



KOALA KOALITION
ECONETWORK PORT STEPHENS INC.

PO Box 97 Nelson Bay NSW 2315
koalakoalition@econetworkps.org



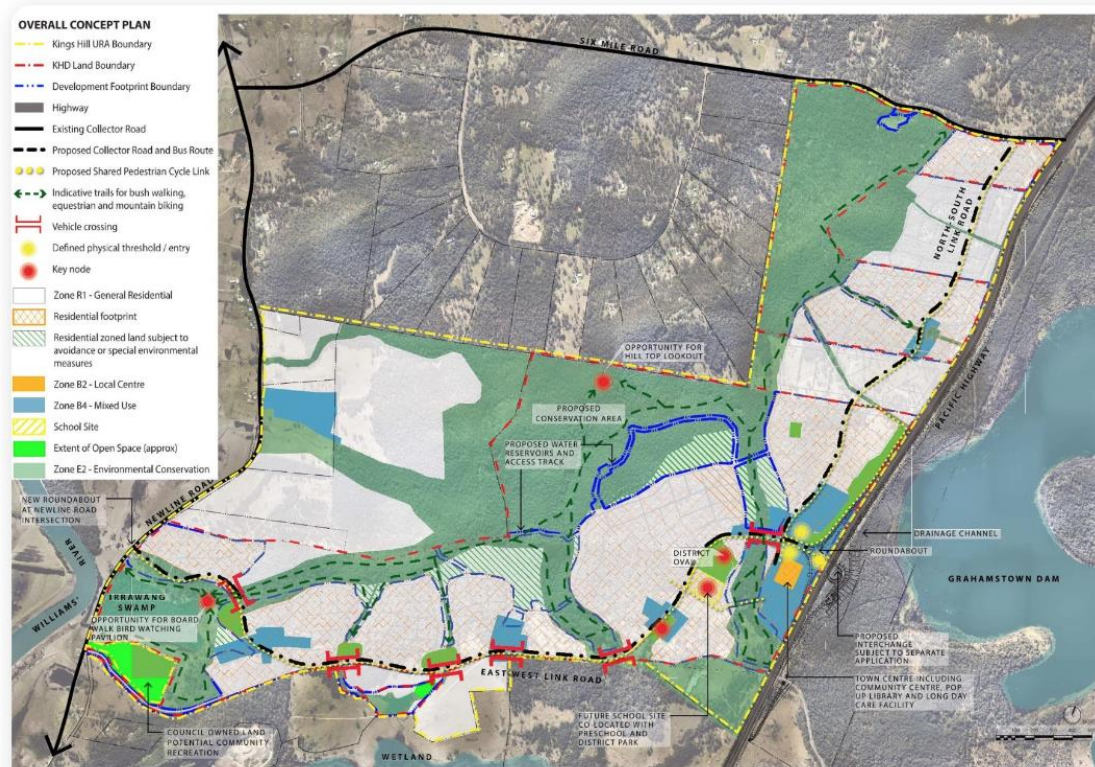
26/6/24

The General Manager
Port Stephens Council
Via the DA Tracker portal

Dear Sir,

Re: Kings Hill Precinct 6 DA 16-2024-174 Lot 41 DP 1037411

The Koala Koalition EcoNetwork Port Stephens (KKEPS) welcomes the opportunity to comment on this DA, being part of the larger landholding known as the Kings Hill Urban Release Area (KHURA) which is often referenced in the proponent's documentation. The proposed development at Precinct 6 will be accessed via the entrance to a collector road on Newline Road running through Precinct 7 and over a bridge connecting the two. There are plans for Precinct 6 to also connect to neighbouring Precincts with the road ultimately leading to a junction with the Pacific Highway (black dashed line).



We note the precis of the Statement of Environment Effects (SEE) states that this Development Application (DA) relates only to land owned by Kings Hill Developments (KHD) Pty Ltd (some 64% of

the URA), and seeks **Deferred Commencement Consent** for subdivision as a **second stage** of development at the area designated as Precinct 6 within KHDs land; the consent not being in operation until the east- west Collector road and associated stormwater infrastructure are operational within Precinct 7. We further note that there was an appeal hearing last month in the Land Environment Court (LEC) NSW regarding previous refusal to approve the concept development of the KHURA, and that this decision is pending. After making enquiries, we were advised by Port Stephens Council that the DAs for Precinct 6 and the adjoining Precinct 7 are able to be legally submitted and considered for approval under the State's Planning policy. We find it exhausting and confusing that we must again submit objections to developments on the KHURA lands during an appeal process.

We recommend that Council seek further independent advice (as we will) on the legalities of the 2019 VPA for the KHURA still being considered applicable for these notably separate Precinct 7 and Precinct 6 DAs. Any response we receive on this matter will be communicated to PSC. We have doubts about the VPA remaining valid, when we are told these DAs are permissible because they are separate applications to the KHURA.

KKEPS members are volunteers that devote many days considering the documentation that the proponent's consultants have been paid to produce over many months, which is especially difficult when two very similar DAs are put on public exhibition at the same time. It is onerous, and it is only our steadfast will to support and protect the local community and our precious biodiversity that presses us to provide this submission. There are, however, many similarities in the details given in the SEEs for Precinct 6 and for 7, and for this reason there will be similarities in our submissions despite being two separate submissions.

Unless stipulated otherwise in this submission, page numbers refer to the Statement of Environment Effects (SEE) prepared by JW Planning.

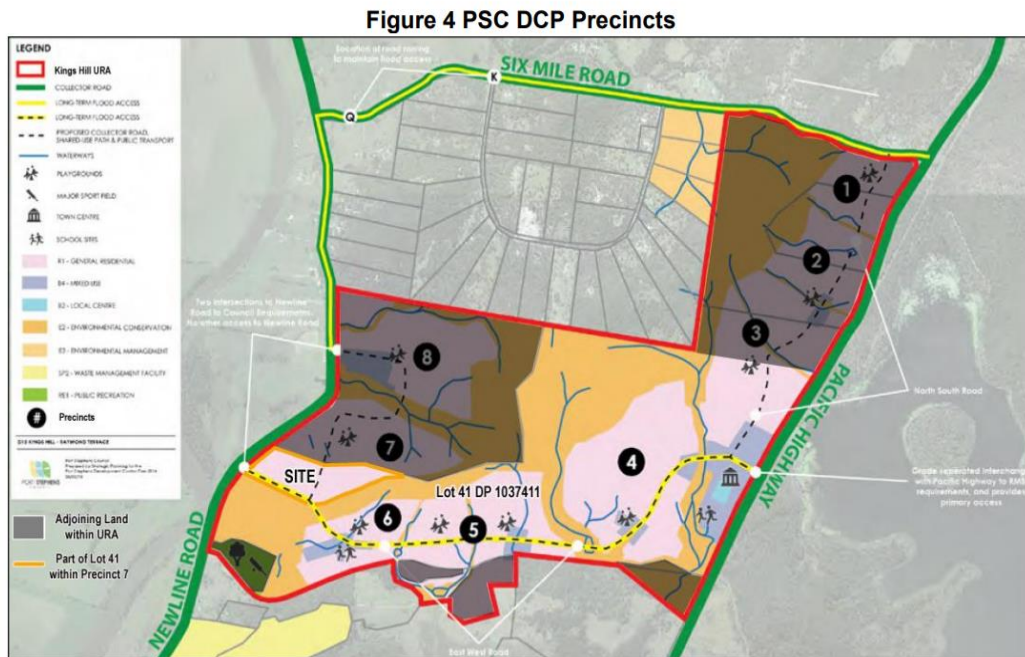
Background

The Precis on p 17 of the SEE states "The Proposal is therefore a second stage of development within the URA which, when ultimately developed, is estimated to provide ongoing employment for at least 885 people and a direct injection of \$140 million in value into the local economy annually. Estimated expenditure on infrastructure is ultimately expected to total \$105.4 million whilst the cost of the construction of the development is expected to total \$1.1 billion (2018 dollars). The development of Precinct 6 provides an investment in construction of \$22.96M. This will follow an initial investment by KHD of \$13.7M in the construction of Precinct 7." SEE p.17

We are of the opinion that this opening claim is false. Monarchs Rise, also known as Precinct 8, has already submitted a DA to which we objected in January 2024: Development Application (16 - 2013 - 599 - 1) Five into 100 lot Torrens title subdivision, clearing and associated site works. This is still under assessment by Council. So, if anything, Precincts 6 and 7 might be the 2nd and 3rd attempts for smaller DAs to be approved on KHURA lands for which the Concept Plan has already been refused. These development applications are relentless and ongoing. It is very telling that there is no mention that KHURA has been denied approval and is now appealing. By omission, this proposal is not truthful, although we are meant to rely on the veracity of these documents to assess it.

Each of the three DAs for Precincts 6, 7 and 8 clearly state that extensions are absolutely intended.

Each of the DAs propose less than or around 100 homes, conveniently staying under the threshold for a traffic generating development. By detailing only initial lots, each DA conveniently stays under the \$30m development construction cost which allows the applications to be assessed by Council rather than triggering the need to be assessed as a State Significant Development.



Source: PSC DCP 2014 Map DAD annotated by JWP

We are forced, however, to accept the apparent legalities of these proposals and address each one in detail. We absolutely object to this staged approach to these developments, when KHURA has already been considered and refused by the HCCJRPP in February 2022, with the appeal to the LEC NSW refused in August 2023. This site is not suitable for many reasons already elucidated by Commissioner Bishop.

The Precinct claims that “the Greater Newcastle Metropolitan Plan 2036, which identifies the Kings Hill Urban Release Area as the largest and most important release area in the 2036 time horizon for Port Stephens LGA. In 2014 a survey of 600 Port Stephens residents (200 households per ward) by CT Group found 72% support for the URA, with the balance mostly undecided or unfamiliar with the URA. In June 2019, KHD voluntarily advertised and conducted two (2) Community Information Drop-In Sessions to inform the community about the ultimate development plans for KHDs land. A report on the outcomes of that process by the RPS Communications Team indicates that the broader development planned for Kings Hill was well received. As the Proposal is consistent with community expectations the Council is encouraged to determine the application by way of Consent with appropriate conditions.” SEE p. 17

The amended draft Port Stephens Local Housing Strategy and Supply Plan documents that are on the agenda for approval on 25 June (the night prior to the deadline for submissions on this DA) do not rely on large numbers of homes being built within Kings Hill such as the 3,500 in the concept plan, which does not include all the precincts. In the Council plans considering local housing supply up to 2041, only 700 homes are mentioned within planning figures. Interestingly, this is the same number as proposed by Monarchs Rise.

KHD claims that their development plans for Kings Hill were well received SEE p.18 but are also admitted to be a failed communication attempt. The number of objections and development applications and appeals being made separately and overlapping, is evidence of a failed attempt at gaining support for the development of a site that is no longer considered suitable from an environmental perspective and is not acceptable to the community either. Infrastructure provision is also at issue.

It appears that Cumulative Impact Assessments (covering an area outside the DA footprint and buffers) are not required in BDARs or BAMs as they are for State Significant Developments, which we consider to be a considerable oversight in favour of developers. This is clearly another loophole allowed in NSW planning policy and procedures, directly resulting in the destruction of the environment and our world leading position for fauna extinctions.

Without off-site cumulative impact assessments considering present and proposed development requiring habitat destruction, the long term welfare of our local communities and the protection of the environment is under threat. It is possible that they will all be approved in a short time frame leading to catastrophic habitat loss of already endangered species such as the Koala and leading to further endangered classifications for other fauna.

Within Precinct 6 and 7, the superlots are intended for future housing as is the whole KHURA still being referred to in the precis. The size of the expected \$1.1 billion (2018 dollars) expenditure further illustrates that state assessment is appropriate. With an initial investment of \$13.5m in Precinct 7 and \$22.96m in Precinct 6, we submit that both connecting sites together exceed the \$30m maximum spend allowable for Council consideration. It has been suggested that some of the construction costs could have been purposely underweighted. Furthermore, PSC has been championing Kings Hill URA since its rezoning approval years ago which suggests a serious conflict of interest in being able to approve either of these DAs.

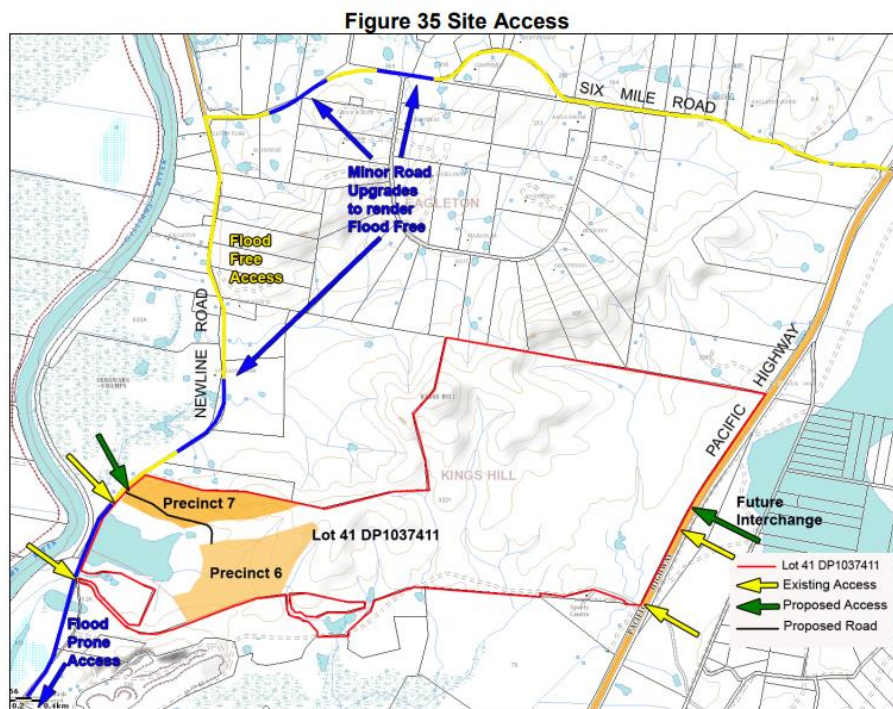
Approving the partial Precinct 6 and/ or partial Precinct 7, gives a foot in the door to continue expansion to neighbouring development of the Precincts without appropriate assessment of the cumulative and combined impacts of the whole development; the proponent clearly intends to develop their proportion of land within the KHURA, as indicated in the Kings Hill overall concept plan, yet the land is being split into smaller pieces to avoid assessment as a State Significant Development that must address these matters.

We disagree with the proponent's conclusion that the "subdivision layout [is] commensurate with Site attributes" p 50 by addressing many following topics.

Flooding

Raymond Terrace has serious flooding issues, which is why there are so many recreation areas near the Williams River and a spillway from the Grahamstown Dam. Flooding is also known to occur across Newline Road due to the proximity of the river, as the proponent admits. This flooding replenishes the wetland. Flooding affects other narrow local roads in the area so the Precinct 6 site

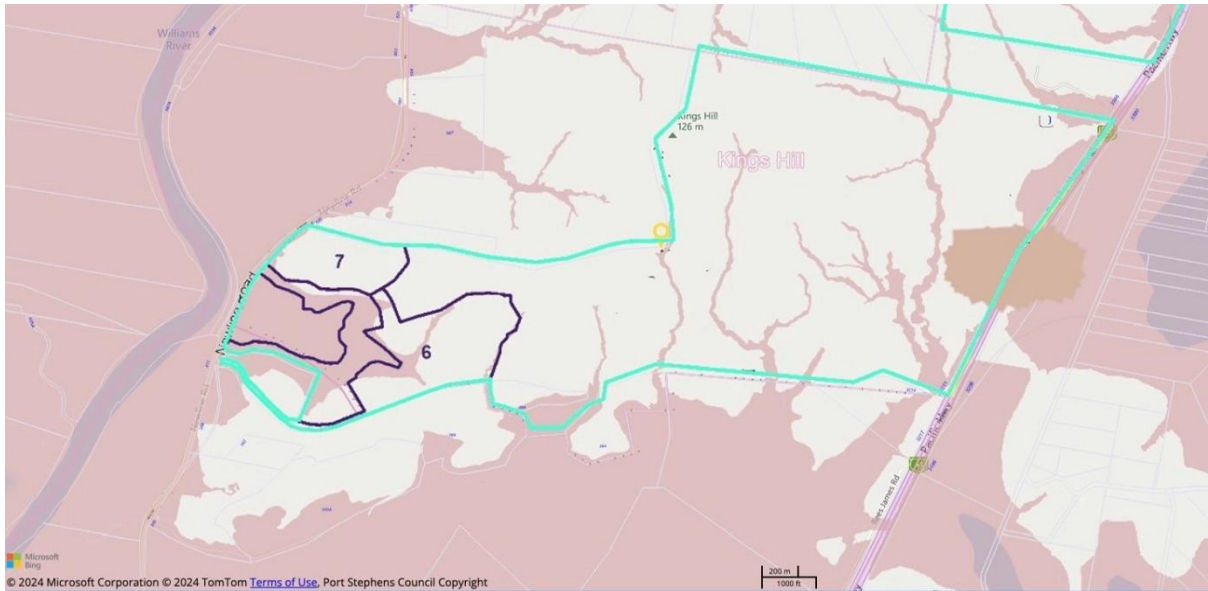
does not have flood free access/egress as demonstrated in figure 35 Site Access.



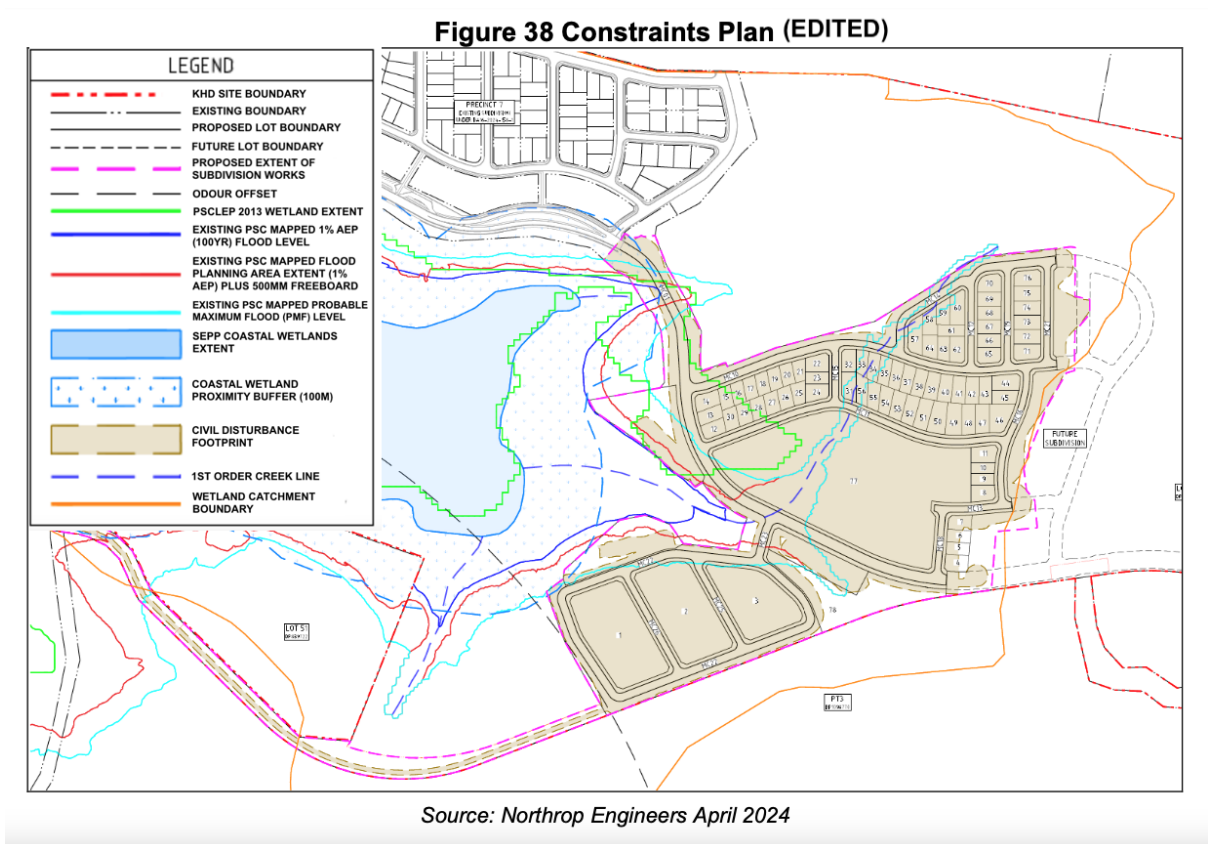
“Precinct 6 is currently accessed via an internal unformed track from Newline Road which is a Local Road. The nearest classified road is William Bailey Street which is a State Road. Access to Raymond Terrace via Newline Road is flood prone, with the section between Precinct 7 and Beaton Avenue flooding 1 in every 2 years for up to 3 to 4 days at a time. The ultimate flood free access solution for the URA is to construct an interchange with the Pacific Highway but until that time, direct access to the Pacific Highway by any development more than extant is not permitted by TfNSW. As an interim solution, the Planning Agreement between KHD and the NSW government allows up to 400 lots to access the Pacific Highway via Six Mile and Newline Roads. The northbound section of Newline Road from Precinct 7 to Six Mile Road, and along Six Mile Road to the Pacific Highway, experiences **only localised flood inundation.**” SEE p 47.

A more detailed look at the frequency and intensity of flooding may suggest that the Precinct 7, and possibly Precinct 6, are at more risk of flooding than identified in the SEE. The Port Stephens Council flood prone land mapping identifies the flood prone areas in dark pink.

<https://maps.portstephens.nsw.gov.au/>



This information has been applied to the constraints plan for Precinct 6, see below.



The two flood maps above indicate the existing probable maximum flood levels using the Australian Bureau of Meteorology (BOM) calculations based on “the greatest depth of precipitation that is meteorologically possible the flooding that this rainfall produces determines”.
<https://www.portstephens.nsw.gov.au/council/maps/flood-mapping>

It is unclear how often this information is updated nor the date the Probable Maximum Flood Level (PMF) was calculated. We suggest that there should be a cautious approach to developing so close

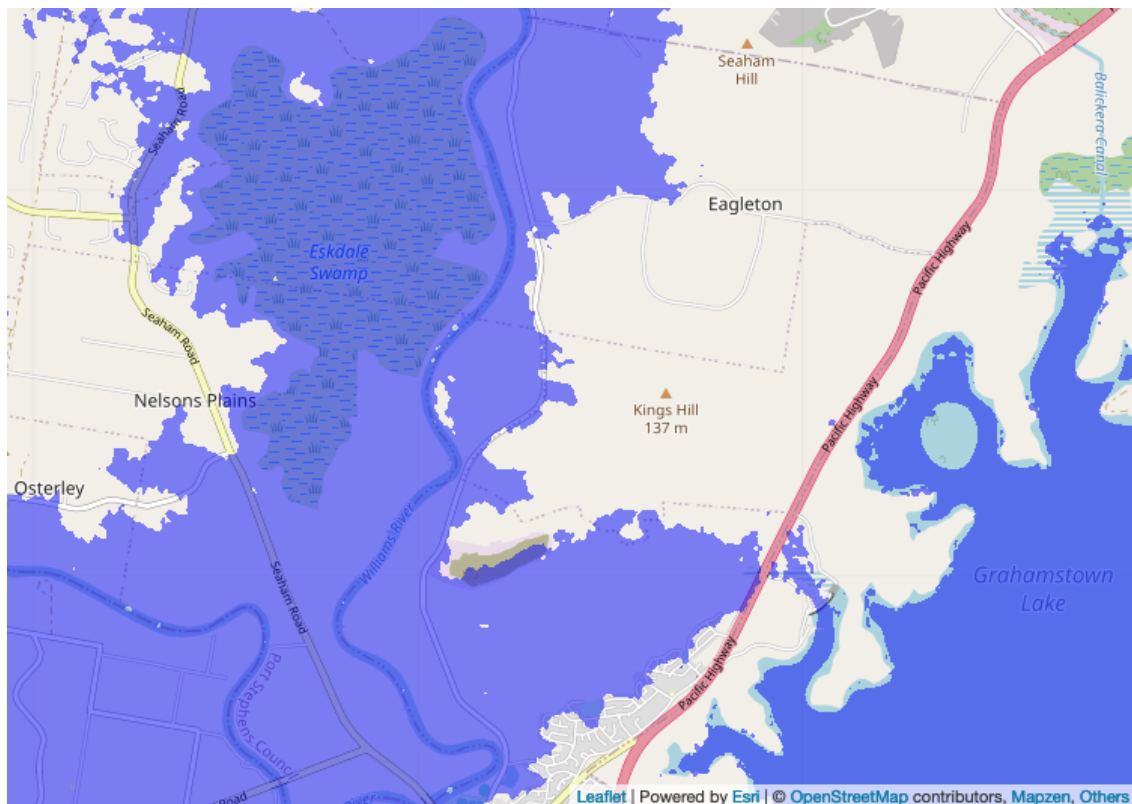
to the PMF level, particularly as data released by BOM based on the Raymond Terrace gauge gives a peak flood level in November 2021 of 9.94m. <https://www.ses.nsw.gov.au/flood-awareness-nsw/hunter-central-coast/port-stephens-lga/>

According to the NSW State Emergency Service (SES), “[t]he Raymond Terrace area may experience floods either due to the Hunter River and Williams River overtopping its banks (and levees), tidal inundation or by excessive rainfall over the local catchment area, or a combination of these mechanisms. Floods due to the Hunter River have been well recorded.”

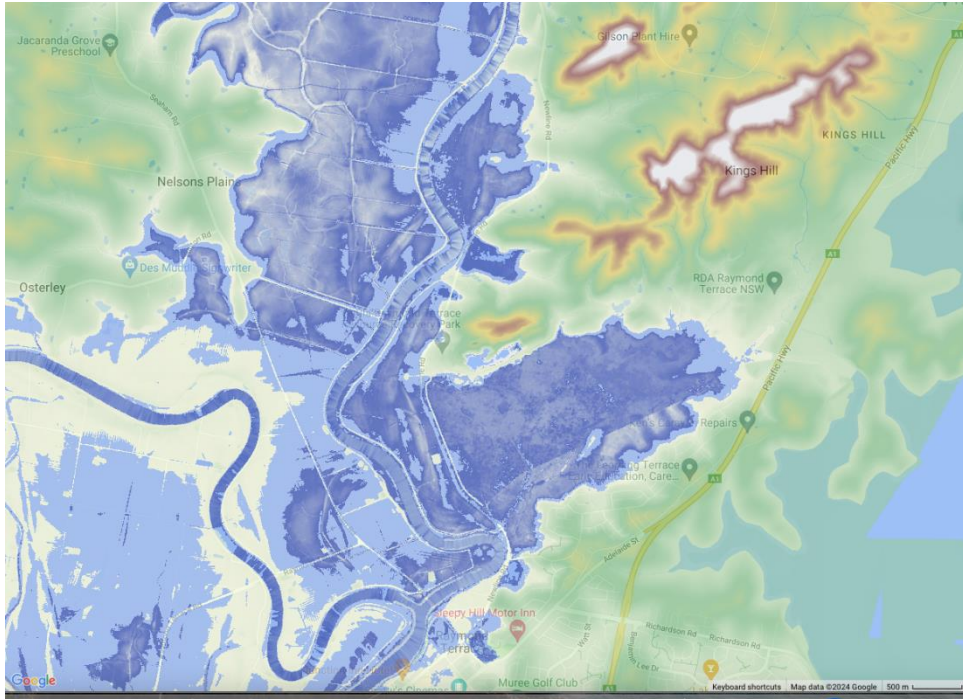
<https://www.ses.nsw.gov.au/flood-awareness-nsw/hunter-central-coast/port-stephens-lga/>

A quick search online shows how frequent modern day flooding in the Raymond Terrace area has become and the impacts of the flooding on local residents and businesses. Far from being a one in two year event, or similar, multiple floods within a twelve month period have been occurring, such as the floods during December 2021, March 2022 and July 2022. Let’s not forget that in July 2022 Port Stephens was declared a Natural Disaster Zone in relation to the immense flooding in the region. <https://www.newsofthearea.com.au/port-stephens-lga-finally-declared-a-natural-disaster>

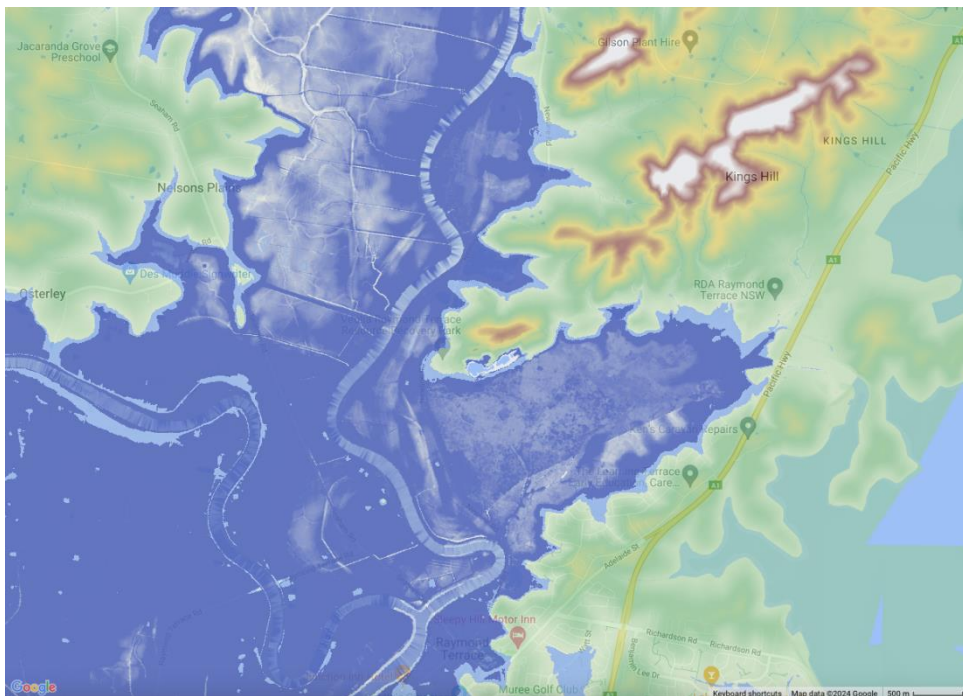
With the peak sea level flood height of 9.94m in November 2021 <https://www.ses.nsw.gov.au/flood-awareness-nsw/hunter-central-coast/port-stephens-lga/> , this level applied across the Raymond Terrace area would have seen a potential risk of flooding in the Raymond Terrace area as below <https://www.floodmap.net/?gi=2205631> .



Current projections for coastal inundation in 2100 are also alarming. The two following maps are from the Coastal Risk 2100 mapping <https://coastalrisk.com.au/viewer> .



The map above is prepared with medium level confidence. The highest tide in 2100 is predicted to be +0.84m



The map above is prepared with low level confidence. The highest tide is projected to be +2m in 2100, and +5m in 2150.

These maps suggest that additional areas of Newline Road and land to the east of the road could have been inundated.

It is proposed that Consent to this application for the subdivision of Precinct 6 will not operate until the applicant satisfies the consent authority that the east-west Collector road and associated stormwater infrastructure is operational within Precinct 7. It is presupposed by this application that

the external road upgrades to Newline and Six Mile Road will have been carried out prior to the commencement of works in Precinct 6.” SEE P. 47... and the associated stormwater infrastructure is operational within Precinct 7 as per the Deferred Commencement consent which is being sought. SEE P. 126

Given the above information on the intensity and duration of flooding in the area, the fact that Intergovernmental Panel on Climate Change (IPCC) project that an increase in heavy rainfall will increase flood risk (including flash floods) in cities, built-up urban areas, and small catchments, the recognition that “the proposed development of both Precinct 6 and Precinct 7 would increase the Site imperviousness from approximately 2% to 26%... [which] will result in increased runoff volumes draining to Wetland 803 SEE 132, and that “the slopes within the development footprint are generally too steep to accommodate roadside swales, and “[s]oil properties do not lend themselves to infiltration” SEE 137, we suggest that these sites have a higher risk of flooding than shown in the Port Stephens mapping.

Is this Planning Agreement still in effect if other developments are approved in advance of this application?

There is no east-west collector road without further development of KHURA to the east – which is not on the table for approval, but rather in the court following refusal. Our recent meetings with TfNSW have confirmed that any upgrades are not at all close to resolution, rather planning is still in progress without the location/s or type of intersection/s able to be assured. There could be no documents available to prove this claim, but the proponent is correct in the underlying assumption that the approval of this DA requires a flood proof access road to the precinct as well as safe access to the Pacific Highway. Since these do not exist, approval of the DA should be denied. If approved a Consent condition should ensure flood free access be extant prior to construction commencement.

Slope and Geology

This is a steep site with significant removal of hard rock material required. Hydrology will be an issue, impacting on the construction site, and ultimately on the wetland.

This proposal is not in line with the Port Stephens Local Housing Plan requiring flatter land and its recognition that greenfield sites are no longer preferable. Biodiversity, especially where threatened and endangered flora and fauna are surviving, should be protected as operating carbon sinks to reduce climate change impacts that are already upon us.

Given that hard rock quarry Seaham Boral is nearby to the north and SEE p44 says the site was used for “quarrying activities from 1963 to 2002”, it would be logical to conclude hard rock exists underneath the Precinct 6 proposed site. This will affect the draft construction costings if found and blasting and crushing this rock is not appropriate on this site. This is a quarrying activity that is well beyond what should be permitted by a development application for a small housing project.

The SEE also discusses sub-surface conditions and hard rock found preventing investigation by boring failing and resulting in the conclusion “Indicative site classification (which will need to be further amended and confirmed after detailed earthworks is completed)”. P77 -79

In the details on excavatability, previous investigations found that bedrock was encountered at depths ranging from about 0.5 m to greater than 2.5 m. The report suggests that the bedrock may become stronger the deeper they need to go and that deeper excavation “will require heavy ripping

or even blasting". SEE p. 82 Such activities will impose significant noise pollution on local fauna that is known to have very serious implications:

"[Noise] can impact wildlife species at both the individual and population levels. The types of impacts run the gamut from damage to the auditory system, the masking of sounds important to survival and reproduction, the imposition of chronic stress and associated physiological responses, startling, interference with mating, and population declines." (Blickley, J., & Patricelli, G. (2010). Impacts of anthropogenic noise on wildlife: Research priorities for the development of standards and mitigation. *Journal of International Wildlife Law & Policy*, 13(4), 274–292. <https://doi.org/10.1080/13880292.2010.524564> p. 274

The geology is identified as a potential factor that could make it difficult to work on site. "[T]he existing clay and silty clay soils, where present, are of medium to high plasticity and likely be difficult to work, particularly when wet. Site trafficability will be reduced when these soils become wet. If the soils become wet, they should be tyned and allowed to dry. Careful control of moisture will be required during compaction of these soils. In the event that unfavourable weather conditions occur prior to and during construction, trafficability for non-tracked plant is expected to be very poor in the lower parts of the Site and therefore the use of a layer of granular crushed rock, crushed recycled concrete, or similar may be required over the natural clays to provide a working platform for temporary access roads." SEE p. 85 This suggests potential extra costs and delays.

If approval is considered, a Consent Condition should include further verification of costings and the construction management plan in regard to hard rock being present, prior to any commencement of clearing or construction.

Essential Services:

Water and sewer and drainage - the Precinct 6 SEE refers to full KHURA proposed plans for water/sewer connection. The SEE states that "In respect of Precinct 6, Solo Water has been engaged by KHD as the private water utility servicing the Proposal". SEE p. 48 and "Solo Water will provide decentralised drinking water, sewerage, recycled water and retail water/ customer services direct to end use customers." SEE p.49 This provision, however, seems to be subject to a further application: "Proposed Lot 78 is 7,838sqm in area, and is land allocated for a permanent water treatment facility consistent with specifications provided by Solo Water. The site is deemed suitable for a permanent recycled water treatment facility (subject to a separate approval) which is able to provide a long term sewer and water solution for both Precinct 6 and Precinct 7 should other sites along Newline Road not proceed". SEE p. 64

What if a Solo Water solution isn't suitable, or the company folds up? What if a permanent treatment works is delayed or not approved? How will future residents access water/sewer? This is not an adequate solution for this Essential service for residents required under Standard B6.1. Further, where will the water come from for fire fighting?

Electricity supply - The energy supply authority responsible for network supply to the proposed development area is Ausgrid. Preliminary Servicing advice received from Ausgrid in 2022 noted that a minimum of 200 lots can be serviced off existing 11kV feeders that run along Newline Road. While the initial plans for Precincts 6 and 7 will be less than 200 lots (SEE p.49), what does this mean for electricity provision? Will extra infrastructure be needed when additional lots are built?

Such inadequate claims to the provision of Essential Services are reason to strongly object to the staged approaches being taken by these separate small development applications that are known to be part of KHURA. Essential services must be assured, and the proposal is not convincing.

Community facilities: The nice list of “community and recreation facilities recommended by the Kings Hill Urban Release Area Community and Recreation Infrastructure Study (GHD, March 2020)” only sees Precinct 6 have land allocated for ‘one (1) local park co-located with a proposed drainage reserve in the location adjacent the east-west Collector road”. p. 52 .

As Precinct 7 has been deemed to not have enough lots to have any of the recommended facilities, this is a poor division of facilities. We recommend that at least a community meeting hall be built by the proponent for Precinct 7, possibly on a superlot location, to provide the pleasant and appealing entry point suggested as being wanted for these lots in the future. A children’s playground may also be appealing here.

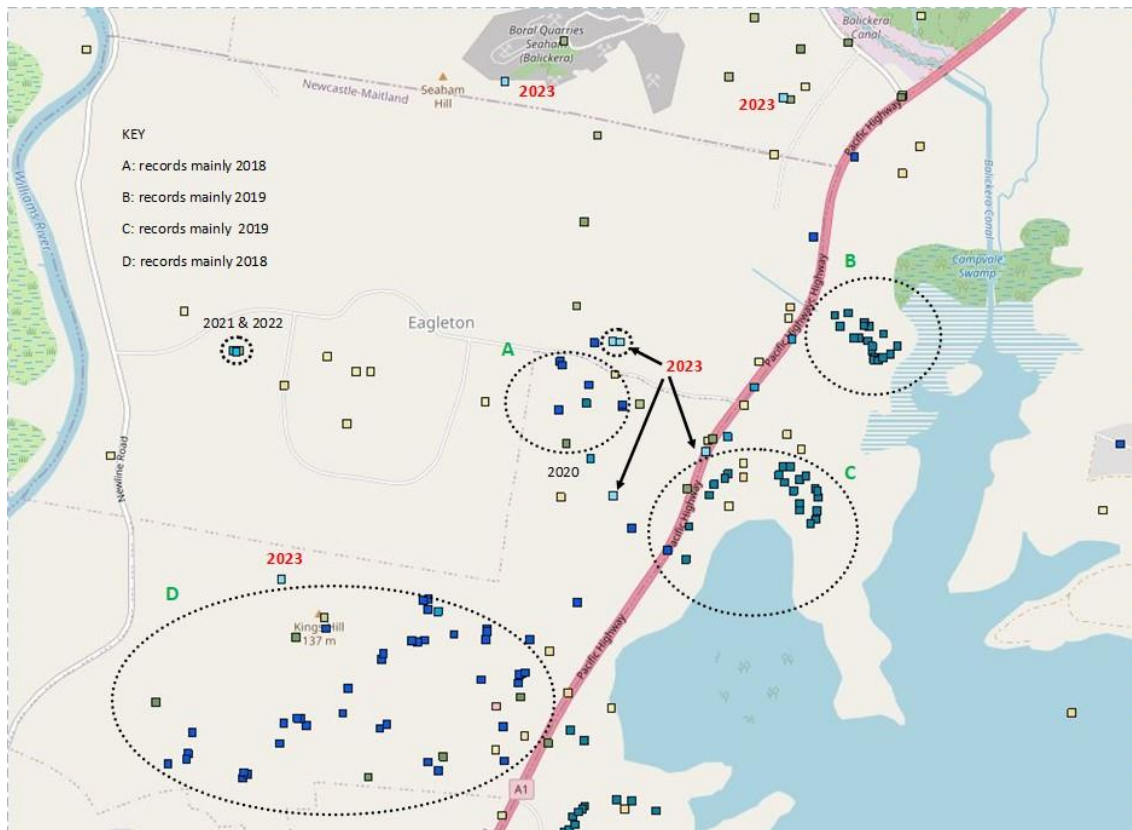
Threatened and endangered fauna

According to the SEE, the “[T]hreatened flora [sic] species observed in the Study Area include the Grey-crowned Babbler (*Pomatostomus temporalis*), Southern Myotis (*Myotis macropus*), White-bellied Sea-Eagle (*Haliaeetus leucogaster*), Brush-tailed Phascogale (*Phascogale tapoatafa*), Masked Owl (*Tyto novaehollandiae*), and Powerful Owl (*Ninox strenua*).” SEE p. 40

The SEE then states that the “two (2) species key to consideration in the Proposal is the White-bellied Sea-eagle and Koala”, even though they claim there is no evidence of koala activity across the subject land but mention recent sighting in the north-east of the Study Area. SEE p.40

Focussing on koalas, we do not believe that the surveys in February 2024 were enough to give a definitive picture of koala presence or use in the study area or subject land. Two person hours of spotlighting were undertaken on the 20th, 21st and 22nd February 2024 totalling **six person hours for one survey technique**.

As KHD will be aware, a true picture of the koala population was not possible until additional surveys and additional survey techniques were undertaken. The same should apply for Precinct 6 and Precinct 7.

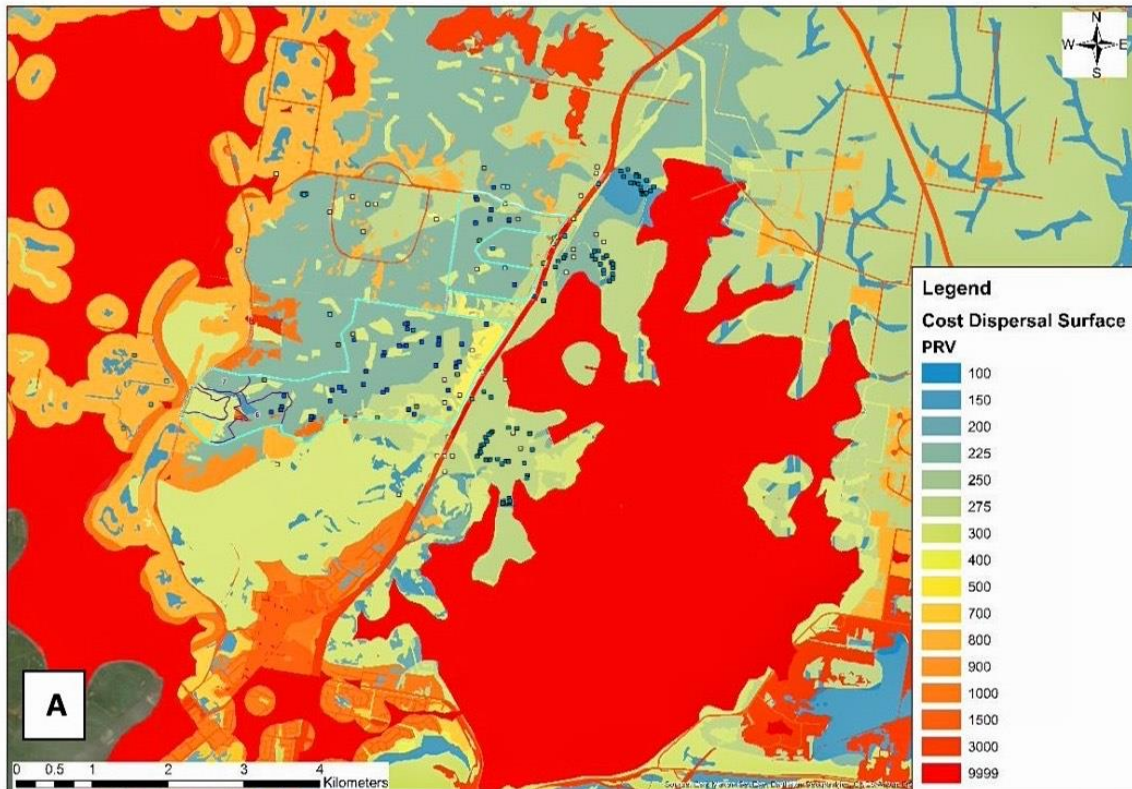


The above figure shows koala sightings reported to BioNet up to 2023. It is quite clear from this map that survey data from 2018 constituted a considerable proportion of sightings in the KHURA. This data, as stated in the SEE (p. 97) is considered advisory as it is over 5 years old, yet it is the most conclusive data on the Kings Hill koala population existence and range. The SEE goes on to say that “only some of the data obtained from surveys published in a Species Impact Statement that overlaps the Subject Land (RPS 2021) has been used in this assessment where less than five years old.”.

Up to date information on the koala population(s) within the KHURA is vital for assessing this application and definitely for avoiding any harm which should always be the preference in the planning hierarchy.

Up to date information also enables a better understanding of the koala home range, their connectivity with other habitats and koala populations and how koalas traverse the area. As part of the Biolink Koala Habitat Connectivity report, Biolink identified dispersal costs to koalas within the Kings Hill area and surroundings. As explained in the original image, “[H]igh cost (increasing from yellow to orange to red) represents a land-use type that is difficult to traverse, lower costs (blues) are easier to traverse. Note that the area is costed for a range of land uses including vegetation type (Preferred Koala Habitat categorisation), agriculture, urban and commercial development, industry, transportation infrastructure and hydrology. The gap-crossing layer is shown in the darkest red, representing areas which exceed 200 m from the nearest mapped vegetation. Parts of the M1 which are fenced with wildlife exclusion fencing are also considered impassable.” (Biolink. (2022). Koala Habitat Connectivity: Kings Hill, Post Stephens, NSW. Report to Kings Hill Developments by Biolink Ecological Consultants, Pottsville, NSW) P. 6.

With Precinct 6 and 7 overlaid on the Biolink cost dispersal map, it is clear that the two precincts as well as most of the KHURA are areas which enable koalas to move around with low cost .



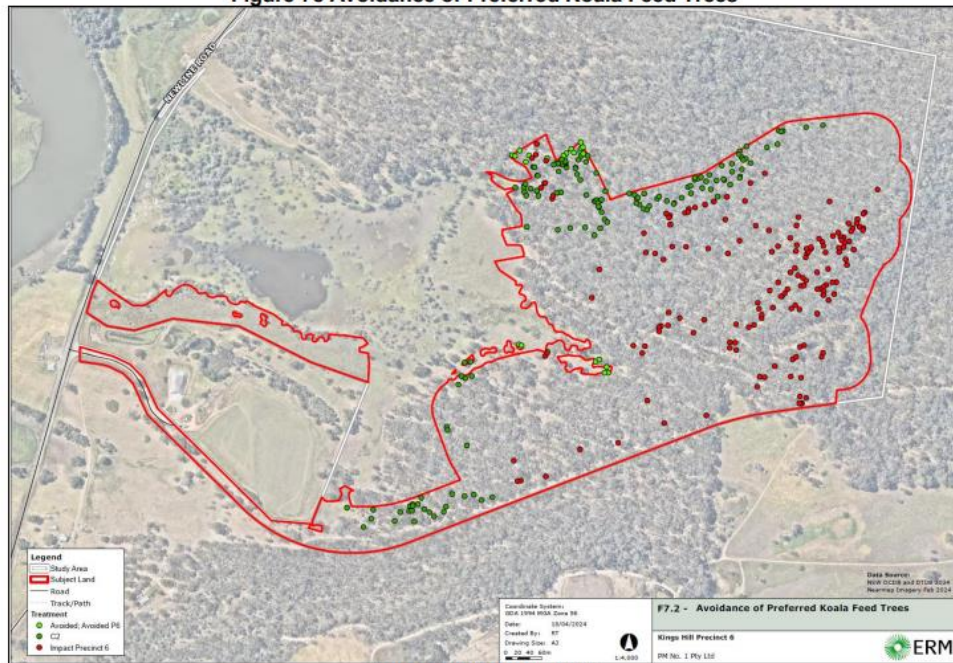
With connectivity across surrounding areas, the impact to koalas if these sites are approved could change this area from low to high cost which could add extra stress and make it difficult to traverse the site and look for food, refuge or drinking water.

Although the SEE states that the proposal will have “[a]void, minimise and mitigate measures applied to address impacts on the species” (P. 99), the applicant has focused on the lack of ‘Serious and Irreversible Impact (SII) status for koalas. The SEE is misleading as the SII listing does not appear to be part of the Threatened Biodiversity Profile Data Collection, as stated, but is instead part of the offsetting process as seen on the Koala country. The lack of SII status should not mean that the endangered listing for koalas be ignored.

The fact of the matter is that the koala is listed as Endangered both State and Federally, and is known to be on a trajectory to extinction without serious intervention. Unfortunately, the NSW Koala Strategy Annual Report for 2024 has concluded that this dire forecast is not changing. [Annual Report 2024 - National Recovery Plan for the Koala \(dccew.gov.au\)](https://www.dccew.gov.au/annual-report-2024-national-recovery-plan-for-the-koala).

Precinct 6 proposes to clear another 24 hectares that should not be approved (see fig 78, p103).

Figure 78 Avoidance of Preferred Koala Feed Trees



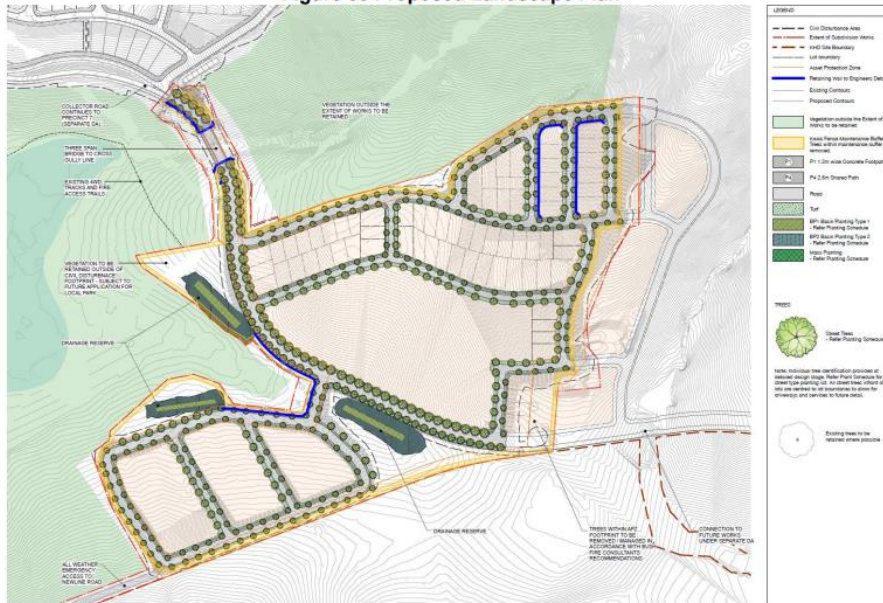
Source: ERM BDAR April 2024

The following calculations relate to the Project designs effect on preferred Koala feed trees:

- Removed: 407 trees in 24.19 ha (~17 trees/ ha) comprising:
 - 177 preferred Koala feed trees (i.e., Forest Redgum (*Eucalyptus tereticornis*) at ~7 trees/ ha); and
 - 230 Grey Gum (*Eucalyptus punctata*) (~11 trees/ ha).
- Avoided: 41 trees in 2.29 ha (~18 trees/ ha) comprising:
 - 24 preferred Koala feed trees (i.e., Forest Redgum (*Eucalyptus tereticornis*) at ~10 trees/ ha); and
 - 17 Grey Gum (*Eucalyptus punctata*) at ~8 trees/ ha).
- Retained: 1,241 trees in C2 zoned lands across the Study Area comprising:
 - 485 Forest Redgum (*Eucalyptus tereticornis*); and

KHD aims to create an aesthetic balance between the soft and attractive elements of the natural environmental with the hard surface elements likely in the proposed built environment. Consistent with the proposed Precinct Plan, the proposed Landscape Plan provides a landscaped theme that defines the urban area from the natural bushland backdrop. The resulting landscape plan is in **Figure 58**.

Figure 58 Proposed Landscape Plan



Source: Moir Landscape Architects March 2024

There will be sense of arrival in to Precinct 6 created by the proposed bridge between Precinct 7 and Precinct 6.

The Collector road will afford a scenic drive as it extends from Precinct 7, with the bridge vegetated both sides of the road. Residents and visitors will enter the urban area along a road that affords views over the proposed Local Park and drainage reserve with biofiltration basin, and more distant wetland views to the west (see **Figure 59**).

Fig 58 and fig 64 Show koala fencing on both sides of the connecting road from Precinct 7 to Precinct 6 when koalas and other terrestrial wildlife should be able to move through this area. The koala fencing location requires redesign with greater consideration to corridor connectivity and access to revegetation areas LMZ4 intended for koalas losing habitat on this site.

With the entrance road/bridge proposed koala fencing works preventing connectivity, and works being proposed within the buffer required for the white-bellied sea eagle nest, we submit that these aims for impact avoidance have not been met: “Key factors used in identifying areas for impact avoidance were: • The presence of preferred Koala feed trees (i.e. Forest Redgum Eucalyptus tereticornis); • Evidence of threatened species habitat use; • Maintaining habitat connectivity; and • Proximity to sensitive threatened species locations (e.g. White-bellied Sea-Eagle nest tree and Maundia triglochmoides).” P101

“As noted in Section 2.3.9.3, there is no current evidence of Koala activity across the Subject Land although a Koala was recently sighted in the northeastern part of the Study Area. A substantial number of preferred Koala feed trees occur north from this area. Due to proximity, the individual

Koala observed is likely to be utilizing these preferred feed trees. An average 20 ha home range typically defines the extent of habitat occupancy of a Koala individual associated with low density Koala populations (BioLink 2019a). The Project will result in the removal of 24.16 ha of habitat comprising 177 preferred Koala feed trees, which is equivalent to the habitat requirement of at least one koala individual. Connectivity to cleared lands surrounding wetland 803 will be maintained, which will be revegetated via the planting of at least 1,777 preferred Koala feed trees in an area of 2.56 ha. This tree planting is likely to be of benefit to at least one Koala individual.” P101

This BioLink 2019a reference is repeated several times in the SEE, but the current understanding is that koalas live in communities where their territories overlap and the size of any individual’s territory varies according to the quality of the habitat from as little as 0.5ha. The assumption that only one koala will be affected is misinformed, as supported here -

<https://environment.desi.qld.gov.au/wildlife/animals/living-with/koalas/facts>

Where koalas are having to cross cleared/grazing areas, they are at greater risk of motor vehicle hits, dogs and foxes, and cattle and horses kick them too, making the population resultantly low density, but if these risks were removed, the density may increase. We further submit that policies are necessary for domestic pets, both dogs and cats, in relation to protecting the fauna in the conservation lands and surrounding rural and estuarine properties.

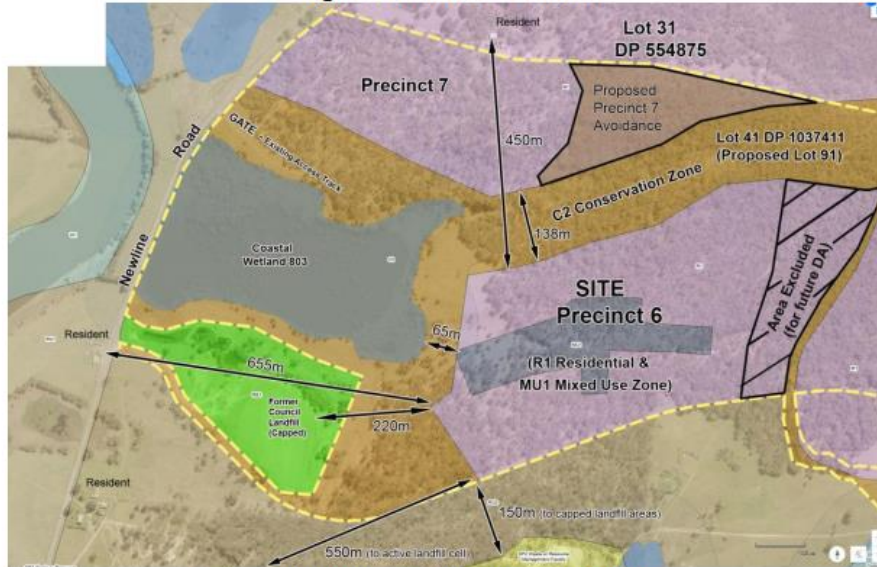
“Connectivity to cleared lands surrounding wetland 803 will be maintained, which will be revegetated via the planting of at least 1,777 preferred Koala feed trees in an area of 2.56 ha. This tree planting is likely to be of benefit to at least one Koala individual.”p108

We again object to the inference that only one koala uses this site, which we contend is likely due to inadequate survey methods. We also deny that connectivity is maintained due to the proposed location of fencing at both sides of the entry road/bridge to Precinct 6 from Precinct 7.

“[D]ocumentation prepared for the Kings Hill URA (EcoBiological 2009), notably: • Establish corridor zones of 100-150 m width (proposed corridor width at the east of the Subject Land meets and exceed this specification)” p102.

This statement is out of step with the more recent Cumberland Plain Conservation Plan finding in 2022 that koala corridors should be much wider. [New expert advice on koala corridors – Fact sheet \(nsw.gov.au\)](https://www.nsw.gov.au) “The Office of the NSW Chief Scientist & Engineer recommended: • koala corridors in the CPCP Area be expanded to an average minimum width of 390-425 metres, including a buffer within the corridor. Buffers reduce the direct and indirect impacts from humans, such as noise and light.” Therefore the proposed 138m shown in Figure 9 p28 between Precinct 7 and Precinct 6 is insufficient width as a functioning corridor.

Figure 9 Precinct 6 - Context



Source: NSW Planning Portal Spatial Viewer annotated by JWP

“The VMP will make provisions for weed management and bush regeneration of areas with native vegetation disturbed by the Project. Landscaping and bush regeneration measures at the periphery of the urban environment will establish a buffer to maintain the edge with adjoining native vegetation and habitat, thus minimise the intrusion of edge effects. Lighting is to be shielded and/or directed away from the adjoining natural bushland to minimise light spill into adjoining native vegetation and habitat. “p104

The proponent should also be required to adhere to the 2023 National Light Pollution Guidelines for Wildlife - DCCEEW.

Conservation Area

“No recreational or passive use of the conservation area such as access tracks or cycleways is proposed as part of the current DA and the impacts of urban development and increased predation on shorebirds is therefore not further considered”. (p141 P7 SEE) Other maps show many walkways and trails through the KHURA conservation area, so this undertaking should be made a Condition of Consent.

Regarding “Increased Risk of Predators Red Fox (*Vulpes vulpes*) and Feral Cats (*Felis catus*) are known predators of the Brush-tailed Phascogale (*Phascogale tapoatafa*)... The Project has been designed to maximise use of existing access tracks across the Subject Land where possible, reducing the potential for an increase to predatory access and activity.” (P110)

There is a need to propose further avoidance or mitigation processes to prevent dogs from entering the conservation lands via the roadside boundary of Precinct 7, while also maintaining access for firefighters as has been noted by the proponent as needed on p123 Precinct 7 SEE).

Joey emerging from the pouch (back-babies) are very vulnerable to foxes and feral cats if koalas are on the ground, as joeys may be dropped while the mother attempts to escape.

Contamination

'The principal sources of potential contamination for Lot 41 were found to occur outside of the area associated with Precinct 6. They are noted as: Former Port Stephens Council landfill site off Newline Road ... – may present possible gas and leachate migration implications and impacts on water quality due to its proximity to Wetland 803. □ Localised dumping/stockpiles – may contain a range of potential contaminants, including metals, hydrocarbons etc.' P44 We contend that the Veolia landfill site is also a source of potential contamination resulting in a groundwater pathway and a former quarry reported elsewhere.

ERMs Table 11 Summary of Potential Receptors and Pathways, indicates potential risks of harm being caused to human or environmental receptors from contamination sources (p91) that would apply to equally to koalas and other wildlife being forced to track across contaminated land made worse by interference for construction. Dermal and inhalation contact eg by walking across contaminated land is known from DNA research to be how koalas contracted chlamydial infections from introduced infected farm animals such as pigs and cattle.

Fauna should be added as Receptors to both table 11 and 12 to enable the proponent to appropriately consider and apply "The principles of avoid, minimise and mitigate (i.e., the 'mitigation hierarchy') are applied to reduce impacts on biodiversity values" accordingly.

'Based on the results of the PSI it is considered that the potential for contamination arising from on-site sources is low to moderate, with the main risk associated with potentially contaminated imported fill within the former quarry in the eastern portion of the site. Based on the results of the PSI it is considered that the potential for contamination and HGG risks at the site arising from off-site sources is considered to be moderate, with the main risk associated with HGG and leachate migration in groundwater from the Suez[?] landfill'. p96 We agree that further investigation is required, but submit that it and any required remediation is conducted prior to approval.

Regarding ground and surface water contamination tested for and detected by Douglas, of particular note and concern are the contaminants detected in the surface water from the wetland (803), at levels above the appropriate criteria - for protection of freshwater aquatic ecosystems. These included aluminium, copper, lead and manganese and PFOS and PHOA, and the presence of ammonia and toluene. Douglas acknowledged that these "concentrations suggest that the condition /water quality of the wetland is degraded", and further that the surface water samples suggests that Wetland 803 has been impacted by either leachate from the Council or Veolia landfills. Though in our opinion it could also be from fill used to partially fill the former quarries on the sites, thereby requiring further investigations prior to approval.

Given this wetland supports an endangered ecological plant community (Swamp Oak Woodland) and several threatened (Bird) and endangered fauna (Koala and Phascogale) species, we would hope this alerts Council to urgently investigate its own former land fill site and consider reporting the Veolia site to the EPA for further investigations and any resultant required remediation, should this not have commenced to date. Related to cumulative impacts, these contaminants would also be entering the Williams River via surface and groundwater exchange.

Douglas also reported on the need for further soil, gas and groundwater investigations for 24 months prior to construction, which is clearly needed given the above and other sample results reported.

These works should be carried out prior to approval to ensure the site is actually suitable and to properly estimate the costs of construction which we believe are under-estimated.

Traffic

“Port Stephens Council is currently assessing a DA for a 100 Lot residential development with direct access to Newline Rd located approximately 1km north of Precinct 7. This development has been on display for some time but is yet to be determined by Council. The cumulative impact of traffic from that proposed development and Precinct 7 has been considered in the Traffic Impact Assessment (herein referred to as ‘both proposed developments’).” P 154

The modelling should actually be considering the whole yield of 700 homes for the Monarchs Rise and also another 100 homes in precinct 7, and the additional houses on the superlots of both precincts, to properly address cumulative and combined impacts.

SIDRA traffic flow assessments concerning since 2024 level of 6 Mile Rd is already LOS D and LOS E in 2034. As community groups have been repeating ad nauseum in regard to quarry traffic, approved and funded infrastructure is required to keep local drivers safe, prior to more development approvals. Upgraded intersections to cope with additional traffic must be funded by developers (not existing ratepayers) and building of them must occur prior to further construction – this should be a condition of consent (even if it is years away). All these roads/intersections/developments should also be required to provide appropriate fauna crossings and fencing to keep fauna off the road to prevent/mitigate road kill.

Noise and air pollution

The sound dB ratings given in Table 39 Plant and Equipment sound power levels far exceed acceptable noise levels. Even Seaham Boral and Brandy Hill hard rock quarries are not operating during the night! Blasting and crushing should be advised to all receptors ahead of time and crushers should be enclosed – as required by the hard rock quarries to the north and north west eg Boral Seaham and Brandy Hill.

The local hard rock is also heavily silicate and operations cause dust pollution that must be contained. The last thing this community needs is the effects of another hard rock quarry without appropriate containment strategies! This is a compelling reason for further geotechnical investigations below the surface being imperative for assessment purposes. This should not be a consent condition, but a request for further information.

Our concerns are borne out by Figure 104 Predicted Noise Levels of just 55dB from the waste facility spreading to precinct 6, as well as Figure 109 Separation Distance Buffers showing the buffer from the former landfill also encroaches on the wetlands in close proximity to both precincts. Pages 170-172 discusses possible dust from the waste facility that will be exacerbated by possible approval of the extension of nearby Seaham Boral, Eagleton and Stone Ridge quarries.

In addition, we note that other gases such as methane and carbon dioxide are present on this site.

“Assuming that the landfill operates in accordance with their licence requirements and their obligations under the POEO Act, and that landfill gas monitoring finds methane concentrations are within the relevant limits, the identified sources of air emissions are unlikely to cause significant

impacts at the Site.” However, this was not the conclusion of others. Commissioner Bish’s findings noted concerns about the proximity of the waste management facility when assessing the concept plan for the KHURA. There is gas, odour and also the groundwater contamination (and possibly soil as well – subject to investigation) possibly from this and Council’s landfills, impacting on the wetland’s health.

Another negative issue for this site is increasing aircraft noise that is being denied by the proponent saying that “Precinct 6 is not mapped as being within the Australian Noise Exposure Forecast 2025 (ANEF) associated with the Williamtown airbase, and is outside of ANEF 20” p199. The expansion of the airport to cater for international flights is certain, and the noise will increase too.

The reality will not be like the summary on p194 Standard B3.3 “An acoustic report is required for development that has the potential to produce offensive noise The development is unlikely to produce offensive noise.” It absolutely will be noisy, especially during the construction phase, because of the hard rock presence sub-surface.

Future Precinct 6 residents will all draw on scarce local resources for health and education services, and add to nearby community waste facility pressure and create significant impacts on the surrounding rural residents if this nearby proposal is to be approved.

It is very doubtful that the Precinct 6 homes will be affordable for first home buyers as the expense of building on this site will be substantial. Residents will have to work hard to repay significant mortgages (or high rents) and will be unlikely to have time to volunteer, as is claimed.

We fail to understand the claim that precinct 6 could provide “An increase in the employment generation likely from the Urban Release Area as a result of the multiplier effect” p169. Any increase in local contributions to council will most likely be severely impacted by the costs of maintaining steep new internal roads, and maintenance of local roads subject to floods and heavy traffic. Further, council will carry the burden of the conservation area maintenance after just 5 years, and the provision of all other community services including emergency services, and significant direct costs should the Solo recyclable water/sewer/drainage suggestion fail.

Overall, the social and economic impact assessment provided is basically flawed in that it completely relies on the KHURA arguments when that proposal is not in question here; it is only precinct 6 that is seeking approval in this DA and there is no positive social and economic benefits provided in the SEE, nor are they likely to be available for anyone except as profit for the proponents.

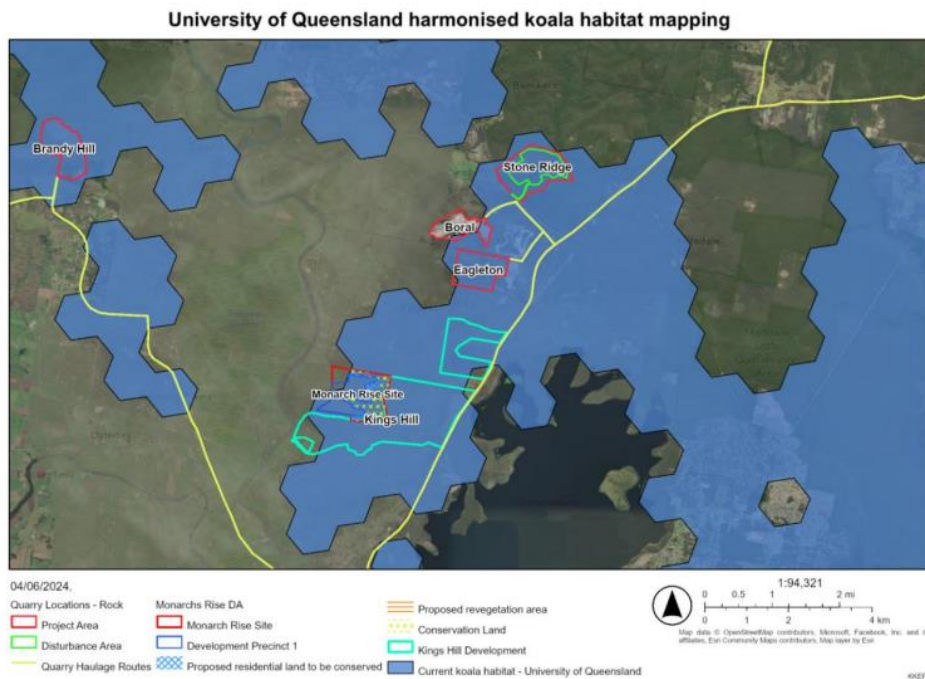
The overall benefits to the community are likely to be negative, rather than positive, so the approval of this DA should be denied as not being in the public interest.

Cumulative Impacts

While it appears that Cumulative Impact Assessments (covering an area outside the DA footprint and buffers) are not required in BDARs or BAMs as they are for State Significant Developments, we have included it here in the hope that PSC will consider them as relevant and important as we do.

We contend that the Precinct 6 proposal would contribute to the current trajectory of unsustainable development in the area. There are a number of new proposals for hard rock quarries and extensions, residential developments (Monarchs Rise) and other developments, such as battery storages, currently being proposed in a relatively small area, but the cumulative and combined impacts of these are not being adequately addressed by site specific assessments only.

Without cumulative impact assessments considering present and proposed quarries and other development, the long term welfare of our local communities and the protection of the environment is under serious threat. It is possible that they will all be approved in a short time frame leading to catastrophic habitat loss of already endangered species such as the Koala and leading to further endangered classifications for other fauna. The following figure shows the existing and proposed developments within harmonised Koala mapping by the University of Queensland, which if all approved will effectively fragment a large remnant area of habitat of endangered species.



It is perplexing that the predictions of climate change and its impacts are not required for consideration in current day development applications, especially given the added threats to our environment, flora and fauna from climate change.

The NSW State Government ‘directives’ are to plan for and mitigate climate change impacts, lower emissions including the protection of NSW’s carbon sinks (our forests), and encourage liveable communities. The Climate Change Corridors (Coastal Habitat) for North East NSW (NSW SEED) map shows climate change corridors which identify areas of significance for protection in the future.

The figure below shows these corridors in the subject area and the accumulation of hard rock quarries (and Kings Hill) being approved and considered within them. It is clear that KHURA occupies a large space that could sever this important wildlife and climate corridor.

60% increased runoff would not only have a significant impact on the wetland but would affect the success of proposed PKFT plantings around the wetland, and may be of such intensity that sediment may not be able to be contained to the subject site. Since the wetland comprises a catchment area of 82.4ha, we seek Council's careful investigation and assurance that the total impacts of runoff will be excluded from the Wetland.

There is then some inconsistency regarding the impact on the wetland; ERM states that this predicted increase in inflow may prevent the wetland drying out, then later on the same page (BDAR P6) that the wetland will continue to experience wetting and drying cycles. Which is it?

We query what rainfall predictions have been used to make the 30% increase estimates for each precinct: el nino, la nina? What about the increased flooding events and given that the site is in a flood planning area and impacted by inflow from the William River? Heavier floods may indeed impact Newline Road by erosion, claiming back the historic connection to the wetland. The Council is still investigating estuarine inundation management plans for the hinterland, that may be directly relevant to this proposal. Once again, we question the suitability of this flood prone site for housing.

Also requiring further consideration (and checking of calculations) is the cumulative impact of surrounding proposed developments (increased storm water) to the wetland, and channel outflow capability under Newline Rd. Calculations must include both Precinct 7 and Precinct 6 and the already mentioned future intended expansions of their superlots, Precinct 8 aka Monarchs Rise, and dare I mention any further KHURA expansion?

Landscape and Vegetation Management Plans

We wholeheartedly agree with revegetation works being conducted on this site, rather than the purchase of biodiversity offsets that do not benefit local fauna. However, we have identified a number of issues requiring further consideration and/or clarification.

It is concerning how the land and wetland has become disturbed and degraded by weed and pest invasion associated with a long history of grazing activities under the former rural zone (which continues today under existing use rights). Could KHD have been ignoring landowner's requirements: "Landowners are legally responsible for controlling certain types of weeds on their property, including declared noxious weeds. Weeds can occur on land and in water."
www.waternsw.com.au/education/keeping-waterways-healthy/land-and-property-management

"Every homeowner, landowner, occupier or person(s) leasing or renting properties must be aware of their obligations to control weeds. The Biosecurity Act 2015 does not discriminate between rural or residential properties; nor between landholders who utilise their property for agricultural or recreational purposes." <https://rous.nsw.gov.au/legal-obligations-as-landholders>

The VMP states that only two Threatened species have been found on the project site being one bird, the Greycrowned babbler, and one plant, Maundia triglochinos a vulnerable herb growing in swamps. However, the adjoining Residual lot to the south notes 7 more (shown in the figure below); being the Koala, white bellied sea eagle, southern myotis, eastern cave bat, brushtailed phascogale, masked owl and powerful owl (VMP p10). All should be assumed to be present across the project site.

We note the intention to plant many PKFT, and this can be seen as a positive approach, but without full studies of where koalas traverse, feed or live, the establishment of more koala trees may be in the wrong locations for ongoing survival/ climate refugia.

There is mention in the VMP of Tallowwood (*E. microcorys*) and Grey Gum (assume *E. punctata*) on p51 but neither is on the VMP species list for planting on p50. Therefore, we submit that the VMP list of species to be planted should be amended from only *E. tereticornis* and *E. robusta*, to include more species of the relevant PCT, as well as *Casuarina glauca*, *Melaleuca quinquenervia*, grey gum (*E. punctata*), and tallowwood (*E. microcorys*). Having a diversity of koala food and shelter trees in the revegetated areas would be in line with the referenced NSW Koala Habitat Restoration Guidelines.

This action will permit the revegetated forest to be more diversified, resilient to disease and pests, and provide better habitat for all species present, including the grey crowned babbler that prefers large mature rough barked eucalypts (box, stringybark, mahogany, peppermint and ironbark) Project details - Saving Our Species | NSW planning and environment

<https://www.environment.nsw.gov.au/savingourspeciesapp/project/767>

In the landscape plan, we query the use of lemon scented *C. citriodora* and *E. pilularis* (Blackbutt) due to their size. Too often inappropriately large trees are planted in new housing areas that must be later removed as they start to impinge on pathways, gutters and overhang structures. Blackbutt has the reputation of being a 'widowmaker' because it can suddenly drop large branches, making it unsuitable as a street planting. More suitable may be *E. parramattensis* which is a smaller tree with attractive bark and large flower buds. We also suggest plantings of *Melaleuca quinquenervia* and *Casuarina glauca* in wetter spots. *Melia azedarach* (white cedar) should be removed from the landscape species list, because although it is native its "Fruits are poisonous to humans and some other mammals" and because it produces a lot of seed it can become a weed *Melia azedarach* - Growing Native Plants (anbg.gov.au). This plant would only be a possibility for revegetation zones, only if it was found on the site during surveys. We also question the use of *Centella asiatica* (groundcover) because it looks a lot like the common pennywort weed, and suggest a better alternative may be the native violet (*Viola hederacea*).

Although we appreciate there's a mix of species already listed, we highly recommend consideration of these documents: Locally Important Koala Trees in Port Stephens Koala-Trees-Port-Stephens.pdf (econetworkps.org) which lists both koala food and shelter trees, and the Habitat-Planting-Guide-Tomaree-Peninsula.pdf (econetworkps.org) to consider planting more local native species. Consultation with volunteers at the Hunter Botanic Gardens at Heatherbrae may also provide further excellent recommendations due to their wealth of local knowledge. They also raise native plants for sale.

Concerning the proposed clearing, specifically "The general prescription for impact minimization is as follows: Removal of native vegetation and habitat is to be restricted to the January to June period inclusive; and Removal of tree hollows is restricted to the January to March period inclusive." (P104) we note the following;

Female koalas may likely have pouch young in Jan-Mar following breeding season Sept – Dec (stay in pouch 6 months – emerge when furred) and they can drop joeys if under stress; and

The BDAR states that construction works will be outside the WB sea eagle's nesting period - from Jan - June ie. saying nesting is Between July and Dec, yet the NSW National Park webpage for the WB sea eagle page states that nesting is from May - Oct.

ERM state the contacts for wildlife rescues if needed - PSKH for koalas (who are licenced to care and rescue more than koalas) and Hunter Wildlife (for other fauna). However, Wildlife in Need of Care (WINC) is licensed for care and rescues in the PS LGA and should be referenced instead of Hunter Wildlife.

Finally, related to future management - "KHD's responsibility for Management Actions and Revegetation Works will be fulfilled when following a period of 5 years from the issue of the first construction certificate." We ask; where/how will PSC access ongoing funds for ongoing management proposed by the VMP and title changes?

Conclusion

"The Proposal will create demand for recreational facilities, education, health infrastructure, emergency services, public transport, open space and community facilities." P174. None of these services will be provided within the precincts, except for a small park identified as a drainage solution on lot 4, but will cause a drain on the community that is already pressed to find access to them.

The following statements should be disregarded due to not being relevant to Precinct 6 only:

- "Precinct 6 constitutes the second stage of development within the URA. Together with Precinct 7, the Precincts represent less than 5% of the development ultimately planned. Approval of the Proposal will provide the necessary confidence for the proponent, stakeholders, and other landowners to increase and accelerate investment in the URA." p174
- "Construction of the URA overtime is expected to generate 177 full-time equivalent jobs per annum directly in the construction industry over a 15-year period, and ongoing full-time employment for some 279 residents when the development is completed. Investment from businesses located in the URA has the potential to provide direct ongoing employment for at least 885 people." p174
- "Direct regional benefits attributable to the URA include: • a timely addition of 3,500+ dwellings in a relatively difficult and constrained housing environment, providing affordable housing choices central to the region's main employment locations; • a strengthening and diversification of the local economy – countering the region's reliance on traditional industries such as manufacturing and mining, which currently support the majority of the region's workforce but are anticipated to recede in importance over the coming decade; and • an improved retention of young working residents – through its provision of employment opportunities in construction, professional services, education and retail trade industries." P175
- Positive effects stated are also given in line with the whole KHURA which is not the proposal here and cannot be accepted as provided by precinct 6.

The provision of services to both precincts will be costly to the community in terms of road upgrades and flood mitigation considerations/works, as well as water/sewer supply, severe lack of amenity during construction by traffic, and proposed blasting and crushing of hard rock that will cause noise and air pollution to surrounding community.

Construction estimates and timeframes cannot be reliably proposed because the geotechnical sub-surface investigations have not been completed in sufficient detail. Hydrological experts provided evidence that resulted in objections that were part of Commissioner Bish's determination of refusal for the KHURA concept plan that are likely relevant to this application and warrant refusal of the DA.

Under section 2.121 and Schedule 3 of the SEPP, the development would be a traffic generating development if the application proposes more than 200 residential lots. (P191) Splitting the precincts into two separate DAs when Precinct 6 clearly relies on Precinct 7 being approved, and with superlots that are clearly meant for future smaller lots, supports the proponent gaining approval and avoiding further scrutiny, while posing to remain under the threshold of becoming a traffic generating development.

Similarly, “Under Schedule 6(2), General development, development with an Estimated Development Cost (EDC) of over \$30M is regionally significant development” p192, but splitting the two precincts into two DAs conveniently does not trigger this threshold; even though the proponent cannot accurately estimate the costs without further investigations.

“The State VPA executed between KHD and the NSW Government (October 2019) contains arrangements to allow access for up to 400 lots to the Pacific Highway via Newline and Six Mile Road in the event of flood severance.” P197 again refers to KHURA and is likely to be redundant if Monarchs Rise is approved.

This is smoke and mirrors that should not hide the true intentions nor size of the application from the Council as the seeming consent authority for this DA, through the temporary use of superlots and not being ‘up front’ about expanding the development to the north of the present site as is clearly intended by their own admission.

Much of the documentation is clearly related to the whole KHURA development which is still under appeal, and it is a legal loophole within the NSW planning process that allows this DA to be concurrent with the legal process still in progress.

The table of standards referring to Open Space p207-8 declares that it is N/A for precinct 6 – how can this be when the precinct, including the entry road/bridge is surrounded by koala fencing giving no access to conservation lands, and the superlots are intended for future housing options?

This N/A for precinct 6 is used multiple times in the table of standards, and we ask that Council carefully review these claims as being accurate, when the DA for precinct 6 should stand alone on its own merits to gain approval.

The proponent claims throughout the SEE that the benefits of the proposal for precinct 6 is equal to that of the full KHURA, when clearly and obviously this is not the case, and these arguments should not be acceptable or permissible.

We fear that approving this DA may result in catastrophic flooding such as [Dam overflows at Catherine Hill Bay – NBN News](#) reported on 21/4/2024.

We conclude that the proponent has not substantiated that the development site is suitable for residents or the environment, or that it is in the public interest. Approval should be refused.