

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 208-9-2004

(FILE NO. 9035797)

The subdivision of lot 29 DP 252725 into a 51 lots comprising forty eight (48) residential lots, one (1) medium density lot and two (2) environmental protection lots

I, Minister for Planning, pursuant to Sections 80 (1) (a) and 80A of the *Environmental Planning & Assessment Act, 1979*, and State Environment Planning Policy No. 71 determine the development application referred to in the attached Schedule 1, by **granting consent** to the application subject to the deferred commencement and the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure development proceeds in accordance with approved plans;
- (2) To ensure development satisfies the relevant statutory requirements;
- (3) To ensure that measures are implemented to manage environmental and social impacts that may arise from the development;
- (4) To minimise the potential risks associated with bushfire hazards;
- (5) To manage potential impacts on rivers and the coastal zone;
- (6) To ensure lots are adequately serviced;
- (7) To ensure public utility services; access and restrictions are legalised over the land.

Frank Sartor MP
Minister for Planning

Sydney,

2006

SCHEDULE 1

PART A—TABLE

Application made by:	Brian and Janice Cowan 150 Pittwater Road, Manly, NSW 2095
Application made to:	Minister for Planning
Development Application:	No. 208-9-2004
On land comprising:	Lot 29, DP 252725 Red Head Road, North Red Head
Local Government Area	Great Taree City Council
For the carrying out of:	The subdivision of lot 29 DP 252725 into 51 lots A detailed description of the development consented to is described in Conditions A1, Part A, Schedule 2
Estimated Cost of Works	\$2.7 million
Type of development:	Integrated Development
S.119 Public inquiry held:	No
BCA building class:	N/A
Approval Body / Bodies:	Department of Natural Resources Rural Fire Service
Determination made on:	April, 2006
Determination:	A deferred commencement, consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	A letter will advise you of the effective date of commencement of this consent once you satisfy the deferred commencement conditions in this consent.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> (1) a shorter period of time is specified by the Regulations or (2) a condition in Schedule 2, or (3) the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 208-9-2004

Responsibility for other approvals / agreements

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for

a development application, within **12** months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under section 94 of the Act. The levies were imposed in accordance with Greater Taree City Council Section 94 Contributions Plans. The above Plans may be inspected at the following locations during its normal business hours:

- (1) Greater Taree City Council

The specific public amenity or service or both are identified in the monetary contributions conditions in Part E of Schedule 2.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

Applicant means Brian and Janice Cowan of 150 Pittwater Road, Manly.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Greater Taree City Council.

DA No. 208-9-2004 means the development application and supporting documentation submitted by the Applicant on 2nd September 2004.

Department means the Department of Planning or its successors.

Team Leader means the Team Leader of the Urban Assessments within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 208-9-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Development consent is granted only to carrying out the development described in detail below:

- (1) The subdivision of Lot 29 DP252725 into 51 lots comprising forty eight (48) residential lots, one (1) medium density lot and two (2) environmental protection lots

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number DA No. 208-9-2004 submitted by the Applicant on 2nd September 2004 and in accordance with the following:

Statement of Environmental Effects entitled Preliminary Statement of Environmental Effects and Objection under State Environmental Planning Policy No. 1 – Development Standards prepared by Cityplan, Urban Planning, dated August, 2004			
Koala Plan of Management, Lot 28 and 29 DP 252725 & Lot 12 DP878230, Figtree Hill Estate, Redhead Road, Redhead dated August 2004 amended March 2006 (Ref: 5167)			
Fuel Management Strategy, Lot 28 and 29 DP 252725 & Lot 12 DP 878230, Figtree Hill Estate, Redhead Road, Redhead, by Conacher Travers, Environmental Consultants dated August 2004 amended March 2006 (Ref: 5167)			
Vegetation Management & Riparian Restoration Plan, Lot 28 and 29 DP 252725 & Lot 12 DP 878230, Figtree Hill Estate, Redhead Road, Redhead. By Conacher Travers, Environmental Consultants, dated August 2004 amended March 2006(Ref: 5167)			
Watercycle Master Plan Report, Figtree Hill Estate, Redhead by J. Wyndham Prince Pty Ltd, on 6th November 2003			
Drawing No.	Revision	Name of Plan	Date
Ver S1, Ref. No. 5167	Rev. 09/03/06	Schedule 1 – Plan of Bushfire Protection Measures and Areas Subject to revegetation Fig Tree Hill Estate (Lot 29)	
Ref. 2568 Plan No. 2	Second amendment	Staging Plan to Accompany Development Application No. 208-9-2004 by Carman Surveyors	3/4/06

except for:

- (1) otherwise provided by the conditions of this consent.

A3 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 *Lapsing of Consent*

The development consent shall lapse 5 years after the determination date in Part A of Schedule 1 of this consent.

A5 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

A6 *Deferred Commencement Condition*

Prior to commencement of the Consent for Development Application No. 208-9-2004 evidence is to be supplied to the Department of Planning that Public Road access is available to Lot 29 DP 252725 from Red Head Road through Lot 28 DP 252725.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Revegetation of Koala Corridor

B1 Habitat Restoration Plan

Prior to the issue of a construction certificate a Habitat Restoration Plan, to supplement the Vegetation and Management and Riparian Restoration Plan is to be prepared by a suitably qualified and experienced ecologist for the revegetation of the koala habitat corridor. The ecologist is to be approved by the Department. The area identified for revegetation in the 7(d) environmental protection zone and the 7(a) environmental protection zone/koala corridor is to be fully revegetated and this area is not to be mown. Tree canopy and understorey are to be provided as appropriate for koala habitat.

The Habitat Restoration Plan is to have regard for the following:

- a) The signature, name, qualifications, experience and contact details of the ecologist who prepared the Plan are to be provided;
- b) detail any trees to be removed for APZs or the emergency access link
- c) the plant selection and composition of canopy, understorey and ground cover species are to emulate the local species mix with a view to eventual suitable habitat for koalas.
- d) confirmation of the required proportion of Koala feed trees
- e) the density of tree planting is to mirror surrounding undisturbed areas;
- f) plant stock is to be propagated from locally collected seeds
- g) recommend the size of that stock when planted
- h) specify the proportion of more established stock to an advanced standard, the species, size and confirmation that it is locally sourced
- i) If any clearing is undertaken elsewhere as part of this subdivision, any salvageable/reusable vegetation such as fallen logs with hollows are to be placed in the restoration area to improve habitat values;
- j) Asset Protection Zones are to be vegetated at a density and with species appropriate to those zones and as suitable for that area and for eventual koala habitat.
- k) Details are to be provided of the emergency trail through 7(a) zone including materials, width, details of access and egress. These are to be selected to have minimum impact on the koala habitat.
- l) The applicant must ensure that a riparian buffer zone of at least fifteen (15) metres wide is provided from the edge of the water in the dam in the 7(a) Environment Protection Zone to the nearest APZs south of the dam. Local native plant species are to be provided and maintained along the riparian buffer zone and north and south of the dam and watercourse. These are to include species suitable for koala corridor habitat.
- m) The revegetation is to provide a link to vegetation on lots 28 and 29 and to existing vegetation on lot 30.
- o) Any other matters considered of relevance to enhance the koala habitat
- p) Where the riparian and asset protection zones overlap in the environmental protection zones, specific details are to be provided to address riparian, habitat and asset protection zone functions within the overlap area. These details are to provide information regarding the provision of Koala habitat and retention/restoration of riparian vegetation within the asset protection zone and the method of achieving all these functions. These details are to be approved by the Department of Natural Resources prior to the issue of the Part 3A permit.

Earthworks

B2 Erosion and Sedimentation Control

A Soil Erosion and Sediment Control Plan shall be designed and signed by an Engineer who is a registered member of Engineers Australia. The Plan is to be in accordance with Council's Policy and the document *Managing Urban Stormwater–Soils & Construction Volume 1 (2004) by Landcom*. The Plan is to detail temporary and permanent measures to be installed to the satisfaction of Greater Taree City Council and the certifying Authority and is to include an analysis of the susceptibility of soil to erosion. The Plan is to be submitted with the Engineering plans.

Long Service Payment

B3 Long Service Levy Fee

Payment of the prescribed Long Service Levy Fee prior to the issue of a Construction Certificate.

Permits

B4 Part 3A Permit

The Construction Certificate will not be issued until the PCA is provided with documentary evidence that the Department of Natural Resources has granted a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948 for the proposal. The requirements to be satisfied are provided under Condition of Consent H1.

Subdivision Works

B5 Stormwater and Drainage Works Design

Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing Civil Engineer who is listed as an NPER member of Engineers Australia in accordance with the requirements of Greater Taree City Council shall be submitted to and approved by the PCA prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

Stormwater management measures shall not be located in the riparian zones but located to intercept flows from residential areas before reaching the environmental protection zones or riparian areas.

B6 Water Management

Water Sensitive Urban Design (WSUD) principles are to be incorporated into the drainage design as required by Condition H20. The engineer is to be mindful of the fact that the 7(a) Environmental Protection zone is Koala Habitat and the existing dam is to be lowered and only works relevant to that zone are permitted.

B7 Impact on Shelly Beach

Prior to the release of the construction certificate an Hydrological Engineer *who is listed as a NPER member of Engineers Australia* is to provide signed, written certification that the post development discharge from the site into Shelly Beach will be, as a minimum, the same flow and quality as existing conditions. The engineer is to be mindful of the fact that the 7(a) Environmental Protection zone is Koala Habitat and the existing dam is to be lowered and no works are permitted in this zone.

B8 Geotechnical Engineer

A Geotechnical Assessment Report and design of the proposed roadworks prepared by a qualified, experienced Geotechnical Engineer listed as a NPER member of Engineers

Australia shall be submitted for approval to Greater Taree City Council prior to submission of detailed engineering plans.

B9 Works and Services

Plans and specifications for the works and services detailed in Condition H17 (1) are to be provided in accordance with Council's AUSSPEC No. 1 Design Manual accompanied by the appropriate supervision/assessment fees, together with a construction certificate application and long service levy are to be submitted to and approved by Council, prior to the issue of a Construction Certificate. Note that no works are to be undertaken in the environmental protection zones.

Compliance

B10 Compliance Report

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Excavation Works

C1 Construction Certificate

A construction certificate issued by the Principal Certifying Authority is to be deposited with Council at least 48 hours prior to commencement of any construction works on the site.

C2 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation works on the site.

C3 MidCoast Water

Advise MidCoast Water's subdivision inspector (currently at April 2006, Lance Fletcher on 02 6591 7519) at least seven days in advance of the anticipated date of construction and of your proposed contractor and subcontractor to undertake the work. This is subject to MidCoast Water's approval both of the construction plans and the proposed contractor.

C4 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

C5 Compliance Report

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Environmental Protection Zones

Disturbance of the Environmental Protection zones is to be kept to a minimum and only essential works relating to that zone are to take place

D2 Site Access

Access to the subject site from Red Head Road is for emergency vehicles only. Other vehicles, including construction vehicles are not to use the Red Head Road access and are not to enter the environmental protection zone.

D3 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with Condition B2, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D4 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

Construction Management

D5 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D6 Site Notice

A site notice(s) shall be prominently displayed at the boundaries and entrances to the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notices are to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at a reading visible level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D7 *Contact Telephone Number*

The Applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D8 *Protection of Trees – On-site Trees*

All trees on the site that are not approved for removal and are within 10 metres of any works, are to be suitably protected by way of tree guards, barriers or other measures as necessary to provided protection to the root system, trunk and branches, during construction or any site works.

D9 *Dust Control Measures*

The following measures must be adopted in the event that dust is affecting or likely to affect the amenity of the neighbourhood during site works:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled outside of the environmental protection zones or at least 50 metres from any water bodies,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration**D10 *Hours of Work***

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and

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- (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D11 Construction Noise Objective

The construction noise objective for the Project is to manage noise from construction activities (as measured by a $L_{A10 (15\text{minute})}$ descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D12 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D13 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the Department of Environment and Conservation and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

Compliance

D14 Compliance Report

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

PART E—PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

Monetary Contributions and Contributions-in-lieu

E1 Monetary Contributions

In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following monetary contributions to Council:

(1) Amount of Contribution

Contribution Category	Amount	TOTAL
Hallidays Point		
Roads	\$152,106.76	
Multi Purpose Community Centre	9,147.32	
Rural Fire Fighting (Rural)	9,140.04	
Finance	3,261.96	
TOTAL Hallidays Point		\$167,132.16
Greater Taree		
Central Library Service enhancement	\$18,683.08	
Library bookstock	5,246.80	
Aquatic Centre	7,935.20	
Rural Fire Fighting (Centre)	16,350.88	
Surf Life Saving Facilities	8,146.32	
S94 Plan Preparation	12,309.44	
Finance	7,133.36	
TOTAL Greater Taree		\$75,805.08
TOTAL CONTRIBUTIONS		\$242,937.24

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Greater Taree City Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Greater Taree City Council

Evidence of the payment to Greater Taree City Council shall be submitted to the Certifying Authority prior to the issue of the subdivision certificate.

(3) Indexing

The amount of each contribution may be revised in accordance with the indexing or review provisions of the relevant Contribution Plan under which the contribution is levied. The amount of each contribution will be determined by Council at the time of payment in accordance with those provisions.

Revegetation of Koala Corridor

E2 Vegetation Management and Riparian Restoration Plan

Prior to the issue of a subdivision certificate a report signed by a qualified ecologist is to be submitted to the PCA and the consent authority confirming the following:

(i) that planting for revegetation of the 7(a) environmental zone is completed as required by the Habitat Restoration Plan and the Vegetation Management and Riparian Restoration Plan.

(ii) that 'actions' indicated in the Koala Plan of Management have been carried out and works as shown in Table 1 of the Koala Plan of Management under 'Construction' have been completed

(iii) that the Koala fence has been erected as detailed in the Koala Plan of Management.

Protection Measures to Koala Areas

E3 Signage to Koala Fence

Prior to the issue of a subdivision certificate signage is to be erected on or near the koala fence at the access points to the koala corridor indicating the following:

- Access to the fenced koala corridor is restricted to access for maintenance of that zone, maintenance of the asset protection zones and emergency vehicles only;
- Dogs are prohibited within the koala management corridor;
- Unleashed dogs sighted in the area are to be reported to Greater Taree City Council;
- The gates are to be closed at all times;
- Access ways to the koala corridor are to be kept clear at all times;
- Contact details of local wildlife rescue organisations are to be provided in the event any sick, injured or dead koalas are found.

E4 Road Signs and Treatment

- A speed limit of 40 km/hr is to apply on all roads in the subdivision
- Road signs are to be erected informing drivers of koalas in the vicinity
- Traffic calming devices are to be used on roads to ensure the speed of traffic is limited.

Final Plan of Subdivision

E5 Plans

Four (4) copies of legible (min. A2 size) final Plans of Subdivision, drawn by a qualified registered surveyor, are to be submitted to the Department of Planning indicating survey reference points in particular for the environmental protection zones.

E6 Works as Executed drawings

After practical completion of works and services to Council's standards the following will be required prior to the issue of a Subdivision Certificate:

- 1) A "Works as Executed" set of drawings prepared in accordance with the requirements of Council's AUSSPEC No. 1 Design Manual. There must be original drawings showing as constructed details of all works and services, suitably endorsed as correct on each sheet by the Superintendent.

2) Maintenance Deposit – deposit with Council (or a Bank Guarantee) for a period of twelve months from completion of engineering work of a sum equal to 5% of the cost of Engineering works prior to the issue of a Subdivision Certificate. This security is to be lodged to guarantee the quality of work and to ensure that the contractor carries out all maintenance and repairs required during this period.

3) Payment of Bonds – Any work to be bonded must be in accordance with Council Policy AUSSPEC No.1 Design Manual. Generally bonds will only be accepted for final seal or Asphaltic Concrete surfacing. Bonding will be via a cash bond or bank guarantee in the sum of 150% of the current cost of carrying out the work at Council rates. The time limit for such bonds is three (3) months.

The actual contract values of all assets (roads, stormwater drainage, open space etc) dedicated to the public are to be submitted with “Works as Executed” drawings on Council’s standard form.

Fill

E7 Geotechnical Engineer Report

All filling works shall be carried out under the supervision and to the satisfaction of a qualified Geotechnical Engineer. Prior to the issue of a subdivision certificate, a report prepared by the Geotechnical Engineer shall be submitted to Council determining the suitability of each allotment for residential development.

All filling and testing is to be carried out in accordance with AS 3798 – 1966 – Guidelines on Earthworks for Commercial & Residential Developments.

Section 88 B Restrictions

E8 Asset protection Zones

A restriction as to user pursuant to Section 88B of the Conveyancing Act, 1919 is to be placed on all lots identified on Schedule 1, Ver.S1, Ref. No. 5167 prepared by Conacher Travers dated 16/01/06 where an Asset Protection Zone is located within the lot. The Plans of Subdivision are to indicate the extent of the Asset protection Zone within each lot. The restriction shall be as follows:

‘The area identified as an Asset Protection zone is to be maintained in accordance with the requirements of an ‘Inner Protection Area’ as outlined in Planning for Bushfire Protection 2001’

E9 Prohibition of Cats and Dogs

A restriction as to user pursuant to Section 88B of the Conveyancing Act, 1919 is to be placed on all lots prohibiting domestic pet cats and dogs as follows:

‘Cats and Dogs are not permitted except guide dogs or for a similar purpose’

E10 Services

Documentary easements for services, drainage, or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

Dedication

E11 Corners at Intersections

The applicant shall dedicate to Council upon registration of the linen plan of subdivision, at no cost of Council, splay corners 4.0m x 4.0m at all intersections.

E12 7(a) and 7(d) zones

At the registration of the linen plan of subdivision, the applicant shall dedicate to Council, at no cost to Council, the 7(a) fauna corridor zone and the 7(d) open space zone.

Road Works and Services

E13 Damage to Public Assets

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is be met in full by the Applicant/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

E14 Works and Services

Prior to the issue of a subdivision certificate, the applicant is to carry out the works and services as detailed in Condition H17 (2).

E15 Telephone

Provision of underground telephone plant to each of the proposed lots in accordance with the requirements of Telstra. Documentary evidence of satisfactory arrangements being made to this effect with Telstra, including installation of service conduits, shall be supplied to Council prior to the issue of a Subdivision Certificate.

E16 Electricity

Provision of underground electricity supply and street lighting to each of the proposed lots. Certification from an accredited supplier of completion of these services shall be supplied to Council prior to the issue of a Subdivision Certificate.

Plan of Management

E17 Maintenance of Asset Protection Zones

A Plan of Management shall be provided by the applicant, in consultation with Greater Taree City Council, for the maintenance of the Asset Protection Zones that will be transferred to Greater Taree City Council ownership. The Plan of Management is to be approved and adopted by Greater Taree City Council prior to the issue of a subdivision certificate. The Plan of Management is to ensure the maintenance of these areas in perpetuity and that they are managed in accordance with the requirements of an "Inner Protection Area" as outlined within Planning for Bushfire Protection 2001.

Water and Sewerage

E18 Reticulated Water

Provision of reticulated water supply to each of the proposed lots in accordance with the requirements of Mid Coast Water. Documentary evidence of completion of those works shall be provided to Council prior to the issue of a Subdivision Certificate.

E19 Reticulated Sewerage

Satisfactory arrangements being made with Mid Coast water to design and construct sewerage reticulation works necessary to connect each of the proposed lots to Mid Coast Water's sewerage system. Documentary evidence of completion of these works is to be provided to Council prior to the issue of a Subdivision Certificate.

E20 MidCoast Water Requirements

MidCoast Water requires the following to be met prior to the issue of the Subdivision certificate:

(1) Provision of Certificate of Compliance for Subdivision

A Certificate of Compliance is to be received from MidCoast Water prior to the release of this subdivision, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

(2) Water Supply and Sewerage Construction Plans

The submission of three sets of water supply and sewerage construction plans in accordance with MidCoast Water's Technical Guidelines. These plans need to be approved by MidCoast Water before construction commences. All costs associated with the provision of water supply and sewerage to the subdivision is to be met by the developer.

All design and construction of water supply and sewerage infrastructure is to be undertaken to the Sewerage Code of Australia, Water Reticulation Code of Australia, SW-SPEC and Mid Coast Water's supplements.

As per the WSAA Water Reticulation Code of Australia, property services are to be constructed by the developer at the developer's expense. Refer to MidCoast Water's standard drawings WAT-302A & WAT-301A.

(3) Engineering Supervision Fees

The payment of engineering supervision fees at the rate payable at the time of submission of plans complying with Condition E21 (2)

(4) Work-as-Executed Plans

The submission of work-as-executed plans in accordance with MidCoast Water's Technical Guidelines. These plans need to be approved by MidCoast Water before the subdivision can be released.

(5) Maintenance Bond

The submission of a maintenance bond against defects in any water supply or sewerage work undertaken by the developer in the subdivision. The bond shall be 5% of the cost of the works, minimum \$1,500. The bond may be released after a period of 12 months following final inspections.

(6) Plans of Subdivision

The submission of a copy of the proper plans of subdivision that is suitable for registration by the Land Titles Office, including a copy of any Section 88B Instruments. Any instrument regarding water supply and sewerage is to benefit MidCoast County Council and shall be signed by a duly authorised officer of MidCoast Water prior to submission to Greater Taree City Council.

(7) Water Supply & Sewerage Easements

The creation of easements 3.0m wide and centrally located over MidCoast Water's existing and new water supply and sewerage mains. The easements are to be created in the favour of MidCoast Water.

(8) Water & Sewerage Development Charges

That all satisfactory arrangements have been made with MidCoast Water for the payment of water and sewerage development charges. The amount is to be paid at the rate applicable at the time of payment. The contribution is based on the subdivision yielding an additional 52ET as time of initial assessment.

E21 Provision of Certificate of Compliance for Subdivision

A Certificate of Compliance is to be submitted to Council from MidCoast Water prior to the release of the subdivision certificate, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

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PART G—POST OCCUPATION

NIL

PART H—GENERAL TERMS

Department of Natural Resources

H1 *Part 3A Permit requirements*

**DA 208-9-2004 - PROPOSED FIFTY SIX (56) LOT SUBDIVISION
No. 38 RED HEAD ROAD (LOT 29 DP 252725), NORTH RED HEAD
Rivers and Foreshores Improvement Act 1948**

ER5943

Standard

1. The conditions of consent relate to development / works on *protected land*, defined by the *Rivers and Foreshores Improvement Act 1948 (RFIA)* within the proposed development site.
2. The conditions of consent do not constitute an approval under the *RFIA*.
3. If the consent authority determines to grant consent, the conditions of consent are to form part of the development consent.
4. Any amendments to the development application may void these conditions of consent.
5. The applicant must submit, to the Department Natural Resources (DNR) Hunter Region, a completed application form for a permit under Part 3A prior to the commencement of any development/ works on *protected land*.
6. The permit application is required to accord with these conditions of consent.

Permit Application

7. The applicant must provide the following with the permit application:
 - (a) A copy of the development consent.
 - (b) A costing based on current industry rates for all development/ works that are subject to these conditions of consent. The costing is to cover, but may not be limited to:
 - construction of any stream works, stormwater outlets, associated scour protection and their revegetation;
 - implementation of a vegetation management plan, including monitoring, reporting and maintenance;
 - decommissioning of any temporary works on protected land, including erosion and sediment controls, other pollution controls or water diversion structures.
 - (c) Stormwater and scour protection design plans prepared by a person with relevant knowledge, qualifications and experience to industry standards.

Relevant Plans and Documents

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8. The applicant must ensure that development/ works are completed in accordance with the drawings and/ or documents as listed in condition A2 and the following list of plans:
- Proposed Development of Fig Tree Hill Estate Red Head Road - Red Head Plan (Sewer Strategy 28/10/03) prepared by Degotardi, Smith & Partners (Forster) dated 30/10/02, File No. 1908, Issue C.
 - Road & Drainage Works for Subdivision of Fig Tree Hill Estate Stage 1 Layout Plan 1 for Landscape Architect prepared by Degotardi, Smith & Partners (Forster) dated 29/10/03, File No. 1908.
 - Road & Drainage Works for Subdivision of Fig Tree Hill Estate Stage 1 Layout Plan 2 for Landscape Architect prepared by Degotardi, Smith & Partners (Forster) dated 29/10/03, File No. 1908.

Works

9. The applicant must ensure that all works proposed are designed, constructed and operated to minimise:
- sedimentation, erosion and scour of the banks or bed of the watercourses;
 - &
 - adverse impacts on aquatic and riparian environments.
10. The applicant must ensure that work-as-executed survey plans, prepared to a professional standard are provided to DNR Hunter Region upon request.

Riparian Zone

11. The applicant must ensure that a riparian buffer zone of a least twenty (20) metres, measured horizontally and at right angles to the flow from the top of the bank of *protected waters*, consisting of local native plant species, is provided and maintained along the watercourses.
12. The applicant must ensure that any *Asset Protection Zone* required for bushfire protection under the *Rural Fires Act 1997* is outside riparian buffer zone.
13. The applicant must ensure that any remnant local native riparian vegetation is protected and not damaged or destroyed by the proposed development/ works.
14. The applicant must ensure that construction techniques minimise disturbance to soil and vegetation on *protected land* and within the riparian buffer zone.

Site Rehabilitation

15. The applicant must ensure that following completion of the works, site rehabilitation protects any remnant local native riparian vegetation and restores riparian zones disturbed or otherwise affected by the development/ work.
16. The applicant must ensure that any restored riparian zones are made up of a diverse range of endemic native tree, shrub, groundcover and grass species, planted at appropriate densities to achieve an effective and full riparian vegetation structure to the satisfaction of DNR Hunter Region.
17. The applicant must ensure that restored areas are maintained for successful native plant establishment to the satisfaction of DIPNR Hunter Region. *Note:* Maintenance may include watering, weed control, replacement of plant losses, disease and insect control, mulching, or any other action necessary for successful plant establishment.

Stormwater

18. The applicant must ensure that stormwater outlets are designed, located and constructed to minimise any erosion or scour of riparian buffer zones and the bed or banks of *protected waters*.

**DA 208-9-2004 - PROPOSED FIFTY (50) LOT SUBDIVISION
No. 38 RED HEAD ROAD (LOT 29 DP 252725), NORTH RED HEAD
Rivers and Foreshores Improvement Act 1948
ANNEXURE – ADVICE AND DEFINITIONS**

ER5943

Advisory Notes

1. Retrospective approval cannot be granted under the *RFIA*.
2. A permit cannot apply to works that have already been undertaken.
3. A permit will not give the holder the right to use and occupy any land without the consent of the registered owner/s of the property.
4. A permit will not relieve the holder of any obligations or requirements of any other acts, regulations, planning instruments or Australian standards.
5. A permit will not apply to works on Crown land, authorised under the *Crown Lands Act 1989 (CLA)*. *Note:* Use and occupation of Crown land requires approval from the Department of Lands.
6. A permit will not apply to development/ works where there is a right lawfully exercisable or other right in force under any act relating to mining.

Definitions under RFIA

The meanings under the *RFIA* for the following are:

1. *Protected land* means:

- (a) land that is the bank, shore or bed or protected waters, or
- (b) land that is not more than forty (40) metres from the top of the bank or shore of protected waters (measured horizontally from the top of the bank or shore), or
- (c) material at any time deposited, naturally or otherwise and whether or not in layers, on or under land referred to in paragraph (a) or (b).

2. *Protected waters* means:

a river, lake into or from which a river flows, coastal lake or lagoon (including any permanent or temporary channel between a coastal lake or lagoon and the sea).

3. *River* means:

any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water and any affluent, confluent, branch, or other stream into or from which the river flows and, in the case of a river running to the sea or into any coastal bay or inlet or into a coastal lake, includes the estuary of such river and any arm or branch of same and any part of the river influenced by tidal waters.

Rural Fire Service

H2 Road Access

Lot 28 DP 252725 and Lot 12 DP 878230 must be developed in accordance with development consent 503/2003D in that public road access must be constructed to provide complying access to this site prior to the development of this proposal.

H3 Plan of Management

Areas identified to be maintained as the required Asset Protection Zone that will be transferred to Greater Taree City Council ownership shall be incorporated into a Plan of Management by Council to ensure the maintenance of these areas in perpetuity and that they are managed in accordance with the requirements of an "Inner Protection Area" as outlined within *Planning for Bushfire Protection 2001*.

H4 Staging of Development

Staging of the development shall occur so that Asset Protection Zones in accordance with *Planning for Bushfire protection 2001* are provided until the next stage of development occurs. In this regard temporary turning circles are to be provided until the access road is extended for the next stage of the development.

H5 Asset Protection Zones and Removal of Trees

Asset Protection Zones shall be provided to the proposed lots as identified on Schedule 1, Ver.S1, Ref. No 5167 prepared by Conacher Travers dated 16/01/06, in addition a 20m Asset Protection Zone shall be provided along the eastern boundary as identified on Schedule 1, Drawing Number 5167/S1 dated 29/07/05. A restriction to user shall be placed on the lots where the Asset protection zone is located within the lots requiring the provision and maintenance of these Asset Protection Zones.

Any reference on the plan to no trees to be removed within the Inner Protection Area shall be deleted and it is advised that this is dependent on whether the trees in this area comply with the specifications of an Asset protection Zone.

Please note"

that in the event that certain trees within the required Asset Protection Zone are to be retained which may conflict with the requirements of the Asset Protection Zone, the RFS is prepared to assist in identifying selective clearing to achieve a suitable outcome that ensures the objectives and specifications of the Asset Protection Zones are met together with the requirements of retaining threatened species and habitat trees.

H6 Fire Hydrants

Location of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

H7 Fire Trails

Fire trails shall be constructed to comply with Section 4.3.3 of *Planning for Bushfire Protection 2001*. As the fire trails will be located on land that is to be transferred to Council ownership the maintenance of the fire trails shall be incorporated into the Plan of management required by Condition E17.

H8 Emergency Access

The emergency access shall be constructed to comply with section 4.3.2 of Planning for Bushfire Protection 2001 and shall extend to connect with Road No. 18 and 19 as identified on drawing number F: 6593 DWG6593C prepared by Degotardi, Smith and partners dated 21 August 2003.

H9 Roads

All roads within the subdivision are to comply with Section 4.3.1 of Planning for Bushfire Protection 2001. In particular roads shall be two traffic lane widths (8m minimum) with shoulder on each side to allow traffic to pass in opposite directions.

H10 Future Development

Construction levels in accordance with AS 3959 will be assessed and nominated when development applications are submitted for the construction of dwellings on the approved lots.

MidCoast Water

H11 Expenses

As per the WSAA Water Reticulation Code of Australia, property services are to be constructed by the developer at the developer's expense. Refer to MidCoast Water's standard drawings WAT-032A & WAT-301A.

All new water mains are required to be chlorinated for disinfection purposes prior to commissioning. This work is undertaken by MidCoast Water at cost to the developer.

H12 Easements

Easements being 3m wide shall be required to be created over any mains located within private property.

It is recommended that any easements for water supply or sewerage not be placed on survey plans until the work-as-executed survey of water supply and sewerage mains has been undertaken. This will enable the easements to be centrally located over the mains as required in MidCoast Water's Technical Guide.

H13 Plans of subdivision

The submission of a copy of the proper plans of subdivision that are suitable for registration by the Land Titles office, including a copy of any Section 88B Instruments. Any instrument regarding water supply or sewerage is to benefit MidCoast County Council.

H14 Charges

Water and sewerage development charges are applicable to each additional allotment to be served by water supply and sewerage. Any development larger than one equivalent tenement (1ET) will attract these charges. The development charge fund is used to offset the costs of augmenting MidCoast Water's infrastructure as a result of increased demand to its water supply and sewerage systems. Should the subdivision be staged, then payment of the charges can be staged based upon the number of allotments required to be released at each stage.

The current (as at 11 August 2005) amount of water and sewerage development charges applicable to this subdivision is as follows:

Total Lots Created @ 1ET per lot	=	52 ET
Allowance for existing Lots (Water Only)	=	1 ET
Water Development Charge	51 @ \$3,500.00	= \$178,500.00

Sewer Development Charge	52 @ \$3,200.00	=	\$166,400.00
TOTAL		=	<u>\$344,900.00</u>
Chlorination			TBD
Inspections			
Sewer Lines Inspections			TBD
Water Main Inspections			TBD
Acceptance (up to 4 lots 136)	52 x \$35.00	=	\$1,820.00

The charges are to be paid at the rate applicable at the time of payment

H15 Provision of Certificate of Compliance for Subdivision

A Certificate of Compliance is to be received from MidCoast Water prior to the release of this subdivision, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

Council

H16 Staged Development

The development is to be carried out in accordance with the stages noted in the application. If it is intended to alter the staging the applicant is to make either a written application to amend the consent or lodge a new application as determined by Council.

H17 Works and Services

1) **Prior to the issue of a Construction Certificate**, Plans and specifications in accordance with Council's AUSSPEC No. 1 Design Manual accompanied by the appropriate supervision/assessment fees, together with a construction certificate application and long service levy are to be submitted to and approved by Council.

2) **Prior to the issue of a subdivision Certificate** the applicant is to carry out the following works and services:

i) Construction of roads in the subdivision to the following standards:

(a) Urban Design Standard, Category 3 – Local Street (8m carriageway).

(i) Roads No 3, 15, 18, and 19

(b) Urban Design Standard, Category 2 – Access Place (5.5m min. carriageway).

(i) Road No 14 and 17.

ii) A galvanised steel non-flexible kerb adaptor is to be placed in the kerb at the downstream frontage of each lot.

iii) Erection of street name signs for each road in the subdivision, (together with “no through road” plates). The applicant is to submit a list of at least three (3) street names for each street for Council's approval at least six (6) months prior to anticipated release of the Subdivision certificate (to enable adequate time for advertising and approval.)

iv) Construction of a temporary sealed cul-de-sac with a minimum radius of 8.5 metres and white reflectorised guideposts at the end of all uncompleted roads.

v) Construction of concrete footpath paving 1.2 metres wide, as shown in the Footpath Strategy Plan for this subdivision.

vi) Shared foot/cycle paths 2.5 metres wide are to be provided throughout the subdivision in accordance with the Footpaving/Cycleway Strategy Plan, and are to link to other areas such as beaches and reserves.

vii) A 150mm thick steel reinforced concrete driveway 3.0 metres wide is to be constructed for the full length of the handle of the proposed new lots 277, 278 and 286 and across the

footpath, prior to the issue of a Subdivision certificate. Details of the driveway, associated drainage structures and any retaining walls required are to be submitted to and approved by Council.

viii) The nature strip is to be regraded, levelled and turfed or grass seeded to Council requirements.

ix) Provision of stormwater drainage pipes and channels through the subject land within drainage easements.

H18 Footpath and Cycleway

A Footpaving/Cycleway Strategy Plan is to be submitted prior to the submission of the first stage design plans.

H19 Utilities

All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.

H20 Water Management

Water Sensitive urban design (WSUD) principles are to be incorporated into the drainage design. In this regard provision is to be made for best management practice gross pollutant traps (GPTs) at the outlets to collect all litter, sand and silts, oils, etc, in accordance with the Water Cycle Master Plan Report dated 19 January 2004 by J. Wyndham Prince Pty Ltd, and to Council requirements. The devices selected are to be submitted to Council for approval with the engineering drawings and are to be capable of retaining pollutants in accordance with the requirements of Council's Stormwater Management Plan and Australian Runoff Quality (ARQ). A site-specific Operation and Maintenance Manual is to be prepared for the system and submitted to Council for approval prior to the submission of Stage 1 design plans. Stormwater quality treatment methods which will be approved are as follows:

(i) Litter baskets placed in pits for sediment control only are to be maintained by the developer for 2 years from the date of release of the subdivision, and on-line GPT or approved trash rack is to be placed upstream of the wetland; the baskets are to be removed at the end of the 2 year period.

(ii) Adopt (i) above, but the developer pays an agreed amount to Council for maintenance of the pit inserts. The regularity of cleaning pollutants from the litter baskets and GPT's is to be in accordance with Council requirements.

H21 Stormwater Pipes

Provision of stormwater drainage pipes for the conveyance, within public roads, public reserves, or adjoining land, of stormwater from the development to a discharge outlet approved by the Director Engineering.

H22 Stormwater Disposal

All lots within the development are to be provided with adequate into-lot stormwater drainage disposal and any associated drainage easements.

H23 Drain Signage

All kerb inlet pits are to include a drain ID sign glued to the lintel bar with Sikaflex (or equivalent) at no cost to Council, in accordance with Council requirements.

H24 Drainage

Grading and drainage of the proposed open space areas.

H25 Works

Any works on adjoining properties including discharge of stormwater and disruption of access will require written consent from the affected parties prior to the approval of the engineering plans.

H26 Restoration of damage

The applicant is to restore, replace or reconstruct any damage caused to road pavements, surfaces or street furniture on existing roads used for the construction of the subdivision. Haulage routes for the construction of the subdivision are to be as agreed with the director Engineering.

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The Applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN2 Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN3 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN4 Disability Discrimination Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

AN5 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for

Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.