comments received	<b>Not a relevant environmental factor</b>
Noise	Construction activities would generate noise.	<ul style="list-style-type: none"> <li>Adjacent tourist business will be adversely affected by dust and noise during construction</li> </ul>	<p>Dust management measures set out in the Construction Management Strategy are sufficient to deal with this issue.</p> <p><b>Not a relevant environmental factor</b></p>
<b>SOCIAL SURROUNDINGS</b>			
Aboriginal heritage	<p>No ethnographic sites have been identified in the development area.</p> <p>Two archaeological sites (artefact scatters) have been found, one of which would be affected by proposed development.</p>	No comments received	<p>The proponent has obtained approval under the <i>Aboriginal Heritage Act 1972</i> to disturb the archaeological site, subject to a further archaeological monitoring after any clearing to ensure that no significant sites currently hidden by vegetation are destroyed.</p> <p><b>Not a relevant environmental factor</b></p>
Visual amenity	<p>The DGP site is located in an area of high visual amenity as viewed from various scenic viewpoints along the coast. These include:</p> <ul style="list-style-type: none"> <li>the Leeuwin Naturaliste National Park (Torpedo Rocks, Rotary Lookout, Canal Rocks, and Canal Rocks Road);</li> <li>the Cape to Cape Walk Trail; and</li> <li>Smith Beach.</li> </ul>	<p><u>DEC</u></p> <ul style="list-style-type: none"> <li>Accept that walkers on Cape-to-Cape walk trail will enter a visual zone dominated by the development when they are close to it.</li> <li>Concerned that the Beach Club Resort will encroach on the visual character of the Smith's Beach promontory and suggests this is further evaluated.</li> <li>Cape Spur Lodge will be prominently visible to walkers in the wilderness-like zone between Smiths Beach promontory and where the Cape-to-Cape walk trail leaves the coast.</li> <li>Concern that other buildings may be more visible than they appear in the landscape study and the role of vegetation screening needs to be exactly specified.</li> </ul>	<p><b>Considered to be a relevant environmental factor and discussed under "Landscape and visual amenity"</b></p>

Preliminary Environmental Factors	Proposal Characteristics	Government Agency and Public Comments	Identification of Key Environmental Factors
		<ul style="list-style-type: none"> <li>• Lack of confidence in Special Height Control Area Map as a mechanism – there should be better explanation and demonstration.</li> </ul> <p><u>Public</u></p> <ul style="list-style-type: none"> <li>• The area of vegetation being retained on the western side is the most important, visually.</li> <li>• Protection of important views supported</li> <li>• The retention of peppermint trees will contribute to the natural visual appeal</li> <li>• Bushland buffers reduce visual impact of development from roads.</li> <li>• Methodology for visual assessment was flawed</li> <li>• Area cannot support large trees depicted as screening the development.</li> <li>• Development will be an eyesore / size of development incompatible with adjoining landscape / will change and devalue the attraction of the area / proper design is needed to minimise damage to visual amenity.</li> <li>• The natural beauty of the coastline should be left unspoiled.</li> <li>• Area of development is exposed, highly visible, and forms part of the natural ridge area / Natural bowl running behind the existing resort is a preferable location.</li> <li>• Despite guidelines, visual amenity will be desecrated.</li> <li>• Height of buildings like the Beach Club and Cape Spur Lodge may be too high and too far west when viewed from the north.</li> <li>• Increased erosion of dunes will reduce visual amenity.</li> </ul>	

<b>PRINCIPLES</b>		
<b>Principle</b>	<b>Relevant Yes/No</b>	<b>If yes, Consideration</b>
<p>1. The precautionary principle  <i>Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</i>  <i>In application of this precautionary principle, decisions should be guided by –</i>  <i>(a) careful evaluation to avoid, where practicable, serious or irreversible damage to the environment; and</i>  <i>(b) an assessment of the risk-weighted consequences of various options.</i></p>	yes	<p>Comprehensive biological surveys have been conducted and the environmental values, and likely environmental impacts, are well understood.</p> <p>Based on the EPA’s identification of an acceptable developable area, there is little risk of serious environmental damage from this proposal.</p>
<p>2. The principle of intergenerational equity  <i>The present generation should ensure that the health, diversity and productivity of the environment is maintained and enhanced for the benefit of future generations.</i></p>	yes	<p>The proposal achieves an acceptable balance between conservation and development. Areas of high conservation value have been identified and development will be conditional on ceding these areas to the conservation estate.</p>
<p>3. The principle of the conservation of biological diversity and ecological integrity  <i>Conservation of biological diversity and ecological integrity should be a fundamental consideration.</i></p>	yes	<p>Comprehensive biological surveys have been and areas of high conservation value will be conserved in extensions to the Leeuwin Naturaliste National Park.</p>
<p>4. Principles relating to improved valuation, pricing and incentive mechanisms            (iii) <i>Environmental factors should be included in the valuation of assets and services.</i>            (iv) <i>The polluter pays principles – those who generate pollution and waste should bear the cost of containment, avoidance and abatement.</i>            (v) <i>The users of goods and services should pay prices based on the full life-cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.</i>            (vi) <i>Environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structure, including market mechanisms, which enable those best placed to maximize benefits and/or minimize costs to develop their own solution and responses to environmental problems.</i></p>	no	
<p>5. The principle of waste minimisation  <i>All reasonable and practicable measures should be taken to minimize the generation of waste and its discharge into the environment.</i></p>	no	

# **Appendix 4**

## **Recommended Implementation Statement**

RECOMMENDED ENVIRONMENTAL CONDITIONS  
April 2009

**STATEMENT THAT A PROPOSAL MAY BE IMPLEMENTED  
(PURSUANT TO THE PROVISIONS OF THE  
*ENVIRONMENTAL PROTECTION ACT 1986*)**

SMITHS BEACH DEVELOPMENT, SUSSEX LOC 413, YALLINGUP

**Proposal:** The strategic proposal is to develop Sussex Location 413 for tourism and residential purposes, with the remaining undevelopable land to be retained for nature conservation. Some of the he undevelopable land may also be used for the provision of services (roads, power, water, and sewerage) to the development.

The strategic proposal and identification of derived proposals is further documented in schedule 1 of this statement.

**Proponent:** Canal Rocks Pty Ltd

**Proponent Address:** c/- NS Projects  
Suite A7  
435 Roberts Road  
SUBIACO WA 6008

**Assessment Number:** 1597

**Report of the Environmental Protection Authority:** Report 1318

The derived proposals identified in the strategic proposal referred to in the above report of the Environmental Protection Authority may be implemented. The implementation of the derived proposals shall be subject to the following conditions and procedures (subject to the Minister for Environment's identification of relevant conditions under section 45A(3) of the *Environmental Protection Act 1986*):

**1 Proponent Nomination and Contact Details**

- 1-1 The proponent for the time being nominated by the Minister for Environment under sections 38(6) or 38(7) of the *Environmental Protection Act 1986* is responsible for the implementation of the proposal.
- 1-2 The proponent shall notify the Chief Executive Officer of the Department of Environment and Conservation (CEO) of any change of the name and address of the proponent for the serving of notices or other correspondence within 30 days of such change.

## **2 Time Limit of Authorisation**

- 2-1 The authorisation to implement a derived proposal provided for in this statement shall lapse and be void within ten years after the date of this statement if a derived proposal to which this statement relates is not substantially commenced.
- 2-2 The proponent shall provide the CEO with written evidence which demonstrates that the a derived proposal has substantially commenced on or before the expiration of ten years from the date of this statement.

## **3 Compliance Reporting**

- 4-1 The proponent shall prepare and maintain a compliance assessment plan to the satisfaction of the Chief Executive Officer of the Department of Environment and Conservation.
- 3-2 The proponent shall submit to the Chief Executive Officer of the Department of Environment and Conservation, the compliance assessment plan required by condition 3-1 at least 6 months prior to the first compliance report required by condition 3-6. The compliance assessment plan shall indicate:
- 1 the frequency of compliance reporting;
  - 2 the approach and timing of compliance assessments;
  - 3 the retention of compliance assessments;
  - 4 reporting of potential non-compliances and corrective actions taken;
  - 5 the table of contents of compliance reports; and
  - 6 public availability of compliance reports.
- 3-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by condition 3-1.
- 3-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by condition 3-1 and shall make those reports available when requested by the Chief Executive Officer of the Department of Environment and Conservation.
- 3-5 The proponent shall advise the Chief Executive Officer of the Department of Environment and Conservation of any potential non-compliance as soon as practicable.
- 3-6 The proponent shall submit a compliance assessment report annually from the date of the Minister for Environment's notice under section 45A(2) of the *Environmental Protection Act 1986* addressing the previous twelve month period or other period as agreed by the Chief Executive Officer of the Department of Environment and Conservation. The compliance assessment report shall:

- 1 be endorsed by the proponent's Managing Director or a person, approved in writing by the Department of Environment and Conservation, delegated to sign on the Managing Director's behalf;
- 2 include a statement as to whether the proponent has complied with the conditions;
- 3 identify all potential non-compliances and describe corrective and preventative actions taken;
- 4 be made publicly available in accordance with the approved compliance assessment plan; and
- 5 indicate any proposed changes to the compliance assessment plan required by condition 3-1.

#### **4 Development area**

4-1 For all developments of the types:

- subdivisions for residential or tourism purposes; or
- detailed area plans for:
  - the Cape Spur Lodge (hotel accommodation);
  - the Beachclub Resort; or
  - a Camping and Chalets area;

there shall be no development outside of the "SEA developable area" defined in Figure 1 of Schedule 1 of the statement.

#### **5 Conservation areas**

5-1 Prior to ground-disturbing activities, the proponent shall cede, or otherwise cause to be ceded, to the Conservation Commission all areas outside of the "SEA developable area" delineated in Figure 1 excluding those areas needed for the provision of services (roads, power, water, and sewerage) to the development or other areas which the Conservation Commission agrees to forego.

#### **6 Environmental offset**

6-1 Within ten years' from the date of the Minister for Environment's notice under section 45A(2) of the *Environmental Protection Act 1986*, the proponent shall revegetate 20 hectares of the 'Mt Duckworth Site' (Figure 3) and 2.4 hectares of the 'Gunyulup Site' (Figure 4) to meet the following criterion:

1. a density of 2000 plants per hectare of the listed species (Attachment 1)

*(Note: This condition may not be necessary if duplicated by conditions set under the Commonwealth "Environmental Protection and Biodiversity Conservation Act 1999".*

## Schedule 1

### The Strategic Proposal and Identification of Derived Proposals (Assessment No. 1597)

The Strategic Proposal is to develop a portion of Sussex Location 413, Yallingup for residential and tourism purposes. Development is constrained in area to the “SEA Developable Area” delineated in Figure 1 and in height by the “Special Height Control Area Map” (Figure 2).

Derived proposals are expected to include:

- subdivisions for residential or tourism purposes;
- detailed area plans for:
  - the Cape Spur Lodge (hotel accommodation);
  - the Beachclub Resort;
  - a Camping and Chalets area;
- and the provision of infrastructure within Sussex Location 413 directly related to the above mentioned derived proposals.

The main characteristics and the extent of derived proposals of the strategic proposal are summarised in Table 1 below. A detailed description of the strategic proposal is provided in sections 1.3 to 1.4 of the environmental assessment document, *Sussex location 413 Yallingup – Smiths Beach – Strategic Environmental Assessment, (EPA Assessment No. 1597)*, prepared by ATA Environmental, Perth, Western Australia (Version 4: 4 July 2007). However, it should be noted that the developable area is that now shown in Figure 1 of this statement, and not as depicted in the environmental assessment document.

**Table 1: Summary of Key Proposal Characteristics**

<b>Strategic proposal</b>	
<b>Element</b>	<b>Description</b>
Overall area	Sussex Location 413
Development area:	The “SEA Developable Area” delineated in Figure 1 may be developed for residential and tourism purposes.
<b>Derived proposals</b>	
<b>Type of derived proposal</b>	<b>Key characteristics</b>
residential	<ul style="list-style-type: none"> <li>• within the “SEA developable area” (Figure 1)</li> <li>• compliant with the Special Height Control Area Map (Figure 2)</li> <li>• sets out building envelopes</li> <li>• includes Development Guidelines specifying an acceptable colour palette</li> <li>• prohibits fencing apart from a private courtyard</li> <li>• restricts plantings to an approved plant species list of appropriate native plants</li> </ul>
tourist	<ul style="list-style-type: none"> <li>• within the “SEA developable area” (Figure 1)</li> <li>• compliant with the Special Height Control Area Map</li> </ul>

	<p>(Figure 2)</p> <ul style="list-style-type: none"> <li>• sets out building envelopes</li> <li>• includes Development Guidelines specifying an acceptable colour palette</li> <li>• prohibits fencing apart from a private courtyard</li> <li>• restricts plantings to an approved plant species list of appropriate native plants</li> </ul>
Cape Spur Lodge	<ul style="list-style-type: none"> <li>• within the “SEA developable area” (Figure 1)</li> <li>• compliant with the Special Height Control Area Map (Figure 2)</li> <li>• restricts plantings to an approved plant species list of appropriate native plants</li> </ul>
Beachclub Resort	<ul style="list-style-type: none"> <li>• within the “SEA developable area” (Figure 1)</li> <li>• compliant with the Special Height Control Area Map (Figure 2)</li> <li>• restricts plantings to an approved plant species list of appropriate native plants</li> </ul>
Camping and Chalets	<ul style="list-style-type: none"> <li>• within the “SEA developable area”</li> <li>• compliant with the Special Height Control Area Map</li> </ul>
main access road	<ul style="list-style-type: none"> <li>• within the western boundary of the “SEA Developable Area”</li> <li>• generally within the 45 m contour on the southern boundary of the “SEA Developable Area”, except in the south-eastern corner of Sussex Location 413</li> </ul>

Figures:

Figure 1: Location and SEA Developable Area (see figure 5 above).

Figure 2: Special Height Control Area Map (Smiths Point 2007, see figure 3 above).

Figure 3: Mt Duckworth Site.

Figure 4: Gunyulup Site.

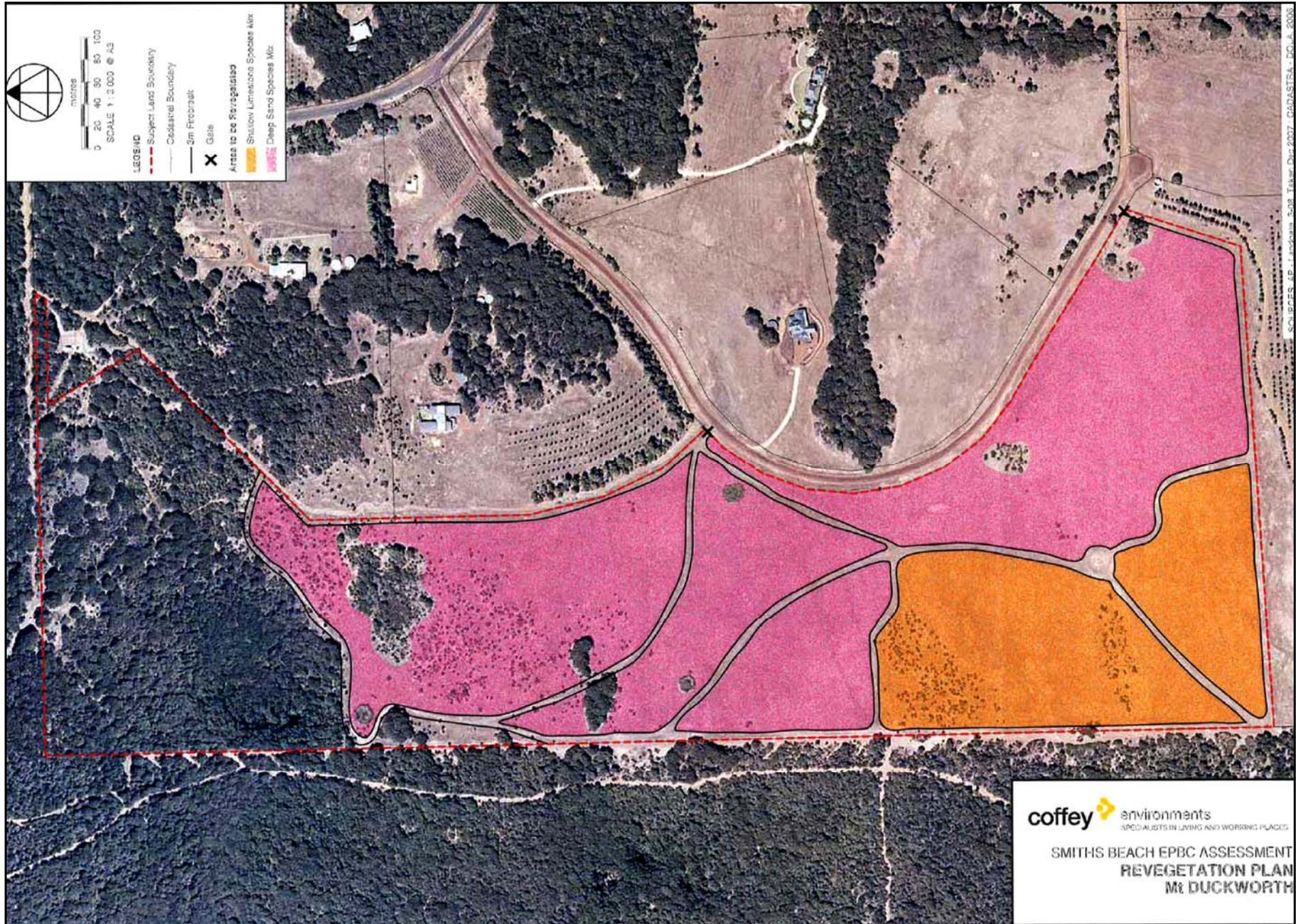


Figure 3 Mt Duckworth Site

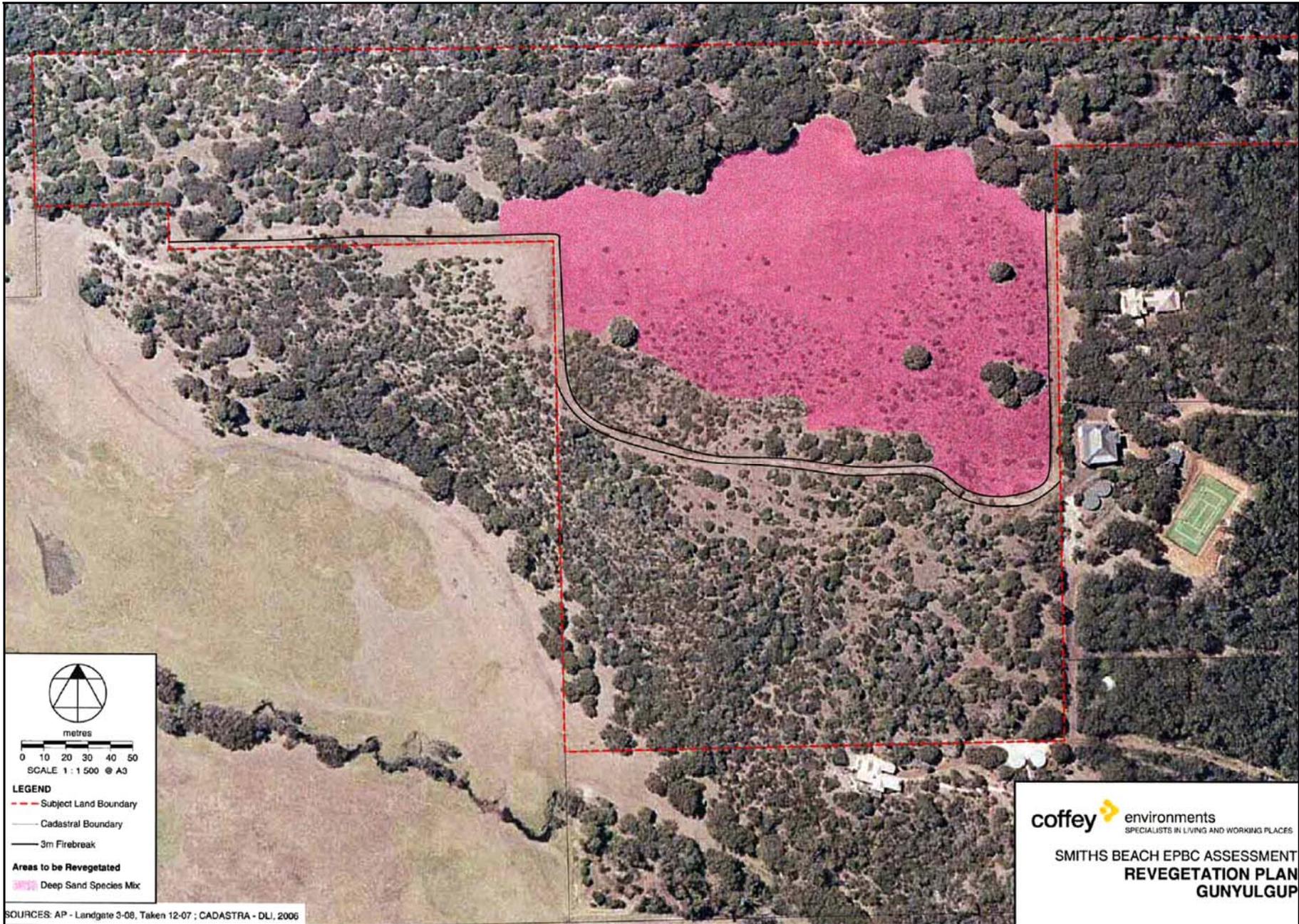


Figure 4: Gunyulup Site

## Schedule 2

### Species mix for revegetation (percentage of tubestock seedlings)

Mt Duckworth Site	Gunyulgup Site
<b>Sandy Soils</b>	<b>Whole Site</b>
<i>Agonis flexuosa</i> (WA Peppermint)	<i>Agonis flexuosa</i> (75%)
<i>Corymbia calophylla</i> (Marri)	<i>Corymbia calophylla</i> (15%)
<i>Eucalyptus marginata</i> (Jarrah)	<i>Banksia grandis</i> (5%)
<b>Shallow Limestone Soils</b>	<i>Banksia sessilis var cordata</i> (5%)
<i>Banksia sessilis var cordata</i> (formerly <i>Dryandra sessilis var cordata</i> ) (Parrot Bush) (50%)	
<i>Agonis flexuosa</i> (30%)	
<i>Hakea oleifolia</i> (10%)	
<i>Corymbia calophylla</i> (10%)	

## **Appendix 5**

***Peer review of Smiths Beach Location 413,  
Landscape Study — the Methodologies Applied***

Peer Review of Specialist Report

## **Smiths Beach Location 413, WA Landscape Study – The Methodologies Applied**

Prepared for Coffey Environments  
&  
Environmental Protection Authority

Prepared by

Peter Haack

Registered Landscape Architect  
AAILA, MEINZ, PLA

of

HDW | AECOM

Level 7  
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Melbourne 3000,

November 2007

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November 2007

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## 1. PROFESSIONAL PROFILE – PETER HAACK

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This Peer Review has been prepared by Peter Haack, Registered Landscape Architect, BLArch, Dip App Sci, AAILA, MEIANZ, MPLA

Peter Haack is the Principal Landscape Planner of EDAW and has extensive experience in the preparation of visual and landscape impact assessment studies on a range of major infrastructure projects throughout Australia, as well as presenting expert evidence to Planning Appeals, Hearings and Panels.

Projects of relevance are:

- Mildura Marina EES, VIC
- Portarlinton Safe Harbour Baseline Assessment, VIC
- Webb Dock Development EES, VIC
- Portland Wind Energy Project, VIC
- Nowingi Long Term Waste Facility EES, VIC
- Hazelwood Coalfield Westfield Expansion, VIC
- Taralga Wind Farm Peer Review, NSW
- Bannister Wind Farm Development, NSW
- Starfish Hill Wind Farm Planning Study, SA
- Tungketta Hill Wind Farm Planning Study, SA
- Waterloo Wind Farm Planning Study, SA
- SA Planning Wind Farm Assessment Guidelines, SA
- Woolnorth Wind Farm Peer Review, TAS
- SNI Interconnector Powerline EES, SA, NSW and Vic
- Cape Jervis to Yankalilla Powerline Planning Study, SA
- Eastern Gas Pipeline EES, VIC and NSW
- Northern Tasmanian Gas Pipeline, Independent Reviewer, TAS
- Port Campbell Underground Gas Storage Facility, EES, VIC
- Minerva Gas Field Project, EES, VIC
- Gorgon Karratha LNG Project Planning Study, WA
- Scoresby Freeway and Integrated Transport Corridor, EES, VIC
- Stawell Big Hill Gold Mine, VIC
- Lake Cowal Gold Mine, NSW
- Carshalton Gold Mine SEES, VIC
- Wambo Coal Mine, Land and Environment Court Proceedings, NSW
- Wilpinjong Coal Mine EIS, NSW
- Maryvale Coalfield Expansion EES, VIC
- Wemen Mineral Sands EES, VIC

## 2. PEER REVIEW OBJECTIVES

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The objective of the peer review process was to review the methodology and findings of the EPCAD Pty Ltd prepared report, particularly in relation to the sensitivity of the Leeuwin – Naturaliste National Parks.

The purpose of the peer review report is to address the following:

- To assess that the report fully addresses the requirements of the adopted Landscape Study Methodology;
- That the work as defined by the methodology has been undertaken in a professional and thorough technical manner; and
- That further to the work undertaken in compliance with the Landscape Study, the conclusions reached are reasonable and appropriate.

## 3. OBJECTIVE OF THE COMBINED METHODOLOGIES

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The stated objective of the combined methodologies in relation to landscape issues is:

*“To assess the aesthetic values of Location 413 Smiths Beach and its setting, define management objectives and standards for future management of these values and provide guidelines that will contribute to the identification of a developable area for the site.”*

The methodologies have been adopted by Council as policy under the Scheme to provide guidance in relation to matters that must be addressed prior to the adoption of a development guide plan for the site. They are also built into District Planning Scheme 20, Clause 3 (d) to Schedule 13, as a statutory provision.

## 4. APPROACH TO THE PEER REVIEW

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The following approach was applied to the peer review process:

- Review of the requirements of the Agreed Methodology.
- Review of the Landscape Study response to the Agreed Methodology.
- Preparation of the Draft Peer Review Report, comparing the requirements of the Agreed Methodology and the Landscape Studies response.
- Site visit to confirm sensitive viewpoints and locations for photo simulations – undertaken 23<sup>rd</sup> to 24<sup>th</sup> October 2007.
- Meeting with Landscape Study author in the presence of Probit Auditor on the afternoon of the 24<sup>th</sup> October 2007 to clarify Landscape Study and Agreed Methodology process.

- Finalisation of Peer Review Report.

## 5. REVIEW OF APPLIED METHODOLOGIES – LANDSCAPE & VISUAL

In the following review, tasks specified within the Applied Landscape and Visual Methodology have been identified and a comment provided on the adequacy of the assessment response.

### **5.1 PART 1 – ASSESSMENT OF VALUES**

#### **5.1.1 Step A – Establish Knowledge Base (Inventory)**

##### I) LITERATURE REVIEW

A review of authoritative texts would appear to have been undertaken. The relevance of such is questionable given the prescriptive nature of the agreed combined methodologies and the extent that the author is locked into applying them.

##### II) KEY STAKEHOLDERS INTERVIEWED TO DETERMINE KEY ISSUES

Consultation with Key Stakeholders would appear to have been comprehensive. Less clear is the extent of consultation with a range of tourists to the region, particularly interstate and overseas visitors that would have provided a more impartial view on their perception of the landscape values of the area.

##### III) DATA COLLECTION

Physical base data capture, particularly in relation to 3D modelling of the site and its setting would appear to be extensive.

##### IV) COMMUNITY ATTITUDES / PERCEPTIONS – RELEVANT TO THE STUDY AREA.

As per point ii) above, it is unclear if those without a vested interest in the area, such as visitors, have been adequately consulted to obtain impartial perceptions of the landscape values of the area.

##### V) PREPARE BASE MAP AND THEMATIC LAYERS

*Landform* – Extensive mapping undertaken.

*Vegetation, remnant, structure, species* – Some information can be inferred from the landscape units. However, clear information is not conveyed in relation to vegetation density or, most importantly, height.

*Water Features* – Adequate information provided.

*Roads and Tracks Network and Class* – Adequate information provided.

*Settlement Areas and Buildings* - Adequate information provided.

General Tenure - Adequate information provided.

### **5.1.2 Step B – Classify the Area into Landscape Units**

The methodology does not call for it, but the landscape study determines units for classification based on zone of visual influence mapping (ZVI). It is unclear how the ZVI has been applied in this instance.

It should be noted that the ZVI mapping is based on topography only and does not take into account the effects of vegetation on the screening of views. This is of particular significance to the settlement influence zones which are shown overlaying areas of National Parks. In reality many views to settlements would be effectively blocked by the vegetation with the National Parks and their presence would not be an influencing factor within the viewscape.

*Figure 4 – Land Use Character Units* - The settlement influence zones are very extensive. They incorporate large areas of National Park which should be classified as a land use type based on their intended conservation / recreational use. This approach would more accurately represent the juxtaposition of built form / settlement and landscapes with high community values.

*Figure 6 – Site Contextual Landscape Character Units* – The definition of units appears sound. However, it should be noted that although unit 12, which comprises the bulk of Location 413 has been identified as being settlement influenced, that units 4, 5 and 6 along the coastline, that have an orientation directly to the existing developments at Smiths Beach, are even more settlement influenced.

*Figure 7 – Detailed Landscape Character Units* - The definition of units appears sound.

As the study report states on page 14, finer detail is discerned when walking around the site that is not apparent when viewing from a distance. For most viewers of the coastal setting from Canal Rocks to Yallingup, the vegetation on Location 413, although not floristically intact from a botanical perspective, appears to the casual observer to be consistent in texture and colour to the vegetation on the adjacent slopes and part of a natural appearing, generally unmodified setting.

### **5.1.3 Step C – Identify Significant Features**

#### **NATURAL CHARACTERISTICS**

I have assumed that Figure 5, titled Landscape Significance, identifies significant features within the study area rather than being a map of areas of landscape significance, which would no doubt identify the National Parks as also being of significance.

Although identified in Figure 5 and referred to as the primary ridgeline throughout the document, the vegetated ridgeline to the south of the site that forms a prominent

backdrop to significant views along Smiths Beach has not been acknowledged in the relevant study section relating to landform.

At the broader level, the coastal viewshed enclosure of vegetated hills framing the coastline has not been identified as a significant viewscape or contained and relatively intact landscape setting.

Figure 8 – Detailed Landscape Significance – As per the previous comment for Figure 5, the title is misleading as the map shows locations of features of significance. Once again the significant vegetated ridgeline / upper slope that provides a backdrop to views towards Location 413 from Smiths Beach is not identified on this map.

#### RURAL USE CHARACTERISTICS

Identified as per methodology requirements.

#### SETTLEMENT CHARACTERISTICS

Identified as per methodology requirements.

### 5.1.4 Step D – Identify Community Use

#### CIRCULATION PATTERNS / USE AREAS

Identified as per methodology requirements.

#### ACTIVITIES FOR USE AREAS

Further breakdown of use activities according to their viewer / user sensitivity is required.

#### VOLUME OF USE

The quantification of use of potentially higher sensitivity user groups within a range of use types has not been undertaken. Quantification of the following visual use areas should include:

- National Park – Car Parks, Lookouts and Walking Trails
- Beach
- Existing Smiths Beach Settlement – Residents and Guests
- Yallingup Township – Residents and Guests
- Road Users

#### USER SENSITIVITY

The potential sensitivity of user groups, particularly in relation to quantification of their numbers, has not been adequately addressed.

#### DISTANCE ZONES FROM DEVELOPMENT

Distance zones from the development have been prepared. However, it is not discussed in the study report how viewing distance affects the potential sensitivity of use areas.

#### SENSORY CHARACTERISTICS FOR KEY VIEWING LOCATIONS

All key viewing locations appear to have been identified. However, the viewing characteristics from each viewpoint have not been described in detail in this section. Significant view lines such as the view along the coastline from Torpedo Rocks and north Smiths Beach, to the headland that extends out to Canal Rocks, and on which Location 413 is situated, has not been recognised in terms of its visual significance. However, Part 2, Step G does describe some of the required viewing characteristics.

#### 5.1.5 Step E – Assess Wilderness Quality

The definitions for the assessment of wilderness – like quality, although in no way representative of generally agreed definitions of wilderness, have been undertaken in accordance with the terminology as agreed between the study team and Department of Planning and Infrastructure officers.

#### 5.1.6 Step F - Prepare Composite Land Class Map

*Figure 13 – Composite Landscape Class Map.* The identical social and environmental rating of cleared rural land and sections of the Leeuwin – Naturaliste raises concerns as to the relative weighting of the various data sets that have been relied upon to produce the composite mapping. National Parks by their very definition are one of the most valued landscape / land use types encountered.

*Figure 15 – Development Opportunity Area.* The legend refers to various levels of sensitivity to change. It is important that the term sensitivity is not confused with viewer sensitivity. In this context, it may be better to refer to varying levels of ability to accommodate change.

### 5.2 PART 2 – MANAGEMENT OBJECTIVES AND DEVELOPMENT GUIDELINES

#### 5.2.1 Step G – Define Management Objectives for Visual Aesthetic Values

The management objectives have been prepared in accordance with the requirements of the approved methodology, which are based on the Leeuwin – Naturaliste Ridge Policy, that provide for the accommodation of development on the site.

The actual extent of developable area, as defined in Figure 15 and described in the Study report allow for a degree of flexibility, depending on how the assessment data is interpreted.

#### 5.2.2 Step H – Apply Objectives to the Site

The management objectives have been applied to the site consistent with the requirements of the agreed methodology and consistent with the level of development outlined in the Leeuwin – Naturaliste Ridge Policy.

### 5.2.3 Step I – Prepare Design Guidelines

The design guidelines, articulated within the Development Guide Plan, adequately respond to the requirements of the agreed methodology and result in a design response that minimises intrusion on the setting – and is a responsive design approach.

### 5.2.4 Appendix 8 - Viewshed Illustrations

The 3D modelling of site elements and the preparation of photo-simulations has been of a very high standard.

Interim simulations of immediately post construction and 5 years post construction would have been instructive in understanding the level of, and duration of visual impact, particularly the effects of cut and fill of roads and driveways.

## 5.3 CONCLUSION

There is obviously a considerable amount of data and analysis that sits behind the Landscape Study, - The Methodologies Applied report. In many cases, the report restates the requirements of the methodology or describes the process undertaken, rather than discussing the results of the analysis process. As a result an in-depth review of the findings has not always been possible.

I believe that the significance of the National Parks and the protection of their visual settings has been understated in the assessment of sensitive sites, as they will have been set aside for purposes relating to natural values.

I also believe that a more appropriate design response would be to further reduce the density of the development in the vicinity of the headland at Canal Rocks so that views along the line of the beach remain relatively free of development. Otherwise, the design guidelines are very thorough.

In conclusion, I believe that the report fully address the requirement of the adopted agreed Landscape Study Methodology. I also find that the study has been undertaken in a thoroughly professional and technical manner and that the conclusions reached are reasonable and appropriate responses to the agreed study methodology.

# **Appendix 6**

## **Summary of Submissions and Proponent's Response to Submissions**