

APPENDIX A

CORRESPONDENCE FROM DEPARTMENT OF PLANNING REGARDING 3A



NSW GOVERNMENT
Department of Planning

Contact: Scott Lockrey
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Our ref: Major Project No. 05_0125
Your ref:
File: 9039593

Mr John Whitehouse
Minter Ellison Lawyers
GPO Box 521
SYDNEY NSW 2001

Dear Mr Whitehouse,


RE: Proposed Eco-Living Residential Development, The Lakes Way, Seven Miles Beach, Great Lakes Council

I refer to your letters of 11 and 23 November 2005 in which you requested confirmation that your proposal is a Major Project to which Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act) applies.

I am writing to advise you that the Director-General, as a delegate of the Minister, formed the opinion on 20 December 2005 that your proposal is a Project and that Part 3A of the Act applies.

If you have any questions, you should contact Scott Lockrey during normal business hours on the contact numbers or email above

Yours sincerely


Gordon Kirkby
Acting Director, Urban Assessments

4/1/06.

ml
4/1.

→ P. Murray.



Contact: Scott Lockrey
Phone: (02) 9228 6508
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Our ref: 05_0125

Mr John Whitehouse.
Minter Ellison Lawyers
GPO Box 521
SYDNEY NSW 2001

- 4 JAN 2006

Dear Mr Whitehouse

Proposed Eco-Living Residential Development, The Lakes Way, Seven Mile Beach, Great Lakes Council.

I refer to your request for confirmation of Director-General's requirements for the preparation of an Environmental Assessment in relation to the above project.

The Director-General's Environmental Assessment Requirements are attached, pursuant to section 75F(2) of the *Environmental Planning and Assessment Act 1979*. It should be noted that the Director-General's requirements have been prepared based on the information provided to date. Under section 75F(3) of the Act, the Director-General may alter or supplement these requirements if necessary and in light of any additional information that may be provided prior to the proponent seeking approval for the project.

You should ensure that you consult with the Department prior to submission of a draft Environmental Assessment to determine:

- fees applicable to the application;
- consultation and public exhibition arrangements that will apply; and
- number and format (hard-copy or CD-ROM) of the Environmental Assessments that will be required.

Once you have lodged the Environmental Assessment, the Department will consult with relevant authorities to determine the adequacy of the Environmental Assessment. At this stage consideration will also be given to matters raised concerning the assessment and exhibition processes.

You should keep the contact officer for this project, Scott Lockrey ((02) 9228 6506, scott.lockrey@dipnr.nsw.gov.au), up to date with the progress of preparation of the Environmental Assessment, and seek clarification of any issues that may be unclear or may arise during this process.

Yours sincerely

Yolande Stone
As Deputy Director-General
As delegate for the Director-General

P. Murray

PROPOSED STAGED ECO-LIVING MIXED USE, CONSERVATION AND RESIDENTIAL COMMUNITY TITLE SUBDIVISION, THE LAKES WAY, SEVEN MILE BEACH FORSTER, GREAT LAKES LOCAL GOVERNMENT AREA

ENVIRONMENTAL ASSESSMENT REQUIREMENTS UNDER PART 3A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Project	Staged eco-living mixed use, conservation and residential community title subdivision.
Site	Lots 103,142 and 178, DP 753168
Proponent	John Whitehouse, Minter Ellison Lawyers
Date of Issue	December 2005
Date of Expiration	December 2007
General Requirements	The Environmental Assessment must be prepared to a high technical and scientific standard and must include: <ul style="list-style-type: none"> • an executive summary; • a description of the proposal, including construction, operation, and staging; • an assessment of the environmental impacts of the project, with particular focus on the key assessment requirements specified below; • justification for undertaking the project with consideration of the benefits and impacts of the proposal; • a draft Statement of Commitments detailing measures for environmental mitigation, management and monitoring for the project; and • certification by the author of the Environment Assessment that the information contained in the Assessment is neither false nor misleading.
Key Assessment Requirements	The Environmental Assessment must include assessment of the following key issues: <ul style="list-style-type: none"> • Development control – address relevant legislation and planning provisions applying to the site and the nature, extent and justification for any non-compliance. Clearly delineate proposed staging. • Ecological impacts – address section 5A of the <i>Environmental Planning and Assessment Act 1979</i> and <i>Threatened Biodiversity Survey and Assessment Guidelines</i> prepared by DEC. Provide objectives and performance criteria for control of feral and pest flora and fauna; rehabilitation and re-introduction of indigenous flora and fauna; and ongoing management of conservation areas. • Bushfire – demonstrate compliance with the requirements of <i>Planning for Bush Fire Protection 2001</i>. • Impacts on waterways – demonstrate compliance with the requirements of <i>NSW State Rivers and Estuaries Policy</i> including the provision of native vegetation riparian zones adjacent to watercourses or wetlands. • Traffic – demonstrate compliance with relevant Council and RTA traffic and car parking codes. Impacts on the existing road network. • Social and economic – provide social and economic impact assessment including demographic impacts on the locality, accessibility, mix of housing opportunities, provision of community infrastructure, catering for cultural diversity • Design, amenity and sustainability – address <i>State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</i>; <i>NSW Residential Flat Design Code</i>; <i>BASIX</i>; <i>Coastal Design Guidelines for NSW</i>. Assess: appearance of all buildings on site and from areas surrounding the site; overshadowing; safety; relationship to surrounding areas, including visual impacts from prominent and public coastal locations; site permeability and pedestrian and bicycle movement to, within and thru the site. • Aboriginal heritage – address <i>Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation</i>. • Impacts on adjoining National Parks – address impacts on wildlife corridor values; impacts from erosion, sedimentation, runoff and fire; visual impacts; boundary encroachments; and management impacts and implications. • Sewage Treatment Plant – address Department Circular No E3 – <i>Guidelines for Buffer Areas around STPs</i> and Department of Environment and Conservation

	<p>recommendations regarding the preservation of buffer zones around STPs.</p> <ul style="list-style-type: none"> • Water quality – address: capacity of Forster sewage treatment system to service the development; water sensitive urban design principles; compliance with the 1 in 100 year ARI event for the site; impacts on the Wallis Lake Estuary; and groundwater impacts. • General Environmental Risk Analysis – notwithstanding the above key assessment requirements, the Environmental Assessment must include an environmental risk analysis to identify potential environmental impacts associated with the project (construction and operation), proposed mitigation measures and potentially significant residual environmental impacts after the application of proposed mitigation measures. Where additional key environmental impacts are identified through this environmental risk analysis, an appropriately detailed impact assessment of these additional key environmental impacts must be included in the Environmental Assessment.
<p>Consultation Requirements</p>	<p>You must undertake an appropriate and justified level of consultation with the following parties during the preparation of the Environmental Assessment:</p> <ul style="list-style-type: none"> • Great Lakes Shire Council; • NSW Department of Natural Resources; • NSW Department of Environment and Conservation; • Natural Resources Commission; • Department of Lands; • Department of Mineral Resources; • Mid Coast Water; • NSW Rural Fire Service; • NSW Roads and Traffic Authority • Telstra • AGL • Country Energy • NSW Department of Health; • NSW Department of Education; • NSW Police; • Commonwealth Department of Environment and Heritage; • Aboriginal groups; and • the local community. <p>The Environmental Assessment must clearly indicate issues raised by stakeholders during consultation, and how those matters have been addressed in the Environmental Assessment.</p>
<p>Deemed refusal period</p>	<p>Under clause 8E(2) of the <i>Environmental Planning and Assessment Regulation 2000</i>, the applicable deemed refusal period is 60 days from the end of the proponent's environmental assessment period for the project.</p>

APPENDIX B

DESIGN VERIFICATION REPORT

APPENDIX B

Design Verification Report

Proposed Eco-Living Development

THE LAKES WAY
SEVEN MILE BEACH
SOUTH FORSTER NSW



ISSUE F

APPENDIX B

Design Verification Report

Prepared for:

Seven Mile Beach Pty Ltd A.C.N. 112 160 719

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In conjunction with:

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Design Verification Report

This report has been prepared as appendix B to the Environmental Assessment Statement prepared by Optima Developments Pty Ltd.

It addresses the issues and criteria identified in the following documents:-

- Hunter Regional Environmental Plan 1989
- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Planning Policy No. 71
- Design, Amenity and Sustainability as listed in The Director General's Schedule 'Environmental Assessment Requirements Under Part 3A of the Environmental Planning and Assessment Act 1979' dated the 4 January 2006.
- State Environmental Planning Policy No. 65

Background

The site has a unique location, nestled amidst beach, lake and forest.

Located approximately 3 minutes south of Forster and 3 hours north of Sydney, the site provides opportunity for resort style living within a distinct integrated and managed eco-residential and conservation environment.

Seven Mile Beach is accessed off The Lakes Way, a scenic stretch of road which diverges east from the Pacific Highway, connecting Bulahdelah, Forster and Taree via the scenic attractions of the Myall Lakes, Seal Rocks, Pacific Palms (Blueys Beach, Boomerang Beach and Smith's Lake), Wallis Lake, Green Point and Cape Hawke.

The site enjoys the amenity of water recreation at both Seven Mile Beach to the east and Wallis Lake to the west, whilst offering the natural beauty of the surrounding Booti Booti National Park which stretches from the north east, along the coast and to the south of the site.

Within the Great Lakes Shire the site forms part of the South Forster Precinct that includes Cape Hawke, Booti Booti National Park and Wallis Lake. The site is approximately 69 hectares of which of 54% is being set aside for conservation.

The land is currently zoned 1 (c) Future Urban Investigation, under the Great Lakes Local Environmental Plan 1996 (as amended). The objective of the zone is to restrict development to that which is unlikely to:

- (a) lead to the premature and sporadic subdivision of land which would render the economic provision of public utilities unreasonably more difficult or expensive once urban development takes place
- (b) inhibit, in a significant manner, the potential for urban expansion in selected areas, particularly the urban fringe
- (c) generate significant additional traffic or create or increase ribbon development on any road, relative to the safety and capacity of the road
- (d) prejudice economic development
- (e) significantly detract from the scenic of the land within the zone
- (f) compromise existing significant environmental attributes of land within the zone
- (g) have a significant adverse impact on the quality of water resources within the area
- (h) be unreasonably subject to risks from natural hazards

The amending draft LEP (see **Appendix D of the EA report**) proposes to rezone parts of the land that are considered environmentally sensitive land to Zone 7(a1) (Environmental Protection Zone) and the remaining land considered suitable for managed development to a newly created Zone 2(g) (Integrated Eco-residential Conservation Zone).

The existing LEP requires proposed development on the land to be consistent with at least one objective of the zone applying to the land. In the case of this land, the objectives of Zone 7(a1) seek to restrict development to that which will protect the ecological, scientific, educational and aesthetic values of the terrestrial or aquatic ecosystems, and have been specifically created with a view to protecting the habitat of the Squirrel Glider.

The proposed objectives of the Zone 2(g) seek to acknowledge the ability of land possessing aesthetic and conservation values to accommodate sympathetic innovative residential and ancillary development in an integrated and managed fashion, without compromising the values of the adjacent Zone 7(a1), 8(a) or 8(b) land. The objectives also recognise that development proposals need to result in rehabilitation and conservation and ongoing management of this adjacent environmentally important land, whilst providing the community with realistic expectations about future development patterns.

The proposed project is considered to be consistent with the amending draft LEP zone objectives and specific development provisions outlined in amending *clause 32*, relating to consistency with draft DCP 40 and floor space restrictions on the retail and commercial components.

Planning legislation instruments already submitted in relation to this site are:

A LES
An LEP ammendment
DCP 40 which includes a Clump

There have been a significant number of reports prepared in association with the project and these reports will be supplemented with the Environmental Assessment (EA) Report and this Design Verification Report. The Reports already prepared and submitted are:

1. Bushfire Protection Assessment Updated as per RFS – May 06, Conacher Travers Pty Ltd;
2. Bushfire Fuel Management Plan Updated as per RFS – May 06, Conacher Travers Pty Ltd;
3. Bushfire Contingency Plan Updated as per RFS – May 06, Conacher Travers Pty Ltd;
4. Bushfire Emergency Response Plan – May 06, Conacher Travers Pty Ltd;
5. Aboriginal Heritage Impact Assessment – Nov 04; Andrew Roberts, ARC Consulting;
Aboriginal Heritage Addendum
6. Landscape Design Report – May 06, Site Image Pty Ltd;
7. Social Impact Assessment – Dec 04, Key Insights Pty Ltd;
8. Odour Monitoring and Modelling Report – Dec 04, GHD Pty Ltd;
9. Traffic Assessment – Jul 05, GHD Pty Ltd;
Traffic Assessment Updated Advice – 20 Dec 05; GHD Pty Ltd
Internal Traffic Assessment Updated Advice
10. Stormwater Management Plan – Jan 06, Boyden & Partners Pty Ltd;
11. Geotechnical Assessment – Jun 04, Coffey Geosciences Pty Ltd;
12. Ground Water Monitoring Results – Nov 04, Coffey Geosciences Pty Ltd;
Ground Water Monitoring Results – Oct 05, Coffey Geosciences Pty Ltd
13. Acid Sulphate Soils Assessment – Dec 04, Coffey Geosciences Pty Ltd;
14. Geotechnical Assessment; Building Foundations & Design Parameters – Nov 05, Coffey Pty Ltd
15. Species Impact Statement – May 03; Ecotone Ecological Consultants Pty Ltd;
The addendum to the Species Impact Statement – Sep 05; Ecotone Ecological Consultants Pty Ltd;
16. Hollow-bearing Tree Assessment – Aug 05; Conacher Travers Pty Ltd
17. Squirrel Glider Tracking Report – Nov 05; Conacher Travers Pty Ltd
18. Squirrel Guider Habitat Management Plan – Dec 05; Conacher Travers Pty Ltd
19. Pest Species Management Plan – Oct 05; Conacher Travers Pty Ltd
20. Tree Management Plan – Nov 05; Conacher Travers Pty Ltd
21. Eastern Habitat Corridor Restoration Plan – May 06; Conacher Travers Pty Ltd
22. Bushland Management Plan – May 06; Conacher Travers Pty Ltd
23. Ecological Site Management Plan – May 06; Conacher Travers Pty Ltd
24. Environmental Validation Report – Nov 05, Conacher Travers Pty Ltd
25. Signage Masterplan – May 06; Diadem
26. Access Report – May 06; Accessibility Solutions (NSW) Pty Ltd
27. Waste Management Report – Dec 05; URS Australia Pty Ltd
28. 7 Part test of Significance – Aug 06-Conacher Travers Pty Ltd

Aims & Objectives

The aim of the Hunter REP 1989 is to:

- To promote the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with conservation of natural and man made features and so as to meet the needs and aspirations of the community.
- Co-ordinate activities related to the development in the region so there is optimum social and economic benefit to the community, and
- To continue a regional planning process that will serve as a framework for identifying priorities for further investigations to be carried out by the Department and other agencies.

In response to these aims, a number of clauses within the REP have been addressed as follows:-

Social Development

The objectives of the plan in relation to housing are:

- *To provide opportunities for adequate provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups throughout the region, and*
- *To ensure that the design and siting of residential development meets community needs, minimises impact on the natural environment and involves the quality of the region's built environment.*

DCP 40 has created five different precincts for the residential housing and 2 distinct precincts for the apartments with a range of apartment sizes within each building so as to afford as great a variety of possible choices for different market segments. This will help to create a broad social and economic mix of people within the development. All houses have been sited to take advantage of the natural environment and to minimise the impact of the built form within the natural beauty of the site.

Economic Development

The objectives of the plan in relation to tourism are:

- *To encourage the co-ordinated development of the region as an important tourist destination area within the State*
- *To encourage appropriate leisure and tourism developments on land which is environmentally capable and suitably located, as a means of improving the region's economic diversity and employment prospects,*
- *To encourage the recognition of natural and heritage conservation values as a means of improving tourism opportunities, and*
- *To encourage the adoption of planning controls containing incentives for tourism development where appropriate.*

The Great Lakes region and the relationship of the site to Seven Mile Beach and the Wallis Lake are ideally suited to a growing demand for tourism in the region. The site, in particular, offers walking access to the beach and within the site parameters, walking, exercise and cycle tracks suitable for passive and active leisure pursuits. The proponent of the project has increased the Section 94 contributions to include the construction of a cycleway to link South Forster with the site to create a seamless link with the area.

Land Use and Settlement

The objectives of the plan in relation to urban land use are:

- *Constraints of the natural environment,*
- *Urban capability of the land as defined by the Soil Conservation Service,*
- *Supply and demand for land for all urban purposes,*
- *Availability and cost of public utility services,*
- *Access to employment and commercial and community facilities, and*
- *Provision of a choice of locations and development types.*

The site is seen as being developed as a self contained "village" responding sensitively to its unique environment. The services and utilities infrastructure will form and underpin the core of the development with well managed waste and stormwater discharge controls. The project will offer five different precincts for the residential housing and two distinct precincts for the apartments with a range of apartment sizes within each building and a range of locations relating to the different environments within the site. This diversity will add interest to the site.

Transport

The objective of this plan is to maximise accessibility and facilitate the movement of people and goods based on:-

- *To ensure that the use of public transport is facilitated,*
- *To ensure traffic management techniques are utilised to optimise the use of the existing road system,*
- *To ensure that new or upgraded roads and railways are constructed to meet identified demands including provision of bicycle facilities, and that their impact on the natural environment is minimised,*
- *To maintain an appropriate acoustical environment in line with criteria established by the State Pollution Control Commission in its Environmental Noise Control Manual, and*
- *To encourage the transport of goods, especially coal and other bulk materials, by rail or other non-road modes where practicable.*

All roads within the development site will be new and engineered to suite vehicles including buses, fire trucks and garbage trucks as necessary. This road system will be integrated into The Lakes Way via a new round about system. There will be both walking and bicycle ways included in the perimeter areas of the site. An acoustic fence is to be constructed to The Lakes Way edge to create a noise buffer to the immediately adjacent development. This acoustic wall will be made from a range of materials including timber and masonry and will be stepped and staggered to miss existing trees and to add interest to the form of the wall. The acoustic treatment will meet the standards of the State Pollution Control Commission and its Environmental Noise Control Manual.

Environmental Protection

Pollution Control

The objectives of the plan in relation to pollution control on the site are:

- *A draft local environment plan to permit the carrying out of any development in the catchment areas of significant waterways, and particularly Lake Macquarie, Port Stephens and the Myall, Smiths and Wallis Lakes, should be prepared only after the council has considered*
 - *The likelihood of sedimentation or increases in nutrient level of the waterways associated with the proposed development*
 - *Ways of mitigating any potential adverse impact, including cumulative impacts, on the water quality of the waterways, and*
 - *The guidelines contained in the document entitled "Pollution Control Manual for Urban Stormwater" prepared by the State Pollution Control Commission*

The water runoff from the site will be controlled and maintained with the discharge of excessive stormwater through filtered absorption trenches and pits and through controlled bio swales and ponds. Water will be imported from the adjacent tertiary treatment plant for re-use on the site landscaping and individual gardens. It will also be utilised in the houses, apartments and community centre for toilet flushing. Reference should be made to the Specialists Reports identified in the Background Section of this report.

Waste Disposal

The objectives of this plan in relation to planning strategies concerning waste disposal are:

- *To provide for safe and effective disposal of domestic, commercial and industrial wastes, including toxic materials,*
- *To avoid the entry of harmful chemicals into the environment, and*
- *To encourage the most efficient use of resources by recycling or alternative use as appropriate*

The development site will be fully serviced with regular contractor garbage collection and the apartment complex of buildings will be maintained by a building supervisor who will collect rubbish from the basement garbage rooms and dispatch to the garbage collection area in the southern portion of the site adjacent the tennis court. All areas of garbage collection will be

divided into recyclable and non recyclable waste. There will be no chemical or toxic waste discharged from the site.

Environmental Hazards

The objectives of this plan relating to planning strategies concerning environmental hazards are to:

- *Minimise the effects of soil erosion and land slip,*
- *Control developments on flood liable lands and encourage flood plain management practices which ensure maximum personal safety and appropriate land uses,*
- *Control development so as to minimise the dangers of coastal erosion and storm damage,*
- *Minimise the dangers of bushfires to all forms of development, especially residential development in fire prone areas, and*
- *Minimise the danger of mine subsidence to all forms of development.*

The development has been Master planned to minimise the impact of the external influences on the site. Consideration has been given to the existing soil and foundation conditions, to acid sulphate soil conditions and to the ground water conditions. Asset Protection Zones have been created around the site in response to the bushfire risks and all residences are designed to conform to the 'construction of buildings in bushfire prone areas' Australian Standard. Reference should be made to the Specialists Reports identified in the Background Section of this report.

Tall Buildings

The objectives of this plan in relation to planning strategies concerning the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- *Subject to the opportunity for public comment, and*
- *Assessed for their local impact and regional significance*

The definition of building under the REP is: "does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation, ventilator, or any other thing"

The existing ground level at the apartments has been significantly altered from its original state due to previous sand mining activities in this area. Currently the previous sand mine is excavated to a depth of RL 6.0 with a lip around the sand mine of up to RL 10.0, indicating that the natural ground level was RL10.0 or most likely higher.

Based therefore on an average ground plain of RL10.0, the apartment heights at their external edge will be less than 12m and a total of 13.8m to the overall ridge of roof.

The impact of the apartment buildings on the coastal strip will be minimal. When viewed from the waters edge the apartment buildings will not be visible at all even though the beach is some 500meters from the sites most eastern boundary. There is a definite sand dune at RL 10.0 between the site and the beach that drops off towards the apartments before rising again to a current level of RL 10.0 and what was originally an even higher dune structure. This dune plus the height of the existing landscape at between RL 24.4 and RL 25.0 renders the apartment buildings hidden from view from the beach.

Only the uppermost levels of the apartment buildings will be visible from approximately 1.5 to 2 kilometres out to sea and thus virtually unreadable.

The issue of building height is addressed further under the 'Major Projects SEPP 2005'

Conservation and Recreation

Natural Areas

The objectives of this plan in relation to planning strategies concerning natural areas are to:

- *Protect natural areas of geological, ecological or scenic interest such as important forest, bushlands, wetlands, rivers, estuaries, lakes, beach and dune systems, headlands, mountain ridges and escarpments,*
- *Strictly control any reduction in the extent of important natural areas, especially important habitats such as natural wetlands.*
- *Protect and preserve bushland within larger urban areas because of its natural aesthetic, recreational, educational, scientific, soil conservation and habitat values, and*

- *Improve the aesthetic appeal and image of the region where possible and preserve existing amenity.*

On the basis of the site studies, clear measures have been put in place to conserve and enhance the animal habitats of the site.

All heritage and archaeological items on the site have been identified and measures put in place to conserve both identified items and any new discoveries found during development. A scar tree of particular significance is to be preserved with a natural buffer of vegetation and fenced. Reference should be made to the Specialists Reports identified in the Background Section of this report.

Recreation

The objectives of this plan in relation to planning strategies concerning recreation are:

- *To ensure adequate provision of a wide range of recreation and leisure opportunities including a wide range of open space types in accordance with developing needs and capability of the land concerned.*
- *To encourage compatible recreation and nature conservation and other land and water uses wherever appropriate throughout the region, and in particular to improve public access to natural areas, including foreshore and waterways,*
- *To implement a regional open space program through a partnership of State and Local Government funding.*

The total site area is 69 Ha and the proposed development uses only 46% of the total site with the remaining 54% of the site being given over to undeveloped open and recreational space that will be seamlessly integrated into the surrounding National Park. The development will be supported by a central community centre along with other supporting recreational facilities such as gymnasiums, tennis courts, swimming pools, running and cycling tracks.

State Environmental Planning Policy (Major Projects) 2005

The aims of the Policy are as follows:

- To identify development to which the development assessment and approval process under Part 3A applies,
- To facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,
- To facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.
- To rationalise and clarify the provisions making the Minister the approval authority for development and sites of State significance, and to keep those provisions under review so that the approval process is devolved to councils when State planning objectives have been achieved.

Schedule 2 Part 3A Projects of the Act examines a range of issues and Clause 1 Coastal Areas, subclause (i) (g) states:

Buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:

- Greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or
- Greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone.

(Note the definition of building and height in this clause as follows:

Building does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator; and

Height of a building or structure means the greatest height measured from any point on the building or structure to natural ground level (being the ground level of the site as if the land comprising the site were undeveloped) immediately below that point.)

This site has a unique set of conditions when considering “height” in relation to the visual impact on the coastal environment. The strict definition of height, noted above, does not apply to this site.

Under the definition of height, the building is to be measured to natural ground level. However, due to previous sand mining activities in the area of the apartments the natural ground has been severely altered. Sand has been removed from the top of previous sand dunes in this area and a large quarry hole is remnant, cut down to an RL of 6.0 in some parts. The height at the lip of the quarry is up to RL 10.0 under the proposed apartments, consistent with the height of the sand dune between the site boundary and foreshore.

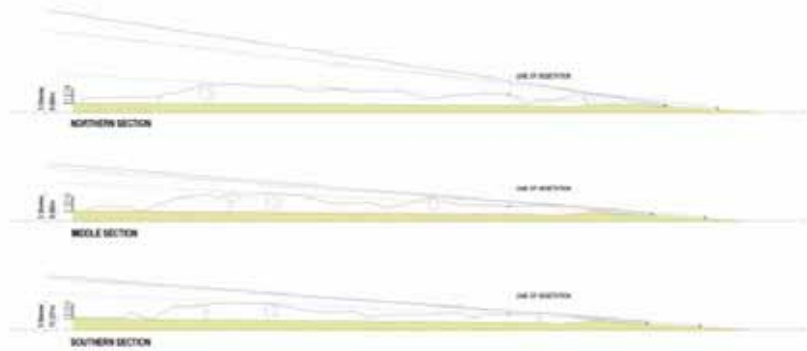
The proposed apartment buildings site has been chosen because it is one of the most disrupted areas of the site due to sand mining in the 1970's. The low points of the site are in the order of RL 6 to RL 6.5 however the general site level around the quarried area is RL 9 to RL10. The site levels before the sand mining disturbance would have been in the order of RL 10 to RL 11 or greater.

Although the original ground level was probably greater, RL10.0 will be used as the existing ground level under the apartments for the purposes of generating an overall building height.

The apartment buildings are generally four stories high with the top floor recessively set back with the resultant impact of the building generating the perception of an 11.85 to 12 metre high building. The recessive fifth floor is not evident to the pedestrians within the apartment precincts. The recessive fifth floor also enables lift overruns, risers and ducts to be disguised within the building envelope rather than sitting above the building and therefore increasing it's visual height and aesthetics from a distance.

The actual height of the building when measured from the ground RL 10.0 will be 13.80m to the central ridge and only 11.85 to the terrace balustrades at the edges of the buildings.

The impact of the apartment buildings on the coastal strip will be minimal. When viewed from the waters edge, the apartment buildings will not be visible at all, even though the beach is some 500 meters from the sites most eastern boundary. There is a rise in the sand dunes to RL 10.0 that separate the site from the beach plus the height of the existing landscape to RL 25.01 renders the apartment buildings hidden from view from the beach. This is indicated on the diagram below where three sections have been taken through the existing ground and vegetation levels towards the apartments.



Only the uppermost levels of the apartment buildings will only be visible from approximately 1.5 to 2 kilometres out to sea and at 2 kilometres, virtually unreadable.

The buildings will not be viewed at any point as a front on view. The new southern public access road has a 150 to 200 metres set back from the road to the apartment buildings and when approaching the beach along this road the orientation is away from the apartment buildings and combined with the established landscape, the buildings will not be seen. This is indicated on the diagram below:



An existing approval for a masterplan DA on the site allows a four storey hotel and conference centre in the location of the currently proposed apartments. This hotel and conference centre however is built predominantly against the eastern boundary, extends further north into the undisturbed bushland areas and has a greater bulk and scale compared with the proposed apartment buildings. Based on the assumptions that a hotel and conference facility would be entirely air conditioned and all public facilities, including the conference rooms, would require higher ceilings, the four stories of hotel and conference would equal a floor to floor height of 4.2m for conference at ground level and 3.2m for hotel rooms over plus lift overruns and plant on the roof level equating to the height of another storey. This would give an overall height of approximately 13.8m plus lift overruns and risers giving a built form of 17m to top of all structure.

State Environmental Planning Policy No. 71

The aims of the State Environmental Policy No 71, clause 2 are:

To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.

To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.

To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.

To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.

To ensure the visual amenity of the coast is protected.

To protect and preserve beach environments and beach amenity.

To protect and preserve native coastal vegetation

To protect and preserve the marine environment of New South Wales.

To protect and preserve rock platforms.

To manage the coastal zone in accordance with the principles of ecologically sustainable design.

To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

To encourage a strategic approach to coastal management.

Matters for consideration under Section 8 of the SEPP No 71 are:

- a) *Existing access to and along coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.*

Although the site is located adjacent Seven Mile Beach it is set back from the shore line some 500 meters to the site boundary. The existing public access road crosses the south eastern portion of the site in a designated conservation area surrounded by natural vegetation that screens the development. Following negotiations with the National Parks and Wildlife Services, the road location is proposed to be amended to traverse the southern section of the site allowing the existing road within the national park to be regenerated. Construction of the new road will actually improve public access to the beach.

- c) *Opportunities to provide new public access to and along coastal foreshore for pedestrians and persons with a disability.*

A new public road will be provided to the beach as noted above. This will be a sealed road along the southern boundary of the site. This will connect with a new car parking area within the national park with pedestrian access from this parking area to the beach.

- d) *Suitability of development given its type, location, design and its relationship with surrounding area.*

The development is located well within the body of the site, is fully self serviced with a substantial conservation buffer of natural vegetation between the houses and apartments and the surrounding Booti Booti National Park. The development only takes 46% of the total site with the balance of the site becoming integrated with the surrounding areas.

- e) *Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant over shadowing of the coastal foreshore and any significant loss of views from public place to the coastal foreshore..*

The development will have no significant impact on the foreshore environment, as it will be set back from the waters edge by some 500 meters.

Views from the beach to the site will not be altered due to the rising land form and natural sand dunes between the beach and the development combined with the existing established heath landscape. In addition, further regeneration of this area is proposed to ensure the development is well screened.

There will be no overshadowing of the coastal environment or public access to the foreshore as indicated on the shadow diagrams.

- f) *Scenic qualities of the New South Wales coast, and the means to protect and improve these qualities*

The development has set out to preserve the qualities of the coastal environment. This is one of the primary qualities of the site and the region and the development will maintain the quality of the environment through thoughtful master planning, detail building and siting design resulting in no impact on the scenic quality of the coast.

- g) *Measures to conserve animals and plants and their habitats*

Clear measures have been put in place to conserve the animal and plant habitats of the site while still supporting the proposed development. Reference should be made to the Specialists Reports identified in the Background Section of this report.

- h) *Measures to conserve fish and marine vegetation and their habitats*

The water runoff from the site will be controlled and maintained with the discharge of excessive stormwater through filtered absorption trenches and pits and through controlled bio swales and ponds. Stormwater from this site will not reach the surrounding waterways. Reference should be made to the Specialists Reports identified in the Background Section of this report.

- i) *Existing wildlife corridors and the impact of development on these corridors*

On the basis of the site studies, clear measures have been put in place to conserve and expand/improve the animal habitats and particularly wildlife corridors of the site. Reference should be made to the Specialists Reports identified in the Background Section of this report.

- j) *Likely impact of coastal processes and coastal hazards on development and the likely impacts of development on coastal processes and coastal hazards*

The Seven Mile Beach site is an isolated site and does not interface directly with the coastal waterways as the nearest boundary is some 500 meters from the beach.

- k) *Measures to reduce the potential conflict between land based and water based coastal activities.*

The land based development has been developed around current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials there will be no conflict with the water based coastal activities. The development site is located some 500 meters from the water edge and has no effect on visual impact or overshadowing or any disposal of stormwater runoff. Water based activities are provided on site to reduce the need or desire for residents to use the coastal zone. Signage will reflect that the beach is potentially dangerous to swimmers and is not patrolled.

- l) *Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals*

Discussions with local indigenous groups and archaeological studies on the site have led to agreements on how any artefacts shall be conserved. The preservation of a known Aboriginal scar tree is ensured through provision of an ample buffer and fencing as part of the proposal. Reference should be made to the Specialists Reports identified in the Background Section of this report.

- m) *Likely impacts of development on the water quality of coastal water bodies*

The water runoff from the site will be controlled and maintained with the discharge of excessive stormwater through filtered absorption trenches and pits and through controlled bio swales and ponds. The site is engineered to ensure that there is no change to the existing water quality and quantity.

- n) *Conservation and preservation of heritage, archaeological or historic significance.*

All heritage and archaeological items on the site have been identified and measures are in place to ensure their future conservation. Reference should be made to the Specialists Reports identified in the Background Section of this report.

- o) *The means to encourage compact towns and cities.*

The total site area is 69 Ha and the proposed development uses only 46% of the total site. This creates a village centre with the grouping of 200 predominately two storey residential dwellings into 5 precincts and 117 apartments, located in 6 five storey residential apartment buildings grouped into 2 precincts. These are grouped around communal courtyards and are

supported by a central community centre and other supporting recreational facilities such as tennis courts, swimming, running and cycling.

o) Cumulative impacts of development on environment

The development has been modelled around current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials to ensure there will be no conflict with the environmental quality of the area.

p) Measures to ensure energy and water efficiency.

The development has been based upon current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials. All residences are to comply with BASIX to ensure a minimum of 40% reduction in water usage and a 25% reduction in energy usage. In addition all buildings are to utilise solar energy and grey water recycling where possible to ensure the highest level of water and energy efficiency across the site.

Other Requirements Listed In The Director General's Schedule "Environmental Assessment Requirements Under Part 3A of the Environmental Planning and Assessment Act 1979" dated 4 January 2006.

Design Amenity and Sustainability

Design Quality of Residential Flat Development

SEPP 65 – Design Quality of Residential Flat buildings

Refer to the Design Verification Report

NSW Residential Flat Design Code

The Residential Flat Design code is a resource to improve residential flat development. The design code is a set of guidelines that provide benchmarks for better practice in the planning and design of residential flat buildings and supports the 10 design quality principles identified in SEPP 65.

The document addresses residential flat development in relation to three different scales: the local context, the site and the building.

The proposed design has responded to these three issues as follows:-

Part 1: The Context

- The importance of local context in shaping residential flat design and building types.

The residential flat buildings at Seven Mile beach are designed as essentially courtyard style apartments wrapping around private or communal open spaces but broken into a series of buildings to ensure good daylighting and privacy between buildings. This style reflects the overall masterplanning principals adopted across the site where single and townhouse style residence wrap around a variety of communal recreation spaces providing a high quality landscaped environment and outlook to all dwellings.

The apartment buildings are divided into two distinct precinct areas: The Cove and The Point. The Cove is the more lively, community focused portion of the site with attached retail and community facilities and addresses the site as a whole wrapping around the communal pool and grounds that link across to the Dunes parkland. The Point is a quieter, more introverted

development wrapping around private outdoor recreation areas that open towards the Eastern boundary of the site and the coastal area adjacent.

The apartment buildings are sited to address the primary road and are an extension of the housing rhythm created in the adjacent Dunes precincts. Setbacks of more than 20m to the Dunes housing, which is accentuated with screen planting and recreation facilities, ensure visual and acoustic privacy to both the apartments and the Dune housing.

Part 2 – Site Design

- The residential flat development site and its relationship to the adjacent context including amenity & streetscape.

The apartment precinct sites are currently denuded, treeless areas caused by previous sand mining activities on the site. The sand mining has altered the original contours of the site dramatically which was probably higher, part of a sand dune running north-south. It has left a large hole which is currently at the water table level in some sections. The entire apartment site is to be regraded using the sand on site in the higher areas of the old quarry and the excavation of the basement parking and pools to fill the hole and protect the water table line. The basement car park and pools are therefore to be sited just above the water table.

Vehicular access to the apartments are proposed from rear lanes whilst pedestrian access is encouraged from either the street frontage or from within the communal courts.

The areas around the apartments are to be regenerated and planted with supplementary landscaping. The basement carpark generally follows the outline of the apartment buildings and is separated from the pools to enable some deep soil planting within the courts as well as around the buildings. Paving is generally limited to around the pools and over the basement parking to enable larger natural areas of planting for water permeability on the site.

The apartment building envelopes are that of 4 storey blocks with a recessive fifth floor that is not evident to the pedestrians within the apartment precincts. The envelopes are generally longer and thinner to enable apartments to have cross ventilation and dual orientation to both the central court and the streetscape or bushland. The pedestrian access and cycle ways permeate through or between the buildings breaking the overall forms down to create diversity in the facades and apartment envelopes.

Part 3 – Building Design

- Guidelines for building design such as building performance, functionality, form, layout, sustainability and residential amenity.

The apartments consist of a variety of 1 to 4 bedroom apartments; many with additional living and/or study spaces and a minimum of 10% of these apartments have been designed as accessible living dwellings, providing a wide range of living alternatives within the apartments. Each level of apartments and each building offer a range of living solutions. In addition, many of the individual apartments offer a variety of solutions which allow bedrooms and study areas to become part of the living space or closed to maintain privacy.

All apartment buildings are accessible to the elderly, disabled and people with children and designated car spaces are provided for disabled residents or visitors within easy reach of the lifts. Further information is provided in the Accessibility report.

Each apartment is provided with a minimum of one balcony accessed directly off the main living area. The balconies are sufficiently sized to allow outdoor dining, promoting indoor/outdoor living. Larger apartments have secondary balconies off the bedrooms and penthouse apartments offer additional large outdoor terraces shaded by pergolas.

Operable screens allow privacy to the balconies from surrounding areas whilst enabling the control of sunlight and wind into the building and outdoor balconies and terraces. Pergolas to the exposed terraces enable the winter sunlight to penetrate the building whilst providing shade from the summer sun. Buildings are generally orientated North-South. Where eastern and western orientation occurs on corner units, the window area is reduced and the units are planned to place the services along these walls. In other areas operable vertical shading devices are incorporated into the overall building design.

All apartments greater than 1 bedroom have been designed as cross through apartments to enable good cross flow ventilation and easier heating and cooling of the building. Where possible all kitchens and bathrooms are located on external walls with operable windows to provide natural ventilation.

Each apartment level has a ceiling height of 2700mm to all habitable rooms to ensure quality residential amenity and create spatial interest in the apartments. Where retail or community facilities are situated on the ground floor in the Cove, the floor to ceiling height is increased to 3300mm.

Ground floor apartments are raised slightly above the pedestrian level and planting is introduced in front of the terraces to contribute to the overall streetscape and improve resident privacy. The majority of ground floor apartments also have private gardens accessible from their deck areas.

Lobbies and internal corridors have all been designed with natural daylighting and ventilation. Lobbies have void spaces to create a sense of arrival and space. Multiple cores are utilised to allow dual aspect apartments, cross ventilation and reduce the length of corridors providing safe spaces and allowing units to be easily found by visitors. This also helps to articulate the overall building form.

All building entries, including the car parking, are secure. Apartment entrances are via well-lit and signed internal courts and/or street entrances to give a good sense of safety to both pedestrians and residents.

The building materials are in keeping with those used on the residences throughout the site and the modulation of the façade is proportional to the surrounding dwellings. The facades enhance the street and contextual character of the site whilst responding to the building's use and integrating the building services. Roof services, such as lift overruns and plant are disguised within the roof line and the 5th mezzanine level of the apartments. Roofs are low-pitched steel roofs designed to be virtually invisible to the pedestrian. Pergolas provide shading to the roof terraces and provide interest to the facades whilst minimising their visual impact.

The Units have been assessed under BASIX to pass the required water, energy savings and thermal performance requirements.

BASIX (Building Assessment Sustainability Index)

A BASIX assessment has been completed on every residential dwelling upon the site and takes into account the shared pool facilities in the water calculations to ensure the best sustainability outcome across the site.

The BASIX tool was used throughout the development of the residences to ensure the best possible water and energy savings were achieved. It was also utilised to ensure the thermal properties of each residence was achieving the required rating whilst still providing adequate glazing to ensure that the filtered light within the forested areas was maximised to the residences and optimum views were provided without compromising privacy.

The houses all achieve passes on the thermal rating and achieve the 40% energy and water savings as a minimum.

The apartments all achieve a pass on the thermal rating, meet the 40% water saving requirements and achieve the 30% energy saving as a minimum.

Coastal Design Guidelines for NSW

Coastal Development

Coastal settlements have the potential to offer a diversity of lifestyle choices in terms of accommodation, recreation and employment opportunities. They have the added benefit of

being located close to extensive open spaces, beaches, waterways, surrounding bush and agricultural lands.

The higher the density of development the greater the requirements for quality design to maintain amenity and ensure equality in the development potential for all sites.

The Vision

The **vision** for built form in coastal settlements is that all buildings are sensitively designed within their existing context so as to contribute positively to the settlement character in terms of form, height, footprint, scale, massing, amenity, external appearance and materials.

Design Guidelines for Appropriate Buildings in a Coastal Setting

Guidelines for built form relate to the desired future character of the settlement or the precincts within the settlement. This is determined through place based planning studies. A number of overarching design principles can also be set to guide design along the coast and these overarching urban design principles are used as the basis to frame place specific built form guidelines and controls.

There are a number of built form guidelines underpinning new development independent of its location:

It can be seen by evaluating the following guidelines that many of them apply to conventional sites and settlements where established urban patterns already exist and where new developments are being inserted.

In the case of this proposal the street patterns, setbacks, lot sizes are not considered in a micro lot by lot scale but rather the buildings are sited and designed as part of the unique environment of the larger site.

1. Develop risk assessment and responses to address the effects of coastal processes. Locate and design buildings to respond appropriately within the local hazard context.

The site has been the subject of numerous studies to establish the suitability of the proposed development. The impact of the development on the coastal processes will be minimal as the site is located some 500 meters from the waters edge, it will not be seen or viewed from the beach and The Lakes Way and is of a scale whereby the development only occupies 46% of the total site and the balance of the site is seamlessly integrated in to the adjoining Booti Booti National Park. Reference should be made to the Specialists Reports identified in the Background Section of this report.

2. Reinforce the clarity of the settlement structure with new buildings that are appropriate in terms of location, uses, scale, height and site configuration.

The proposed development is a unique residential settlement based on the community title legislation that will generate an open, consistently integrated landscape theme throughout. The buildings have been scaled to suit the precinct they inhabit in terms of scale, height and site configuration. Each building has been sited to avoid existing trees and orientated toward north to maximise solar penetration.

3. Reinforce the desired future character of the settlement

The site has been divided into five freestanding housing precincts and two apartment precincts. Each precinct has its own character both in the architectural expression of colour, materials and built form and with the nature of the predominant landscaping material.

4. Consider the appropriateness of the new buildings within the whole street scape, rather than each building as a stand alone object building.

The proposed development has been considered in a holistic sense by creating different precincts and different landscape characters in these precincts. This has been the generating force which in turn is what creates the streetscape. Combine this with the conditions of the Community Title Legislation where the landscape becomes seamless between the buildings with no fences to be used between the lots and a very defined streetscape will emerge.

5. Maintain consistent street setbacks and street edge configurations.

As discussed in the above point, the streetscape will emerge. Street setbacks have been considered in the site planning of the buildings so all houses have a view to central landscaped areas or they view toward the surrounding open space bushland. The street edge is dominated by the natural and proposed landscaping rather than the built forms which are oriented around the existing vegetation and to achieve true north solar orientation.

6. Ensure buildings address the street by providing direct and on grade entries to the street for residential, commercial and retail purposes

All buildings will have direct access to the street with undercover car parking and immediate and adjacent pedestrian access. All apartment buildings will have central foyers and lobbies leading to lifts for upper level access. In some cases direct access will be provided to the apartments at the ground level. All foyers will be at ground level or at a maximum height of 900 mm above the adjacent street level and will be connected by disabled ramps and stairs to create a separation between the street and the private domain.

7. Rationalise car related uses on site, such as driveway widths and lengths

All individual residential parking will be accommodated in attached or detached garages or carports with space in the foreground driveways for visitor parking where possible. Each house will accommodate two cars. The garage doors where possible will be discretely located.

The parking for the apartment buildings will be located in a basement structure and will be accessed via two driveway ramps located at discrete points on the perimeter of the development.

8. Protect views from public places and streets by maintaining consistent setbacks along the street and not placing buildings in view corridors.

Views from public places will be minimised. From the surrounding areas there is only one access road to the beach located on the southern boundary of the site with a 200 to 450 meter buffer of natural landscaped space to the nearest building. Additionally the site is an isolated site and does not interface directly with the coastal water ways and public open space as the nearest boundary to the east is some 500 meters from the beach.

9. Protect local views and vistas throughout and surrounding the settlement from public places by relating new buildings to the topography, reducing heights to maintain views of the surrounding landscape and maintaining consistent height, bulk, scale with the street and local context.

The detached houses are generally of a two and one storey pavilion nature with low skillion or flat roofs and will not be visible from the surrounding public places. The apartment buildings, although five stories in height will not be visible at all from the public space of the Seven Mile Beach as they will be totally screened by the existing topography and the existing landscape.

10. Ensure the controls are coordinated to produce the desired building form and site configuration for developments. These controls include uses, building height, building depth, building separation, street setbacks, side and rear setbacks and floor space ratios.

The buildings have been designed as a holistic development creating a unique outcome while still respecting building design controls of acceptable height, depth, separation and setbacks. Floor space controls are not a valid way of controlling building outcome on this site as only 46% of the total site is being used for development.

11. Ensure developments and neighbouring properties have access to daylight, access to natural ventilation, visual privacy and acoustic privacy, private open space and a pleasant microclimate

All buildings have been sited to be mindful of the relationship to other buildings in considering daylight, natural ventilation, visual and acoustic privacy, private open space and a unique and pleasant micro climate. The apartment buildings have been designed to comply with the requirements of SEPP65.

12. Achieving amenity relates to the design of individual buildings and, in particular to building orientation and depth, the size of the lot, open space, carparking location and access, pedestrian access from the street, street frontage, building separation, mature trees, vegetation and soil areas

All buildings have been designed to account for achieving a good amenity for and between buildings. As the development has been designed as a Community Title development, no fences and a seamless landscape between houses makes the lot size of each house irrelevant from a visual and design point of view. It is only relevant from an administrative and legal point of view. The apartment buildings have been designed to comply with the requirements of SEPP65.

Design Principles for Coastal Settlements

The five principles for coastal settlement structure describe elements of the public domain and the built form that reinforces it. They are presented as best practice outcomes and form the basis for understanding, debating and designing the present and future form of coastal settlements in NSW.

It can be seen by evaluating the following guidelines that many of them apply to conventional sites and settlements where established urban patterns already exist and where new developments are being inserted.

In the case of this proposal the street patterns, setbacks, lot sizes are not considered in a micro lot by lot scale but rather the buildings are sited and designed as part of the unique environment of the larger site.

The five principles are:

a. Defining the Footprint and boundary of the settlement.

The boundary of development has been defined through numerous ecological, heritage and bushfire studies across the site and broken further into a series of desired precincts within the

developable area as indicated in DCP 40. The developable area equates to only 46% of the overall site with the remaining 54% of the site set aside as conservation and buffer areas with additional landscaping and open space areas forming buffers between each of the precincts.

b. Connecting Open spaces

A series of open spaces have been designated across the site for swimming pools, parks, playgrounds, community facilities, cafes and recreation. These are linked via a series of walking, jogging and cycle paths which connect the various precincts of the development with the beach access and the Lakes Way. The perimeter cycleways double as fire accessways and delineate the developed area from the conservation precincts. Defined boardwalks enable pedestrian access to the conservation precincts providing opportunity for interpretive walks.

c. Protect the natural edges

The development is set back 500m or more from the foreshore and therefore does not impinge on coastal processes. No part of the development is visible from the beach. The area between the site and the foreshore is partially degenerated due to previous sand mining activities and existing vehicular access. This area is proposed to be regenerated and a new public access road in the southern portion of the site is to replace the existing road and enable further regeneration along the foreshore.

d. Reinforcing the street pattern

A street hierarchy has been developed throughout the site with a main access road leading from the entry to the eastern edge of the development where higher density living, commercial suites and café are provided along with parking areas to enable residents to join the designated beach accessway. Smaller secondary roads lead off the principal road to the various precincts and shareway roads are utilised in quieter areas. Linking into the road system the perimeter roads as designated cycle and pedestrian ways connect the site along northern and southern trails. Pedestrian ways weave internally through the site crossing vehicular roads at designated crossings and connecting with the cycleway network.

e. Appropriate buildings in a coastal context

The site comprises of 8 built precincts offering a diversity of buildings across the site each designed to suit its immediate environment whilst enabling a cohesive development. Community buildings in the "Boardwalk" precinct sit within the natural bushland at the entry of the development on a raised boardwalk which is the starting point for the various access ways across the site.

Houses in the north west "Forest" precinct are designed to sit amidst the existing trees, as a series of 2 storey pavilions on raised decks, many with detached single storey garages.

Houses in the south west isolated "Palms" precinct are located amidst taller trees and require smaller footprints to minimise their impact on the existing vegetation and are therefore designed as a series of 2 and 3 storey houses on raised decks lightly touching the ground. Houses in the Crest precinct occur in a variety of open degraded previously sand mined land and the start of the treed areas. Its locality to the Community and retail boardwalk in conjunction with the openness of portions of this precinct provide opportunity for higher density living. Therefore a variety of detached and attached two storey housing on ground is provided with accessible housing options.

The "Dunes" precinct is the site of a previous sand mine and is denuded of vegetation. It offers the opportunity to provide a more urban streetscape of 2 storey on ground housing that maximises passive design and solar north orientations.

Houses in the north-east "Fronds" precinct are buffered from the surrounding development by designated open spaces and existing treed areas which become increasingly denser towards the northern tip. However, their proximity to the more urban landscape created in the dunes and the neighbouring apartments and community facilities enable attached housing options of two stories reducing to detached housing in the northern tip.

The apartments of the "Cove" precinct are located at the eastern end of the development and are designed to continue the streetscape of the dunes precinct in their built form whilst creating an end to the development and a catchment point for community activities. The apartments are 4 stories at their outer edges rising to 5 stories around the service cores and lift overruns. They are designed to utilise northern and southern views so that they do not overlook the neighbouring housing precinct of the Dunes. A central open space provides amenity to both the housing and apartments in the vicinity whilst a shareway road and landscape buffer between housing areas and the apartments provides privacy and a definition between precincts.

In the south eastern "Point" precinct apartments of 4 stories at their outer edges rising to 5 stories around the service cores and lift overruns sit upon the extremity of the previous sand mining activities in a very disturbed and treeless part of the site. They are sited directly adjacent the Cove apartments creating a street edge to the main road and are buffered from the housing precinct by open space, landscaping and tennis courts.

Appearance of all Buildings on site and from areas surrounding the site

Appearance of the Buildings from surrounding Areas

The development zone within the site is surrounded by designated Conservation Areas to the North and South that provide a significant buffer, completely screening the development from the adjacent sites of the Sewer Works, to the North, and Booti Booti National Park, to the South.

A 40m buffer to The Lakes Way of retained and regenerated vegetation shields many of the buildings from the road. Only glimpses of the buildings may be evident between the trees. The

entry area retains the existing characteristics of dense palms along the entry road and will be further enhanced with relocated palms. No direct site lines to the buildings are provided from the site entry or emergency egress points provided on the site.

To the East, buildings are set back a minimum of 40m from the boundary and more than 500m from the beach, shielded by both existing trees and proposed landscaping and regeneration to the natural habitat. The Booti Booti National Park and coastal zone adjacent consists predominantly of tall open heathland that stretches into denser forests of large Eucalypts further North and South. In addition, the heathland, much of which is new growth previously stunted from vehicular traffic and previous sandmining activities on the site, is proposed to be regenerated as part of the initial stages of development and will provide complete obscuring of the development from the beach and its new access as agreed with NPWS. At its closest point the new NPWS road will be total distance of 150m from the nearest building.

The only high points around the site are to the north east at Janie's Headland. Any views of the site from this area are obscured by the dense vegetation between the headland, the Sewer Works and the site.

The material and colour palette of the buildings across the site is sympathetic to the existing natural environment.

Appearance of the Buildings on Site.

The buildings on the site are developed in a series of 8 distinct precincts that reflect building types and the immediate environment whilst ensuring some diversity across the site. The precincts are broken up as follows:

- The Boardwalk – Single and two storey Retail & Community Facilities at the gateway to the development opening around a central, active landscaped area.
- The Forest – Two storey, pavilion style detached residences and garages in a forested environment designed to sit within and around the existing trees.
- The Crest – Attached and detached two storey residences that link the varying precincts with the Boardwalk and provide a more urbane housing type.
- The Palms – 17 detached residences with small footprints up to three storeys to fit between the forest and palms trees.
- The Dunes – Two storey detached residences and attached garages along a street front within an open denuded area of the site enabling them to take full advantage of solar north orientation & have winter and summer gardens.
- The Fronds – Predominantly attached residents that become slowly detached as they move north into a more forested area.

- The Cove – 2 buildings of Apartments of 4 stories plus a setback 5th storey, with retail and Community Facilities wrapping around a central pool near the Eastern boundary creating a vibrant communal space.
- The Point – 4 buildings of Apartments of 4 stories plus a setback 5th storey in the quiet South Eastern corner of the site at the edge of the previous sand mining activities around private pool & spa facilities.

Within each precinct, the buildings have been designed to integrate with the natural landscape in terms of form, material and colour. Building colours and materials have been sympathetically selected to fit within the natural vegetation of each precinct and ensure the development blends with the existing vegetation and coastal environment.

Each precinct is connected by pedestrian and cycle paths via the community facilities located in and at the junction of the various precincts. These community facilities, in conjunction with the fenceless allotments provide a sense of space and openness between residences and between precincts.

Building streetscapes vary between the precincts. The Boardwalk sets the overall theme for the development sitting within the natural landscape and integrating the trees into its overall form, even allowing them to grow through its roof. The buildings are light and airy, embrace a central northern court and utilise natural timbers, exposed aggregate blockwork, rendered walls, steel, glass and metal roofs.

In the Forest and Palm areas, the natural vegetation is the predominant streetscape with houses sited according to the tree locations and solar north orientation to indoor and outdoor living areas. Houses are raised pavilions with outdoor living decks and screen rooms perched lightly on the natural environment. The materials are lightweight using colours derived from the natural bushland tones and accents. Skillion roofs float delicately over the dwellings providing shade and shelter.

The Crest and Fronds areas provide a denser but varied streetscape broken down by the existing vegetation, providing view corridors into the surrounding bushland and parkland. They connect with the ground and utilise thermal massing from face blockwork and rendered hebel walls. A variety of near flat and skillion roofs create diversity to the facades in form and heights along the streetscape. The curving roads further enhance the perspective of the buildings creating interest along the streetscapes. A maximum of 4 dwellings are attached at any point along the roads.

The Dunes housing is located along a more traditional and straighter road form enabling north-south orientation with views to the communal pool or surrounding bushland. The building forms are on ground housing of single and two storey configuration with a variety of roof forms. House types along the street are located in a 'random' fashion to ensure a natural streetscape

is maintained. The buildings are glass and lightweight materials integrated with the thermal massing of the exposed aggregate blockwork and rendered hebel walls. The colours reflect the nature of the surrounding bushland whilst being sympathetic to the introduced landscape and pool environment. Highlight colours provide a sense of uniqueness to the housing.

The Cove & Point apartments nestle into the introduced palm landscape and wrap around a central pool. The use of exposed aggregate blockwork and natural timber screens connects the apartments to the housing landscapes. The fifth floor of all apartments is set back on all sides so that it recedes into the natural roof line of the buildings and they appear as only 4 storey dwellings. The apartments are sited to continue the streetscape of the Dunes precinct whilst having an ample buffer to the housing, segregated by streets, landscaping and outdoor recreation facilities. The large entry void light wells, open stairs and coloured balcony divisions break up the rendered walls, glass facades, concrete balconies and timber screens. The roofs are low pitched with pergolas over decks minimising the visual impact of the buildings from within the site. The appearance of the apartments is discussed in further detail in the SEPP 65 report.

Overshadowing

A complete overshadowing analysis has been used as a design tool throughout the development of the overall site master planning and individual building designs to ensure good solar amenity is provided throughout the year to all residences and surrounding public spaces.

Shadow diagrams have been prepared as part of the proposed project submission showing the shadows cast by buildings on Winter solstice, June 21st, at 9am, 12pm and 3pm. At no point are shadows cast onto any areas outside the site or onto the proposed relocated NPWS road within the southern portion of the site.

Safety

The development is a gated community, in terms of vehicular access to the site, enabling access to residents and their guests. The Boardwalk precinct is accessible to the public enabling service vehicles and buses to enter the site without disturbing the residential areas. The Point apartment precinct is accessible directly from the new NPWS road traversing the southern boundary of the site allowing service vehicle to access the apartments and retail components without needing to drive through the residential housing precincts. This reduces traffic along the residential roads and provides a more pedestrian and cycle friendly environment.

The internal private roads are low speed with good sight distances. Crossing points where paths meet roads are delineated by a small central island along straighter stretches of roads to ensure traffic calming and provide refuge for pedestrians. All crossing points are visually accentuated by a change in road material and texture and landscaping is designed to ensure visual access for both pedestrians and motorists is not impaired.

A system of segregated cycle and pedestrian ways across the site, discreet from the road system, offer safe and alternative means of travel throughout the site. The cycleway is proposed to be linked to the town centre as part of the development initiative to provide safe passage and greener travel alternatives to commuting residents.

Care and attention has been paid to the placement and design of buildings and community facilities to ensure that safety issues of visual access are addressed. All buildings are sited to ensure visual amenity to the entry is not obscured enabling safe access to the building. Residences wrap around community facilities, such as parks and pools, and overlook perimeter pedestrian and cycle paths providing opportunity for community surveillance. Community facilities are sited adjacent outdoor recreation areas and secure playgrounds providing safe facilities for children.

Site monitoring by constant closed circuit TV will further provide security to recreation facilities and bushland paths.

The project is to principally be a private residential community project with public access generally limited to the Boardwalk Community Buildings area, which is proposed to include a gym and limited retail / commercial component. The remainder of the site is to be comprised of a series of different residential precincts with controlled access and restricted use of common recreational facilities and open space. Freestanding houses are to have private garden and courtyard areas, with limited fencing on the basis that informal open space between buildings is to provide a shared visual amenity. Apartment residential areas of the project are to have common open space areas, with secure areas of courtyard for exclusive use of residents in some areas.

Across the site there are extensive private and common facilities and open space that is to provide both passive and active recreational amenity. In private gardens and common open space there are pools and spas, terraces and lawn areas for seating and passive recreation. Open space areas include generous open parkland and forest areas, with walkways and cycleways linking common areas and providing access beyond the secure precinct areas towards beach access paths.

The design of all landscape and open space areas and facilities has had a high regard for achieving required codes and standards in regard to safety and accessibility. This includes direct observation of regulations regarding pool signage, fencing, depth markers, over-water

bridge clearance, visibility, provision of safety rules signage, and all similar aspects as set out in State and Local swimming pool design codes. Water feature depths in open space areas also have been designed with regard to ensuring the minimal water depths are provided according to code in order to avert the risk of drowning.

More generally, design principles relating to achieving actual as well as perceived safety have been observed, with adherence to the principles of Crime Prevention Through Environmental Design. Crime Prevention Through Environmental Design (CPTED) is based on the premise that proper design and effective use of the physical environment can produce behavioural effects that will reduce the incidence and fear of crime, thereby improving the quality of life and general operational safety of buildings and the adjoining spaces. These behavioural effects can be accomplished by reducing the propensity of the physical environment to support criminal behaviour"

Put simply, CPTED is based on the idea that people's behaviour within the urban environment, particularly in terms of the possibility of offending, as well as an individual's perceptions about their safety is influenced by the design of that environment. CPTED, therefore, involves the application of a range of design initiatives and principles to an area or site to minimise the potential for that site to facilitate and support criminal behaviour.

So, CPTED recognises that there is a relationship between the design and management of the physical environment, and human behaviour and aims to improve safety and prevent crime by designing a physical environment that positively influences human behaviour. It is one tool in crime prevention and community safety that can be considered when designing a site or structure, when redeveloping a site, or when responding to actual crime incidents and is best incorporated at the planning and design stage of a development.

With specific regard to the Seven Mile Beach project, each precinct as well as the overall relationship of the site as a whole was designed to take into account the principles of CPTED in both the planning of outdoor spaces and their relationship with buildings, as well as the detail design of the outdoor areas.

The open context of the buildings provides great benefit to the general visibility around the buildings. Lighting design, location of access and egress paths, parking area design, and main arrival locations have all taken into account the principles of CPTED. For this reason it is concluded that the project satisfies the CPTED requirements..

Relationship to surrounding areas, including visual impacts from prominent and public coastal locations

Relationship to Surrounding Areas

The site is located approximately 4 minutes South of Forster town centre and within 2 minutes of the South Forster shopping and commercial precinct, schools and playing fields and the water recreation facilities of Wallis Lake and Seven Mile Beach.

Existing infrastructure services and facilities are readily available for the site and negotiations to extend the bus service to the site and create a cycleway to the Lakes Estate have been successfully concluded.

The natural landscape buffer and conservation precincts surrounding the site ensure the development fits seamlessly within its context. The natural vegetation also shields any views of the development from surrounding areas including the prominent Janie's Headland. The natural dune environment and existing landforms between the coast and the development in conjunction with the existing and proposed regenerated vegetation ensure that the development is entirely screened from Seven Mile Beach and surrounding foreshore areas, including public paths and the relocated NPWS road. This point is discussed further under *SEPP 71* and the *Coastal Design Guidelines for NSW*.

Site Permeability & Pedestrian & Bicycle Movement to, within & through the site.

The overall master plan across the site creates a sense of permeability within the development. The site is permeated by a series of pedestrian, cycle and jogging tracks that link the community facilities and outdoor recreation zones across the site with the varying residential precincts. These paths are then linked to the surrounding areas such as the NPWS road and beach path, The Lakes Way and the proposed cycle link to the Lakes Estate north of the site.

The Boardwalk community and retail precinct is the central hub of the development located at the site entry. From here a network of pedestrian and cycle ways directly link the precincts and the community nodes to the interpretation trails in the conservation precinct, jogging tracks and fitness stations, parks, pools, playgrounds and ultimately the beach access and National Park road.

A series of perimeter trails provide shared pedestrian, cycle and fire truck access around the site development area and connect to emergency egress points North at the Sewer Works, South at the NPWS road and West onto the Lakes Way. These trails also link back onto the main vehicular traffic network within the site and many of these roads become low key shareways. Central to the site a designated pedestrian path connects from the perimeter trail at the Forest's North-western park and picnic grounds across the Pool and dry creek bed towards the Crest where you can diverge and walk to the Boardwalk and onto the Palms or

continue through the Crest and the Playground to the Dune's pool and the Cove retail and community facilities. These pedestrian paths provide alternative means of walking between destinations whilst offering a variety of scenery and trails such as interpretative boardwalks and sculpture trails.

Fenceless allotments also enhance the permeability of the site, allowing properties to feel as though they extend into the surrounding bushland or community pools and parkland. Privacy between dwellings is maintained through the existing and introduced landscaping without interrupting vistas along trails between dwellings and community areas or between visual features such as the pools and the main road system through the development.

State Environmental Planning Policy No. 65

The State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development is a resource to improve the design quality of residential flat development.

It is based on the principal that good quality buildings help improve the quality of life of its occupants.

There are 10 Design Quality Principals within the SEPP and the proposed design has responded to these principals as follows:-

Principle 1: Context

- *Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.*

The two distinct apartment precincts are located within the larger site development area comprising an administration, community, recreation and retail facility, residential precincts of varying character to respond to the different environments, within and surrounding a variety of recreational facilities. The proposed apartment developments comprise two precincts, “The Cove” and “The Point”.

The Cove precinct comprises two apartment buildings with a maximum of five floors over a single level basement car park, with ground floor retail and private recreation facilities wrapping around a community rock pool. The building has two aspects, one looking into the community rock pool area and the other outward looking toward the surrounding bushland and national park.

The Point precinct comprises four apartment buildings with a maximum of five floors over a single level basement car park, with private recreation facilities wrapping around a private pool and recreation area. The building has two aspects, one looking inwards toward the private pool and recreation area and the other outward looking toward the surrounding bushland and national park.

Overall the proposal has responded well to the natural landscape and forest context. The high quality, overall standard and size of the proposed buildings will bench mark a new standard for the local area, providing a good precedent for future development of this nature.

Principle 2: Scale

- *Appropriate scale in terms of bulk and height that suits the scale of the street and surrounding buildings.*

- *Establishing an appropriate scale requires a considered response to the scale of existing development.*
- *Precincts undergoing transition – proposed bulk and height needs to achieve a scale identified for the desired future character of the area.*

The proposed buildings are all essentially four storeys in height with a recessive fifth floor or Penthouse mezzanine floor. The recessive fifth floor reduces the apparent height of the building and enables the horizontality of the buildings to be reinforced.

All apartments are provided with deeply recessed balconies that create a sense of lightness and openness synonymous with seaside apartments.

Although there are no existing surrounding buildings these apartments are been sited to compliment their scale in relationship the adjoining two storey residential precincts while at the same time providing the opportunity for the upper levels to obtain a view toward the Seven Mile Beach and the Pacific Ocean.

Principle 3: Built Form

- *Appropriate built form for site in terms of building alignments, proportions, building type and manipulation of building elements.*
- *Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas and provides internal amenity and outlook.*

The buildings have been aligned in such a manner as to provide the ideal orientation allowing for good passive surveillance of the surrounding areas while at the same time creating contained courtyard areas suitable for the inclusion of private and community spaces.

The proposed rectilinear nature of the building forms helps to generate the central courtyard that receives good solar access. The outward orientation of the buildings maximises the views to the surrounding bushlands and the Seven Mile Beach and Pacific Ocean while providing natural cross ventilation and good solar access into the apartments.

Large balconies and adjustable sun shades are placed on the Northern, Eastern and Western sides to protect from summer heat gain whilst also retaining the best view thus adding value to the amenity of the apartments.

Principle 4: Density

- *Density appropriate for a site in its context in terms of floor space yields (or number of units for residents).*

- *Appropriate densities are sustainable consistent with the existing density in an area or stated desired future density.*
- *Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

A holistic approach to the development of the site has been taken which provides for a comprehensive infrastructure of shops, restaurants, gym and other community facilities to service not only the apartment buildings but also the 199 individual houses forming the balance of the development.

There are six proposed buildings containing 118 apartments with 278 basement cars. The buildings will be supported by a comprehensive services infrastructure supplied to the site.

Principle 5: Resource, energy and water efficiency

- *Efficient use of natural resources, energy and water throughout its full life cycle including construction.*
- *Sustainability – demolition of existing structures, recycling of materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

The development has been based upon current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials. All residences are to comply with BASIX to ensure a minimum of 40% reduction in water usage and a 25% reduction in energy usage. In addition all buildings are to utilise solar energy and grey water recycling where possible to ensure highest level of water and energy efficiency across the site.

The placement of this proposed residential building within an overall development infrastructure will enhance sustainability through the use of common and shared facilities.

The proposed building has a narrow building width with dual orientation to most apartments allowing natural cross ventilation and good solar access to all parts of each apartment. Substantial concrete and masonry is used in the dividing walls and floors to maximise thermal mass within the building. The ceiling heights are generous and allow for optimum solar access into the building. Large balconies and adjustable sunshades are placed on the Northern, Eastern and Western sides to protect from summer heat gain.

Energy efficiency will be enhanced through the selection of appliances with a high energy efficient usage/rating for their intended use. The design also incorporates low maintenance structures and finishes. All apartments will be supplied with solar heated hot water and will comply with BASIX.

Principle 6: Landscape

- *Landscape and building operate as an integrated and sustainable system resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*
- *Landscape design built on the existing site's natural and cultural features in responsive and creative ways. It enhances the development's natural and environmental performance by coordinating water and soil management, solar access, microclimate, tree canopy and habitat values.*
- *Contributes to the positive image and contextual fit of the development through respective streetscape and neighbourhood character or desired future character.*
- *Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbour's amenity and provide for practical establishment and low term management.*

The proposed buildings and associated roadways have been sited in order to protect existing trees wherever possible, with the trees being acknowledged as a major asset of the site. The proposed landscape design elements include not only planting but also treatment of the roadway and allied pathways, and have included consideration of lighting, signage, low walls and fencing, timber screens, and sculpture elements.

Planting design has been developed to reinforce the endemic character of the site, acknowledging that some exotic species are included in order to provide best visual outcomes in the context of a long-term managed environment. The planting design provides layers of planting that present to views from the streets, paths and open space areas around the buildings, and in the private courtyards. The layering of planting assists in ensuring that visual access is provided between spaces, and assists passive surveillance of areas and a general feeling of comfort and safety for residents and visitors alike.

The built landscape elements such as paths and structures as noted have been developed as a coordinated 'family' of elements that provide a setting that compliments the architecture and building finishes. In addition, a number of Cabbage Tree Palms are proposed to be relocated from elsewhere on the site to this location..

Civil engineering coordination has occurred in order that the landscape treatments address the overland water flow paths, and to provide appropriate treatment for swales and bio-retention treatment ponds. Irrigation is to utilise recycled water from the adjacent sewerage treatment works.. Bushfire risk assessment has been considered and the provision of Asset Protection Zones, stratification of landscape, separation of canopies, and on-going fuel reduction by management is understood to have satisfied the Rural Bushfire Service requirements.

Environmental consideration of fauna habitats has been incorporated in the landscape design through extensive consultation with the environmental consultants, and a suitable outcome in terms of protection of habitat trees and achieving continuity of fauna movement corridors is understood to have been achieved.

The landscape provides an appropriate landscape setting for the development in context and harmony with the natural setting. The environmental impacts of the proposals on the landscape have been minimised, and the new landscaping provides supplementary tree, shrub and understorey planting that will provide a positive impact.

Principle 7: Amenity

- *The design provides amenities for the physical, special and environmental quality of a development.*

Efficient apartment layouts provide a high level of residential amenity and maximises the environmental performance by allowing natural ventilation, orientating living areas to views and sun, providing flexible and useable balcony spaces, arranging rooms to maximise visual and acoustic privacy and generous ceiling heights for optimum solar access into the building. The majority of apartments are larger than usual with apartments ranging in size from 65 to 113 sq m internally for a 1-bedroom apartment and 159 to 336 sq m internally for a 4-bedroom apartment.

A communal open courtyard provides a high quality landscaped environment that includes a pool and passive recreation areas. This provides a landscape refuge whilst creating a great secondary outlook for all apartments.

Spacious balconies and terraces have been provided of adequate depth (min 2.5m) to accommodate tables and chairs, thereby promoting outdoor living.

Acoustic and visual privacy is maintained by ensuring significant separation between apartments and by orientating habitable rooms away from each other. Where shutters and sun screening devices are used they also double as privacy screens at night.

Ramp access has been provided from the street to the main foyer and internal courtyard space. Lift access has been provided to all apartments with 10% of apartments, in a variety of buildings and floor levels, being designed to meet adaptable housing needs. The Access Report provided with this application demonstrates that a high level of accessibility is achieved within the proposed design.

Principle 8: Safety and Security

- *Good design optimises safety and security both internal to the development and for the public domain.*

Access to the site on a macro scale will be controlled through a system of intercoms and electronically controlled gates. The individual houses will not be divided by fences with the landscape creating a seamless and permeable relationship throughout the development thereby optimising the security. The residential apartment buildings are grouped around communal courtyards thereby creating cross security opportunities.

Principle 9: Social Dimensions

- *Good design responds to the context and needs of the local community in terms of lifestyle, affordability and access to social facilities.*
- *Optimise provision of housing to suit the social needs of the neighbourhood or provide for the desired future community.*

The development has provided for a mix of apartments that cater to a variety of families and a range of affordability's. The proposed mix is as follows:

1-bed = 3	(2.5%)
2-bed = 46	(39%)
3-bed = 68	(57.5%)
4-bed = 1	(1%)

In response to market investigations and regional demographics, the development provides a diversity of apartment types that cater for a mix of occupants and a range of affordability's. Ramp access and lift access has been provided to all parts of the development thus allowing for disabled access to all levels and thereby promoting the principle of 'equal access'. The apartments are in walking distance to all amenities proposed on site and are in an ideal location for a high quality residential area.

Principle 10: Aesthetics

- *Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.*
- *Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or in precincts undergoing transition, contribute to the desired future character of the area.*

The bulk of buildings are made up of a large grided balcony structure and adjustable sun controls creating visual interest to the buildings. The 4th level is setback from the bulk of building and ends in a lightweight-floating roof that caps the building. These elements help to define and articulate the façade whilst the recessive top edge of the building creates a skyline cap to visually anchor the building to the ground.

Contrast and variety have been created between the two precincts of The Cove and The Point with the change in plan form resulting in a strong contrast between the two precincts.

The Cove responds to the open, communal streetscape nature running on a central spine across the site while creating a sympathetic contrast between the end of the built environment and the conservation buffer to the beach. The two buildings wrap around a central court that connects visually with the central recreation spine running through the site.

The Point is a more private setting addressing the streetscape but opening to a private court and the beachside.

The materials, colours and finishes that are used in the development are of an excellent standard and quality and will create a new bench mark for developments of this nature.

Design Verification Statement

I am a qualified designer and am registered with the Board of Architects (Registration Number 3555) and verify that:

(a) I have designed and directed the design of the proposed Residential Building at Lots 103, 142 and 178 of DP 753168 The Lakes Way Seven Mile Beach Forster NSW consisting of 118 apartments and 278 car spaces.

(b) The design quality principles set out in Part 2 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development are achieved for the residential apartment development.

Yours Faithfully

A handwritten signature in blue ink, appearing to read 'Garry Bray', with a long horizontal flourish extending to the right.

Garry Bray

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APPENDIX C

DRAFT PLANNING AGREEMENT

Draft 6

Date: 14 December 2006

Time: 12pm

Planning Agreement

SMB Developments Pty Limited

Great Lakes Council

- Notes:**
1. Prepare Explanatory Note
 2. Prepare covering letter explaining rationale for monetary contributions if not covered in Explanatory Note

Planning Agreement

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Details

Date

Parties

Name	SMB Developments Pty Limited
ABN	ACN 103 163 560
Short form name	SMB
Notice details	Level 2, Edgecliff Centre 203-233 New South Head Road EDGECLIFF NSW 2027 Facsimile <i>[insert]</i> Attention Robin Wise

Name	Great Lakes Council
Short form name	Council
Notice details	Breese Parade FORSTER NSW 2428 Facsimile 6591 7200 Attention Roger Busby

Background

- A SMB has sought changes to the GLLEP, the environmental planning instrument that applies to the land, to provide for increased development opportunities on parts of the land whilst at the same time affording protection to parts of the land that are of environmental value.
- B SMB has offered to enter into this Agreement to make Development Contributions towards the Public Facilities if the changes are made to the GLLEP.

Agreed terms

21. Defined terms & interpretation

21.1 Defined terms

In this document the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Application means the application for approval of the Project under Part 3A of the Act by SMB, or for development consent by the Council.

Approvals means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements issued by or on behalf of any Authority which are required by Law for the commencement, carrying out or use of the Works.

Authority means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body and includes, where applicable, an accredited certifier accredited under section 109T of the Act.

Business Day means:

- (a) for receiving a notice under clause 12, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is sent; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.

Business Hours means from 9.00am to 5.00pm on a Business Day.

Consent Authority means, in relation to the Application, the Authority having the function to determine the Application.

Contributions means the obligations imposed on SMB (including the benefits to be provided by SMB) under, and by virtue of, Schedule 1 ("Contributions Schedule").

Contributions Schedule means the terms and conditions imposed on the relevant parties under, and by virtue of Schedule 1 ("Contributions Schedule").

DCP means "Development Control Plan No. 40 for Eco-Living Residential Development, The Lakes Way Seven Mile Beach, Lots 103, 142 and 179 DP 753168" adopted by Great Lakes Council.

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Development Contribution means a monetary contribution or the provision of a material public benefit.

Development Procedure means the terms and conditions imposed on the relevant parties under, and by virtue of, Schedule 2 ("Development Procedure").

Dual Occupancy means a building containing two dwellings only.

Dwelling means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

Dwelling-house means a dwelling which is the only dwelling erected on an allotment of land.

Dwelling-house Lot is a lot in a plan of subdivision of the Land or part of the Land, upon which a Dwelling-house or Dual Occupancy is capable of being erected in accordance with the DCP.

GLLEP means the Great Lakes Environmental Plan 1996 as amended from time to time

Gazettal means the publication in the NSW Government Gazette of a notice by the Minister administering the Environmental Planning and Assessment Act 1979 notifying the making of a local environmental plan in substantially the same terms as the draft local environmental plan in Schedule 2 hereto, so as to amend the GLLEP.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means Lots 103, 142 and 178 DP 753168 known as The Lakes Way, Forster.

Law means:

- (c) the common law including principles of equity; and
- (d) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws or consents by an Authority,

presently applying or as they may apply in the future.

LEADR means LEADR, Association of Dispute Resolvers located at Level 9, 15 - 17 Young Street Sydney, NSW, 2000.

Minister means the Minister administering Part 3A of the Act.

New Law means a Law that is amended, varied or changed or a new Law either of which comes into force on or after the date of this planning agreement.

Party means a party to this agreement, including their successors and assigns.

Public Facilities means the facilities referred to in Schedule 1.

Residential Flat Lot is a lot in a plan of subdivision of the Land or part of the Land, upon which a Residential Flat Building is capable of being erected in accordance with the DCP.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Residential flat building means a building containing three or more dwellings.

Subdivision certificate means a subdivision certificate issued under Part 4A of the Act.

Works means any works approved in the Approval granted by the Minister under Part 3A of the Act or in a notice of determination issued under the Act by the Council.

21.2 Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;

- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) any schedules and attachments form part of this agreement;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it; and
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

21.3 Headings

Headings are for ease of reference only and do not affect interpretation.

22. Planning agreement under the Act

The Parties agree that this planning agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

23. Application of this Agreement

This planning agreement applies to the Land.

24. Operation of this Agreement

This planning agreement operates from the date of Gazettal. However if Gazettal does not occur within 12 months from the date of this agreement, either party may rescind this agreement.

25. Development Contributions to be made under this agreement

- (a) The nature and extent of the provision to be made by SMB under this agreement is the payment of monetary contributions to and the carrying out of works as material public benefits for the Council as set out in Schedule 1 hereto.
- (b) The times by which the provision is to be made are also set out in Schedule 1.
- (c) Obligations to be performed by or on behalf of SMB by this agreement shall be performed at no cost to the Council.

26. Application of the Development Contributions

The Council will apply the monetary Contributions made under this agreement for the public purposes set out in Schedule 1 in a reasonable time.

27. Application of s94 and s94A of the Act to the Application

27.1 Application of sections 94 and 94A of the Act

This agreement excludes the application of sections 94, 94A and 94EF of the Act to an Application for the development which must occur in order for the monetary contributions to be paid in accordance with Schedule 1.

28. Registration of this Agreement

- (a) The parties shall do all things reasonably necessary to enable the Council to obtain registration of this planning agreement under section 93H of the Act by the Registrar-General such that on registration of this planning agreement, the Registrar-General will have, made an entry in the relevant Folios of the Register kept under the *Real Property Act 1990* in relation to the Land.
- (b) When SMB makes a Development Contribution in accordance with this planning agreement, Council will within 14 days provide written notification to SMB that contains the following:
 - (i) a statement to the effect that the particular Development Contribution has been satisfied;
 - (ii) the details of the Development Contribution made by SMB;
 - (iii) a release to SMB (and its successors) of its particular obligation under this planning agreement to the extent that it has been satisfied by the Development Contribution made by SMB.

29. Review of this Agreement

This planning agreement may be reviewed or modified by the agreement of the parties using their best endeavours and acting in good faith.

30. Dispute resolution

30.1 No arbitration or court proceedings

If a dispute arises out of this planning agreement (**Dispute**), a party must comply with this clause 10 before starting arbitration or court proceedings (except proceedings for interlocutory relief).

30.2 Notification

A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.

30.3 Parties to resolve Dispute

During the 14 days after a notice is given under clause 10.2 (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts to resolve the Dispute. If the parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them requests.

10.4 Appointment of mediator

If the parties to the Dispute cannot agree on a mediator within seven days after a request under clause 10.3, the chairman of LEADR or the chairman's nominee will appoint a mediator.

10.5 Role of mediator

The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a party to the Dispute except if the party agrees in writing.

10.6 Confidentiality

Any information or documents disclosed by a party under this clause 10:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute whether by mutual agreement, mediation, arbitration or litigation.

10.7 Costs

Each party to a Dispute must pay its own costs of complying with this clause 10. The parties to the Dispute must equally pay the costs of any mediator.

10.8 Termination of Process

A party to a Dispute may terminate the dispute resolution process by giving notice to each other after it has complied with clauses 10.1 to 10.3. Clauses 10.6 and 10.7 survive termination of the dispute resolution process.

10.9 Breach of this clause

If a party to a Dispute breaches clauses 10.1 to 10.8, the other parties to the Dispute do not have to comply with those clauses in relation to the Dispute.

31. Enforcement - Security

SMB agrees to provide a bank guarantee in the amount of \$ 40,000.00, prior to the commencement of works, for the performance of SMB's obligations to carry out the material public benefits.

32. Notices and other communications

32.1 Service of notices

A notice, demand, consent, approval or communication under this agreement (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or facsimile to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

32.2 Effective on receipt

A Notice given in accordance with clause 12.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting.
- (c) if sent by facsimile, on the first Business Day after the day when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless prior to that first Business Day after the transmission, the recipient informs the sender that it has not received the entire Notice,

33. Approvals and consent

The parties acknowledge that:

- (a) except as otherwise set out in this planning agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this planning agreement in that Party's absolute discretion and subject to any conditions determined by the Party;
- (b) a Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions; and
- (c) this planning agreement does not impose any obligation on a Consent Authority to:
 - (i) grant an approval under the Act; or
 - (ii) exercise any function under the Act in relation to a change in an environmental planning instrument.

34. Assignment and Dealings

A party must not assign this planning agreement or any right under this planning agreement without the prior written consent of the other party which must not be unreasonably withheld.

35. Costs

Each party must bear its own costs of preparing and executing this planning agreement.

36. Entire agreement

This agreement, including its schedules and annexures:

- (a) constitutes the entire agreement between the parties as to its subject matter; and
- (b) in relation to that subject matter, supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party.

37. Further Acts

Each party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

38. Governing Law and Jurisdiction

This agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any bases.

39. No fetter

Nothing in this planning agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

40. Representations and warranties

The Parties represent and warrant that they have power to enter into this planning agreement and comply with their obligations under the planning agreement and that entry into this planning agreement will not result in the breach of any law.

41. Severability

- (a) The parties acknowledge that under and by virtue of section 93F(4) of the Act, any provision of this planning agreement is not invalid by reason only that there is no connection between the development the subject of the Application and the object of the expenditure of any money required to be paid by that provision.
- (b) The parties acknowledge that under and by virtue of section 93F(10) of the Act, any provision of this planning agreement is void to the extent to which it requires or allows anything to be done that, when done, would breach:
 - (i) any provision of the Act; or
 - (ii) the provisions of an environmental planning instrument; or

- (iii) a development consent or Approval applying to the Land.
- (c) The parties agree that a construction of this agreement that results in all provisions being enforceable is to be preferred to a construction that does not so result.
- (d) If, despite the application of clause 19(c), a provision of this agreement is illegal or unenforceable:
- (i) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
- (ii) in any other case, the whole provision is severed, and the remainder of this agreement continues in force.
42. Alteration
- This agreement may be altered only in writing signed by each party.
43. Waiver
- 43.1 Failure to perform
- The failure of a party at any time to require performance of any obligation under this agreement is not a waiver of that party's right:
- (a) to claim damages for breach of that obligation; and
- (b) at any other time to require performance of that or any other obligation under this agreement, unless written notice to that effect is given in accordance with clause 12.
- 43.2 Waiver
- Waiver of any provision of or right under this agreement:
- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.
44. GST
- 44.1 Interpretation
- Words or expressions used in this clause 24 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ('**GST Act**') have the same meaning in this clause.
- 44.2 GST gross-up
- Subject to clause 24.3, if GST is payable on any supply made under or in connection with this agreement, the recipient of that supply must pay to the supplier, an additional amount equal to the GST payable on that supply provided that no additional amount is payable under this clause until the supplier issues a tax invoice to the recipient for the supply.
- 44.3 Division 81 and Division 82 of the GST Act
- If an Approval is granted and this planning agreement becomes operative and effective in accordance with clause 4, the parties agree to co-operate to determine whether Division 81 or Division 82 of the GST Act applies to any supplies or payments made under this agreement.
- 44.4 Reimbursements (net down)

If a payment to a party under this planning agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled on its acquisition of the taxable supply to which that loss, cost or expense relates.

45. New Laws

If SMB is obliged by a New Law to do something or pay an amount which it is already contractually obliged to do or pay under this planning agreement then, to the extent only that the relevant obligation is required under both the New Law and this planning agreement, compliance with the New Law will constitute compliance with the relevant obligation under this planning agreement.

Schedule 1– Contributions Schedule (clause 5)

1. SMB's contributions

1.1 Monetary Contributions

- (a) Subject to this clause, the monetary contributions to be paid by SMB to the Council are set out in the Table below.

TABLE

Public Purpose Items	Rate	Estimated Contributions	Timing for payment
1.Forster Aquatic Centre	\$111.39 per person ('pp')	\$79,744.10	For each Dwelling-house Lot, on the issue of a subdivision certificate for the plan of subdivision containing that lot. For each Residential Flat Lot, on the issue of a subdivision certificate for the plan of subdivision containing that lot. For each Dual
2.Surf life saving equipment at Forster	\$27.13 pp	\$19,422.37	
3.Library stock	\$43.11 pp	\$30,862.45	
4.Library services	\$414.21 pp	\$296,532.94	
5.Rural fire fighting facilities	\$519.92 pp	\$372,210.73	
6.Contributions Plan administration	\$47.19 pp	\$33,783.32	
7.Contributions Plan preparation	\$0.38 pp	\$272.04	
8.Council headquarters	\$180.34 pp	\$129,105.41	
9.Open Space and Acquistion and Embellishment	\$545.04pp	\$390,198.91	
10.Roads	\$456.43 per trip	\$1,088,585.55	

11. Additional Community projects	\$3,154.57 per Dwelling- house Lot, Residential Flat Lot or Dwelling in a Residential Flat Building.	\$1,000,000.00	Occupancy or Residential Flat Building prior to the issue of a Construction Certificate for that building.
TOTAL:	\$[1,352,132.26] pp + \$[1,000,000.00] per lot + \$[1,088,585.55] per trip =	\$3,440,717.81	

(b) The contribution rates set out above apply to the year 2006-07 only.

The rates are to be re-calculated on 1 July each year thereafter in accordance with the following formula:

Revised Rate for the particular Item in the above table :

$$= \text{Rate shown in the above table} \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

where

CPI 1 is the All Groups Consumer Price Index, weighted average of 8 capital cities for December quarter 2005, being 150.6.

CPI 2 is the All Groups Consumer Price Index, weighted average of 8 capital cities for the quarter immediately preceding 1 July in the year in which the rate is being re-calculated.

(c) To ascertain each amount payable by SMB to the Council in respect of Items 1-9 inclusive in the above table, the relevant per person rate referred to in each Item is to be multiplied by the number of persons deemed to be generated by the Dwelling-house Lot, Residential Flat Lot, Dual Occupancy or Residential Flat Building (as the case may be) as follows:

- (i) Dwelling-house generates 2.4 persons
- (ii) 1 bedroom Dwelling generates 1.3 persons
- (iii) 2 bedroom Dwelling generates 1.8 persons, and
- (iv) 3 and 4 bedroom Dwelling generates 2.2 persons.

For example, in respect of Item 1 in the table, the amount payable in respect of the Forster Aquatic Centre Contribution for a Dwelling-house Lot is to be ascertained by multiplying the rate of \$111.39 by 2.4 to arrive at an amount of \$267.34, if the contribution is payable in the year 1 July 2006 - 30 June 2007.

- (d) The amount payable under Item 10 of the table is to be calculated by multiplying the rate (adjusted if necessary under clause (b) above) by 9 for each Dwelling- house Lot, by 9 for each Residential Flat Lot and by 5 for each Dwelling in a Residential Flat Building or Dual Occupancy.
- (e) The amount payable for each Residential Flat Building shall be credited to the value of one Residential Flat Lot if the Council has issued a subdivision certificate for the creation of the Residential Flat Lot prior to the approval of the construction certificate for the Residential Flat Building.
- (f) The 'Estimated Contributions' shown in the table is indicative only and is to be adjusted according to the actual number of Dwelling-house Lots, Residential Flat Lots, Dual Occupancies and Residential Flat Buildings, and the requirement to re-calculate the particular rate as set out in (b) and (c) above.

1.2 Material public benefit

(g) SMB will provide the following material public benefits:

Public purpose	Works	Timing
Stormwater drainage	Construction of additional cell to existing stormwater culvert immediately to the north of the land on The Lakes Way in accordance with plans and specifications to be approved by the Council.	Before the issue of a subdivision certificate for the first subdivision of the whole or any part of the land.
Public road intersection and round about	Construction of a three way single lane roundabout on The Lakes Way at the proposed entrance to the land in accordance with plans and specifications to be approved by the Council.	Before the issue of a subdivision certificate for the first subdivision of the whole or any part of the land

—

Schedule 2 – Draft Amendment No. 45 to
Great Lakes Local Environmental Plan 1996

Signing page

EXECUTED as an agreement.
Executed by SMB DEVELOPMENTS PTY LIMITED

_____ Signature of director	←	_____ Signature of director/company secretary (Please delete as applicable)	←
_____ Name of director (print)		_____ Name of director/company secretary (print)	

Executed by GREAT LAKES COUNCIL by
an authorised officer **[insert source of
delegation]**

_____ Signature of authorised officer	←	_____ Signature of witness (Please delete as applicable)	←
_____ Name of authorised officer (print)		_____ Name of witness (print)	

APPENDIX D

AMENDING DRAFT LEP 1996 (AMENDMENT No. 45)



New South Wales

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (N04/00044/S69)

Minister for Planning

Clause 1 Great Lakes Local Environmental Plan 1996 (Amendment No 45)

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Great Lakes Local Environmental Plan 1996 (Amendment No 45)*.

2 Aims of plan

The aims of this plan are:

- (a) to provide for the development of certain land at Seven Mile Beach that is consistent with the integration of natural and developed landscape and conservation values attributed to the land, and
- (b) to direct the future use of certain land at Seven Mile Beach in a manner that ensures sensitivity to the physical, social and natural environmental values, and the environmental heritage, of the land, and
- (c) to achieve ecological sustainability through a harmonious integration between the natural and developed landscape, and
- (d) in recognition of aims set out in paragraphs (a) to (c), to rezone the land from Zone No 1 (c) (Future Urban Investigation Zone) to a proposed new Zone 2 (g) (Environmental Living and Low-impact Development Zone) and to Zone No 7 (a1) (Environmental Protection Zone).

3 Land to which plan applies

This plan applies to Part Lots 103, 142 and 178 of DP 753168, as shown edged heavy black on the map marked "Great Lakes Local Environmental Plan 1996 (Amendment No 45)" deposited in the office of the Great Lakes Council.

4 Amendment of Great Lakes Local Environmental Plan 1996

Great Lakes Local Environmental Plan 1996 is amended as set out in Schedule 1.

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 7 What zones apply in this plan?

Insert after the matter relating to Zone No 2 (f):

Zone No 2 (g) (Environmental Living and Low-Impact Development Zone)

[2] Clause 8 Zone objectives and development control table

Insert after the matter relating to Zone No 2 (f) in the Table to the clause:

Zone No 2 (g) (Environmental Living and Low-Impact Development Zone)

1 What are the objectives of the zone?

The objectives of the zone are:

- (a) to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values, and
- (b) to ensure that residential development does not have an adverse effect on those values, and
- (c) to provide for other types of low-impact development that complement and support the residential development and which do not have an adverse effect on the special ecological, scientific or aesthetic values of the land.

2 What is permitted without development consent?Development for the purpose of:
environmental protection works.**3 What is permitted only with development consent?**Development for the purpose of:
advertisements; bushfire hazard reduction; carparks; child care centres; commercial premises; communication facilities; community facilities; convenience stores; dwelling-houses; entertainment facilities; environmental facilities; exhibition homes; fire trails; hotels; medical centres; multiple dwellings; off-site promotional signs; recreation areas; recreation facilities; residential flat

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

Amendments

Schedule 1

buildings; restaurants; roads; serviced apartments; shops;
tourist facilities; utility installations.**4 What is prohibited?**

Any development not included in Item 2 or 3.

[3] Clause 32 Specific developments

Insert at the end of the Table to the clause:

5 Development at Seven Mile Beach, The Lakes Way, Forster

- (1) This clause applies to Part Lots 103, 142 and 178 DP 753168 at The Lakes Way, Forsters as shown edged heavy black on the map marked "Great Lakes Local Environment Plan 1996 (Amendment No 45)".
- (2) The Council must not grant consent to development on land to which this clause applies unless the gross floor area (excluding pedestrian walkways, colonnades, balconies, decks and carparks) of all buildings on the land proposed to be used for shops and commercial premises will not exceed 1,000 square metres.
- (3) The Council may grant consent to the subdivision of the land only if the Council is satisfied that:
 - (a) adequate measures are to be implemented to achieve the preservation and management of biological diversity on, and ecological integrity of, the land, and
 - (b) adequate measures are to be implemented to achieve the protection and management of significant habitat, including that used by threatened species, for conservation purposes, and
 - (c) adequate measures are to be implemented to facilitate fauna movement within and through the land, and
 - (d) adequate measures are to be implemented to protect the land from bush fire while not unreasonably compromising the ecological values of the land, and
 - (e) adequate controls are to be implemented that:
 - (i) ensure that the buildings on each lot respect the natural features of the land by utilising designs that minimise tree removal and by the use of colours and materials that reflect the surrounding environment, and

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

Amendments

Schedule 1

- (ii) reflect a unified design theme for the land whilst providing for differences in character on a precinct basis, and
 - (f) mechanisms are in place (including funding, monitoring, and auditing mechanisms) to ensure the ongoing implementation and effectiveness of the measures and controls referred to in paragraphs (a)-(e).
- (4) In considering whether to grant consent to development on the land to which this clause applies, the Council must have regard to the following:
- (a) the capability of the land for the proposed development,
 - (b) the protection of significant vegetation and habitats,
 - (c) the facilitation of fauna movement within and through the land,
 - (d) the protection of the scenic attributes of the land,
 - (e) the protection of the development from bushfire while not unreasonably compromising the ecological values of the land,
 - (f) any controls that are in place in accordance with subclause (3) (e).
- (5) Despite any other provision of this plan, the Council must not grant consent to any subdivision for residential purposes of the land to which this clause applies unless the Council is satisfied that any building to be erected on a lot created by the subdivision will comply with any controls that are in place in accordance with subclause (3) (e).

[4] Dictionary

Insert in alphabetical order:

Environmental protection works means works associated with the rehabilitation of land towards its natural state or any other work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

[5] Dictionary, definition of "Map"

Insert in appropriate order:

Great Lakes Local Environmental Plan 1996 (Amendment No 45)

APPENDIX E

COMMUNICATION WITH DEPARTMENT OF ENVIRONMENTAL CONSERVATION
(DEC)



Department of
Environment and Conservation (NSW)

Your reference : SP-LEP-45
Our reference : DOC05/23242,jdm.02/06588
Contact : John Martindale 6659 8233
Date : 9 December 2005

Mr K O'Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

GREAT LAKES COUNCIL

12 DEC 2005

RECEIVED RECORDS

Attn: Mr R Busby, Strategic Planning

Dear Mr O'Leary

**Draft Local Environment Study (LES) and Local Environment Plan (LEP).
Lots 103,142 and 178, DP753168, The Lakes Way, South Forster – Seven Mile Beach.**

I refer to your letter, dated 14 November 2005, requesting comments from the Department of Environment and Conservation (DEC) on these drafts in support of Council's application to the Department of Planning (DoP) for a Section 65 certificate to allow the public exhibition of them.

Reference is also made to the meeting held at Council on 25 November 2005 and to subsequent emails where the following points emerged:

1. Impact on Booti Booti National Park

Despite the potential for significant impact on the management of the adjacent park, the National Parks and Wildlife Service (NPWS) (i.e., the Parks and Wildlife Division of the DEC) had not been given an opportunity to comment on the drafts prior to the meeting. Further it is advised that the current Plan of Management (PoM) for the park was adopted prior to any indication that Lots 103, 142 and 178 would be developed.

It is considered that the current PoM management options for this area are insufficient to adequately address the potential impact that may arise from a development of this scale. Accordingly, the NPWS may be unable to provide formal support for any substantial increase in visitor access or facilities from the proposal to the Seven-Mile Beach until such time as the PoM undergoes formal review. It is expected that Council and/or the developers will substantially contribute to any enhancement of visitor facilities on-park as a result of the proposed development.

Despite this statutory limitation, the DEC remains open minded to the rehabilitation offer made for the on- park eastern corridor and for the creation of a formal access agreement for that part of the Seven Mile Track within the south-east corner of the proposal. It is emphasised that these matters will require a formal agreement between the developer and the DEC under the *National Parks and Wildlife Act 1974* and that any such agreement would act independently and possibly in contradiction of any agreements struck between the developer and Council. It is recommended that legal advice be sought regarding the nexus between any agreements struck under these Acts.

The DEC has not been party to any bushfire asset protection negotiations held with the Rural Fires Service (RFS) despite the obvious environmental and liability implications of fires either entering or leaving the park.

Given the fire prone nature of this area, the DEC does not accept any fire management plan unless it receives firm assurances from the RFS and Council regarding the limits of its liability and/or is involved in further negotiations about this issue.

2. Corridors in the Development Control Plan

Although the detail of additional survey work and the expansion of areas to the north and south as environmental protected areas is supported, it is strongly emphasised that the biodiversity values of the park could largely depend on the continued viability of north- south wildlife movements through the proposal.

The notional east-west corridor locations as detailed in the Development Control Plan (DCP) and the extra clarification supplied by Conacher Travers (letter dated 30 November 2005) are acceptable to the DEC however the preference is that they be widened. This acceptance is also conditional on statutory protection being afforded by Council to the habitat areas identified on adjacent lands to the north and west of the proposal. The DEC seeks Council's written reassurance that this will occur.

It is noted that north-south movement through the central part of the proposal is to be accomplished essentially via canopy retention. It is noted that this may have implications for bushfire management and it is recommended that endorsement of this intent be gained from the RFS.

3. Vegetation Clearing Approvals

The original Development Consent for a tourist facility issued in 1996 was permissible under the prevailing zoning but was also subject to vegetation clearing limitations under State Environmental Planning Policy No. 46. These limitations still prevail under the new *Native Vegetation Act 2003* but could lapse should the current rezoning proceed to exclude this Act.

It is recommended that Council liaise with the DoP to ensure that appropriate protection in the LEP is given to prevent inappropriate clearing after rezoning until such time as it is formally approved and limited by way of development consent.

4. The scarred tree

It is advised that the scarred tree at the eastern end of the proposal is of significance to the local Aboriginal community and is a cultural object that is becoming increasingly rare. The DEC is concerned that its locality may be publicly released via the exhibition process and that the intention to identify and protect it in the longer term via fencing and clearing could prove counterproductive to its conservation.

It is recommended that Council seek the views of the Aboriginal community regarding the future management of this site.



Department of
Environment and Conservation (NSW)

Your reference SP-LEP-45
Our reference DOC05/25977 John 02/06588
Contact John Martindale 6659 8233
Date 3 February 2006

GREAT LAKES COUNCIL

9 FEB 2006

RECEIVED RECORDS

Mr K O Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

Attn: Mr Roger Busby, Strategic Planning

Dear Mr O Leary

**AMENDMENT No. 45 TO LOCAL ENVIRONMENT PLAN,
LOTS 103, 142 and 178, DP 753168,
SEVEN MILE BEACH, SOUTH FORSTER.**

I refer to your letter, dated 20 December 2005, responding to various concerns by the Department of Environment and Conservation (DEC) on this matter. Further comment is provided as follows

- 1 Formal consultation under Sections 34A and 62 of the Environmental Planning and Assessment Act 1979 (EPA Act) was undertaken in late May 2005, however, this was general in nature and pre-dated preparation of the more comprehensive suite of documents currently on exhibition.
- 2 The DEC was not involved in preparation of these documents and staff did not receive them in their entirety for comment until less than a week prior to the meeting held on 25 November 2005. This gave inadequate opportunity for their internal circulation. Combined with their voluminous extent, the submission of subsequent clarifying documents and the developer's insistence that they go to exhibition prior to Christmas, this led to the concerns expressed by the Parks and Wildlife Division (PWD) about lack of consultation and undue haste.

As requested, I confirm that there is no need for Council to alter its consultation process rather that it allows more time in future. Of course, this does not prevent Council from involving local PWD staff if it sees fit throughout the process.
- 3 As advised previously, the developer's offer to provide assistance in the provision of facilities at Seven-Mile Beach and to rehabilitate the disturbed section of the park to the southeast is appreciated. However, this must be done in accordance with a formal approval from the PWD in accordance with the National Parks and Wildlife Act 1974 (NP&W Act) and would require the preparation of a Review of Environmental Factors (REF). The REF is a necessary part of the PWD's responsibilities as a Part 5 Determining Authority and must consider permissibility under the NP&W Act and consistency with the Plan of Management. The above approval is irrespective of any agreement reached under the Environmental Planning and Assessment Act, 1979 (EP&A Act) as part of Council's approval process.

Locked Mail Bag 214
Federation House Level 7, 24 Moore St, Cntrl Harbour NSW 2400

Telephone (02) 855 15915
Facsimile (02) 8651 0187

ABN 20 841 747 271
www.environment.nsw.gov.au

- 4 The written advice from the Rural Fires Service that it supports the proposal and the diffuse retention of habitat trees throughout the development is acknowledged. Nonetheless, the DEC reiterates its concern about bushfire liability resulting from an escape from the adjacent park. This is because of the flammability of coastal vegetation and the demonstrated speed at which fire can move in this area. It is recommended that careful consideration be given to the RFS advice.
- 5 Council's intention to ensure habitat protection prior to adoption of the LEP and the granting of conditional consents is supported as is the deletion of locational details relating to the scarred tree pending further consultation with the local Aboriginal community.
- 6 Council's decision regarding the non-significance of impact on threatened species is noted.
- 7 The DEC has always supported the rehabilitation of the disturbed areas of the park. However, it must be recognised the development proposal is not a necessary prerequisite for this to occur and it should not prejudice the DEC's right to determine the most appropriate management for the park. It may be that funding provided by the developer under any Council consent or DEC agreement could be better spent on public facilities or conservation works elsewhere in the park. Hence DEC is not negative to rehabilitation, as indicated in your letter. Rather, DEC reserves the right to prioritise works in the park. The DEC remains open and encourages further negotiations in this regard.

Overall, the current proposal is a significant improvement over the initial concept approved by Council in the late 1990's. Council is to be commended over its efforts to accomplish this and accordingly the DEC supports the exhibition of the LEP and associated Development Control Plan.

Should there be any other matters, or should Council be in possession of information that suggests the interests of the DEC may be further affected by the proposal, please contact Mr John Martindale, Conservation Planning Officer, on (02) 6659 8233.

Yours sincerely

BRENDAN DIACOMO
Manager Planning and Aboriginal Heritage - North East
Environment Protection and Regulation

None of the above points should act to prevent the public exhibition of the LES and LEP provided that reference to the scarred tree is deferred pending Aboriginal consultation and is it is made clear that:

- The DEC is not in a position to enter into any formal Voluntary Developer Agreement under recent amendments to the *Environmental Planning and Assessment Act 1974* with respect to the management of the adjacent park.
- The DEC is not prepared to enter into any management agreement with the developer under the NPW Act until such time as that management is approved under formal revisions to the PoM.
- In accordance with accepted procedure, it is recommended that the completion and exhibition of the DCP should be deferred until such time as any submissions resulting from the LES/LEP exhibition have been considered and included where appropriate in the former. These might include public comment on the adequacy of wildlife corridors, lighting, traffic, noise, and domestic pet and fire management issues.
- Should rezoning proceed, no clearing is to occur on site until such time as the DCP is approved and the appropriate and limiting consents are issued. In this respect it is suggested that the exhibition be conditional on the legal withdrawal of the existing development consent.

It is noted that the developer has prepared a non-statutory Species Impact Statement without Director-General's Requirements (DGRs) in advance of any Part 4 application for Development Consent presumably because it considered that a significant impact on threatened species was likely. Clarification is sought from Council as to whether it supports this conclusion and thus whether the DEC can expect a formal request for Director-General's requirements and be involved in any staged concurrences in due course.

Finally, the DEC considers the current proposal to be a significant improvement over the original tourist development concept in terms of its environmental impact.

Should there be any other matters, or should Council be in possession of information that suggests the interests of the DEC may be further affected by the proposal, please contact Mr John Martindale, Conservation Planning Officer, on (02) 6659 8233.

Yours sincerely



BRENDAN DIACONO
Manager Planning and Aboriginal Heritage - North East
Environment Protection and Regulation Division



Suite 202, Edgcliff Centre
203-233 New South Head
Edgcliff NSW 2027 Australia

Phone: 02 9326 1399
Fax: 02 9326 1057
DX: 22909 Edgcliff
ABN: 41938294360

Our Ref: SMB1701/15

Your Ref:

15 March 2006

Brendan Diacono
DEC
Locked Bag 914
Coffs Harbour NSW 2450

RE: SEVEN MILE BEACH - THE LAKES WAY, FORSTER

Dear Brendan,

I refer to the meeting held at Great Lakes Council in November last year which was attended by Mr John Martindale of your office as well as Mr Stephen Smith representing National Parks. As you are aware this meeting was convened by Council for the purpose of discussing any outstanding matters which were preventing the issue of a Section 65 Certificate from the Department of Planning which would then facilitate the public exhibition of the proposal as well as allowing time for various public authorities to provide additional feedback.

During the course of the aforesaid meeting various matters were discussed which resulted in the items listed hereunder requiring further discussion and resolution either during the exhibition period or prior to the rezoning being finalised:

- The road which accesses the Park and terminates at the north end of Seven Mile Beach and which is known as Scenic Drive passes through the south-eastern corner of our property. It is proposed that a formal easement be granted over this road in favour of National Parks.
- Whilst an existing pedestrian track is evidenced from our property boundary passing through the Park to the beach, which is partially defined by a fence from the disused carpark, it was agreed that the track should be more heavily defined by better fencing which together with its surface would be maintained by our Community Association as part of a regular maintenance regime. Better definition of the track would prevent potential users from wandering off creating their own way to the beach notwithstanding the fact that the existing track is in fact the shortest route. Further, the proposed maintenance regime would also include removal of any rubbish deposited on or in the immediate vicinity of the track.
- One element of the proposed environmental works associated with our development is defined in the Eastern Habitat Corridor Restoration Plan which provides for restoration both on our site and within the National Park to the east of our boundary of areas previously degraded by sand mining operations. The restoration of this area will also help re-establish an important north-south link as well as create further east west canopy connectivity through our site and back into the Park.
- The provision of a formalised carpark to accommodate visitors to the Park was also raised. We do not believe any of the future residents of our development would travel by car to Seven Mile Beach as we have provided significant parking opportunities adjacent to our Eastern boundary to specifically cater for less mobile occupants coming from the western end of the development. Further, we have linked our internal cycleway/pedestrian pathway system to the existing beach access track. In any event anyone wishing to attempt the drive to the beach would need to exit our site onto the Lakes Way, drive south then travel down Scenic Drive, park their car and then walk the final distance to the actual beach. Notwithstanding the above the writer indicated at the meeting that we would be prepared to fund the cost of construction of such a carpark for general public use if this was deemed appropriate by National Parks.

It was originally suggested at the meeting by Stephen Smith that none of the above could be contemplated at the present time as they were not provided for under the existing Plan of Management for this particular Park and that the plan would possibly be reviewed and revised four to five years hence.

Subsequent investigation by both Council and ourselves has revealed that the existing Plan of Management states the following:

FORWARD

- The beaches and lakeshore of the Booti Booti State Recreational Area have long been an important recreational resource. The plan of management provides for further low-key, recreational facilities within a natural setting. Such facilities will complement those provided in nearby towns and other parks and reserves within the local area. It also provides for the development of facilities for the elderly and handicapped, and for information to be provided to the public on the natural features of the State Recreation Area.
- The main function of State Recreation Areas is to cater for public recreation and enjoyment through the provision of a range of outdoor recreational opportunities.

Further, under the heading **Objectives of Management** and sub-heading of **specific objectives** the following appears:

- A range of recreation facilities will be provided in Booti Booti State Recreation Area to complement those provided in nearby National Parks and urban areas;
- The existing walking track system will be upgraded and expanded;
- Facilities for the elderly and handicapped will be provided;

At section 4. **Policies and Framework for Management** it is stated;

- All areas previously quarried or mined for mineral sands will be rehabilitated to a stable State.
- Introduced plants and animals will be controlled and where possible eliminated within the State Recreation Area.
- A weed control program will be implemented for the control and if possible eradication of bitou bush, blackberry, lantana and lambs tale.
- No new quarry sites will be permitted in the State Recreation Area and all former quarries, with the exception of the site at Booti point will be closed, stabilised and regenerated.

The following statements also appear in the Plan as noted:

4.3.1 VEHICULAR ACCESS

Actions

The formed mining road from The Lakes Way northeast to Janies Corner will be maintained. The existing pull-off areas at the head of the beach access tracks will be formalised.

4.3.2 WALKING TRACKS

These tracks do not always follow the safest route or leave from formal carparking areas. The tracks will be reconstructed to provide safer access and more interesting scenic walks.

Policy

A walking track system will be developed to provide access to recreation areas, interesting vegetation and scenic areas, and to facilitate interpretation of the State Recreation Area.

Actions

The existing formed walkways over the dunes to Seven Mile Beach will be retained.

4.3.3 CAMPING AND PICNICING

Actions

Additional shade trees will be planted at Janie's Corner and a picnic area developed, with toilets and barbecues provided.

Finally under the heading of **5. PRIORITIES FOR IMPLEMENTATION** the following appears:

HIGH PRIORITY

- | | |
|---|-------|
| Prepare and implemented weed control program. | 4.1 |
| Construct picnic area at Janie's Corner. | 4.3.4 |

Accordingly, I believe that the current Plan of Management for the Park specifically provides for the above stated four proposals that we have put forward. The overriding intent of the plan is clear in so far as providing and encouraging enhanced public access to this valuable Recreational area.

I would also note that our Eastern Habitat Corridor Regeneration Plan provides for control of pests and weeds both initially and on an ongoing basis as well as replanting the affected areas. Additionally, we also have specific management plans in respect of Pest Species and Weeds again which are actions clearly contemplated by the Plan.

With respect to the proposed provision of a carpark perhaps the existing carpark which has currently been closed by National Parks could be reopened if it was properly formed and made safe or alternatively parking arrangements instigated at the northern termination of Scenic Drive. If neither of these actions was deemed appropriate perhaps the equivalent amount of funding could be provided to install some of the other facilities envisaged by the plan.

It was originally suggested by Council and ourselves that subject to endorsement of the proposals by National Parks/DEC the commitment to undertake the works could be embodied in a Developer Agreement with Council.

Advice subsequently received from your department has indicated that any such agreements must be formalised under the National Parks Act.

In order to now advance this matter I ask that you facilitate a meeting between the various parties as discussed in our recent telephone conversation at the earliest possible juncture with a view to negotiating the detail of each of the four proposed actions and confirming the documentation protocol required to formalise the agreed outcomes.

I will make myself available to attend such a meeting either at Coffs Harbour or Foster whichever is the most convenient for your staff.

Regards,

Robin Wise



SEVEN MILE BEACH JOINT VENTURE

Suite 202, Edgecliff Centre
203-233 New South Head
Edgecliff NSW 2027 Australia

Phone: 02 9326 1399
Fax: 02 9326 1057
DX: 22909 Edgecliff
ABN: 41938294360

Our Ref: SMB/1701/16

Your Ref:

9th May 2006

Department of Environment and Conservation,
Locked Bag 914,
Coffs Harbour 2450.

Attention: Mr Tim Nott.

Dear Tim,

Re: Outcomes of on-site meeting regarding proposed Seven Mile Beach Eco-living residential development -The Lakes Way, South Foster.

I refer to the on-site meeting which occurred last Thursday and was attended by Mr Roger Busby from Council, Mr Stephen Smith and Mr David Turner from National Parks, yourself on behalf of DEC and the writer and the agreements which were negotiated therein subject to formal documentation.

Firstly, I would again like to express my appreciation of your effort in facilitating the meeting between all of the parties and commend all the participants on the spirit of cooperation that was displayed by all concerned together with a willingness to seek somewhat lateral outcomes

Please find set out hereunder my understanding of the proposed actions that each party is to undertake to deliver the integrated solution to the issues that was negotiated:

Works and actions to be undertaken by the developer.

- The construction of a car park which is to have a capacity of 12 vehicles which are to be parked at 90 degrees to the existing road and is to be situated approximately 150 metres from the northern termination of Scenic Drive. The location is to be exactly determined by National Parks staff but is currently identified by way of some clearing of vegetation that has already occurred.
- The surface of the car park is to be graded level and constructed of hardcore compacted material some of which is to be removed from the existing disused car park situated along Scenic Drive to the South.
- After removal of the compacted surface from the existing disused car park the surface is to be tinned-up with the exception of the new Fire Trail which is to be constructed by National Parks which will pass through the location of the old car park. The remaining area is then to be replanted with native species as nominated by appropriate National Parks staff.
- The area currently identified under the Eastern Habitat Corridor Regeneration Plan is to be extended to the north and east such that it will join to the edge of the existing Rain Forest currently evidenced to the north of the proposed regeneration area.

- Our consultants, Conacher Travers are to consult with nominated National Parks staff by way of an on-site meeting (which is to be facilitated by Stephen Smith), to discuss the content of the Regeneration proposal and specifically the plant species to be utilised.
- Upon agreement being reached between those parties the plan is to be amended accordingly.
- A new road is to be constructed within our Southern Conservation Zone which will run in an easterly direction from the Lakes Way to link up with an existing Fire Trail within our property and then joining on to the existing portion of Scenic Drive which passes through the southeastern corner of our property.
- It is proposed that this road be controlled by electrically operated gates that would remain open from one hour before sunrise to one hour after sunrise each day and thereafter can only be operated by authorised residents or employees of our development. In the event that a member of the public has not exited the road prior to the closing time an intercom positioned adjacent to the gate and linked back to our facilities will allow the gate to be opened by one of our staff members.
- The section of this road to be constructed from the Lakes Way to the existing Fire Trail is to have a concrete surface whilst the section from the intersection to the existing construction on Scenic Drive will be of compacted road base similar to that currently existing on Scenic Drive.
- The entire length of the road within our site is to be maintained by us.
- Full public access will be granted over the length of this road with the power to cancel, vary or modify the access rights so granted to vest with National Parks or possibly with both National Parks and Council.
- It is envisaged that the new section of road from the Lakes Way will join onto our existing Fire Trail at the junction of that Fire Trail with the other Trail which runs northeasterly towards our apartment buildings. An electrically operated gate will be placed at this intersection together with appropriate signage to make it clear that all public traffic travelling towards the beach should continue in an easterly direction. A rough sketch of the proposed road layout is attached hereto for your consideration.
- Appropriately worded danger warning signs are to be installed at the pedestrian gate on our boundary which links onto the new Fire Trail to be constructed by National Parks. The signage is to clearly indicate the danger of swimming at the beach and that it is not a patrolled environment.
- The handover manual for each house and apartment within the development is also to contain appropriate warnings regarding usage of the beach.

Works and actions to be undertaken by National Parks.

- A gate is to be installed across scenic Drive at the northern end of the new car park together with appropriate fencing around the car park and either side of the gate which is to prevent vehicular access onto the remaining 150 metres of scenic Drive and also the beach.
- A Fire Trail is to be constructed from our eastern boundary through the old disused car park and along the route of the current walking track to the beach.
- The aforesaid Fire Trail is to be fenced as appropriate and be maintained by National Parks.
- The redundant section of scenic Drive from the southeastern corner of our property back to be Lakes Way is to be blocked, ripped up and allowed to naturally regenerate.
- A meeting is to be convened with our consultants ASAP to agree any revisions to The Eastern Habitat Corridor Regeneration Plan and specifically species to be replanted in the regeneration area.

It was also agreed that National Parks would undertake a review of our Bushfire management Plans with a view to providing any appropriate commentary and that regular liaison should be undertaken between the parties to further review management initiatives to be undertaken by each.

I would be grateful if you would please seek endorsement of the proposals as set out above from your senior management such that we can move rapidly to formally documenting this matter.

Regards,

Robin Wise.



Department of
Environment and Conservation (NSW)

Your reference : SP-LEP-45
Our reference : DOC05/23242.TN.02/06588
Contact : Tim Nott 6659 8256
Date : 22 May 2006

Mr K O'Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2426

Attn: Mr R Busby, Strategic Planning

Dear Mr O'Leary

Draft Local Environment Plan (LEP) - Lots 103,142 and 178, DP753168, The Lakes Way, South Forster – Seven Mile Beach.

I refer to your request for comments from the Department of Environment and Conservation (DEC) on this draft in support of Council's application to the Department of Planning for a Section 65 certificate to allow public exhibition.

The DEC has previously provided comments to Great Lakes Council on this matter for the above lots in correspondence dated 9 December 2005 and 3 February 2006. The DEC is now satisfied with the formation and management of the wildlife corridors proposed in the Tree Management Plan (Conacher and Travers, 2005) and the Bushland Management Plan (Conacher and Travers, 2005a).

Should there be any other matters, or should Council be in possession of information that suggests the interests of the DEC may be further affected by the proposal, please contact Mr Tim Nott, Conservation Planning Officer, on (02) 6659 8256.

Yours sincerely

BRENDAN DIACONO
Manager Planning and Aboriginal Heritage - North East
Environment Protection and Regulation Division



SEVEN MILE BEACH JOINT VENTURE

Suite 202, Edgecliff Centre
203-233 New South Head
Edgecliff NSW 2027 Australia

Phone: 02 9326 1399
Fax: 02 9326 1057
DX: 22909 Edgecliff
ABN: 41936294360

Our Ref: SMB/1701/16

Your Ref:

24 May 2006

Department of Environment and Conservation
Locked Bag 914,
Coffs Harbour 2450.

Attention: Mr Tim Nott.

Dear Tim,

Re: Outcomes of on-site meeting regarding proposed Seven Mile Beach Eco-living residential development -The Lakes Way, South Foster.

I refer to the on-site meeting which occurred on 4 May and was attended by Mr Roger Busby from Council, Mr Stephen Smith and Mr David Turner from National Parks, yourself on behalf of DEC and the writer together with my subsequent meeting with Stephen Smith and David Turner yesterday and the agreements which were negotiated therein subject to formal documentation.

Please find set out hereunder my understanding of the proposed actions that each party is to undertake to deliver the integrated solution to the issues that was negotiated:

Works and actions to be undertaken by the developer.

- The construction of a car park which is to have a capacity of 12 vehicles which are to be parked at 90 degrees to the existing road and is to be situated approximately 150 metres from the northern termination of Scenic Drive. An area is also to be cleared on the opposite side of the road to allow sufficient manoeuvring space for the vehicles to turn into the proposed parking spaces opposite. The location is to be exactly determined by National Parks staff but is currently identified by way of some clearing of vegetation that has already occurred.
- The surface of the car park is to be graded level and constructed of hardcore compacted material some of which is to be removed from the existing disused car park situated along Scenic Drive to the South.
- After removal of the compacted surface from the existing disused car park the surface along with the surface of the existing track running down to the back of the dunes is to be tinned-up. The existing fencing which defines this track is also to be removed. The site of the old car park and track is then to be replanted with native species as nominated by appropriate National Parks staff as part of the Eastern Habitat Corridor Regeneration.
- The area currently identified under the Eastern Habitat Corridor Regeneration Plan is to be extended as shown on the accompanying plan such that it will join to the edge of the existing Rain Forest currently evidenced to the north of the proposed regeneration area.

- Our consultants, Conacher Travers are to consult with nominated National Parks staff by way of an on-site meeting (which is to be facilitated by Stephen Smith), to discuss the content of the Regeneration proposal and specifically the plant species to be utilised.
- Upon agreement being reached between those parties the plan is to be amended accordingly.
- A new road is to be constructed within our Southern Conservation Zone which will run in an easterly direction from the Lakes Way to link up with an existing Fire Trail within our property. It will then continue in an easterly direction to the south-eastern corner of our property where it will then pass into the adjoining National Park further continuing in an easterly direction until it reaches the dune at the back of the beach.
- If it is deemed appropriate in the future access to this road at the Lakes Way intersection could be controlled by electrically operated gates that could be locked at pre-determined times. In the event that a member of the public has not exited the road prior to the closing time an intercom positioned adjacent to the gate and linked back to our facilities will allow the gate to be opened by one of our staff members.
- The section of this road to be constructed from the Lakes Way to our south-eastern boundary is to have a two-coat bitumous surface whilst the section to be constructed within the Park will be of compacted road base similar to that currently existing on Scenic Drive.
- The entire length of the road within our site is to be maintained by us.
- Full public access will be granted over the length of the road within our property with the power to cancel, vary or modify the access rights so granted to vest with National Parks or possibly with both National Parks and Council.
- In the event that National Parks staff, after appropriate review on-site, elect to realign the section of Scenic Drive which is currently located from the south-eastern corner of our property and then travels in a North easterly direction roughly along our eastern boundary further to the east then we will also construct this new section of road. Relocation of this road will allow all of the area impacted by the discontinued sand mining operations to become a continuous regeneration area thus forming a significant vegetation barrier between the public road and our eastern boundary.
- Appropriately worded danger warning signs are to be installed at the pedestrian gate on our boundary which links onto the new public access road at the south-eastern corner of our site. The signage is to clearly indicate the danger of swimming at the beach and that it is not a patrolled environment.
- The handover manual for each house and apartment within the development is also to contain appropriate warnings regarding usage of the beach.

Works and actions to the undertaken by National Parks.

- A gate is to be installed across scenic Drive at the northern end of the new car park together with appropriate fencing around the car park and either side of the gate which is to prevent vehicular access onto the remaining 150 metres of scenic Drive and also the beach.
- A Fire Trail is to be constructed from the new public road within the Park either from our south-eastern corner or in the event that the public road is realigned approximately half way between our eastern boundary and the back of the dune to the east.
- The aforesaid Fire Trail is to be fenced as appropriate and be maintained by National Parks.

- The redundant section of scenic Drive from the south-eastern corner of our property back to be Lakes Way is to be blocked, ripped up and allowed to naturally regenerate. The section adjacent to our boundary if made redundant by the proposed realignment of the public road within the Park is to form part of the regeneration area.
- A meeting is to be convened with our consultants ASAP to agree any revisions to The Eastern Habitat Corridor Regeneration Plan and specifically species to be replanted in the regeneration area.

It was also agreed that National Parks would undertake a review of our Bushfire management Plans with a view to providing any appropriate commentary and that regular liaison should be undertaken between the parties to further review management initiatives to be undertaken by each.

I would be grateful if you would please seek endorsement of the proposals as set out above from your senior management such that we can move rapidly to formally documenting this matter.

Regards,

Robin Wise.



ALL NEW AND
 EXISTING ROAD WORK
 DRAFT
 DATE: 15/09/2018

- 2 COAT BITUMINOUS SEAL
- COMPACTED HARD CORE SURFACE
- PROPOSED REALIGNMENT
- ENLARGED REGENERATION AREA

Draft Development Control Plan No.34

THE LAKES WAY, SEVEN MILE BEACH FORDSIR 1587

24. Site Master Plan



SCALE
 1:200 (A1)

PAGE NO.
 19
 DATE
 SEPT 2018

Lina Tayyar

From: Lina Tayyar
Sent: Tuesday, 30 May 2006 11:40 AM
To: 'Timothy.Nott@environment.nsw.gov.au'
Cc: 'Stephen.Smith@environment.nsw.gov.au'; 'Roger Busby'

Dear Tim,

Please find herewith the legal advice regarding the proposed agreement between SMB & DEC including the draft 88b instrument as discussed.

We would be more than happy to draft the formal agreement between the parties for consideration by your lawyers if you feel this would assist expediting this matter

Regards,
Lina Tayyar
On Behalf Of Robin Wise

MinterEllison
LAWYERS

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TELEPHONE +61 2 9021 8888 FACSIMILE +61 2 9021 8128

29 May 2006

BY EMAIL: r.wise@wiseproperty.com.au

Robin Wise
Wise Property Group Pty Ltd
Suite 202
Edgecliff Centre
203-233 New South Head Road
EDGECLIFF NSW 2027

Dear Robin,

Seven Mile Beach: Agreement with DEC

We understand that Seven Mile Beach Pty Ltd ('SMB') is currently negotiating with the Department of Environment and Conservation ('DEC') to undertake a variety of works within the SMB land and the Booti Booti National Park if and when approval is granted for the eco-residential project on SMB's land.

Proposal with DEC

We are informed that the works proposed can be summarised as follows:

1. SMB to construct a carpark (and to clear some land opposite for vehicle manoeuvring) approximately 150 metres from the northern termination of Scenic Drive within the National Park.
2. SMB to replant and remove the fencing along the site of the existing car park.
3. SMB to carry out works within part of the National Park consistent with the Eastern Habitat Corridor Regeneration Plan which is to be agreed with DEC.
4. SMB to construct a new road within the SMB land running in an easterly direction from the Lakes Way to link with an existing fire trail within the property. It will then continue to the south-eastern corner where it will join the National Park. SMB will continue construction of the road within the National Park in an easterly direction until it reaches the dune at the back of the beach. The road within the SMB land is to be the subject of an easement in favour of DEC and is to be maintained by SMB.

MINTER ELLISON GROUP AND ASSOCIATED OFFICES
SYDNEY MELBOURNE BRISBANE CANBERRA ADELAIDE DARWIN PERTH GOLD COAST
HONG KONG SHANGHAI BANGKOK JAKARTA SAN FRANCISCO LONDON
AUCKLAND WELLINGTON

SYD5_32843_1 (N2003)

24/07/2006

5. SMB to provide agreed signage and traffic management devices such as gates and intercom systems.
6. DEC to install a gate across Scenic Drive and appropriate fencing to prevent vehicular access onto the remaining 150 metres of Scenic Drive and to the beach.
7. DEC to construct, fence and maintain a fire trail from the new public road within the Park.
8. DEC will regenerate the redundant section of Scenic Drive.

Proposed Legal Mechanism

We advise that the above proposal can be implemented by way of a tripartite written agreement with the Director-General of National Parks and Wildlife (being the 'park authority' within the meaning of the *National Parks and Wildlife Regulation 2002* ('Regulations')) and the Minister for Environment. This agreement can be subject to a condition precedent to the effect that the agreement does not operate until an approval is granted with respect to the eco-residential project and works commence pursuant to that approval.

The Director-General must be a party to the agreement because any application to carry out the works within the National Park must be approved by the Director-General. The Minister must be a party to the agreement in order for SMB to apply for a licence to use the land within the National Park to carry out the works. The agreement will provide that upon the conditions precedent being satisfied:

- SMB will grant a right of carriageway over its land under section 88A of the *Conveyancing Act 1919*, that is, an easement in gross for the benefit of a public authority being the Minister administering the *National Parks and Wildlife Act 1974* ('NP Act'). A form for the draft section 88A is attached for your consideration;
- SMB will construct the works within its land as agreed;
- SMB will apply to the Minister for a licence under the NPW Act, and if granted, use the land pursuant to the licence issued under the Act within the National Parks for the construction of the road and carpark and to conduct the regeneration works within the Eastern Habitat Corridor Regeneration area; and
- SMB will apply for authority from the Director-General under the Regulations, and if granted, carry out works within the National Park including the use of vehicles and erection of structures in accordance with the Regulations.

Yours faithfully
MINTER ELLISON
John Whitehouse
John Whitehouse
Partner

Contact: Penny Murray Direct phone: +61 2 9921 4868 Direct fax: +61 2 9921 8236
Email: penny.murray@minterellison.com
Partner responsible: John Whitehouse Direct phone: +61 2 9921 4285
Our reference: JFW:PLM 204952810

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88A Conveyancing Act 1919.

(Sheet 1 of 2 sheets)
covered by Subdivision

Plan: Plan of Certificate No.

Full name and address of the owner of the land: Seven Mile Beach Pty Ltd
c/- Suite 202, 203-233 New South Head Road, Edgecliff NSW 2027

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Right of Carriageway	[SMB Land as marked on the plan]	Minister administering the <i>National Parks and Wildlife Act 1974</i>

Part 2 (Terms)

Terms of easement, profit à prendre, restriction, or positive covenant numbered 1 in the plan

Full and free right for the body in whose favour this easement is created, and every person authorised by it, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both over the land indicated herein as the servient tenement.

Name of person empowered to release, vary or modify restriction or positive covenant numbered 1 in the plan.

Minister administering the *National Parks and Wildlife Act 1974*

The common seal of Seven Mile Beach Pty Ltd is fixed to this document in accordance with its constitution in the presence of

Signature of director

Signature of director/company secretary
(Please delete as applicable)

Name of director (print)

Name of director/company secretary (print)

Your reference : SP-LEP-45
Our reference : DOC05/23242.TN.02/06566
Contact : Coffs Harbour 6659 8256
Date : 26 June 2006

Mr K O'Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

Attr: Mr R Busby, Strategic Planning

Dear Mr O'Leary

DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) — Seven Mile Beach.

I refer to your request for comments from the Department of Environment and Conservation (DEC) on the above-mentioned draft LEP in support of Council's application to the Department of Planning for a Section 65 certificate to allow public exhibition.

The DEC has previously provided comment to Great Lakes Council on this matter and raised concerns in regard to the sensitivity of the environment. These letters expressed concerns specifically relate to the environmental impacts the rezoning and associated development may have on the surrounding national park estate.

Measures to mitigate potential impacts from the proposal have been discussed, and agreed in principle, between Great Lakes Council, Wise Property Group and the DEC. Outcomes of the discussion are to be incorporated into a Planning Agreement between the proponent and the DEC and will include:

- 1) Revegetation of land inside Booti Booti National Park previously disturbed by sandmining.
- 2) The building of a road from the South Eastern most point of the property to the intersection of scenic drive and the disused car park.
- 3) Building of a car park inside Booti Booti National Park.
- 4) An easement over the land in favour of the Minister for the Environment.

The DEC supports the modifications to the LEP provided the above mitigation measures are put in place.

Should Council be in possession of information that suggests the interests of the DEC may be further affected, please contact Mr Tim Nott, Conservation Planning Officer, on (02) 6659 8256.

Yours sincerely

BRENDAN DIACONO
Manager Planning and Aboriginal Heritage – North East
Environment Protection and Regulation

Draft 1

Date: 27 July 2006

Time: 4:05 pm

Deed for the carrying out of works – Lakes Way, Forster

SMB Developments Pty Limited (**SMB**)

Director-General of the National Parks and Wildlife Service
(**Director-General**)

Minister for the Environment (**Minister**)

Deed for the carrying out of works

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Details

Date

Parties

Name **SMB Developments Pty Limited** 103 163 560
Short form name **SMB**
Notice details Level 2, Edgecliff Centre 203-233 New South Head Road EDGECLIFF NSW
2027
Attention Robin Wise

Name **Lisa Corbyn**
Director-General of the National Parks and Wildlife Service
Short form name **Director-General**
Notice details

Name **The Honourable Robert John Debus MP**
Minister for the Environment
Short form name **Minister**
Notice details

Background

- C SMB has lodged the Application with the Minister for Planning for approval to carry out the Project on the Land.
- D The application seeks approval for the subdivision of the Land which adjoins the National Park and development of residential dwellings on the Land.
- E In order to provide public access from the Lakes Way to the National Park, SMB have agreed to construct the Road.
- F Providing approval is granted for the Project, SMB will undertake the Park Works within the National Park such as the construction of a new carpark, for the benefit of the public entering and utilising the National Park.
- G Any application under the NPW Regulation to carry out the Park Works within the National Park must be approved by the Director-General as a representative of the NPWS.
- H Prior to the Park Works being commenced the Minister must grant a licence to SMB under the NPW Act to use the land within the National Park for the purpose of carrying out the Park Works.

Agreed terms

46. Defined terms & interpretation

46.1 Defined terms

In this document:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Application means the application for approval of the Project under Part 3A of the Act by SMB.

Approvals means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements issued by or on behalf of any Authority which are required by law for the commencement, carrying out or use of the Works.

Business Day means:

- (a) for receiving a notice under clause 12, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is sent; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.

Business Hours means from 9.00am to 5.00pm on a Business Day.

Claim means any action, suit, demand, proceedings, claim for any loss, damage or other liability, or any other form of claim, whether based in contract, tort (including negligence), misrepresentation, breach of warranty or on any other statutory, legal or equitable grounds.

Commencement Date means the date that the Application is approved by the Minister for Planning.

Community Association means a corporation that:

- (a) is constituted under the Community Land Development Act 1989 by the registration of a community plan as a deposited plan, and
- (b) has for its corporate name “Community Association D.P. No _____” (the number inserted being that of the deposited plan).

Consents means the consent issued under Divisions 2 and 3 of the NPW Regulation by the Director-General for the carrying out of works within a National Park.

Emergency means a fire, flood or any other natural disaster or event posing a threat of injury or harm to public persons.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means Lots 103, 142 and 178 DP 753168 known as The Lakes Way, Forster.

Licence means a licence granted by the Minister under section 151 of the *National Parks and Wildlife Act 1974* (NSW).

National Park means the Booti National Park.

NPW Act means the *National Parks and Wildlife Act 1974*.

NPW Regulation means the *National Parks and Wildlife Regulation 2002*.

NPWS means the National Parks and Wildlife Service NSW.

Road means the two coat bitumen seal public access road extending from the Lakes Way to the south eastern corner of the Land as illustrated at Annexure A.

Park Works means the works described in Schedule 1.

Phase 2 Completion Date means the completion of Phase 2 Works.

Phase 2 Works means the works to be completed in phase 2 of the Project as approved in the Application.

Project means the proposed residential development and conservation works on the Land including a community title subdivision, 316 dwellings and apartments with support facilities and associated infrastructure.

Schedule 1 means Schedule 1 of this Deed.

Works means any of the works which are the subject of the Application.

46.2 Interpretation

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Deed, and a reference to this Deed includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (i) any schedules and attachments form part of this Deed;
- (j) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Deed or any part of it; and
- (k) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

46.3 Headings

Headings are for ease of reference only and do not affect interpretation.

46.4 Unfettered discretion

SMB acknowledges and agrees that:

- (a) the Minister and the Director-General have an unfettered discretion to exercise any or all of their functions and powers pursuant to any legislation;
- (b) nothing in this Deed will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Minister or the Director-General to exercise any of its functions and powers pursuant to the NPW Act, the NPW Regulation or any other legislation; and
- (c) without limiting clause 46.4(a), anything which the Minister or the Director-General, fails to do or purports to do pursuant to its functions and powers under any legislation will be deemed not to be, or to have caused or contributed to, an act or omission by the Minister or the

Director-General under this Deed and SMB will have no claim against the Minister or the Director-General arising out of the subject matter of this Deed.

47. Conditions Precedent

47.1 Commencement of Park Works

For the purposes of this Deed, SMB is not required to commence construction of the Park Works within the National Park under this Deed unless and until all of the following events have occurred:

- (a) SMB have obtained approval of the Application from the Minister for Planning;
- (b) SMB have been granted a Licence from the Minister to use the land within the National Park in order to carry out the Park Works; and
- (c) SMB have obtained the required consents from the Director-General to undertake the Park Works within the National Park.

47.2 Conduct of parties

Subject to any contrary provision of this Deed, if the fulfilment of any of the Conditions Precedent requires or would be assisted by the conduct of a party, that party must use its reasonable endeavours to ensure that the Condition Precedent is fulfilled.

47.3 Consequence of non satisfaction

- (a) If the Conditions Precedent in clause 47.1 are not satisfied within 24 months of the Commencement Date, then SMB may terminate this Deed by notice in writing.
- (b) If this Deed terminates pursuant to clause 47.3(a), no party will have any Claim against, or obligations to, any other party arising on, or out of, such termination or otherwise out of this Deed.

47.4 Commencement

The parties each agree that the terms of this Deed will operate and be effective from the Commencement Date.

48. Park Works

48.1 SMB to do Park Works

SMB agrees to construct and maintain the Park Works in accordance with the provisions of this Deed and Schedule 1.

48.2 Conditions Precedent

The parties acknowledge that the undertaking of the Park Works within the National Park is conditional upon satisfaction of clause 47.1 of the Conditions Precedent.

48.3 Timing

- (a) With the exception of the works to be carried out in accordance with the Eastern Habitat Corridor Regeneration Plan, SMB will use its best endeavours to complete the construction of the Park Works prior to the Phase 2 Completion Date.
- (b) With the exception of the works to be carried out in accordance with the Eastern Habitat Corridor Regeneration Plan, if the Park Works are not completed by 1 July 2008, the Minister or the Director-General may terminate this Deed by notice in writing to SMB.
- (c) If SMB does not complete the Park Works by 1 July 2008 and this Deed is terminated under clause 3.3(b), SMB will indemnify the Minister or the Director-General for the costs incurred by the Minister or Director-General in completing the Park Works.

48.4 Standard of Park Works

The planning, design, construction and commissioning of the Park Works will be in accordance with the specifications as noted on the drawings at Annexure C.

49. Road Works

49.1 SMB to construct Road

SMB agrees to construct and maintain the Road in accordance with the provisions of this Deed and Schedule 1 of this Deed.

49.2 Public use of Road

Immediately upon completion of construction of the Road or at any time prior to completion of construction of the Road:

- (a) SMB must grant a right of carriageway over the Land in accordance with section 88A of the *Conveyancing Act 1919* granting an easement in gross for the benefit of the Minister for public use of the Road; and
- (b) the easement is to be in the form of Annexure B to this Deed.

49.3 Location of Road

- (a) The Road is to be constructed on the Land generally in accordance with the location of the Road as identified on the draft survey plan attached at Annexure A to this Deed.
- (b) Prior to commencing construction of the Road, SMB is to submit final survey plans to the NPWS for approval by the NPWS.
- (c) The approval of the NPWS under clause 49.3(b) must not be unreasonably withheld.
- (d) The agreed final location of the Road is to be within 10 metres of the location of the Road as shown in the draft survey plan.
- (e) Subject to clause 49.3(d), SMB may change the final location of the Road in the final survey plans from the location provided in the draft survey plan in order to preserve trees, wildlife or for any other reason relating to the conservation or protection of the environment on the Land.

49.4 Timing

- (a) SMB will use its best endeavours to complete the construction of the Road prior to the Phase 2 Completion Date.
- (b) If the Road is not completed by 1 July 2008, the Minister or the Director-General may terminate this Deed by notice in writing to SMB.
- (c) If SMB does not complete the Road by 1 July 2008 and this Deed is terminated under clause 4.4(b), SMB will provide access to the Land for the Minister or the Director-General to complete construction of the Road and will indemnify the Minister or the Director-General for the costs incurred by the Minister or the Director-General in completing the Road.

49.5 Standard of Road

The planning, design, construction and commissioning of the Road will be in accordance with the specifications as noted on the drawings at Annexure A.

50. Access to Road

50.1 Minister may restrict access

The Director-General may restrict access to or close the Road from within the National Park at any time and for any reason without notice to SMB.

- 50.2 SMB not to restrict access
- (a) Except in the case of an Emergency or for maintenance purposes, SMB or its successors in title must not restrict access to or close the Road from within the Land at any time without first receiving written approval from the Director-General.
 - (b) If SMB must restrict access to or close the Road from within the Land for maintenance purposes, SMB will use its best endeavours to carry out the maintenance works as soon as practicable and will only close those parts of the Road necessary to maintain the safety of the public while carrying out maintenance.
 - (c) The Director-General and his employees must use their best endeavours to report any need for maintenance to the Road to SMB as soon as practicable.
51. Conduct by SMB
- 51.1 Use of the National Park
- In the case that the approvals are granted under clause 47.1, SMB must:
- (a) use the land within the National Park pursuant to any Licence granted by the Minister under clause 47.1(a) for the construction of the Park Works as described in Schedule 1 of this Deed; and
 - (b) carry out the Park Works within the National Park pursuant to any Consents granted by the Director-General under clause 47.1(c).
52. Indemnity
- 52.1 SMB to indemnify
- (a) SMB agrees to indemnify the Minister and the Director-General against all expenses, losses, damages and costs (on a solicitor and own client basis and whether incurred by or awarded against the Minister or the Director-General) that the Minister and/or the Director-General may sustain or incur as a result, whether directly or indirectly, arising from the use of the Road on the Land by members of the public who are travelling between the Lakes Way and the National Park.
 - (b) The indemnity given by SMB does not cover any loss or damage that is caused or contributed to by a negligent act or omission of the Minister or the Director-General or its personnel.
 - (c) This indemnity ceases to have effect when the title to the Land is transferred to any successors in title, including the Community Association.
53. General
- 53.1 Review of this Deed
- This Deed may be reviewed or modified by the agreement of the parties using their best endeavours and acting in good faith.
- 53.2 Dispute Resolution
- (a) If a dispute arises out of this Deed (**Dispute**), a party must comply with this clause 53.2 before starting arbitration or court proceedings (except proceedings for interlocutory relief).
 - (b) A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.
 - (c) During the 14 days after a notice is given under clause 53.2(b) (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts to resolve the Dispute. If the parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them so requests.
- (d) If the parties to the Dispute cannot agree on a mediator within seven days after a request under clause 53.2(c), the chairman of LEADR or the chairman's nominee will appoint a mediator.
 - (e) The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding NPWS decision on a party to the Dispute except if the party agrees in writing.
 - (f) Any information or documents disclosed by a party under this clause 53.2:
 - (i) must be kept confidential; and
 - (ii) may only be used to attempt to resolve the Dispute.
 - (g) Each party to a Dispute must pay its own costs of complying with this clause 53.2. The parties to the Dispute must equally pay the costs of any mediator.
 - (h) A party to a Dispute may terminate the dispute resolution process by giving notice to each other after it has complied with clauses 53.2(a) to 53.2(c). Clauses 53.2(f) and 53.2(g) survive termination of the dispute resolution process.
 - (i) If a party to a Dispute breaches clauses 53.2(a) to 53.2(h), the other parties to the Dispute do not have to comply with those clauses in relation to the Dispute.
- 53.3 Notices
- (a) A notice, demand, consent, approval or communication under this Deed (**Notice**) must be:
 - (i) in writing, in English and signed by a person duly authorised by the sender; and
 - (ii) hand delivered or sent by prepaid post or facsimile to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.
 - (b) A Notice given in accordance with clause 32.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
 - (i) if hand delivered, on delivery;
 - (ii) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
 - (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.
- 53.4 Approvals and consent
- The parties acknowledge that:
- (a) except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party;
 - (b) a Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions; and
 - (c) this Deed does not impose any obligation on a consent authority to:

- (i) grant an approval under the NPW Act or NPW Regulation; or
- (ii) exercise any function under the NPW Act or NPW Regulation in relation to a change in an environmental planning instrument.

53.5 Successors in Title

- (a) With respect to the Land until such time as the registration of a community plan of subdivision wherein the Road and the land on which it is constructed become part of the community property in such plan, any agreements made pursuant to this Deed shall bind any successors in title and SMB covenants with the Minister and the Director-General that prior to any disposal or transfer of the whole or any part of the Land, or assignment of the benefits of this Deed, to a third party, it shall notify the third party of its obligations under this Deed and procure from the third party prior to such disposal, transfer or assignment, a Deed on terms acceptable to the Minister and the Director-General (including regarding this clause 53.5) whereby the third party agrees with the Minister and the Director-General to be bound by the terms of this Deed for the benefit of the Minister and the Director-General and accepts the benefits of this Deed.
- (b) Upon the registration of a community plan of subdivision as provided in clause 53.5(a) and formation of the Community Association, SMB shall notify the Community Association of its obligations under this Deed and procure from the Community Association a Deed on terms acceptable to the Minister and the Director-General (including regarding this clause 53.5) whereby the Community Association agrees with the Minister and the Director-General to be bound by the terms of this Deed in respect of that part of the Community Association property on which the Road is constructed.
- (c) A party must not assign this Deed or any right under this Deed without the prior written consent of the other party which must not be unreasonably withheld.

53.6 Costs

Each party must bear its own costs of preparing and executing this Deed.

53.7 Entire agreement

This Deed, including its schedules and annexures:

- (a) constitutes the entire agreement between the parties as to its subject matter; and
- (b) in relation to that subject matter, supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party.

53.8 Further acts

Each party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Deed and all transactions incidental to it.

53.9 Governing law and jurisdiction

- (a) This Deed is governed by the law of New South Wales.
- (b) Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales

53.10 Severability

- (a) The parties agree that a construction of this deed that results in all provisions being enforceable is to be preferred to a construction that does not so result.
- (b) If, despite the application of clause 53.10(a), a provision of this deed is illegal or unenforceable:

- (i) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; and
- (ii) in any other case, the whole provision is severed,
and the remainder of this deed continues in force.

53.11 Alteration

This Deed may be altered only in writing signed by each party.

53.12 Adverse construction

No provision of this deed will be construed adversely against a party solely because that party was responsible for drafting that particular provision.

53.13 Waiver

- (a) The failure of a party at any time to require performance of any obligation under this Deed is not a waiver of that party's right:
 - (i) to claim damages for breach of that obligation; and
 - (ii) at any other time to require performance of that or any other obligation under this Deed,

unless written notice to that effect is given in accordance with clause 53.3.

- (b) Waiver of any provision of or right under this Deed:

- (i) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (ii) is effective only to the extent set out in any written waiver.

53.14 GST

- (a) Words or expressions used in this clause 53.14 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ('GST Act') have the same meaning in this clause.
- (b) Subject to clause 53.14(c), if GST is payable on any supply made under or in connection with this Deed, the recipient of that supply must pay to the supplier, an additional amount equal to the GST payable on that supply provided that no additional amount is payable under this clause until the supplier issues a tax invoice to the recipient for the supply.
- (c) If an Approval is granted and this Deed becomes operative and effective in accordance with clause 47.4, the parties agree to co-operate to determine whether Division 81 or Division 82 of the GST Act applies to any supplies or payments made under this Deed.
- (d) If a payment to a party under this deed is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled on its acquisition of the taxable supply to which that loss, cost or expense relates.

Schedule 2 - Park Works Schedule (clauses 3 and 4)

Description of works	Party responsible for carrying out of works	Plan detailing works
<ul style="list-style-type: none"> Construction of carpark and clearing of land opposite to allow for vehicle manoeuvring approximately 150 metres from the northern termination of Scenic Drive within the National Park. 	SMB	Annexure C
<ul style="list-style-type: none"> Removal of fencing along site of existing car park and regeneration with selected native vegetation in accordance with the Eastern Habitat Corridor Regeneration Plan. 	SMB	Annexure D
<ul style="list-style-type: none"> Works within part of the National Park consistent with the Eastern Habitat Corridor Regeneration Plan 	SMB	Annexure D
<ul style="list-style-type: none"> Construction of the Road within the SMB land running in an easterly direction from the Lakes Way to the south-eastern corner of the Land. 	SMB	Annexure A and section 88K instrument at Annexure B.
<ul style="list-style-type: none"> Construction of a compacted hardcore surface road within the National Park from end of the Road at the south eastern corner of the Land to link with the Scenic Drive. 	SMB	Annexure C.
<ul style="list-style-type: none"> Installation of signage and traffic management devices on new road. 	SMB	Annexure C

Signing page

EXECUTED as a deed.

Signed sealed and delivered for and on behalf of **SMB Developments Pty Limited** in the presence of:

Signature of witness

← _____ ←
Signature of Authorised Signatory

Name of witness

Name of Authorised Signatory (print)

Signed sealed and delivered for and on behalf of the **Director-General of the National Parks and Wildlife Service** in the presence of:

Signature of witness

← _____ ←
Signature of Authorised Signatory

Name of witness

Name of Authorised Signatory (print)

Signed sealed and delivered for and on behalf of the **Minister for the Environment** in the presence of:

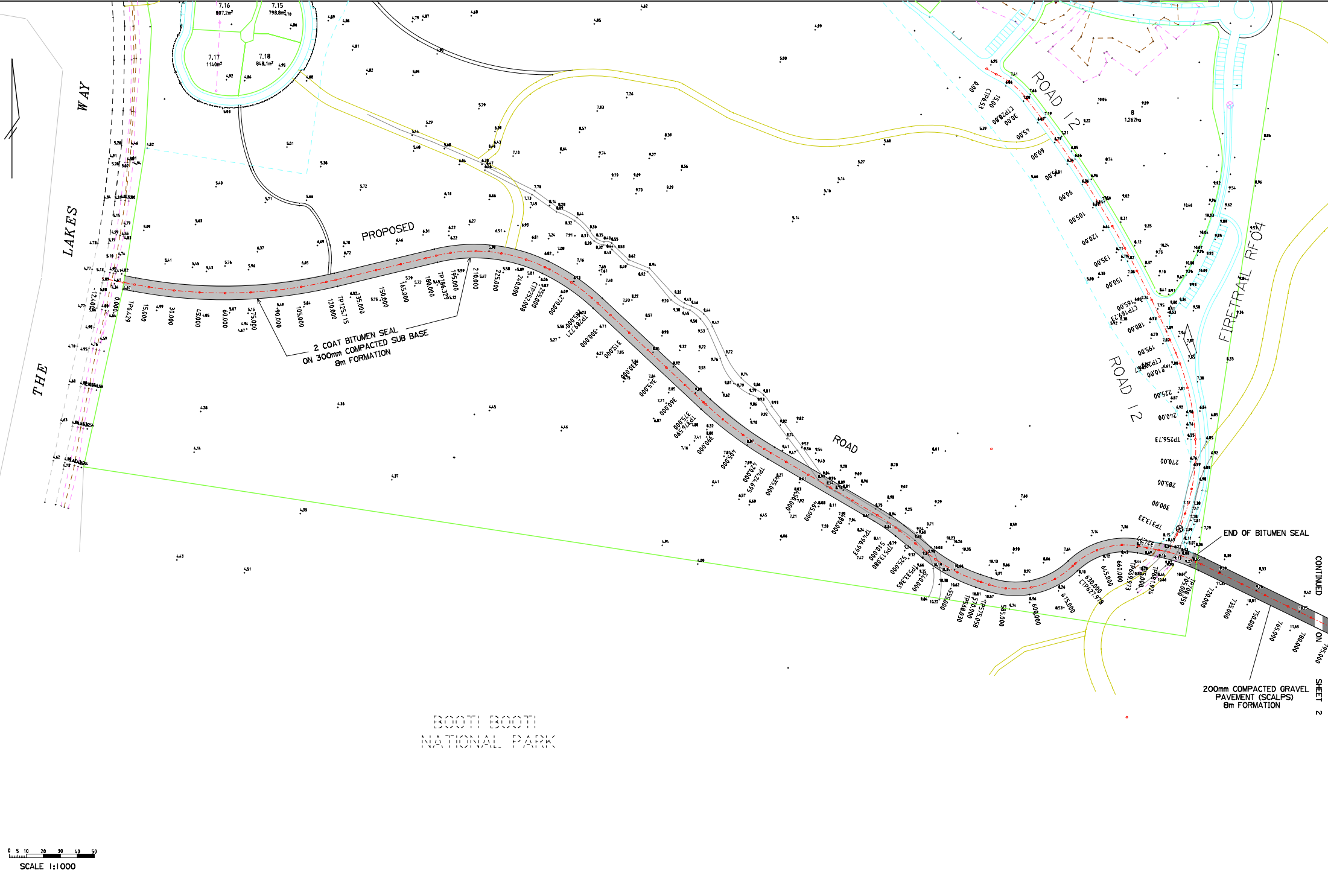
Signature of witness

← _____ ←
Signature of Authorised Signatory

Name of witness in full

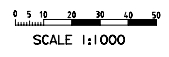
Name of Authorised Signatory (print)

Annexure A – Survey plan of Road and description of works.



CONTINUED
ON SHEET 2

BOOTI BOOTI
NATIONAL PARK



CO-ORDINATE SYSTEM HORIZONTAL LOCAL MARKS ADOPED EAST NORTH NOTE IT IS THE RESPONSIBILITY OF THE USER OF THIS PLAN TO ESTABLISH THE EXISTENCE OF ALL PUBLIC UTILITIES PRIOR TO COMMENCEMENT OF WORKS	DATUM A.H.D. B.M. ADOPED -	DRAWN RD CHECKED	PROJECT PLAN SHOWING PROPOSED ROAD THROUGH TO BOOTI BOOTI NATIONAL PARK SEVEN MILE BEACH FORSTER	LSW LIBBURY, SUMMERS & WHITEMAN CONSULTING SURVEYORS, PLANNERS & ENGINEERS INCORPORATING DEGDAR, SMITH & PARTNERS FORSTER 1st FLOOR, 3 WHARF ST. FORSTER 2428 (02) 65547988 FAX (02) 65549378 PO BOX 510 FORSTER NSW 2428 EMAIL consulting@swsurveyors.com.au	SCALES HORIZONTAL 1:1000 VERTICAL N/A	COUNCIL GREAT LAKES	SHEET 1 OF 2	ISSUE DATE COMMENTS
	PLOT FILE/DWG No. F-0109 DWG/FPL1	PASSED			DATE 15/12/06	FILE No. 0109	ISSUE DATE COMMENTS	

Annexure B – Easement (section 88A)

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88A Conveyancing Act 1919.

(Sheet 1 of 1 sheets)

Plan: Plan of Certificate No. covered by Subdivision

Full name and address of the owner of the land: Seven Mile Beach Pty Ltd
c/- Suite 202, 203-233 New South Head Road, Edgecliff NSW
2027

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Right of Carriageway	[SMB Land as marked on the plan]	Minister administering the <i>National Parks and Wildlife Act 1974</i>

Part 2 (Terms)

Terms of easement, profit à prendre, restriction, or positive covenant numbered 1 in the plan

Full and free right for the body in whose favour this easement is created, and every person authorised by it, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both over the land indicated herein as the servient tenement.

Name of person empowered to release, vary or modify restriction or positive covenant numbered 1 in the plan.

Minister administering the *National Parks and Wildlife Act 1974*

The common seal of Seven Mile Beach Pty Ltd is fixed to this document in accordance with its constitution in the presence of

Signature of director



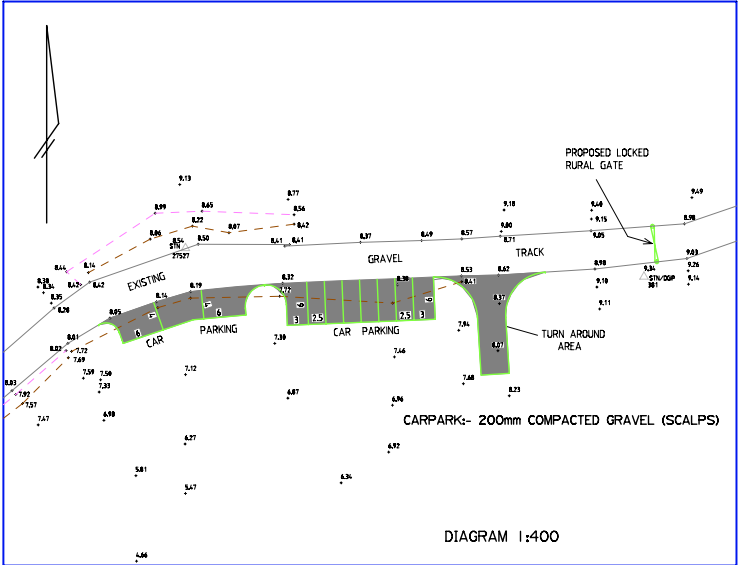
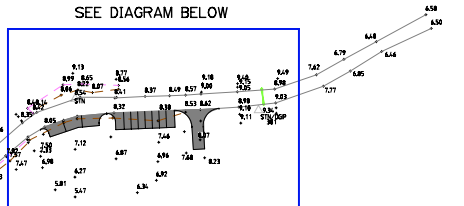
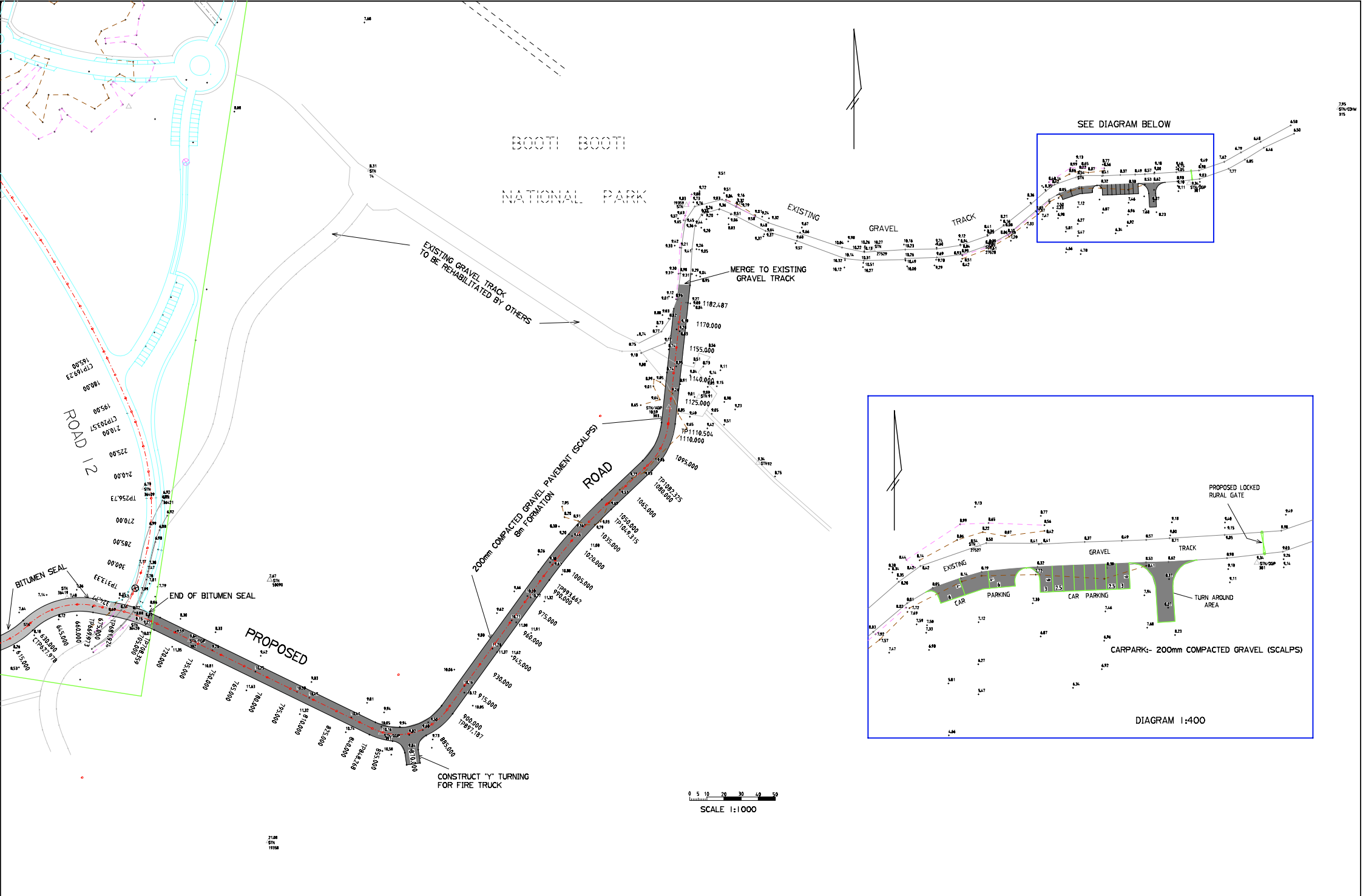
Signature of director/company secretary
(Please delete as applicable)



Name of director (print)

Name of director/company secretary (print)

Annexure C – Park Works specifications and construction drawings



0 5 10 20 30 40 50
SCALE 1:1000

CO-ORDINATE SYSTEM LOCAL MARKS ADOPTED EAST NORTH NOTE IT IS THE RESPONSIBILITY OF THE USER OF THIS PLAN TO ESTABLISH THE EXISTENCE OF ALL PUBLIC UTILITIES PRIOR TO COMMENCEMENT OF WORKS	HORIZONTAL DATUM A.H.D. B.M. ADOPTED - R.L. -	VERTICAL DRAWN CHECKED PASSED	PROJECT PLAN SHOWING PROPOSED ROAD THROUGH BOOTI BOOTI NATIONAL PARK SEVEN MILE BEACH FORSTER	SCALES HORIZONTAL 1:1000 VERTICAL N/A	COUNCIL GREAT LAKES	SHEET 2 OF 2	ISSUE A	DATE 15/12/06	COMMENTS FIRST ISSUE
	PLOT FILE/DWG No. F: 0109 DWGNPCL (Wn 82)	DRAWN CHECKED PASSED	PROJECT PLAN SHOWING PROPOSED ROAD THROUGH BOOTI BOOTI NATIONAL PARK SEVEN MILE BEACH FORSTER	CONSULTING SURVEYORS, PLANNERS & ENGINEERS INCORPORATING DEGOTARD, SMITH & PARTNERS (FORSTER) 1st FLOOR, 3 WHARF ST. FORSTER 2428 (02) 65547988 FAX (02) 65549378 PO BOX 510 FORSTER NSW 2428 EMAIL consult@lswsurveyors.com.au	DATE 15/12/06	FILE No. 0109	ISSUE A	DATE 15/12/06	COMMENTS FIRST ISSUE

Annexure D– Eastern Habitat Corridor Regeneration Plan

APPENDIX F

COMMUNICATION WITH CATCHMENT MANAGEMENT AUTHORITY (CMA)

Our Ref: 5242DNR:JT/msr

16 March 2006

Great Lakes Council
PO Box 450
FORSTER NSW 2428

Attention: Roger Busby

Dear Roger,

Re: Hollow-bearing Tree Assessment within Conservation Reserves and Development Areas, Seven Mile Beach

At the request of Great Lakes Council, surveys for hollow-bearing trees were conducted across the proposed conservation areas, habitat corridors and development areas at Seven Mile Beach. The Hollow Bearing Tree assessment was conducted by Conacher Travers on the dates of May 23rd, 24th, 25th, 30th, 31st, and June 1st 2005.

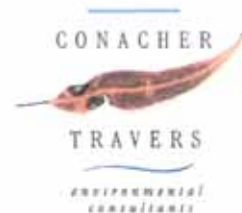
In response to the Catchment Management Authorities (CMA's) desire to undertake a Property Vegetation Plan (PVP) on site, a further hollow bearing tree assessment was carried out on the 21 February 2006 in accordance with the CMA's assessment criteria for hollow bearing trees. For the purposes of the PVP developer, trees containing hollows of less than 5cm diameter are not considered to be hollow bearing trees and are therefore not included in the remove/retain calculations.

In accordance with these criteria, trees originally considered as hollow bearing that only contained hollows of less than 5cm diameter were removed from the hollow bearing tree plan (attached) and Table 2 below, resulting in 5 trees being removed from the calculations. In addition, the development proposal has been reviewed with the aim of retaining additional hollow bearing trees within the development area. This review resulted in a further 7 hollow bearing trees being retained.

A total of 244 trees were observed and mapped with the use of GPS equipment throughout the proposed Habitat Corridors, Northern and Southern Conservation Areas. This represents 71% of all hollow bearing trees onsite. These trees contained a total of 636 hollows with each tree on average containing two to three hollows. Table 1 shows the total number of each type of hollow present.

Table 1 – Total Numbers of Each Hollow Type within Conservation Areas

Hollow Size	Hollow Type				
	Broken Trunk	Trunk	Branch	Split	Cracked Bark
Small (<10cm)	8	40	236	125	16
Medium (10-30 cm)	32	38	96	17	5
Large (>30cm)	13	4	0	4	2



Within the conservation areas, hollows were most commonly found in *Melaleuca quinquenervia*, *Eucalyptus robusta*, *Angophora costata*, *Eucalyptus pilularis* and dead stags. They contained a variety of hollow types suitable as nesting or denning habitat for a variety of fauna species including small and large arboreal mammals, birds, microchiropteran bats, and some arboreal reptile species. Notably these hollows displayed characteristics potential for use by the threatened species Glossy Black-Cockatoo, Squirrel Glider, Barking Owl, Powerful Owl, Masked Owl, Sooty Owl, Brush-tailed Phascogale, Golden-tipped Bat, Large-footed Myotis, Eastern Freetail-bat, Greater Broad-nosed Bat, and Stephens' Banded Snake.

Table 2: Analysis of Hollow Bearing Trees across entire site

	Number of Hollow Bearing Trees	Percentage (%) Across Entire Site
Total number of Hollow Bearing Trees within site	342	100%
Hollow bearing trees within development area	184	54%
Hollow bearing trees to be removed within development area	31	9%
Hollow bearing trees to be retained within development area	153	45%
Total hollow bearing trees to be removed from site	31	9%
Total hollow bearing trees to be retained on site	311	91%

As can be seen from Table 2, the removal of hollow bearing trees within the development site will have a small impact upon the squirrel glider's possible roost sites within the south western section of the site. This impact can be mitigated by the removal and relocation of all hollows as well as the provision of nest boxes of different sizes throughout the conservation areas within the site. Any tree in which a squirrel glider was located during survey and monitoring will be retained within the development area.

Conclusions

It was found that hollows outside development areas contained similar types and composition of hollows that were observed within the development area.

The current usage of hollow bearing trees within the development by Squirrel Gliders has been recognised in the proposed development by retaining significant hollow bearing trees. To ensure that active hollows will not be destroyed, all trees within the current denning area will be inspected by a tree climber and assessed by a fauna ecologist. Ecologically Significant trees, i.e. trees that contain active nest sites, will be retained and alternative strategies proposed to resolve development and habitat retention objectives.

During the development process, every effort must be made to retain hollow bearing trees. Buildings will be individually placed to maximise retention of trees including hollow trees. If a tree requires removal due to safety reasons, or to accommodate roads etc, they must be inspected by a suitably qualified ecologist prior to removal. If any tree is occupied by breeding native fauna, the trees removal is to be postponed until fauna has moved on. When removal of a hollow tree takes place, the tree should be tapped by the bucket of machinery to disturb any fauna present. The tree is then to be dropped as gently as possible and/or lowered wherever possible.

Wherever a hollow-bearing tree requires removal, the hollow should be retained and relocated within adjoining habitat for future use by hollow dependant fauna.

It is considered that hollows to be removed as part of the proposal are not of significant number when compared to what will be retained as within lot habitat, in landscaped areas and within conservation zones. It is considered that hollow tree availability within retained habitats of the site is unlikely to be compromised as a result of the proposal.

Yours faithfully

Michael Sheather-Reid
Project Ecologist
Conacher Travers

Radio trapping of squirrel gliders will involve the following:

Trapping of squirrel gliders for 5 nights to attached radio collars (2 persons @ \$1,000/ day)

1 week of radio tracking 7-10 nights

1 week of trapping to retain radio collars (note trapping will continue until all collars have been retrieved and removed from gliders)

Basically radio tracking will cost \$1,000/day for 3 weeks approx \$30,000

What data will be obtained?

- 1) Indicate Squirrel Glider movements.
- 2) Indicate movement of squirrel gliders off site areas including national park and connectivity to vegetation across road.
- 3) Indicate information on roost trees being utilized.
- 4) Use of corridor within development area
- 5) Known supplementary habitat

A problem with original SIS is that no squirrel glider trapping was performed in the south western portion of the site, only spotlighting. The amount of hollow bearing trees and the floristic variation in this area suggests habitat for squirrel glider.

Our Ref: 5242:JT/dl/jac

19 May 2005

Robin Wise,
Wise Property Group
203-233 New South Head Rd
EDGECLIFF NSW 2027

Attention: Mr Robin Wise

Dear Robin

**Re: Response to CMA assessment
Seven Mile Beach
Lot 103, 142 and 178, The lakes Way, Forster**

Conacher Travers Pty Ltd has been engaged by Wise Property Group Pty Ltd to respond to the Maintain and Improve assessment process using the Department of Environment and Conservation (DEC) PVP Developer Program, for the above mentioned parcel of land (the site).

Great Lakes Council have concurred with the conclusions of the submitted Species Impact Statement for threatened species as listed under the EP&A Act (1979) and EPBC Act (1999). These assessments concluded that the development would have no significant impact.

The following threatened species (Table 1) are being assessed under the Native Vegetation Act (2003) and its Regulation (2005) based on the criteria set within the Maintain and Improve process being undertaken by the Hunter Central Rivers CMA.

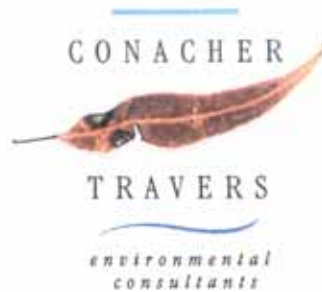
Table 1: Threatened species to be assessed within the Maintain and Improve assessment

Species	Affectation	CMA Criteria
Glossy Black Cockatoo	Reduction of breeding habitat	No loss of hollows 15cm or greater
Swift Parrot	No reduction in foraging resources.	Can sustain 5% loss of habitat – no loss of Swamp Mahogany.
Barking Owl	Reduction of breeding habitat	No loss of hollows 20cm or greater
Powerful Owl	Reduction of breeding habitat	No loss of hollows 45cm or greater
Masked Owl	Reduction of breeding habitat	No loss of hollows 40cm or greater
Black Flying Fox	Reduction of breeding habitat	Canopy trees associated with Coastal Scrub or Rain Forest and with sufficient

Conacher Travers Pty Ltd - ABN 49 083 610 173

Central Coast - Building 40 The Avenue Mt Penang Parklands, Pacific Highway, Karong NSW 2250, PO Box 7128, Karong NSW 2250
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		foraging resources within 40kms of the site. Particularly the Swamp Mahogany in this case
Grey-headed Flying-fox	Reduction of breeding habitat	Canopy trees associated with Coastal Scrub or Rain Forest and with sufficient foraging resources within 40kms of the site. Particularly the Swamp Mahogany in this case.

As per the criteria in Table 1, threatened species will be assessed under two broad categories including Hollow Assessment and Swamp Mahogany Assessment. Individual threatened species are examined under these two assessment categories.

1. HOLLOW ASSESSMENT

Three hundred and thirty eight (338) hollow-bearing trees have been identified within the site (Table 2). These trees contain approximately eight hundred and seventy-seven (877) hollows including splits, branches, broken trunk and trunk hollows. The hollows mostly occurred within *Melaleuca quinquenervia*, *Eucalyptus robusta*, *Angophora costata*, *Eucalyptus pilularis* and stags. The hollow bearing trees occur within all of the vegetation communities with the exception of the heathland vegetation located at the south western section of the site.

Table 2 lists the total number of hollow bearing trees to be retained and removed within the site. Table 3 lists the total number of hollow bearing trees to be retained and removed within the site by hollow size. Table 4 identifies those hollows to be removed in accordance with the CMA hollow categories identified in Table 1.

Table 2: Total number of hollow bearing trees to be retained and removed within the site

Description	Number of Hollow Bearing Trees	Percentage (%)
Total number of hollow bearing Trees within site	338	100%
Total number of hollow bearing trees to be removed from site	30	9%
Total number of hollow bearing trees to be retained on site	308	91%

Table 3: Total number of hollow bearing trees to be retained and removed within the site by hollow size

Hollow size	Total	Removed	%	Retained	%
Small (<10cm)	577	43	7%	534	93%
Medium (10-30 cm)	275	24	9%	251	91%
Large (>30-40cm)	23	2	8%	21	92%
Extra Large (>40cm)	2	0	0%	2	100%

Table 4: Hollows to be removed within the site by CMA hollow categories

Hollow Category	Removed
< 15 cm	48
> 15 cm	10
> 20 cm	9
> 40 cm	NIL
> 45 cm	NIL
Total to be removed	67

1.1 Glossy Black Cockatoo

1.1.1 Preferred Breeding Habitat

Glossy Black Cockatoos nest in trunk hollows, stumps, spouts or limbs of *Eucalypt* species, living or dead (Higgins 1999). Higgins (1999) describes the average hollow diameter for this species to be approximately 22.5 centimetres.

1.1.2 Habitat within the site

Glossy Black Cockatoos have not been identified within the site during field surveys. The potential breeding habitat for this species occurs in all of the identified vegetation communities within the site, with the exception of the two heathland vegetation communities (Figure 3). Hollows used by the Glossy Black Cockatoo are ≥ 15 cm in diameter and comprise 31% (275) of the total number of hollows within the site. Of these hollows the proposed development will remove 9% (24 hollows greater than 15 cm in diameter) (Table 2).

1.2 Barking Owl

1.2.1 Preferred Breeding Habitat

Barking Owls prefer to nest in large open hollows in tree trunks and less often in spouts. Hollows within live trees are favoured and less often dead trees of *Eucalypt* and *Melaleuca* species and Brush Box (*Lophostemon conferta*). This species will nest in areas of human activity, often using the same site for many years (Higgins 1999). Inhabits eucalypt woodland, open forest, swamp woodlands and, especially in inland areas, timber along watercourses. Denser vegetation is used occasionally for roosting. The preferred habitat is Coastal Dune Dry Sclerophyll Forests - canopy species includes *Angophora costata* (Sydney Red Gum), *Corymbia gummifera* (Red Bloodwood), *Eucalyptus pilularis* (Blackbutt) and *Eucalyptus planchoniana* (Bastard Tallowwood) (DEC Threatened Species Website – Threatened Species Profile 2005).

During the day they roost along creek lines, usually in tall understorey trees with dense foliage such as *Acacia* and *Casuarina* species, or the dense clumps of canopy leaves in large eucalypts

1.2.2 Habitat within the site

Barking Owls have not been identified within the site during field surveys. The primary area of potential breeding habitat for this species occurs in all of the identified vegetation communities within the site, with the exception of the two heathland vegetation communities, Figure 3. Of hollows greater than 20 cm in diameter, the proposed development will remove approximately 4% (11) (Table 2 and Figure 1).

Masked Owl

1.3.1 Preferred Breeding Habitat

Masked Owls nest in trunk hollows and near vertical spouts of large trees, preferring live trees and less often dead trees (Higgins 1999). This species is often found nesting in prominent trees, either isolated or emergent, in forest, woodland, treed farmland and remnant patches. This species is rarely found nesting in trees on edges of towns or suburbia (Kavanagh and Murray 1996).

1.3.2 Habitat within the site

Masked Owls have not been identified directly within the site during field surveys; however it was heard calling from the adjacent Booti Booti National Park. The potential breeding habitat for this species within the site occurs in a single stag (Table 1 - hollows ≥ 40 cm) within the north western portion of the development area known as "The Forest". This stag is to be retained within the proposed development layout.

1.3 Powerful Owl

1.4.1 Preferred Breeding Habitat

Powerful Owls typically nest in large vertical hollows such as broken-off trunks of trees and less often in horizontal or sloping spouts, usually of living trees. Understorey below and near nest tree is important in providing sheltered low roosts for newly fledge young and as a means of climbing to avoid terrestrial predators (Higgins 1999). Nest trees may be used in consecutive years. Powerful Owls nest in large tree hollows (at least 0.5 m deep), in large eucalypts (diameter at breast height of 80-240 cm) that are at least 150 years old. During the breeding season, the male Powerful Owl roosts in a "grove" of up to 20-30 trees, situated within 100-200 metres of the nest tree where the female shelters (DEC Threatened Species Website – Threatened Species Profile 2005).

1.4.2 Habitat within the site

Powerful Owls have not been identified within the site during field surveys. The potential breeding habitat for this species within the site occurs in a single stag (Table 1 - hollows ≥ 45 cm) within the north western portion of the development area known as "The Forest". This stag is to be retained within the proposed development layout.

2. SWAMP MAHOGANY ASSESSMENT

Swamp Mahoganies are an important foraging species for the Swift Parrot, Grey-headed and Black Flying-foxes. In addition, Swamp Mahoganies are the preferred species used in roosting sites for Grey-headed and Black Flying-foxes.

A total of four thousand, six hundred and forty four (4,644) Swamp Mahoganies have been estimated within the site based on a detailed count within the development area and quadrat data within the Conservation Precincts. Of these, only 2% (92 Swamp Mahoganies) will be removed from the site (Figure 2).

2.1 Swift Parrot

2.1.1 Preferred Foraging Resources

This species is a migrant from Tasmania using the mainland of Australia to forage during the winter months. Movements on the mainland are considered to be nomadic and irruptive, as this species moves in response to foraging resource supplies (Higgins 1999). Swift Parrot populations may vary along the south-eastern coast from South Australia, Victoria, New South Wales to south-eastern Queensland annually. Population's return to Tasmania in Spring to breed. Favoured feed trees include winter flowering species such as Swamp Mahogany (*Eucalyptus robusta*), Spotted Gum (*Corymbia maculata*), Red Bloodwood (*C. gummifera*), Mugga Ironbark (*E. sideroxylon*), and White Box (*E. albens*). This species may also feed on lerp in commonly infested eucalypt trees such as Grey Box (*E. microcarpa*), Grey Box (*E. moluccan*) and Blackbutt (*E. pilularis*) (DEC 2006).

2.1.2 Habitat within the site

Swift Parrots have not been identified within the site during field surveys. Potential foraging habitats within the site consist predominately of Swamp Mahogany and lerps associated with the Eucalypt canopy. A total of 4,552 Swamp Mahogonies (98%) will be retained within the site (Figure 2).

2.2 Black Flying-fox

2.2.1 Preferred Breeding Habitat

Black Flying-foxes form large communal day-time camps in canopy trees associated with rainforest, swamp forest, coastal scrub, riparian and estuarine communities. Camps are often formed with Grey-headed Flying-foxes (DEC 2006). Camps are predominately located within 40 kilometres of sufficient foraging resources including rainforest fruits as well as nectar and pollen from flowering eucalypts, paperbarks and banksias.

2.2.2 Habitat within the site

No individual Black Flying-foxes or camps were identified within the site during field surveys. Potential breeding habitat for this species exists within the canopy trees associated with the Cabbage Palm Closed Forest and Swamp Sclerophyll Forest vegetation communities within Booti Booti National Park and south Forster. These communities in conjunction with the Tall Open Heathland and the Low Closed Heathland vegetation communities, also provide extensive foraging resources for this species.

These vegetation communities cover approximately 17.5 hectares (25%) of the total area of the site. The proposed development is likely to modify approximately 3.5 hectares (20%) of foraging habitat. However only 2.5 hectares (8%) of the canopy cover will be removed (Figures 2 and 3).

2.3 Grey-headed Flying-fox

2.3.1 Preferred Breeding Habitat

Grey-headed Flying-foxes form camps in canopy trees associated with rainforest, swamp forest, coastal scrub, riparian and estuarine communities. Camps are predominately located within 40 kilometres of sufficient foraging resources including rainforest fruits as well as nectar and pollen from flowering eucalypts, paperbarks and banksias (DEC 2006). Camps

are traditional, in the sense that, once established, they are used repeatedly, often at different intensities throughout the year (Strahan 1995). Based on existing survey information from *Great Lakes Council* and *Conacher Travers*, the nearest camp is within 5 Km in south Forster and the northern parts of Booti Booti national park.

2.3.1 Habitat within the site

No Grey-headed Flying-foxes or camps were identified within the site during field surveys. Potential breeding habitat for this species exists within the canopy trees associated with the Cabbage Palm Closed Forest and Swamp Sclerophyll Forest vegetation communities. These communities in conjunction with the Tall Open Heathland and the Low Closed Heathland vegetation communities, also provide extensive foraging resources for this species.

These vegetation communities cover approximately 17.5 hectares (25%) of the total area of the site. The proposed development is likely to modify approximately 3.5 hectares (20%) of foraging habitat. However only 2.5 hectares (8%) of the canopy cover will be removed (Figures 2 and 3).

3. MITIGATION MEASURES

The mitigative measures for the above threatened species are detailed in the Ecological Site Management Plan (ESMP) and supporting documentation. Mitigation measures, as they relate to the individual threatened species are outlined below.

3.1 Glossy Black Cockatoo, Barking Owl, Powerful Owl and Masked Owl

Eight hundred and seventy seven (877) hollows occur across the site. Of this number just 69 (8%) of hollows will be removed. At and individual species level, just 9% of the two hundred and seventy five (275) hollows suitable for the Glossy Black Cockatoo and Barking Owl will be removed, whilst the larger hollows suitable for the Powerful and Masked Owls will be completely retained.

Within the site a number of conservation precincts and restoration areas have been established. Figure 3 depicts the northern and southern conservation precincts and the eastern habitat corridor restoration area and canopy restoration area. These areas cover approximately 50 hectares (72%) of the site and approximately 10 hectares within the Booti Booti National Park. The proposed restoration measures more than adequately compensates for the small loss of potential breeding and foraging habitat found within the sites hollow bearing trees. The restoration measures include rehabilitation of approximately 10 hectares of foraging habitat within Booti Booti National Park, the provision of appropriately sized nest boxes and relocation of removed hollows into the development area and conservation precincts.

Booti Booti NP covers an area of approximately 1,586 hectares. Vegetation within this National Park is representative of the vegetation communities found within the site, including the important hollow bearing tree species *Melaleuca quinquenervia*, *Eucalyptus robusta*, *Angophora costata*, *Eucalyptus pilularis*. These species combine to cover an area of approximately 390 hectares, *Melaleuca quinquenervia* (158.5ha), *Eucalyptus robusta* (30.5ha), *Angophora costata* (7ha) and *Eucalyptus pilularis* (98ha) within the adjacent Booti Booti NP (Griffith *et al* 2000).

Within the eastern portion of the Great Lakes Local Government Area (LGA) approximately 172, 000 hectares of hollow bearing habitat also exists including *Melaleuca quinquenervia*

(12, 866ha), *Eucalyptus robusta* (2, 177ha), *Angophora costata* (18, 751ha) and *Eucalyptus pilularis* (138, 218ha)(Great Lakes Council 2005).

3.2 Swift Parrot, Grey-headed and Black Flying-foxes

Swamp Mahoganies have been identified as important foraging species for the Swift Parrot and Grey-headed and Black Flying foxes. In addition, as canopy species these trees provide breeding habitat for both the Grey-headed and Black Flying-foxes. Four thousand, six hundred and forty four (4,644) Swamp Mahoganies have been identified within the site. Of these 98% are to be retained (Figure 2).

The small percentage (2%) loss of Swamp Mahoganies across the site is considered unlikely to have a significant effect on the Swift Parrot due to the substantial number of trees (4, 552) to be retained within the site. In addition, Swamp Mahoganies make up 30.5 hectares of the adjacent Booti Booti National Park (Griffith *et al* 2000) and 2, 177 hectares of the eastern portion of the Great Lakes LGA (GLC 2005). Furthermore, Swift Parrots will also feed on lerp associated with Eucalypts such as Blackbutts. A number of Blackbutts will be retained across the site and make up 98 hectares of the adjacent Booti Booti National Park (Figure 4) (Griffith *et al* 2000) and co-dominant with other various Eucalypt species 138,218 hectares of the eastern portion of the Great Lakes LGA (GLC 2005).

Conservation precincts and restoration areas within the site will enhance the vegetation linkages from the site to potential foraging habitat for the Swift Parrot offsite. Landscaping works within the development landscape will include the planting of one hundred and sixty (160) Swamp Mahoganies. The 10 hectare area to be rehabilitated within Booti Booti NP (Eastern Habitat Corridor) will include amongst other species approximately one thousand (1000) Swamp Mahoganies, based on densities within the Conservation Precincts (106 Swamp Mahogany's per hectare).

Grey-headed and Black Flying-foxes use similar habitat for breeding and foraging. Within the site canopy trees such as the Swamp Mahogany will be retained with only a small loss of 2%. Other suitable breeding and foraging habitat within the site makes up 17.5 hectares (25%) of the total area of the site. The proposed development is likely to modify approximately 3.5 hectares (20%) of foraging habitat. However, only 2.5 hectares (8%) of the canopy cover will be removed (Figures 2 and 3).

Supplementary canopy planting and revegetation works will involve the translocation of many of the *Livistonia australis* palms to be removed as part of the development proposal. These palms will be moved to disturbed areas within and adjoining the site that have been identified for rehabilitation. These plantings will also be supplemented with an appropriate understorey representative of the natural vegetation communities.

The retention and revegetation of potential breeding and foraging habitat within the site will enhance the linkages from the site to extensive areas of habitat off site (Figure 4). The adjoining Booti Booti National Park consists of approximately 60 hectares of breeding and foraging habitat (*Eucalyptus robusta* Swamp Sclerophyll Forest and *Eucalyptus robusta* – *Melaleuca quinquenervia* Swamp Sclerophyll Mallee Woodland) relevant to the Grey-headed and Black Flying-foxes.

4. CONCLUSION

The layout for the proposed development has been carefully configured to take into consideration the ecological values of the site including the breeding, foraging and roosting habitat of threatened species. Modifications to the layout have been made to eliminate the unnecessary removal of threatened species breeding and foraging habitat.

In regard to Table 1, the following conclusions are made in respect to the management of threatened species breeding and foraging habitat on site.

Species	Affectation	Criteria	Assessment Outcome
Glossy Black Cockatoo	Reduction of breeding habitat	No loss of hollows 15cm or greater	Species not observed in Survey – 9 % reduction in hollows over compensated by relocation and replacement artificial nest boxes (x2) and compensatory habitat approx. 10 ha).
Swift Parrot	No reduction in foraging resources	Can sustain 5% loss of habitat – no loss of Swamp Mahogany	2 % loss in foraging habitat, 92 Swamp Mahogany's removed and over compensated by replacement planting (x4) and compensatory habitat approx. 10 ha).
Barking Owl	Reduction of breeding habitat	No loss of hollows 20cm or greater	Approximately 4% (11 hollows) loss over compensated by relocation and replacement artificial nest boxes (x2) and compensatory habitat approx. 10 ha).
Powerful Owl	Reduction of breeding habitat	No loss of hollows 45cm or greater	No loss of hollows greater than 45 cm.
Masked Owl	Reduction of breeding habitat	No loss of hollows 40cm or greater	No loss of hollows greater than 45 cm.
Black Flying Fox	Reduction of breeding habitat	Canopy trees associated with Coastal Scrub or Rain Forest and with sufficient foraging resources within 40kms of the site. Particularly the Swamp Mahogany in this case.	2.5 hectares (8%) reduction in breeding habitat, over compensated by replacement planting of canopy trees within the development area (x4) and compensatory habitat approx. 10 ha).
Grey-headed Flying-fox	Reduction of breeding habitat	Canopy trees associated with Coastal Scrub or Rain Forest and with sufficient foraging resources within 40kms of the site. Particularly the Swamp Mahogany in this case.	2.5 hectares (8%) reduction in breeding habitat, over compensated by replacement planting of canopy trees within the development area (x4) and compensatory habitat approx. 10 ha).

In conclusion the proposed development is considered unlikely to have a significant impact on the breeding habitat of the Glossy Black Cockatoo, Barking Owl, Masked Owl and Powerful Owl for the following reasons;

- Ninety one percent (91%) of hollows are to be retained across the site (67 hollows are to be removed);
- Ten (10) hectares of compensatory high quality habitat will be restored within Booti Booti National Park which will enhance potential breeding habitat within secure conservation reserves; and
- Extensive areas of potential foraging and breeding habitat occur within the adjacent Booti Booti National Park and wider Great Lakes LGA.

In addition the proposed development is considered unlikely to have a significant impact on the potential foraging habitat of the Swift Parrot, Grey-headed and Black Flying foxes and the potential breeding habitat of the Grey-headed and Black Flying-foxes for the following reasons;

- Ninety eight (98%) of Swamp Mahoganies are to be retained across the site (92 Swamp Mahoganies are to be removed);
- Ten (10) hectares of compensatory high quality habitat will be restored within Booti Booti National Park which will enhance potential breeding habitat within secure conservation reserves; and
- The extensive areas of potential foraging and breeding habitat within the adjacent, 30.5 hectares within Booti Booti National Park and 2, 177 hectares within the eastern portion of the Great Lakes LGA and wider Great Lakes LGA.

4.1 Summary of ameliorative measures

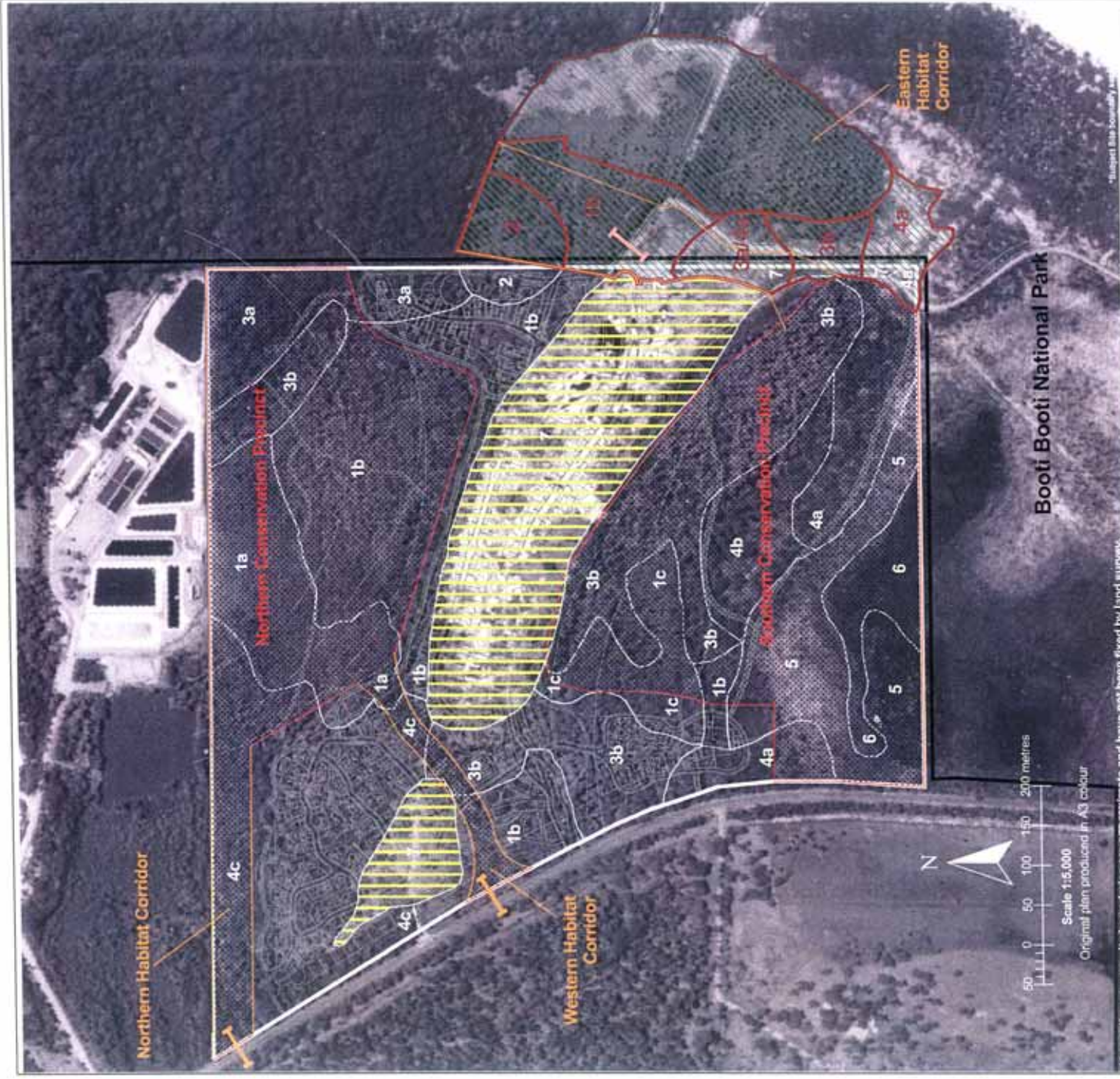
The ameliorative measures that are proposed to offset the impact of the proposed development of threatened species breeding and foraging habitat include:

- Nest boxes will be placed in suitable habitat within the site to compensate for any losses in tree hollows;
- Any tree hollows to be removed within the site will be relocated, where practicable, to areas of suitable habitat within conservation precincts;
- Approximately one thousand (1000) Swamp Mahoganies will be planted as part of rehabilitation works in the 10 hectare Eastern Habitat Corridor in Booti Booti National Park;
- An additional one hundred and sixty (160) Swamp Mahoganies will be included in landscape plantings within the development landscape; and
- Approximately 12 hectares of Canopy Restoration Area will be created within the development footprint. This area will be a managed landscape, designed to improve canopy connectivity within the site.

Yours faithfully



John Travers
Director
CONACHER TRAVERS PTY LTD



Vegetation community boundaries are approximate and have not been fixed by land survey.

<ul style="list-style-type: none"> — Booti Booti National Park Boundary *Subject Site Boundary — Habitat Corridor Boundary Conservation Precinct (Regeneration Area) Eastern Habitat Corridor Restoration Area (EHCRSA) 	<ul style="list-style-type: none"> Canopy Restoration Area (GRA) Vegetation Community Boundary based on Ecobone SIS 2003 Arboreal Fauna Rope Bridge Future Arboreal Rope Bridge Broad-leaved Paperbark Open Forest Paperbark/Saw Sedge Open Forest Paperbark/Twig-rush Open Forest Forest Red Gum/Swamp Oak Open Forest 	<ul style="list-style-type: none"> Blackbutt Closed Forest Cabbage Palm Closed Forest Smooth-barked Apple Open Forest Blackbutt Open Forest Mixed Eucalypt Open Forest Tall Open Heathland Low Closed Heathland Disturbed Land
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<ul style="list-style-type: none"> — Revegetation Community Boundary based on field assessment by Conacher Travers 2005 1b Paperbark/Saw Sedge Open Forest 2 Forest Red Gum/Swamp Oak Open Forest 3a/4a Blackbutt Closed Forest/Smooth-barked Apple Open Forest 3b Cabbage Palm Closed Forest 4a Smooth-barked Apple Open Forest
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Bushfire & Environmental Consultants
 Building 40, The Avenue, Mt. Penang Parklands,
 Pacific Highway, Kariong NSW 2250
 Ph (02) 4340 0677 Fax (02) 4340 2367
 e-mail: ecology@conachertravers.com.au

Figure 3 - Habitat Restoration Plan

Seven Mile Beach

Fig. 3
2/25/06
ref/No. ECHCRSA/06

Source: DLWC 1:25,000 Aerial Photograph, Bushfire Risk Management Unit, Dec 06, Frame 187 (CT 0712) 2005
 CAD by Bushfire Architects

Robin Wise

From: Geoff Foster [Geoff.Foster@cma.nsw.gov.au]
Sent: Friday, 3 March 2006 2:57 PM
To: Robin Wise
Cc: Anthony millen; Noel Piercy
Subject: South Forster

Robin

A couple of issues regarding Sth Forster.

1. To accurately place the assessment plots we need some further clarification of on-ground location of Housing precincts, HRZ and conservation zones. While the survey plans are ok they don't necessarily match up with the air photo based info.
2. The new hollow tree info is required fairly soon.
3. Can we assume that in the development precincts that any tree not marked in green as to be retained is in fact to be removed? We need this clarified in order to make our plot info as accurate as possible.

Please call Noel or myself to discuss.

Regards
 Geoff

Geoff Foster
 Catchment Coordinator
 Hunter Central Rivers
 Catchment Management Authority
 Ph: 65518994 Ext 243
 Mobile: 0428 606053

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1/06/2006

Robin Wise

From: Geoff Foster [Geoff.Foster@cma.nsw.gov.au]
Sent: Friday, 24 March 2006 10:13 AM
To: Robin Wise
Cc: Anthony millen; noel.piercy@dnr.nsw.gov.au
Subject: Sth Forster

Robin

A short note to clarify our process for moving ahead at the Sth Forster site.

Location of Plots

I have reviewed the location of the plots in relation to the level of development each encompasses. While I agree that the level seems high in some plots eg 13, it is very low in some others eg 5,6,11 & 10. I believe the balance is OK but am happy to discuss this with you.

Driveways and other not shown

No driveways are shown on the plans - we will assume clearing the full width of garage. Verandahs don't appear on the plan - we will assume a 2m clearing around each building (not rds or driveways or carparks etc) to allow for this and as a general buffer to each house.

Plot 6

There is a tennis court shown in this plot. The guys have seen pegs for two tennis courts here. We need some clarification.

Overall Plan

You indicated to Tony that you could provide him with a more accurate overall plan of the development precincts at the on-site meeting recently. This would be very helpful.

Alternative

If you are concerned that we may be making the wrong assumptions then an alternative approach is for you mark all trees to be removed on each plot.

Please give me a call if you wish to discuss.

Regards
 Geoff

Geoff Foster
 Catchment Coordinator
 Hunter Central Rivers
 Catchment Management Authority
 Ph: 65518994 Ext 243
 Mobile: 0428 606053

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1/06/2006

Robin Wise

From: Robin Wise
Sent: Monday, 27 March 2006 5:15 PM
To: 'Geoff Foster'
Cc: Anthony millen; noel.piercy@dnr.nsw.gov.au
Subject: RE: Sth Forster

Hi Geoff,

Many thanks for the e-mail clarifying your current approach to undertaking the task at hand and your invitation to further comment on the proposed methodology.

Accordingly, please find set out hereunder my response to each issue:

Location of Plots

Whilst I note your view that some of the proposed plots take in significantly less house footprints and roads than others I do not believe that this is entirely a sound comparison on the basis that as I understand it you are trying to achieve a typical analysis of removal as opposed to retention within each vegetation grouping.

On the basis for instance that the homes in the Palms Precinct are on significantly larger blocks with large amounts of open space outside the blocks and also with a much smaller footprint on the ground as compared to say the Forest precinct and further given that the vegetation characteristics are reasonably defined by the precinct boundaries it is only valid to compare plots within each precinct to each other to ascertain whether they are indicative of the percentage of removal proposed within that precinct as a whole.

Plots 1,3,4 and 7 all of which are within the Forest Precinct pickup large areas of houses and roadways with virtually no rear yard spaces where there would be no tree removal evidenced. In many of the Forest lots there is an area of at least 10 metres behind the house to the rear boundary which is left untouched. Plots 7,4 and 1 are good examples of this issue. Plot 8 is another example where almost the entire quadrat is filled with roads or carparks and yet immediately to the south and east the space is virtually entirely untouched.

By far the worst example of this phenomena is Plot 13 which after considering driveways is virtually entirely filled with houses and roads. Plot 12 is a little better however when viewing the two together in the context of the Fronds Precinct they are in no way indicative of the extent of proposed removal in this area.

Indeed, the houses in this precinct were deliberately grouped together to allow large spaces both behind and between them which is clearly not represented in the two above-mentioned Plots.

This is clearly exemplified by taking Plot 13 and simply flipping it over on its eastern edge which results in virtually no housing and definitely no roads being within the Plot at all.

Driveways and other not shown

Your assumption in relation to driveways is reasonable with the exception of double garaging or carports where the opportunity is available to curve a driveway around an existing tree. This has been done wherever possible.

With respect to the issue of a reasonable space around each dwelling we have worked on the basis of one metre from the face of the building. All of the houses in the Forest, Palms and Fronds Precincts are to be built 600mm above ground on widely spaced piers to avoid disturbance to root structures.

All "verandas" in these precinct are in fact timber decks which also suspended above the ground and will be built around existing trees.

This is very much the essence of the development.

Plot 6

We originally proposed two tennis courts however the eastern one has now been removed.

Overall Plan

I am happy to provide any information that is of assistance however could you please clarify exactly what information you would like and in what form.

In addition to the matters discussed above I would be grateful if you could please provide your comments in relation to the following matters:

How are you treating the corridors which occur for instance between the Forest and Boardwalk precincts?

How will you treat the relocation of palms which is proposed to ensure that each and every palm that falls within a roadway or house is relocated into the central duneal area. This will help to recreate some of the original vegetation character of this area as well as create canopy connectivity across the site.

How will the model deal with the significant amount of native planting which is proposed for the site, the detail of which has been provided to you?

Will credit be given for the ongoing management plans proposed for the site such as Pest Species Management, Weed Management, Tree Management, Bushland Management and The Eastern Habitat Corridor Restoration Plan (which encompasses long-term management of this area)?

1/06/2006

Robin Wise

From: Geoff Foster [Geoff.Foster@cma.nsw.gov.au]
Sent: Tuesday, 28 March 2006 12:11 PM
To: Robin Wise
Cc: Anthony millen; Noel Piercy
Subject: RE: Sth Forster

Robin

Thanks for your response to my recent email. I have considered your comments and add the following:

Location of Plots

I am happy to review the plots to ensure they are representative of each veg zone.

We will undertake assessment as is currently pegged but will closely look at each veg zone and add more if necessary.

Driveways etc

We will assume 1 metre clearing around each building.

Plot 6

OK

Overall Plan

I will get Tony to clarify this.

Regards

Geoff

Robin Wise

From: Robin Wise
Sent: Tuesday, 28 March 2006 1:14 PM
To: 'Geoff Foster'
Cc: Anthony millen; Noel Piercy
Subject: RE: Sth Forster

Geoff,

My only additional comment still relates to the validity of plots particularly 12 and 13. If you were to in fact add additional plots to this area they would need to be specifically placed as I previously suggested in the rear yard areas of the homes to balance the current scewing created by the current plots being placed almost totally over roads and continuous housing. Only then would you get a fair and balanced representation of the amount of clearing proposed in the precinct.

Whilst I appreciate your prompt response to my e-mail of yesterday I would be grateful if you could also elaborate on your position regarding the other matters raised.

Regards,

Robin Wise

 WISE PROPERTY GROUP

Site 202, Edgecliff Centre
 13-233 New South Head
 Edgecliff NSW 2027 Australia

phone: 02 9326 1399
 fax: 02 9326 1057
 e: 0418 226802

Robin Wise

From: Anthony millen [Anthony.millen@cma.nsw.gov.au]
Sent: Wednesday, 29 March 2006 10:11 AM
To: Robin Wise
Cc: Geoff Foster
Subject: Robin.

Item Type: Task
 Start Date: Wednesday, 29 Mar 2006
 Due: Wednesday, 29 Mar 2006

Robin,

Further to your correspondence with Geoff I would like to comment on my request for the overall final plan. You may remember when we met on site last I suggested that although we have access to initial concept drawings without knowing where the final development is occurring, our plots would be placed randomly based on vegetation class. You have suggested that we should have placed our plots in a manner that would take into consideration back yards etc. where they may be less vegetation removal. However if we have no plan to work from we do not know where the building footprint begins and ends.

Thankyou

Tony millen

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Robin Wise

From: Anthony millen [Anthony.millen@cma.nsw.gov.au]
Sent: Tuesday, 18 April 2006 3:32 PM
To: Robin Wise
Cc: Geoff Foster
Subject: Robin,

Item Type: Task
Start Date: Tuesday, 18 Apr 2006
Due: Tuesday, 18 Apr 2006

Robin,
Geoff Foster asked me to let you know that we have completed our field work at South Foster. We will contact you again next week.

Tony Millen



Dear Sir,

Subject: Lots 103, 142 and 178 DP 753168 The Lakes Way, South Forster – Seven Mile Beach

I refer to your letter of the 16th December 2005 in which you requested the Hunter Central Rivers Catchment Management Authority (CMA) to comment on the vegetation clearing and associated off-sets for a proposed eco-residential development on the land described above. Comments were to be made in relation to the principles of the Native Vegetation Act 2005 (NVA).

Following consultation with Council it was agreed that the CMA would apply the *Improve or Maintain* principle of the NVA through assessment of the proposal using the PVP Developer (PVPd) and associated tools.

In order to run the PVPd a high level of information was required and this has been provided over a period of time with the cooperation of and in negotiation with the proponent Mr Robin Wise.

For any clearing to satisfy the *improve or maintain* principle it cannot result in reduced environmental outcomes. The impact of clearing is measured against four environmental values:- water quality, soils, salinity and biodiversity (including threatened species). The methodology used for applying the *improve or maintain* test is set out in the Native Vegetation Regulation 2005 Environmental Outcomes Assessment Methodology (EOAM). The PVPd is the computer program that delivers the EOAM.

During collection of data for assessment and running of the PVPd, the following assumptions were made and further investigations may be required to confirm these assumptions:

- 1) Due to present and previous management practices there is no native groundcover or mid-storey considered in the clearing zones. Therefore, any threatened species normally existing in these layers has no potential to inhabit these layers.
- 2) There are trees with hollows up to 45cm.
- 3) There are no Endangered Ecological Communities within development area, ie
 - a) Swamp sclerophyll forest on coastal flood plains
 - b) Swamp Oak floodplain forest on coastal floodplains
- 4) There is no clearing in vegetation type Swamp Oak (*Casuarina glauca*) as this vegetation type cannot be offset.
- 5) No canopy layer to be removed in the Strategic Fire Management Zones
- 6) For the threatened species assessment only one tree with hollow specifications to be removed per vegetation zone.
- 7) For the threatened species assessment, only 20% of each vegetation zone is to be cleared

- 8) The development is assumed to meet the *improve or maintain* principle for water quality and salinity. These tools were not used.
- 9) There has been no consideration of additional off-set area proposed in the National Park.

Summary of Results

The following results were achieved following the running of the biometric (vegetation), threatened species (TS) and land and soil capability (LSC) tools:

Biometric- A green light (ie meets *improve or maintain*) was indicated for this tool. The off-sets and management actions proposed in the Conservation and Land Use Management Plan (CLUMP) will adequately off-set the negative impact of clearing for vegetation values.

Land and Soil Capability – A green light was indicated for this tool. Management actions can be put in place to ensure no negative impacts from soil erosion.

Threatened Species (TS)- A number of red lights were indicated for this tool. A red light indicates that the proposal **does not meet** the *improve or maintain* principle.

Detail and Discussion of Red Lights for Threatened Species

The clearing proposal indicated a red light for the following species;

1. Glossy Black Cockatoo – no loss of breeding habitat (hollows)
2. Brown Treecreeper – no loss of breeding habitat (hollows)
3. Swift Parrot – no loss of foraging habitat containing Swamp Mahogany
4. Turquoise Parrot – no loss of breeding habitat (hollows)
5. Barking Owl – no loss breeding habitat (hollows)
6. Grey Headed Flying Fox – no less breeding habitat (vegetation type) and additional offset area required (1.91 ha)
7. Black Flying Fox – no loss breeding habitat (vegetation type)
8. Stephens Banded Snake – additional offset area required (0.13 ha)
9. Black Chined Honey Eater – additional offset area required (0.15 ha)
10. Square Tailed Kite – additional offset area required (0.58 ha)
11. Masked Owl - additional offset area required (0.09 ha)

Please refer to Attachment 1 for detail of TS report.

The threatened species results should be reviewed in light of the following:

- the no loss of breeding habitat criteria is currently being reviewed by the Department of Environment and Conservation (DEC)
- the TS off-set calculations have been based on hollow information (size and number) provided by Robin Wise and have not been verified by the CMA. The CMA would normally collect this information during field work.
- Management actions which were applied to the off-set areas are listed in Attachment 2 and need to be consistent with proposed Conservation and Land Use Management Plan

In summary, the TS results indicate that except for red lights associated with no loss of breeding habitat, a small area of additional offset (2 ha) satisfies the *improve or maintain* principle. Were the CMA dealing with a client subject to the NVA, then we would negotiate a modification to the proposal to retain all hollows and provide the additional off-set. If changes could be made, the PVP would be approved, if not the PVP would not be approved.

Recommendation

The CMA's Draft Catchment Action Plan has, as one of its policies related to biodiversity, a statement that "Regional strategies (Department of Planning) and local environment plans should adopt the objectives of the Native Vegetation Act 2003: 1) manage native vegetation on a regional scale; 2) prevent broadscale clearing of native vegetation unless it improves or maintains natural resources; 3) protect native vegetation which has high conservation value; 4) improve the condition of native vegetation; and 5) encourage the revegetation of land with native vegetation."

The CMA recommends that the additional off-set area be sought for threatened species and that Council and Mr Wise further discuss the issue of tree hollows and loss of Swamp Mahogany with DEC and DoP with a view to a possible resolution of this issue consistent with the CAP policy above.

If you require clarification of any issue please contact Geoff Foster on 65518994 Ext 243

Yours Faithfully



Geoff Foster
Catchment Coordinator
For Glenn Evars
General Manager
Hunter Central Rivers Catchment Management Authority

26/6/06

APPENDIX G

CONSULTATION RESPONSES FROM AUTHORITIES



NSW GOVERNMENT
Department of Planning

Attn: Roger Busby

Contact: Garry Forster
Phone: 4929 9949
Fax: 4929 9909

GREAT LAKES COUNCIL

17 DEC 2005

RECEIVED RECORDS

Our ref: N04/44
Your ref: SP-LEP-45

Mr K O'Leary
General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

Dear Mr O'Leary

APPLICATION UNDER 865 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 FOR THE PREPARATION OF A DRAFT LOCAL ENVIRONMENTAL PLAN IN RESPECT OF DRAFT GREAT LAKES LEP 1999 (AMENDMENT NO. 45), SEVEN MILE BEACH

I refer to the Council's letter of 7th October 2005 seeking the Director-General's S65 certificate to enable the above draft plan to be placed on public exhibition.

Pursuant to Section 65 of the Environmental Planning & Assessment Act, 1979, a certificate is issued to the Council to enable exhibition of the draft plan.

The Department's examination of the proposal however, has identified significant issues which must be resolved before the draft plan is finalised. If the Council decides to proceed with this draft plan it is essential that the Council satisfactorily address these issues prior to the preparation of any S66 submission to the Minister. The Department has raised with the Council's planners on several occasions, and most recently at our meeting of 27th September 2005, the need for the draft plan to address the implications of the Government's commitment to end the broadscale clearing of land.

Whilst I note that the environmental offsets proposed by the draft plan include the application of a 7(a1) Environmental Protection zone to part of the site, various rehabilitation works and a more environmentally sensitive development outcome than the one currently approved, there has been no specific examination of the Government's policy of ending the broadscale clearing of remnant vegetation. It will be necessary for the Council to further examine this matter in consultation with the Department and the Hunter Central Rivers Catchment Management Authority.

Once a satisfactory offset package is agreed, it will be necessary for the developer to enter into agreements with the relevant parties which ensure that the offset package will be delivered in a satisfactory and timely manner. It will also be necessary for existing development consents for the site to be surrendered, either before or at the time any draft plan is made by the Minister.

Hunter Region 484 King St Newcastle PO Box 2213 DANGAR NSW 2309
Phone (02) 4929 4346 Fax (02) 4929 9909 Website planning.nsw.gov.au

Prior to finalising the draft plan it will also be necessary for the Council to:

- ensure that it complies with the Standard LEP template when gazetted;
- investigate the implications and potential solutions to ensure validity of all DCPs that currently apply to the site and draft DCP 34 in accordance with recent amendments to Part 3 of the Environmental Planning and Assessment Act;
- undertake further consultation with the Rural Fires Service to confirm that the bushfire risk mitigation measures proposed are satisfactory; and
- undertake further consultation with the Department of Environment and Conservation, particularly in respect of impacts to Booti Booti National Park and details of agreements in respect of any works proposed within the National Park.

Should you wish to discuss any aspect of this advice, please contact Ms Kate Newman (ph 49299841), at the Department's Newcastle office.

Yours sincerely,

9.12.05

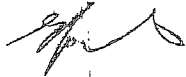
Garry Forster
A/Team Leader
Hunter Region

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

SECTION 65

CERTIFICATE

I, the Director-General of the Department of Planning am of the opinion that the draft local environmental plan referred to in Schedule 1 may be publicly exhibited in accordance with Section 65 of the Act.



SIGNED by me, Barry Forster, Acting Team Leader Hunter Region, as delegate of the Director-General of the Department of Planning and I certify that I have no notice of revocation of such delegation.

Date: 9.12.2005.

SCHEDULE 1

Lots 103, 142 and 178 DP733168 (generally referred to as the Seven Mile Beach site) as shown edged heavy black on the map marked "Great Lakes Local Environmental Plan 1994 (Amendment No 45)".

MinterEllison

LAWYERS

AURORA PLACE 88 PHILLIP STREET SYDNEY
GPO BOX 521 SYDNEY NSW 2001 AUSTRALIA
DX 117 SYDNEY www.minterellison.com
TELEPHONE +61 2 9921 8888 FACSIMILE +61 2 9921 8123

13 April 2006

BY EMAIL: r.wise@wiseproperty.com.au

Robin Wise
Wise Property Group Pty Ltd
Suite 202
Edgecliff Centre
203-233 New South Head Road
EDGECLIFF NSW 2027

Dear Robin,

Seven Mile Beach: Surrender of Development Consent

We refer to your meeting with Penny Murray on 12 April 2006 and your request for advice as to the appropriate procedure for the development consent previously granted with respect to the Seven Mile Beach land to be surrendered upon the approval of the current Part 3A application.

Section 75J(4) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') provides that the Minister may approve a project under Part 3A of the EP&A Act on such conditions as the Minister may determine. There is no statutory restrictions on the extent to which the Minister can impose conditions however common law principles would continue to apply. For example, the condition must be reasonable and for a planning purpose.

Accordingly, in our view the Minister has the power to impose a condition on any approval to the current project application which requires the surrender of this development consent granted under Part 4 of the EP&A Act. Consent authorities also have this specific power under section 80A(5) of Part 4 of the EP&A Act. If a condition is imposed under section 80A(5) of the EP&A Act, clause 97 of the *Environmental Planning Assessment Regulation 2000* ('Regulation') would outline the requirements for the surrender of the development consent.

It provides that the notice of surrender must include the following information:

- (a) the name and address of a person by whom the notice is given;
- (b) the address, and particulars of title, of the land to which the consent or right relates;

MINTER ELLISON GROUP AND ASSOCIATED OFFICES
SYDNEY MELBOURNE BRISBANE CANBERRA ADELAIDE DARWIN PERTH GOLD COAST
HONG KONG SHANGHAI BANGKOK JAKARTA SAN FRANCISCO LONDON
AUCKLAND WELLINGTON

- (c) a description of the development consent to be surrendered;
- (d) if the applicant is not the owner of the land, a statement defined by the owner of the land to the effect that the owner consents to the surrender of the consent.

Clause 97(2) of the Regulation provides:

'A duly signed and delivered notice of modification or surrender of a development consent or existing use right referred to in subclause (1):

- (a) *takes effect when it is received by a consent authority, and*
- (b) *operates, according to its terms, to modify or surrender the development consent or existing use rights to which it relates.'*

Wording of condition

We suggest that the appropriate wording for a condition to be imposed as part of any approval by the Minister to the Part 3A application would be as follows:

'A construction certificate must not be issued for any stage of the project until the development consent granted by Great Lakes Shire Council on [date] [number] for a [description of development] is surrendered to the satisfaction of Great Lakes Shire Council. The surrender of the development consent must be undertaken in accordance with clause 97 of the Environmental Planning Assessment Regulation 2000.'

Yours faithfully
MINTER ELLISON

for Whitehouse

John Whitehouse
Partner

Contact: Penny Murray Direct phone: +61 2 9921 4868 Direct fax: +61 2 9921 8236
Email: penny.murray@minterellison.com
Partner responsible: John Whitehouse Direct phone: +61 2 9921 4285
Our reference: JFW:PLM 204952810



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

GREAT LAKES COUNCIL
- 1 FEB 2006
RECEIVED RECORDS

Mr Roger Busby
Manager, Strategic Planning
Planning and Environmental Services
Great Lakes Council
Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Our ref: 05/4251
Your ref: SP-LEP-45

Dear Sir,

**Re: DRAFT GREAT LAKES LOCAL ENVIRONMENTAL PLAN 1996
(AMENDMENT NO.45) – LOTS 103, 142 AND 178 DP 753168 THE LAKES
WAY, SOUTH FORSTER – SEVEN MILE BEACH**

Thank you for your letter of 16 December 2005 concerning the amendments to the above draft plan.

The Department of Primary Industries has been formed by the merger of NSW Fisheries, Mineral Resources NSW, State Forests NSW and NSW Agriculture. This is a coordinated Department of Primary Industries response that reflects the views of the Minerals and Fisheries Divisions. There are no issues relevant to the interests of the Agriculture Division of the Department nor Forests NSW.

Mineral Resource Issues

Lots 103, 142 and 178 DP 753168 cover an area which was formerly the site of the Lakes Way – Great Lakes Construction Sand Quarry. The Department concedes that whilst this site is not a sand resource of significant economic worth, the Sweet Pea Road Sand Pit Quarry operated by Mobile Crushing Company to the north of the area represents one of the few remaining sand resources in the area.

The area covered by Lot 103 partly overlies the southern extension of the buffer zone of the Sweet Pea Quarry. The sand resource available for quarrying does not appear to be significantly affected by the proposed rezoning. However, the Draft Development Control Plan No.34 indicates that areas of proposed residential development in the north west of Lot 103 may lie approximately 300m from the operating quarry (Figure 1). The close proximity of residences to active sand extraction may lead to issues involving noise and dust associated with the operations as well as traffic and quarry access issues.

It is recommended that the quarry operator be consulted concerning possible impacts and that, if required, a suitable buffer is created along the northern boundary of the proposed development.

Mineral Resources NSW
PO Box 344 Hunter Region Mail Centre NSW 2310
516 High Street Maitland NSW 2320

ABN 51 734 124 190
www.dpi.nsw.gov.au
Tel: 02 4931 6666
Fax: 02 4931 6790

Fisheries Issues

The Fisheries Division has no objections regarding the proposed development however, storm water management should be designed to ensure that there are no offsite impacts on any adjacent watercourses or wetlands.

If you have any further queries on this matter please contact Cameron Ricketts, Team Leader, Land Use on 4931 6703 (Minerals).

Yours sincerely

Cameron Ricketts
Team Leader, Land Use

24 January 2006

Mineral Resources NSW
PO Box 344 Hunter Region Mail Centre NSW 2310
516 High Street Maitland NSW 2320

ABN 51 734 124 190
www.dpi.nsw.gov.au
Tel: 02 4931 6666
Fax: 02 4931 6790



Our Ref: 124773

Lidbury, Summers & Whiteman
3 Wharf Street
FORSTER NSW 2428

Attention: Mr Brian Lidbury

Dear Sir,

RE: LOTS 103, 142 AND 178 – DP753168 – THE LAKES WAY FORSTER

I refer to the discussions today with Brendan Guiney, Robin Wise and yourself and confirm that the proposed development can be serviced by water supply and sewerage services.

Water Supply

- A trunk water main is located adjacent to the site in The Lakes Way. There is presently satisfactory capacity in the local infrastructure to accommodate this development.
- The Forster Water Supply Scheme is a part of the overall Manning District Water Supply Scheme (MDWSS). MidCoast Water is currently implementing a strategy to improve water supply quality and upgrade scheme capacity. There is satisfactory capacity in the MDWSS to accommodate the development.

Sewerage

- MidCoast Water has included the subject land in its current strategy for the Forster Sewerage Scheme and the proposed development can be serviced by an extension of the sewerage system.
- There is satisfactory treatment capacity in the Forster STW to accommodate the development.

Integrated Water Cycle Management

- In regards to effluent reuse, MidCoast Water is open to the idea of reusing effluent from the adjacent Forster STW. Residential reuse of effluent will have a number of issues that must be addressed and endorsement of the concept would require detailed discussions with MidCoast Water's regulators.

I trust that these comments will assist with your further assessment of this site. Please contact me on 6591 7543 if further information is required.

Yours faithfully


DAVID MCKELLAR
Development Engineer

Forster Office:
16 Breeze Parade
Locked Bag 4000
Forster NSW 2428

Telephone: 1300 133 455
Fax: 02 6591 7500

30 May 2006

All communications to be addressed to:

Head Office
NSW Rural Fire Service
Locked Mail Bag 17
Granville NSW 2142

Telephone: (02) 8741 5555

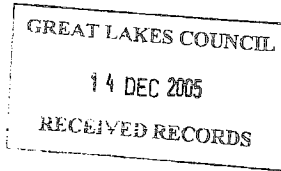
Head Office
NSW Rural Fire Service
15 Carter Street
Homebush Bay NSW 2127

Facsimile: (02) 8741 5550



The General Manager
Great Lakes Council
PO Box 450
FORSTER NSW 2428

Attention: R Busby



Your Ref: SP-LEP-45

Our Ref: LEP/0052
A05/1962 DS

07-Dec-2005

Dear Sir/Madam,

RE: Local Environmental Study (LES) and Draft Local Environmental Plan (LEP) for rezoning of Lots 103, 142 & 178 DP 753168 – The Lakes Way, South Forster, Seven Mile Beach

I refer to your letter dated 14 November 2005 seeking our advice in accordance with Section 62 of the *Environmental Planning & Assessment Act 1979* for the above Local Environmental Study (LES) and Local Environmental Plan (LEP).

The NSW Rural Fire Service apologises for the delay in responding to the written response to the matters raised in our previous response but advises that the submission by Conacher Travers referred to in your letter was not received at our office.

The information provided with your letter appears to address the requirements outlined in our previous response dated 28 April 2005. As such the RFS is prepared to support the progression of the LEP.

Any future residential or Special Fire Protection Purpose developments within the subject site will be subject to the requirements of Section 100B of the *Rural Fires Act 1997* and Section 79BA of the *Environmental Planning and Assessment Act 1979*.

For any enquiries regarding this correspondence please contact Danielle Simpson.

Yours sincerely

Lew Short
Lew Short
Manager, Development Control Services

◆ Rural Fire Service Advisory Council

◆ Bush Fire Co-ordinating Committee

All communications to be addressed to:

Head Office
NSW Rural Fire Service
Locked Mail Bag 17
Granville NSW 2142

Telephone: (02) 8741 5555

e-mail: danielle.simpson@rfs.nsw.gov.au

Head Office
NSW Rural Fire Service
15 Carter Street
Homebush Bay NSW 2127

Facsimile: (02) 8741 5550



Jock Palmer & Associates
PO Box 6749
COFFS HARBOUR PLAZA NSW 2450

Your Ref: 12/04

Our Ref: LEP/0052
A05/0039 DS

Attention: Jock Palmer

28-Apr-2005

Dear Sir,

RE: Preparation of Local Environmental Plan (LEP) and Local Environmental Study (LES) for rezoning of Lots 103, 142 & 178 DP 753168 – The Lakes Way, Forster, NSW for the site specific residential development.

I refer to your letter dated 5 January 2005 seeking our advice in accordance with Section 62 of the *Environmental Planning & Assessment Act 1979* for the above Local Environmental Study (LES) and Local Environmental Plan (LEP) and apologise for the delay in responding.

The documentation forwarded to the NSW Rural Fire Service (RFS) for comment relates to the future preparation of an LES and LEP for the subject site. The proponent has submitted extensive documentation in relation to bushfire which the RFS has been requested to comment on. In particular, the RFS has been requested to advise whether the Asset Protection Zones and bushfire amelioration measures, as proposed, are acceptable. The documentation provided to the RFS includes:

- Bushfire Protection Assessment
- Bushfire Emergency Response Plan
- Bushfire Contingency Plan
- Fuel Management Plan

A meeting was held with the consultants for the proponent and Great Lakes Council where a number of issues in relation to bushfire and the above documentation were discussed. The issues that were raised at the meeting and the proponents reply are outlined below:

Bushfire Protection Assessment

- a) Precinct Guidelines: Several statements made in the documentation that refer to enhancement or replanting of vegetation, and maintenance of a continuous canopy, with buildings sited among vegetation appear in conflict with maintenance of Asset

◆ Rural Fire Service Advisory Council

◆ Bush Fire Co-ordinating Committee

Protection Zones. The proponent's consultant has indicated that this is a wording issue in the documents that will be addressed.

b) Precinct 9 guidelines (page 17) give rise to the impression that Special Fire Protection type developments will be included in the project. At no point are provisions made for this in assessment of Asset Protection Zone dimensions. The proponent and Council representatives made it clear that this LEP will be purely residential, with no tourist development. Also the proponents stated that the Child Care facility listed for this precinct will now be placed in the centre of the development, removing the need for "Special Fire Protection Purpose" Asset Protection Zones to be applied.

c) Precinct 9 Guidelines make it clear on page 18 that an eastern habitat corridor is part of the project. This does not correspond with Schedule 1, unless the habitat corridor is maintained as an Inner Protection Area. Discussions with the proponent's representative established that canopy connectivity required for squirrel gliders is not less than 5m, allowing proposed Inner Protection Area and corridors to meet both requirements.

d) Page 21 does not mention likelihood of fires impacting on the site from the North East (Janies Corner), despite previously identifying this location as a source of fires. The second dot point under 3.7 also contains a typing error –how could a fire to the south extend southwards to the development? The proponent's consultant is to amend this.

e) Figure 3 shows a range of vegetation communities that are different to those on Schedule 1 (e.g. the area to the South West of Precincts 10 and 7 is listed as "open forest" on Schedule 1, but as Cabbage Palm closed forest on Figure 3. While both can be treated as Group 1 vegetation, the environmental impact and effectiveness of Hazard Reduction burning will be very different between these two groups. The consultant is to address this issue. The viability of the proposal in relation to the maintenance of compliant Asset Protection Zones is a separate issue.

Fuel Management Plan

a) The greatest apparent problem of this proposal is the inconsistency between Figure 4 and its supporting list of fuel management objectives to Schedule 1 of the Bushfire Protection Assessment as supplied. In particular:

i. Asset Protection Zones on the hazard sides of development and in the "wildlife corridor" of the Bushfire Threat Assessment are "SFMZs" in the Fuel Management Plan. The Fuel Management Objectives of these zones includes "strategic protection" for the development and threatened species. Canopy connectivity is to be maintained. Repeated references are made to maintenance by burning and under scrubbing only. This seems to correspond to the specifications of an Outer Protection Area as defined in *Planning for Bushfire Protection 2001*. In an area with an acknowledged likelihood of threat from crown fires or uncontrollable heath fires, this is not acceptable and contradicts *Planning for Bushfire Protection 2001* in any case. The indicative layout treats these zones as if they are Asset Protection Zones, with adjoining

residential development. The proponent's consultant has indicated that due to site conditions, little new clearing is required and that the connectivity required is not inconsistent with *Planning for Bushfire Protection 2001* requirements for Inner Protection Areas and Outer Protection Areas. The wording of the document is to be reviewed to reflect this.

ii) HMZ 6 is mostly mapped as an Asset Protection Zone on Figure 4. Buildings are shown as being located immediately adjacent. However this area is not to be managed in any way, including fuel reduction and is a breach of Asset Protection Zone arrangements. The proponent's consultant is to address this matter by rewording the documentation to correspond with the actual intent, which is for a maintained area surrounding the item in question, with a fence and information plaque.

b) Plan Administration:

i) The documentation incorrectly refers to Lake Macquarie BFMC which is to be amended by the proponent's consultant.

ii) The Bush Fire Environmental Code does not apply to works already considered as a part of development consent. Therefore, it is not likely that Certificates would be an appropriate form of environmental approval for the works proposed. The proposal would have to be considered under *the Native Vegetation Act 2004, Environmental Planning and Assessment Act 1979* etc. It was decided that the possible application of REF to plan of management or individual activities is an option. The LEP will ensure that Hazard Reduction is not a prohibited development or activity requiring consent.

iii) The RFS questioned the status of the CLUMP, and if its provisions have any impact on bush fire safety. The proponent's representatives advised that the CLUMP provisions will not impact on any existing legislative responsibilities including Section 66 of the *Rural Fires Act 1997*.

c) Operational Works Schedule:

i) As above, the proposed Asset Protection Zones contain objectives to maintain canopy opportunities for Squirrel Glider, and objectives contain no references to canopy separation. It was decided that the documentation may have to make this clearer.

ii) As above, the Cabbage Palm Closed Forest is to have a fire return period of 20-80 years. This excludes fuel management as an objective in this area which is repeated through the various vegetation types. A plan of management may need to distinguish between ecological burns as opposed to hazard reduction, where burns are going to be too widely separated to achieve effective reduction in fuel levels.

iii) The SFMZ strategies limit burning to ecological return periods (eg page 11).

iv) The SFMZ objectives include maintenance of arboreal connectivity, however the proponent's consultant has advised that the connectivity required for gliders is still consistent with Asset Protection Zone requirements.

v) The SFMZ Hazard Reduction burning or fuel removal works have 4 year plus return periods. This is not appropriate to areas treated as Asset Protection Zones in the Bushfire Protection Assessment. The proponent's consultant is to review the plan so that the works are consistent with Asset Protection Zone maintenance and references to burning as opposed to slashing/mowing to be removed.

vi) It is unclear what individuals or agencies are to be responsible for Hazard Reduction burning to fulfill this schedule.

Bushfire Contingency Plan

a) What is the role of Lake Macquarie BFMC (page 4)? This is a typing error that is to be reviewed.

b) The figure on page 5 raises the following questions:

i) The status of the CLUMP is to be defined as outlined above.

ii) The RFS queried by what mechanism the Seven Mile Beach Bushfire Protection Assessment will drive or influence the Booti Booti National Park Fire Risk Management Plan? It was decided that the existing document is unclear and the intent is only that consultation between the management and DEC should take place in order to coordinate activities. There is no intent to place any burden on the National Park.

c) The Great Lakes Bush Fire Risk Management Plan was adopted by the BFCC in 2001 and is not a draft. The proponent's consultant is to amend the documentation to reflect this.

d) The RFS has issued no advice suggesting that there should be a variation of the load bearing requirements of public roads within the subdivision from those in *Planning for Bushfire Protection 2001*. The comments on page 11 suggesting that the RFS will not use larger vehicles are making an operational assumption without consultation. The possibility that rigid Category 13 tankers from adjoining areas could be used in support of operations should not be ruled out. These have weights of approx 23 tonnes. The RFS suggests that this paragraph on p11 be deleted.

e) The "recognised fire directions" of North West/South West are at odds with the fire history of the area, including that in this report, which states fire has crossed the site from Janies Corner to the North East. The proponent's consultant is to review this matter.

f) Page 17 states that a station and light tanker will be provided on site and initially run by the community association, but later by the RFS. The proponent is to discuss this

matter further with local RFS staff to determine most appropriate outcome for this site, with possibilities including upgrading of Green Point station through Section 94 Contributions.

g) The proponents have indicated that a reservoir will be available on site, and that the large pool in the centre of the development will also be available as an alternative source of water. In addition, the hydrant supply has been recently upgraded.

In summary, the RFS notes that there are a number of concerns with the original documentation submitted for comment. However it is apparent that most of these can be addressed by amending the documentation to better conform to the actual intent of the proposed development (which replaces a valid approved development). The RFS is of the opinion that it is possible for a revised set of documentation to be prepared that addresses the issues above and meets the requirements of *Planning for Bushfire Protection 2001* as they apply to this proposal.

For any enquiries regarding this correspondence please contact Danielle Simpson.

Yours sincerely

Lew Short
Lew Short
Manager, Development Control Services

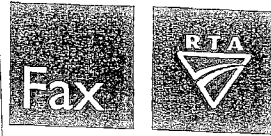
Per M. J. [Signature]

21/02 '06 15:01 FAX 0249240342

DEVELOPMENT SECTION

001

To: Roger Busby Fax: 6591 7334
 From: Peta Phillips Date: 21 February 2006
 Ref: SP-LEP-45 Pages following: 2
 File no: 410RZ2;1
 Subject: Draft Great Lakes LEP 1996 (Amendment No. 45) - The
 Lakes Way, South Forster - Seven Mile Beach



Roger

Attached is a copy of the RTA's response dated 21 February 2006, regarding the subject draft LEP amendment.

Regards

Peta Phillips
 Administrative Assistant
 Land Use Development
 Hunter Operations & Services

GREAT LAKES COUNCIL
 22 FEB 2006
 RECEIVED RECORDS

Roads and Traffic Authority ABN 64 480 155 255

Hunter Operations & Services

59 Darby Street, Newcastle

Telephone: (02) 4924 0684 Facsimile: (02) 4924 0342 DX: 7813 Email: Peta_Phillips@rta.nsw.gov.au

www.rta.nsw.gov.au

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Fax Cover Sheet.doc

21/02 '06 15:02 FAX 0249240342

DEVELOPMENT SECTION

002

410RZ2;1
 05/3205
 Natasha Waeger



The General Manager
 Great Lakes Council
 DX 7110
 FORSTER

Attention: Mr Roger Busby

**DRAFT GREAT LAKES LOCAL ENVIRONMENTAL PLAN 1996 (AMENDMENT NO. 45)
 - LOTS 103, 142 AND 178 DP 753168, THE LAKES WAY, SOUTH FORSTER - SEVEN
 MILE BEACH**

Dear Mr Busby

I refer to your letter dated 16 December 2005 (Your reference: SP-LEP-45) regarding the subject draft LEP amendment, draft DCP, LES and traffic study forwarded to the RTA for comment. Please accept my apologies for not responding earlier.

The RTA's primary interests are in the road network, traffic and broader transport issues, particularly the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act, 1993*, the RTA has powers in relation to road work, traffic control facilities connections to roads and other works on the classified road network. The Lakes Way (MR 111) is a classified regional road and RTA concurrence is required for connections to the road with Council consent, under section 138 of the Act. Council is also the roads authority for The Lakes Way.

Under Section 138 of the Act the RTA gives concurrence to direct vehicular access to the subject site as follows:

- The proposed intersection at The Lakes Way shall be designed and constructed in accordance with the RTA's *Road Design Guide*, to the RTA's and Council's satisfaction.

Comment

In determining the appropriate intersection treatment Council should consider the road safety aspects, including the speed zone, night time use and the isolation of this intersection. Given the existing 100km/hr speed zone, the RTA's preference is for a 'seagull' type intersection. A roundabout may be considered appropriate if the speed limit was reduced to say 80 km/hr. This would need the agreement of the RTA.

- The secondary accesses proposed, to the north and south of the main intersection, are for emergency access only. Access at these locations shall be restricted by a locked gate that is secured at all times to prevent public and resident access to/from the site.

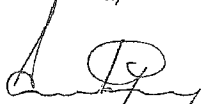
Roads and Traffic Authority
ABN 64 480 155 255

The RTA has reviewed the information provided and has no objections to the proposed draft LEP amendment and draft DCP provided that the following issues are addressed:

- The necessary road and transport infrastructure improvements required as a direct result of the proposed development should be fully funded by the developer or alternatively through Council's section 94 contribution plan.
- Land associated with the intersection upgrade is to be dedicated public road at no cost to the RTA or Council.
- Provision for pedestrians and cyclists along the Lakes Way should be included within Council's DCP. The current proposal only shows pathways connecting to The Lakes Way.
- The developer should take into account DIPNR's *Integrating Land Use and Transport Planning Policy* and draft *SEPP 66 - Integration of Land Use and Transport* in relation to the provision of adequate access to public transport, especially for the elderly, and opportunities for pedestrians and cyclists connections to the surrounding area.
- Council should advise the developer that *State Environmental Planning Policy (SEPP) No. 11 - Traffic Generating Developments* may apply, and the proposed development shall address any issues accordingly at the development stage.

Please contact me on (02) 4924 0688 if you require further advice.

Yours sincerely



Dave Young
Manager, Land Use Development
Hunter Operations & Services

21 February 2006

LIDBURY, SUMMERS & WHITEMAN

Consulting Surveyors, Planners & Engineers
Incorporating Degotardi, Smith & Partners (Forster)



Partners
B. A. LIDBURY & ASSOCIATES PTY. LTD.
M. J. SUMMERS & ASSOCIATES PTY. LTD.
S. P. WHITEMAN & ASSOCIATES PTY. LTD.

Registered Surveyors
B. A. Lidbury B. Surv. (Hons.) M.I.S. Aust.
S. P. Whiteman B. Surv. M.I.S. Aust.
Civil Engineers
M. J. Summers A.D. Civ. Eng. (Dist.) GradOIEAust.
P. J. Lidbury B.Surv.(Hons.) B.Civ.Eng.(Hons.) GradISA/IEAust.

Wise Property Group
Suite 202, The Edgecliff Centre
203 – 233 New South Head Road
EDGECLIFF NSW 2027

Att: Robin Wise

FAX: 02 93261057

RE: SEVEN MILE BEACH – SOUTH FORSTER – TELECOMMUNICATIONS

Dear Robin,

Please note that to date we have met Telstra representatives and a local service locator on site to confirm the locations of the major cable runs and the optical fibre that exists in the Lakes Way Road Reserve along the sites frontage.

There have been numerous meetings with private communication consultants and the supply strategy is to incorporate Telstra supply to a switchboard inside the sites boundary and then all communications are to be provided and maintained by a private supplier utilising a fibre optic cable.

Yours faithfully

BRIAN. A. LIDBURY
Registered Surveyor/Managing Director



10 April 2006

Robin Wise
Managing Director
Wise Property Group
Suite 202 Edgecliff Centre
Edgecliff NSW 2027

Dear Robin

Reference: *Seven Mile Beach, The Lakes Way, South Forster*

Origin Energy Retail Limited is pleased to present an Indicative Proposal for the installation and supply of reticulated LP Gas network and central storage, to Wise Property Group for your Eco-living Residential Development at The Lakes Way, Seven Mile Beach, South Forster.

This proposal reflects a design developed and based on plans and details provided within the Morris Bray Architects Site Development Plans and drawings, PP-PH01-C-01 & 04, PP-PH03-C-01, PP-PH05-C01 by. Origin Energy Retail Limited have evaluated the total plan for all stages and costed the project based on construction of the total reticulation network at today's dollars. The proposal includes gas reticulation from central storage facility, for all stages 1 through to 7.

If the proposal meets with your approval please complete the details below, initial each page of this document and return to our office. It is important to understand that NSW LP gas reticulation license requirements have a public consultation period I would suggest a 2 month window will be required to secure these approvals.

We trust this will meet with your approval, if OE can assist you in presenting to your marketing and/or other stakeholders please contact me or any of our project team direct at anytime.

Yours sincerely

Account Manager
Origin Energy LPG
Mob: 0417 414 297

Acknowledged, accepted and agreed,
on behalf of (ABN.....),
by the authorised Officer

Signature _____

Name _____

Title _____

Date _____



Finalists in the 2005 NSW Awards for Excellence in Surveying and Spatial Information



SEVEN MILE BEACH JOINT VENTURE

Suite 202, Edgecliff Centre
203-233 New South Head
Edgecliff NSW 2027 Australia

Phone: 02 9326 1399
Fax: 02 9326 1057
DX: 22909 Edgecliff
ABN: 41938294360



ANDREW SHAW
PROJECT MANAGER
Port Macquarie FSC
PO Box 716
Queanbeyan NSW 2620
Phone: 132 086
Facsimile: 0265 896 222
Direct: 0265 896 325
Mobile: 0418 654 278

FACSIMILE MESSAGE

TO: Lidbury, Summers & Whiteman
ATTENTION: Brian Lidbury
LOCATION: P.O. Box 510, Forster NSW 2428
FAX No: 6554 9378
FROM: Andrew Shaw
No of Pages (including this page): 1
DATE: 20 July 2006 **FILE:** 524800
SUBJECT: Seven Mile Beach Development, Forster

FACSIMILE TRANSMITTAL SHEET	
TO:	FROM:
Michael Brennan	Lina Tayyar
COMPANY:	DATE:
Clarence Consulting	20 JULY 2006
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
6642 4868	2
RE:	
SEVEN MILE BEACH	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

Brian,

Further to your phone message received this afternoon and based on both the information you have previously supplied and also our previous discussions regarding the above development Country Energy would deem that the development will be able to be connected to the distribution network upon finalisation of the construction works required and subsequent payment of the capital contribution applicable to the works.

The construction works required and the associated capital contribution amount required would be determined once the project design has been finalised. All construction works associated with the distribution network would need to be designed and constructed by appropriately authorised service providers in accordance with the design criteria and IPART rulings as set out at the time of application.

If you require any further information regarding the above please contact me on the numbers listed above.

Regards

Andrew Shaw

Dear Michael

We hereby confirm our acceptance of the proposal dated 19 June 2006, for the Electrical Engineering Services for the Seven Mile Beach project.

Regards,

Lina Tayyar
On behalf of Robin Wise

Ref: P06111 MB/gh

19 June 2006

23 JUN 2006

Mr Robin Wise
Managing Director
Wise Property Group
Suite 202, Edgecliff Centre
203-233 New South Head Road
EDGECLIFF NSW 2027

Dear Robin,

Re: **Electrical Engineering Services
Seven Mile Beach, Forster**

Thank you for the invitation to submit a fee proposal for professional electrical engineering services for the Seven Mile Beach, Forster.

SCOPE OF WORK

Scheme Design

Country Energy Supply

- Determination of a preliminary site maximum demand.
- Ascertain from Country Energy the extent and capacity of the existing 11kV networking in the vicinity of the development.
- Determination of the optimum location of padmount substation (s) giving consideration to the internal reticulation and main switchboard locations.

Internal Electrical Reticulation

- Development of a concept layout for the internal reticulation considering circuit lengths, cable loadings, volt drop and loop impedance limitations.
- Liaison with the design team re coordination of cable routes, pillar and switchboard locations.
- Determination of optimum switchboard locations.
- Liaison with landscape architect with respect to streetlighting column and luminaire types and locations.

Other Electrical Services

- Determination of project requirements with respect to electrical requirements for the clubhouse, tennis court, pool, BBQ's, etc.
- Determination of project requirements with respect to communications (telephone and broadband) access control, security and MATV.

Design Development and Contract Documentation – Stage 1 – The Boardwalk, The Dunes 1 and The Cove

(As detailed in drawing "Precinct")

Country Energy Supply

- Preparation of a design to Country Energy standards
- Country Energy approval of the design
- Council coordination
- Environmental Assessment (Country Energy Stage 1 and Stage 2 Checklists)

Internal Electrical Reticulation and Other Electrical Services

- Development of the scheme designs into detailed designs
- Detailed coordination into the design team to ensure issues such as trench offsets and profiles coordinate with other services
- Preparation of contract documentation in drawings and specifications for tendering and construction

EXTENT OF WORK

Electrical reticulation and other electrical services to entrance, 31 dwelling sites and the 37 unit "The Cove" development.

PROPOSED FEES

We propose the following lump sum fees for the scope of work as described above: -

	Fee	GST	Total
Scheme Design	\$8,800	\$880	\$9,680
Design Development	\$6,400	\$640	\$7,040
Detailed Design & Approval Documentation	\$6,400	\$640	\$7,040
Total	\$21,600	\$2,160	\$23,760

Attendance at design co-ordination meetings would be charged at \$800 (plus GST) and hourly rate for the time spent at the meeting.

CONTRACT ADMINISTRATION

Contract administration would be provided as follows: -

- Attendance at site: - \$800 (plus GST) and hourly rates for time at site.
- Attendance to matters at our office: - at hourly rates.

HEAD OFFICE
first floor 53 Victoria St
PO Box 1261
Crafon 2460
ph 02 6642 7239
fax 02 6642 4868

BRANCH OFFICE
PO Box 22
Coffs Harbour 2450
ph 02 6652 4855
fax 02 6652 5999

Additional work outside the scope of works would be charged at the following rates:-

Director	\$160 per hour plus GST
Designer	\$120 per hour plus GST
CAD Technician	\$70 per hour plus GST

EXCLUSIONS

Our fee does not provide for: -

- Environmental assessment over and above the Stage 1 & 2 checklist procedure detailed in the Country Energy document CEF6024. We anticipate that the Stage 1 checklist procedure is all that will be required.
- Survey for overhead line works if required.
- Negotiation and preparation of easements

We would require the lot arrangements, road details and services allocations to be frozen prior to the detailed electrical design. Alterations to the lot arrangements and road details subsequent to the preparation of the detailed design would be charged at the following hourly rates: -

Country Energy design re-approval fees would be at cost.

We have allowed for design and documentation to supply pillars at lot and property boundaries. No allowance has been made for consumer mains between pillars and dwellings, Commercial buildings or the unit development. No allowance has been made for buildings internal light, power or communications fit-out.

INSURANCE

We maintain current Professional Indemnity and Public Liability Insurance. Copies of Certificates of Currency are available upon request.

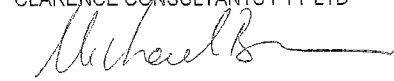
TERMS OF ENGAGEMENT

Progress claims will be made on a monthly basis and are payable within 21 days.

If this proposal is satisfactory, we require written acceptance before commencing. Please complete the attached "Fee Proposal Acceptance" form and return to this office. This proposal is valid for 3 months from the date of this letter.

If you have any queries in relation to anything above, please do not hesitate to contact me.

Yours sincerely
CLARENCE CONSULTANTS PTY LTD



Michael Brennan M.I.E. Aust. CPEng. RPEQ
Director

FEE PROPOSAL ACCEPTANCE

for

Electricity Reticulation

to

Wise Property Group

for

**Seven Mile Beach,
Forster**

I acknowledge that: -

- I have read and understood this proposal
- I agree with the proposed Scope of Work, Conditions of Engagement and Proposed Fees of \$21,600 plus GST.

OR

- I agree with the proposed Scope of Works, Conditions of Engagement and proposed fees with the following amendments: -

SIGNED



(Client or Authorised Representative)

Date:

18/07/06

Please return to Clarence Consultants Pty Ltd
PO Box 1261
RAFTON 2460

Or fax to: (02) 6642 4868

Lina Teyyar

From: Conacher Travers [bushfire@conachertravers.com.au]
Sent: Monday, 24 July 2006 3:31 PM
To: Robin Wise
Subject: Seven Mile Beach - Referral to the Department of Environment and Heritage

Dear Robin

As part of the original flora and fauna studies for the Species Impact Statement for Seven Mile Beach (Ecotone), it was established that the only threatened species that was likely to be affected by the proposal was the Squirrel Glider (p.80, SIS). This species was not listed then, nor has it been listed since, on the EPBC Act 1999. A review of the species and communities found by Ecotone has revealed that no species or communities that are listed under Commonwealth legislation are likely to be affected. Therefore, a referral to the Department of Environment and Heritage is considered to not be required.

If you have any further queries, please do not hesitate to contact Michael Sheather-Reid on (02) 4340 0677.

Regards
Paul Keighley
for Michael Sheather-Reid
Project Ecologist

Conacher Travers
Bushfire & Environmental Consultants
Building 40 The Avenue, Mt Penang Parklands
Pacific Hwy, Kariong NSW 2250
PO Box 7128, Kariong NSW 2250
Ph: 02 43400677 Fax: 02 43402367
Email: bushfire@conachertravers.com.au
Email: ecology@conachertravers.com.au

APPENDIX H

DRAFT COMMUNITY MANAGEMENT STATEMENT

COMMUNITY LAND MANAGEMENT ACT 1989

DRAFT COMMUNITY MANAGEMENT STATEMENT

WARNING

The terms of this Management Statement are binding on the Community Association each Subsidiary Body within the Community Scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community lot within the community scheme.

PART 1

BY-LAWS FIXING DETAILS OF DEVELOPMENT

These By-Laws relate to the control and preservation of the essence or theme of the community scheme and as such may only be amended or revoked by a unanimous resolution of the Community Association (See Section 17(2) Community Land Management Act 1989).

BY LAW 1: LANDSCAPING & BUILDING GUIDELINES FOR THE SCHEME

By-Law 1.1 Architectural and Landscape Standards

The Community Association may from time to time make Rules and Regulations pursuant to and in accordance with By-Law 10 prescribing architectural and landscape standards for the community scheme ("Standards").

The landscaping shall be carried out in accordance with the landscape plan approved by Great Lakes Council ("Council").

The Proprietor or Occupier of a Lot must ensure that the external finishes of the property and building(s) are maintained in accordance with those established by the Developer to the satisfaction of the Community Association.

By-Law 1.2: Approval Required for Alterations Etc

A Proprietor or Occupier shall not, except with the approval of the Community Association make any alterations or additions to a Lot including without limitation an alteration to the colour of any improvements constructed thereon or the addition to the Lot of any sign, any transmitting or receiving device, screen, pergola or awning or anything else.

By-Law 1.3: Proprietor to Provide Plans and Specifications

At the time of request for approval in accordance with By-Law 1.2. A Proprietor or Occupier who wishes to alter or add to a Lot shall provide to the Secretary of the Executive Committee a copy of such plans and specifications as are sufficient to show the nature, dimensions, colour and location of the proposed alterations or additions together with any additional plans, specifications and/or information which the Community Association may reasonably require to properly consider the Proprietor's or Occupier's request.

By-Law 1.4: Community Association Not to Unreasonably Refuse

The Community Association shall promptly consider and give its approval or refusal to any request made by a Proprietor or Occupier for its approval under By-Law 1.2 and shall not unreasonably refuse any such request where the proposed alteration or addition is in harmony with the Standards or if there are no Standards at the time of the making of the request by the Proprietor or Occupier where the proposed alteration or addition is in harmony with the design and colour of the existing improvements and the existing landscaping within the community Parcel.

By-Law 1.5: Community Association may impose Conditions of Approval

The Community Association may impose conditions on an approval given pursuant to By-Law 1.2 including without limitation a condition requiring the Proprietor or Occupier to provide a bank guarantee in favour of the Community Association or other sufficient security on account of any damage that may be caused to Community Association

property as a result of any such alteration or addition provided that any bank guarantee or other security so given shall be returned to the respective Proprietor or Occupier on completion of the alteration or addition subject to the right of the Community Association to deduct any such amount as is reasonably necessary to cover the cost of repairing any damage caused by the Proprietor or Occupier to Community Association property.

By-Law 1.6: Maintenance of Landscaping on Community Association Property

The Community Association may enter into and maintain a contract containing such terms and conditions as are reasonably satisfactory to the Community Association with reputable and appropriately qualified persons or companies for the provision of landscaping services to the Community Association.

By-Law 1.7: Development Rights

Subject to Part 5, the Proprietors for the time being of any of the Community Development Lots and all persons authorised by them shall have the following rights for the purposes of enabling that Proprietor to complete the development of the Parcel in stages and carry out development activities on the Community Parcel.

By-Law 1.7.1:

Complete and unrestricted access by foot or motor vehicle over Community Property;

By-Law 1.7.2:

The right to park motor vehicles and equipment on the Community Property;

By-Law 1.7.3:

The right to place on or attach to Community Property temporary offices, sheds, depots, building materials, cranes and other equipment;

By-Law 1.7.4:

The right to install Services on Community Property;

By-Law 1.7.5:

The right to connect Services within Community Property;

By-Law 1.7.6:

The right to complete construction of the accessways, in appropriately selected materials and colours, upon completion of the relative stage of the development. The prior approval of the Community Association will not be required.

By - Law 1.7.7:

The right to attach and replace marketing and advertising signs, placards, banners, notices or advertisements on the community property (subject to Council approval);

By - Law 1.7.8:

The right to secure any part of the community property and/or conduct security activities on the community property;

By - Law 1.7.9:

The right to conduct sales activities on the community property;

By -Law 1.7.10:

The right to create easements burdening and benefiting community property;

By - Law 1.7.11:

The right to carry out building works and development construction and works in its discretion;

By -Law 1.7.12:

The right to carry out demolition work, building and associated works;

By -Law 1.7.13:

The right to subdivide land;

By-Law 1.7.14:

The right to undertake bushfire management activities; and

By -Law 1.7.15:

The right to do anything the developer considers necessary to develop the development area.

By- Law 1.7.16:

The right to carry out bushland management , tree management, landscaping, habitat protection, habitat restoration,

Glider management, noxious weed control and pest control activities.

By-Law 1.8:

Subject to Part 5, in the exercise of any rights conferred pursuant to By-Law 1.7 the Original Proprietors, while it retains a lot or serves notice on the Community Association that development activities on the Community Property have ceased, or their successors in title of any of the Community Development lots:

- (a) shall not bring any vehicle which uses metal tracks onto Community Property unless prior written approval for the use of such vehicles has been obtained from the Original Proprietor provided always that if the Original Proprietor shall cease to be a Proprietor of any part of the land in the Community Parcel then such approval shall be obtained from the Community Association;
- (b) shall ensure that reasonable access is provided at all times and must maintain the Open Access Way;
- (c) shall give notice of and seek approval from the Community Association when they undertake any work which will prevent access;
- (d) shall restore the Access Way to the pre existing condition and to the same specifications as the other Access Way,s and shall provide certification on the works completed; and
- (e) shall ensure there is no leakage or contamination. If such contamination occurs they should clean up the contamination and do any remedial works required. In the event that the contamination is not removed the Community Community Association has the right to carry out the necessary work and to recover the cost of so doing as a debt against the Proprietor.

By-Law 1.9: Maintenance of Buildings on Lots

Maintenance of Buildings

By-Law 1.9.1:

The Proprietor or Occupier of a Lot other than a strata Lot, or a strata corporation of the strata Scheme, must keep the Lot including, where applicable, the exterior of any structure on the Lot, clean tidy and in good repair and condition.

By -Law 1.9.2:

The Proprietor or Occupier of a Lot, other than a strata Lot, or the strata corporation must carry out all maintenance and repairs to any structure on the Lot

- (a) in a proper and workmanlike manner;
- (b) to the reasonable satisfaction of the Community Association; and
- (c) with materials and in a manner of the same or similar quality, colour, style and design as those used in the construction of the building.

POWER TO NOTIFY

By-Law 1.9.3:

The Community Association may give a notice to the Proprietor or Occupier of a Lot requiring the Proprietor or Occupier to comply with the terms of this by-law and in that notice it may specify the work that should be undertaken.

By-Law 1.10: Maintenance of Landscaping

By -Law 1.10.1:

The proprietor of a lot must carry out all maintenance of the landscaping on the Lot:

- (a) in a proper and workmanlike manner;
- (b) to the reasonable satisfaction of the Community Association and strata corporation if the Lot is a strata Lot;
- (c) in accordance with the approved Fuel Management Plan; and
- (d) in accordance with the Bushland Management Plan.

By -Law 1.10.2:

Only predominantly locally occurring native species should be utilised in the landscape design both within Community Association lands and within Lots.

By -Law 1.10.3:

A Proprietor or Occupier of a Lot must not modify or alter landscaped beds within Lots and if damage does occur, the Proprietor or Occupier must rectify this damage in accordance with the Landscape Plan.

POWER TO NOTIFY

By - Law 1.10.4:

The Community Association may give a notice to the Proprietor or Occupier of a Lot requiring the Proprietor or Occupier to comply with the terms of this by-law.

By- Law 1.10.5:

If any Proprietor fails to maintain landscaping in accordance with this by-law then the Community Association is entitled to recover the cost of maintaining the landscaping from the Proprietor.

By -Law 1.10.6:

Trees identified within the Tree Management Plan must be maintained and protected by the Proprietor of the Lot.

By – Law 1.10.7:

If any Proprietor fails to comply with by-law 1.10 then the Community Association is entitled to recover the cost of maintaining and replacing any trees with an identified habitat value from that Proprietor.

By –Law 1.11: SITE CONSTRUCTION PLANS FOR FUTURE WORKS OTHER THAN BY THE DEVELOPER

By – Law 1.11.1:

Prior to commencement of any construction works, a site construction plan is to be prepared that complies with the Ecological Site Management Plan and any other requirements as specified under the development consent conditions(The Site Construction Plan). The Site Construction Plan is to be approved by the appointed Project Ecologist.

By- Law 1.11.2:

The Community Association or any Subsidiary Scheme must impose contributions on the Proprietors of Lots including Lots in that Subsidiary Scheme for the cost of the control, management and implementation of the Ecological Site Management Plan.

BY –LAW 1.11.3 COST RECOVERY BY COMMUNITY ASSOCIATION

Where the Community Association undertakes works on any Lot which is the responsibility of that Lot owner, the Community Association is entitled to recover the costs associated with such works.

By –Law 1.12:

Whilstever the Original Proprietor owns a Lot the Original Proprietor shall have the right to erect and and maintain “For Sale” and other signage in respect of the leasing or sale of Lots on the Community Property and any Development Lot.

By-Law 1.13:

Except as provided in By-Law 1.12The Proprietor of a Lot must ensure that no signage relating to construction, leasing or sale is erected on the Community Property.

By-Law 1.14: Decision Final

A decision of the Community Association made in accordance with this By-Law 1 shall be final and binding on the Proprietor or Occupier of any Lot.

PART 2

RESTRICTED COMMUNITY PROPERTY

These by-laws may not be amended during the initial period and may only be amended after the expiry of the initial period by special resolution and with the written consent of each person entitled by the by-law to use the Restricted Community Association Property (See Section 54 Community Land Management Act 1989).

BY-LAW 2: NO RESTRICTED PROPERTY

No part of the Community Association property is subject to a restriction pursuant to Section 54 of the Community Land Management Act. All Proprietors or Occupiers shall be entitled to use the Community Association property in the manner and in accordance with the By-Laws relating thereto and any Rules and Regulations made by the Community Association pursuant to By-Law 10.

COMMUNITY MANAGEMENT STATEMENT

PART 3

MANDATORY MATTERS

These are matters which must be addressed in every Management Statement.

BY-LAW 3: OPEN ACCESS WAYS OR PRIVATE ACCESS WAYS

By-Law 3.1: Open Access Ways

That part of the Community Property designated as an Open Access Way in the Plan of Access Ways is an Open Access Way.

By-Law 3.2: Private Access Ways

That part of the Community Property designated as a Private Access Way in the Plan of Access Ways is a Private Access Way.

By-Law 3.3: Control Management Use and Maintenance

The Community Association shall be responsible for the control, management, use and maintenance of the Open and Private Access Ways.

The Community Association may enter into and maintain a contract containing such terms and conditions as are reasonably satisfactory to the Community Association with reputable and appropriately qualified persons or companies for the provision of control, management, use and maintenance of the Open and Private Access Ways.

By-Law 3.4:

The Open Access Way is limited to a speed of 20 kph and may be used by:

- (a) the Proprietors and Occupiers of Lots;
- (b) the Community Association; and
- (c) members of the public; and
- (d) Service Providers.

By-Law 3.5:

The Private Access Way is limited in speed to 20 kph and may be used by:

- (a) the Proprietors and Occupiers of Lots and visitors;
- (b) the Community Association; and
- (c) Service providers.

By-Law 3.6:

The following conditions shall apply to the use of the Access Ways:

- (a) A person shall not drive, park or stand any vehicle on the Access Ways unless:
 - (i) if the vehicle must be registered under Traffic Laws, it is registered and complies with the Traffic Laws;
 - (ii) if a license is required for the use of the vehicle on a public road, that person holds a current drivers licence under the Traffic Laws.
- (b) A person must not:
 - (i) drive, park or stand any vehicle in a manner that is or may be dangerous, causes obstruction or prevents or restricts the free movement of vehicles or pedestrians;
 - (ii) sound any horn other than in an emergency;
 - (iii) park or stand an unregistered vehicle on any part of the Access Ways for more than 24 consecutive hours.
 - (iv) park any trailer, truck, caravan etc on any part of the Access Ways.
 - (v) repair any vehicle or motor mower on the Access Ways.

By-Law 3.7:

A Proprietor or Occupier of a Lot shall ensure that no vehicles are parked on the Access Ways on the designated day for Council waste collection.

BY-LAW 4: PERMITTED USES OF THE COMMUNITY ASSOCIATION PROPERTY

By-Law 4.1: Proprietor or Occupier to Notify

A Proprietor or Occupier shall not except with the prior approval of the Community Association use any part of the Community Association Property other than in accordance with the uses for which the respective part of the Community Association Property was intended to be used and shall immediately notify the Community Association upon becoming aware that any part of the Community Association Property is damaged or otherwise in a state of disrepair.

By-Law 4.2: Permitted Uses of and Special Facilities on the Community Association Property

The Community Association Property is the property set apart as an Open Access Way, Private Access Ways, pools, pool beaches, pool pavillions with showers and toilets, gymnasium, barbeque, tennis courts, playgrounds, security gates, fire fighting shed, maintenance equipment sheds,parks ,landscaped areas and includes the Service Lines.

BY-LAW 5: INTERNAL FENCING

By-Law 5.1: Application of Dividing Fences Act 1991

Subject to Section 117 of the Community Land Management Act 1989, the provisions of the Dvividng Fences Act 1991 shall have effect in relation to dividing fences between:

- (a) one Lot and another Lot;
- (b) a Lot and Community Association Property.

By-Law 5.2: Proprietor or Occupier to reimburse Community Association

Where pursuant to Section 117 of the Community Land Management Act 1989 the Community Association is obliged to make a contribution to an owner of land outside the Community Association Parcel in relation to a dividing fence between that land and a Lot within the Community Association Parcel, the Proprietor or Occupier, being the owner of that Lot, shall reimburse the Community Association in respect of any such contribution.

By-Law 5.3:

A Proprietor or Occupier of a Lot must maintain all fencing and shall ensure that any fencing to be installed or replaced is to be consistent with the fencing provided by the Original Proprietor.

By -Law 5.4:

Discontinuous fencing is to be maintained at all times. Colourbond fencing is to be excluded from the development allowing fauna passage throughout the site to be maintained.

By -Law 5.5:

In order to prevent Squirrel Glider mortality, no barb wire fencing is to be used on-site or for site boundary fencing.

BY-LAW 6: GARBAGE

By-Law 6.1:

A Proprietor or Occupier of a Lot must provide and use a garbage container as required by the Council from time to time for the removal of garbage from the Lot by the selected private contractor or Council.

By-Law 6.2: Storage

A Proprietor or Occupier must keep any garbage container and/or garbage secure and:

- (a) so that it does not emit odours; and
- (b) hidden from view from outside the Lot and from Lot 1; and

unless the garbage container has been placed on the designated area set aside on the Community Association Property to enable the collection and removal of garbage by the selected contractor or the Council on that or the following day.

By-Law 6.3:

The Proprietor or Occupier of a Lot must ensure that garbage in his/her garbage bin and on or from the lot is made available for collection by the private contractor or Council in accordance with its requirements relating to the disposal and collection of garbage.

By-Law 6.4: Recyclable Garbage

A Proprietor or Occupier of a Lot must ensure that recyclable material is made available for collection by the private contractor or Council in accordance with the Council's by-laws and ordinances relating to the disposal and collection of recyclable garbage.

By-Law 6.5:

The Community Association indemnifies the Council from any claims for damage caused by the garbage collection service.

BY-LAW 7: SERVICES

There are no services being provided for within this Community scheme.

BY-LAW 8: INSURANCE

By-Law 8.1: Compulsory Insurance

The Community Association shall effect all insurances which it is required to effect from time to time under each of the Community Land Development Act 1989 and Community Land Management Act 1989 or any other Act in such manner and with such insurer as is provided therein or in the Regulations made pursuant thereto or in the event there is no such provision in the manner determined by the Community Association from time to time.

By-Law 8.2: Optional Insurances

The Community Association may effect such insurances other than the insurances referred to in By-Law 8.1 hereof which it considers necessary in the interests of Proprietor or Occupiers.

By-Law 8.3: Insurance in respect of Lots

Each Proprietor or Occupier shall be responsible for insuring against all and any risks of being the Proprietor of a Lot including without limitation the risk of damage or destruction to any improvements constructed thereon.

By-Law 8.4: Obligation to Rebuild

If any improvement constructed upon any Lot or any part thereof is destroyed or damaged by fire, flood, lightning, storm, tempest or any other disabling cause, the respective Proprietor shall rebuild or reinstate the respective improvement or part thereof within a reasonable time after such destruction or damage and such rebuilding or reinstatement shall be deemed to be an alteration or addition for which the Proprietor is required to obtain approval from the Executive Committee pursuant to By-Law 1.2.

BY-LAW 9: EXECUTIVE COMMITTEE

By-Law 9.1: The Executive Committee

The Executive Committee and the Chairperson, Secretary and Treasurer thereof must respectively be elected and appointed in accordance with Division 2 of Part 2 of the Community Land Management Act 1989.

By-Law 9.2: Notice of Executive Committee Meetings

The Executive Committee shall cause notice to be given to Proprietors in the manner prescribed by the Rules and Regulations (or if no manner is prescribed, in such other manner as it considers appropriate having regard to where Proprietors reside) to Proprietors of its intention to hold a meeting setting out the time, location and reasonable details of the agenda for the meeting not less than seventy two (72) hours prior to the scheduled commencement time of the meeting as set out in such notice. The Executive Committee shall not at any meeting held following the giving of such notice deal with any business the reasonable details of which were not included in the agenda set out in such notice.

By-Law 9.3: Proprietors at Executive Committee Meeting

A Proprietor or a nominee for the Proprietor is entitled to attend a meeting of the Executive Committee but may not address the meeting unless authorised by resolution of the Executive Committee and shall not be entitled to vote thereat.

By-Law 9.4: Voting in writing

Where:

- (a) By-Law 9.2 has been complied with in relation to a meeting;
- (b) each Proprietor or Occupier of the Executive Committee has been served with a copy of any motion for a proposed resolution to be submitted at that meeting; and
- (c) the proposed resolution has been approved in writing by a majority of the Executive Committee,

then the resolution is, if a notice has not been given under section 38(3) of the Community Land Management Act, as valid as if it had been duly passed at a duly convened meeting of the Executive Committee, even though the meeting was not held.

By-Law 9.5: Minutes to be kept

- (a) The Executive Committee shall within fourteen (14) days after each meeting cause a copy of the minutes of the meeting prepared in accordance with Section 38(7) of the Community Land Management Act 1989 to be given in the manner prescribed by the Rules and Regulations to all Proprietors (or if no manner is prescribed, in such a manner as the Executive Committee considers appropriate having regard to where the Proprietor or Occupiers reside).
- (b) Minutes of the meetings of the Executive Committee and all resolutions passed must be placed with the minutes of the General Meetings of the Community Association.

By-law 9.6: Conduct, Place and Frequency of Meetings

The Executive Committee shall:

- (a) conduct its meetings in accordance with the Rules and Regulations or if there are no such Rules and Regulations which relate thereto in such manner as the Executive Committee thinks fit;
- (b) hold its meetings as often as is necessary having regard to the interest of Proprietors or Occupiers and its obligations and functions under this Management Statement, the Rules and Regulations or any law;
- (c) hold its meetings at such place as it considers appropriate and if the Rules and Regulations so provide may hold its meetings by correspondence.

By-Law 9.7: Powers and Duties of Secretary

The powers and duties of the Secretary of the Community Association are:

- (a) preparing and displaying or distributing minutes of meetings and resolutions of the Community Association and the Executive Committee;
- (b) giving on behalf of the Community Association and the Executive Committee, notices required to be given under the Community Land Management Act;
- (c) maintaining the Community Association Roll;
- (d) making available for inspection, on behalf of the Community Association, the documents and records set out in clause 1 of Schedule 4 of the Community Land Management Act;
- (e) supplying on behalf of the Community Association, certificates in accordance with Schedule 4 of the Community Land Management Act;
- (f) answering communications addressed to the Community Association of the Executive Committee;
- (g) convening meetings of the Executive Committee and the Community Association (other than the First Annual General Meeting);

- (h) performing and exercising matters of an administrative or secretarial nature which are associated with the functions and duties of the Community Association or the Executive Committee, and;
- (i) keeping records for the Community Association under:
- (i) Part 3 of Schedule 1 of the Community Land Management Act; and
- (ii) Part 3 of Schedule 3 of the Community Land Management Act.

By-Law 9.8: Powers and duties of Treasurer

The powers and duties of the Treasurer of the Community Association include:-

- (a) notifying Proprietors of Lots of contributions levied pursuant to the Community Land Management Act or the Management Statement and collecting all contributions;
- (b) receiving, acknowledging, banking and accounting for all money paid to the Community Association;
- (c) preparing any certificate applied for under and in accordance with Section 26 and clause 2 of Schedule 4 of the Community Land Management Act;
- (d) keeping the prescribed accounting records referred to in clause 10 of Schedule 1 of the Community Land Management Act;
- (e) preparing the prescribed financial statements referred to in clause 11 of Schedule 1 of the Community Land Management Act; and
- (f) the functions set out in Section 36(1) of the Community Land Management Act.

By-Law 9.9:

The Executive Committee and its members shall not be liable for any loss or damage which arises as a result of any act done by the Executive Committee or the Proprietor or Occupier in its, his or her respective capacity as the Executive Committee or member of the Executive Committee except fraud on the part of the Executive Committee or that member.

By-Law 9.10:

Members of the Executive Committee are not entitled to any remuneration for the performance of their functions but are entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of their functions.

PART 4
OPTIONAL MATTERS

BY-LAW 10: RULES AND REGULATIONS

By-Law 10.1: Community Association may make Rules and Regulations

The Community Association may at any time and from time to time make, amend, cancel, add to or suspend rules and regulations ("Rules and Regulations") which are not inconsistent with any By-Laws contained in this Management Statement or any function or obligation imposed on the Community Association under any Act. Each Proprietor or Occupier shall be bound by the Rules and Regulations. If there shall be any inconsistency between the By-Laws contained in this Management Statement and any of the Rules and Regulations, the By-Laws contained in this Management Statement shall prevail.

By-Law 10.2: Copy of Rules and Regulations to be Distributed

The Community Association shall upon making, amending, cancelling or suspending any rule or regulation contained in or to be added to the Rules and Regulations distribute a copy of such additional or altered Rule or Regulation, as the case may be, to each Proprietor or Occupier or to such person as the Proprietor or Occupier nominates as its representative.

By-Law 10.3: Proprietors or Occupiers shall Observe

Each Proprietor or Occupier shall at all times observe and comply with the Rules and Regulations made in accordance with By-Law 10 and shall not do, permit or suffer to be done anything contrary thereto. A failure by a Proprietor or Occupier to observe and comply with any rule or regulation contained in the Rules and Regulations shall constitute a breach by that Proprietor or Occupier of this By-Law 10. A Proprietor or Occupier shall be responsible for ensuring that the By-Laws contained in this Management Statement and the Rules and Regulations are continuously observed and complied with by all of that Proprietor's or Occupier's invitees and any persons claiming through or under that Proprietor or Occupier. A failure by any such invitee or other person claiming through or under a Proprietor or Occupier to observe and comply with any By-Law contained in this Management Statement or of the Rules and Regulations shall constitute a breach of this By-Law 10 by the Proprietor or Occupier.

By-law 10.4: Community Association to Give Notice

In the event of a breach by a Proprietor or Occupier of a By-Law contained in this Management Statement or of any rule or regulation contained in the Rules and Regulations, the Community Association shall (except in the case of a breach requiring the Community Association to act immediately to prevent damage to property or injury to person) serve a notice upon such Proprietor or Occupier specifying the By-Law(s) and/or Rule or Regulation which the Proprietor or Occupier has breached and the works to be carried out and/or the matters to be attended to by the Proprietor or Occupier and the time within which such works must be carried out or matters attended to so that the Proprietor or Occupier shall no longer be in breach of the said By-law(s) or Rules and Regulations. In the event that such breach by any Proprietor or Occupier has resulted in damage to any part of the Community Association Property such notice shall specify the damage to be repaired by the Proprietor or Occupier and the period of time within which such repairs shall be completed.

By-Law 10.5: Failure to comply with Notice

Where the proprietor or Occupier fails to comply with the notice served upon the Proprietor or Occupier by the Community Association under By-Law 10.4, then the Community Association may, as soon as practicable thereafter, where appropriate:-

- (a) apply to the Registrar of the Consumer, Trader and Tenancy Tribunal for an order (or interim order as the case may be) directing the Proprietor or Occupier to observe the said By-Law or Rule or Regulation in respect of which the Proprietor or Occupier is in breach; or
- (b) carry out the works and/or repairs set out in such notice and/or attend to the matters set out in such notice which should have been attended to by the Proprietor or Occupier.

By-Law 10.6: Power of Entry of Community Association

In addition to the powers conferred by Section 60 of the Community Land Management Act 1989 upon the Community Association to enter upon any part of the Community Association Property for the purposes as specified therein, the Community Association shall also have the power to enter any part of the Community Association Property including any part of a Lot for the purpose of performing any of the functions conferred or imposed upon the Community Association by any Act or by this Management Statement.

By-Law 10.7: Reimbursement of Costs, Charges and Expenses

A Proprietor or Occupier must pay or reimburse the Community Association on demand for all costs and expenses incurred by the Community Association in connection with the contemplated or actual enforcement, or preservation of any rights under the By-Laws in relation to the Proprietor including, without limitation, all expenses incurred in retaining any independent consultant or other person to evaluate any matter and its administration costs in connection therewith.

By-Law 10.8: Community Association Not to be Liable

The Community Association shall not be liable for any loss or damage howsoever caused or arising from the non-enforcement of any By-Law contained in this Management Statement or of any of the rules and regulations contained in the Rules and Regulations in accordance with this By-Law 10.

By-Law 10.9: Proprietor of Occupier to Comply at Own Expense

A Proprietor or Occupier shall comply with the obligations under these By-Laws and the Rules and Regulations at the Proprietor's or Occupier's own cost except where the By-Laws or Rules and Regulations provide to the contrary.

By-Law 10.10:

A Proprietor or Occupier of a Lot must not directly or indirectly instruct agents, employees or contractors of the Community Association unless authorised to do so by the Community Association.

BY-LAW 11: BEHAVIOUR

By-Law 11.1: Appearance

The Proprietor or Occupier of a Lot must not hang any towel, clothing, or other article on the outside of a building on a Lot or on any other part of the Lot so that it may be seen from any part of Lot 1, an Access Way, Open Access Way or the public road.

By-Law 11.2: Noise Control and Behaviour

The Proprietor or Occupier of a Lot must not create any noise or behave in a manner which interferes or may interfere with the peaceful use and enjoyment of the Proprietor or Occupier of another Lot or any person lawfully using Community Association Property, nor shall they allow any invitee to create any noise or behave in a manner which interferes or may interfere with the peaceful use and enjoyment of the Community Association Property by any Proprietor or Occupier.

By-Law 11.3: Compliance with Requirements of Authorities

A Proprietor or Occupier of a Lot must comply on time with all requirements and orders of authorities and all laws in connection with the Lot and use or occupation of the Lot.

By-Law 11.4: Communications with the Community Community Association

Complaints, notices or applications to or requests for consideration of matters by the Community Association must be in writing and forwarded to the Managing Agent of the Community Association or the Secretary if no managing agent is appointed.

By-Law 11.5: Communications from the Community Community Association

An approval, notice or authorisation by the Community Association under the By-Laws must be in writing.

BY-LAW 12: RIGHTS TO ENTER CONTRACTS

By-Law 12.1: Negotiation and Administration of Service Contracts

To allow the Community Association to more effectively perform the functions conferred and obligations imposed on it by any Act or by this Management Statement the Community Association may enter into any contracts for the provision of any service or services to be performed by any third party which contracts shall be on such terms and conditions as the Community Association reasonably determines and the consideration payable under such contracts shall be paid out of contributions to either of the Administrative or Sinking Funds levied on Proprietors or Occupiers.

By-Law 12.2: Managing Agent

In the event that the Community Association appoints a managing agent pursuant to Section 50 of the Community Land Management Act 1989, the Community Association may delegate to the managing agent, in addition to the functions the Community Association is entitled to delegate to the managing agent under the said Act, the functions imposed upon the Community Association by this Management Statement or by any other Act. The consideration or fees payable to the managing agent for the performance of any of the functions of the Community Association delegated to the managing agent shall be payable out of the Administrative Fund.

By-Law 12.3: Employees and Consultants

The Community Association may employ such staff, advisers, consultants, agents or lawyers as it may require, whether on a permanent, part time or casual basis, to assist with its management, control and maintenance of the Community Association Property and the performance of the functions conferred and obligations imposed on the Community Association by any Act or this Management Statement.

By-Law 12.4: Agreement between Community Association and a Proprietor or Occupier

A Community Association may only enter into an agreement under Section 22 of the Community Land Management Act 1989 which has the effect of conferring a benefit on one (1) or some but not all proprietors where the Community Association charges such Proprietor or Proprietors a reasonable fee for receiving such benefit.

By-Law 12.5: Proprietor or Occupier Not to Instruct

A Proprietor or Occupier shall not instruct or request that any contractor, employee, consultant, agent or lawyer appointed or employed by the Community Association to do any act or thing without the prior approval in writing of the Community Association. Any Proprietor or Occupier who gives any such instruction or makes any such request shall be liable for all costs or expenses incurred by the Community Association as a consequence thereof.

BY-LAW 13: INTEREST

If any monies payable by a Proprietor or Occupier to the Community Association being other than a contribution to the administration fund or sinking fund levied by the Community Association under the Community Land Management Act 1989 are not paid on their due dates for payment of the same as specified in any notice given by the Community Association to that member or as otherwise specified, that Proprietor or Occupier shall pay simple interest on the total amount which remains unpaid from the day after the date upon which the monies became due and payable up to and including the date of actual payment at the rate of ten percent (10%) per annum.

BY-LAW 14: COMMUNITY PROPERTY AND COMMON PROPERTY

By-Law 14.1:

The Proprietor or Occupier of a Lot must not except with the approval of the Community Community Association leave anything on or obstruct the use of Community Association Property.

By-Law 14.2:

The Proprietor or Occupier of a Lot must not damage Community Association Property including without limitation, any paved areas, landscape feature, lawn, garden, tree, shrub, plant or flower which is part of or situated on Community Association Property.

By-Law 14.3:

The Proprietor or Occupier of a Lot must not, except with the approval of the Community Association or pursuant to By-Laws in force in the Community Parcel, use for his own purposes any part of Community Association Property.

By-Law 14.4:

The Proprietor or Occupier of a Lot must give notice to the Community Association of any damage of or defect in Community Association Property immediately he becomes aware of it.

BY-LAW 15: Control of Lessees/Licensees

A Proprietor whose Lot in whole or in part is the subject of a lease or licence agreement must-

- (a) provide the lessee or licensee with a copy of this Management Statement;
- (b) require the lessee or licensee to perform and observe the obligations on the part of the Proprietor under the By-Laws; and
- (c) take all reasonable steps including, without limitation, any action available to him/her under the lease or licence agreement to ensure that the lessee or licensee of the Lot and any person on the Community Association Property with the consent (express or implied) of the lessee or licensee complies with the by-laws.

BY-LAW 16: KEEPING OF ANIMALS

By-Law 16.1:

Animals may be kept or allowed on a Lot only with the consent of the Executive Committee.

By-Law 16.2:

No dogs or cats will be permitted in the scheme.

By-Law 16.3:

Notwithstanding By-Law 16.2

- (a) a completely or partially blind Proprietor or Occupier of a Lot may keep a dog used as guide on a Lot; and
- (b) a completely or partially blind person may use a dog as a guide on a Lot or on any other part of the Community Parcel.

BY-LAW 17: BUSHFIRE CONTROL

By-Law 17.1:

The Proprietor or Occupier of a Lot must, where applicable, provide a bushfire asset protection zone on their respective Lot in accordance with the approved Fuel Management Plan.

By-Law 17.2:

Bushfire fuel loads on Lots must be managed and maintained in accordance with the approved Fuel Management Plan (where applicable).

By -Law 17.3:

The Community Association must engage a suitably qualified person to prepare an annual approved Fuel Management Plan.

By -Law 17.4:

If the Proprietor/Occupier of a Lot fails to manage and maintain bushfire fuel loads in accordance with the approved Fuel Management Plan then the Community Association is authorised to enter the Lot for the purpose of managing and maintaining bushfire fuel loads.

By -Law 17.5:

Where the Community Association undertakes works on any Lot which are the responsibility of that Lot owner, the Community Association is entitled to recover the costs associated with such works.

BY-LAW 18: SECURITY

By-Law 18.1:

The Executive Committee may take all reasonable steps to ensure the security of parts of the Parcel and the buildings situated within the Community Association Property from intruders and without limiting the generality of the foregoing may:

- (a) close off any part of the Community Association Property not required for ingress or egress to a lot or car parking space on either a temporary or permanent basis or otherwise restrict the access to or use by Proprietors or Occupiers of any such part of the Community Association Property;
- (b) permit any designated part of the Community Association Property to be used by any security person, firm or company (to the exclusion of Proprietors and Occupiers generally) as a means of monitoring the security and general safety of the Parcel;
- (c) restrict by means of key or electronically operated security systems the access of the Proprietors and Occupiers to any part of the Parcel.

By-Law 18.2:

A Proprietor or Occupier of a Lot shall use reasonable care when admitting visitors or invitees to the Parcel and shall not allow them to remain upon the Community Association Property unsupervised except to any extent reasonably necessary for the ingress and egress of the visitor or invitee.

By-Law 18.3:

A Proprietor or Occupier of a Lot shall not do or omit or suffer to be done or omitted any act, matter or thing which may interfere with or impede the security or other safety of the Parcel or any part thereof.

By-Law 18.4:

If the Executive Committee in the exercise of any of its powers under these by-laws restricts access generally or the access of Proprietors or Occupiers to any part of the Community Association Property by means of any lock, electronic devices or similar security device it may make such number of keys or operating systems as it determines available to Proprietors free of charge and thereafter may at its discretion make additional numbers thereof available to Proprietors upon payment of such reasonable charge therefor as may be determined from time to time by the Executive Committee.

By-Law 18.5:

A Proprietor of a Lot to whom any key or any operating system is given pursuant to these by-laws shall exercise a high degree of caution and responsibility in making the same available for use by any Occupier or a Lot and shall take reasonable precautions (which shall include an appropriate covenant in any lease or licence of a Lot to any such Occupier) to ensure return thereof to the Proprietor or the Community Association upon the Occupier ceasing to be an Occupier.

By-Law 18.6:

A Proprietor or Occupier of a Lot into whose possession any key or operating system referred to in these by-laws has come shall not duplicate same or cause the same to be duplicated and shall take all reasonable precautions to ensure that the same is not lost or handed to any person other than another Proprietor or Occupier and is not disposed of otherwise than by returning it to the Executive Committee and any such Proprietor or Occupier who loses or destroys any such key or operating system shall as soon as practicable thereafter notify the Executive Committee of such loss or destruction.

BY-LAW 19: GYMNASIUM

In relation to the use of the gymnasium, a Proprietor or Occupier of a lot shall ensure:

- (a) that he and his invitees do not unreasonably disturb the peaceful enjoyment of the Proprietor or Occupier of another lot or of any person lawfully using the Community Property;
- (b) that the gymnasium equipment and appurtenances thereto are used in a proper manner and according to their operative instructions and that such appliances and appurtenances are cleaned after use; and
- (c) that the gymnasium is left in a clean and tidy condition.

BY-LAW 20: POOLS

By-Law 20.1:

The swimming pools and surrounds shall not be used between the hours of 10.00 p.m. and 6.00 a.m. unless the prior approval of the Community Association has been obtained.

By-Law 20.2:

Proprietors and Occupiers using the swimming pools shall exercise caution at all times and shall not run or splash or behave in any manner that is likely to interfere with the use of the pool by other Proprietors or Occupiers.

By-Law 20.3:

In relation to the use of the swimming pools a Proprietor or Occupier of a lot shall ensure:

- (a) that his invitees and guests do not use the pools unless he or another Proprietor or Occupier accompanies them;
- (b) that children are not in or around the pools unless accompanied by an adult Proprietor or Occupier exercising effective control over them;
- (c) that alcoholic beverages are not taken to or consumed in or around the pools and that glass containers or receptacles of any type are not taken to or allowed to remain in or around the pool areas.

By-Law 20.4:

A Proprietor or Occupier of a Lot shall not without proper authority operate, adjust or interfere with the operation of the equipment associated with the swimming pools.

By-Law 20.5:

A Proprietor or Occupier of a Lot shall not, without proper authority, add any chemical or other substance to the water in the swimming pools.

BY-LAW 21: POOL BEACHES

By-Law 21.1:

Proprietors or Occupiers using the pool beaches shall exercise caution at all times and shall not behave in a manner that is likely to interfere with the use of the areas by other Proprietors or Occupiers.

By-Law 21.2:

In relation to the use of the pool beaches, a Proprietor or Occupier of a lot shall ensure:

- (a) the his invitees and guests do not use the beaches unless he or another Proprietor or Occupier accompanies them;

- (b) that children under the age of 14 years are not on the beaches unless accompanied by an adult Proprietor or Occupier exercising effective control over them; and
- (c) that alcoholic beverages may be consumed in moderation on the beaches but no glass containers or receptacles of any type are to be used or allowed to remain on the beaches.

BY-LAW 22: POOL PAVILION

The Pool Pavilions (hereafter called "the Pavilions") shall not be used except in accordance with the following by-laws:

- (a) the Pavilions shall not be used before 6.00 a.m. and after 11.00 p.m. except with the consent of the Executive Committee;
- (b) the Pavilions shall not be used for any illegal purpose nor for any purpose that may endanger the safety or good reputation of Proprietors or Occupiers nor which may cause a nuisance, annoyance or hazard to Proprietors and Occupiers and without limiting the generality of the foregoing other than for the purpose of:
 - (i) using that facility as a change room prior to entering the pool area.
 - (ii) using the toilet facilities, which must be kept clean to ensure the enjoyment of other Proprietors, Occupiers or their invitees.
 - (iii) using the showers, which must be kept clean to ensure the enjoyment of other Proprietors, Occupiers or their invitees.
- (c) (i) Keys to the Pavilion shall only be provided to the Executive Committee and the Manager;
- (iii) A person to whom a key is provided must:
 - (1) Not duplicate the key;
 - (2) Immediately advise the Community Association or Manager if the key is lost or misplaced;
 - (3) If requested by the Community Association or Manager immediately return the key; and
 - (4) Take all reasonable precautions to ensure that the key is not lost, damaged or stolen.

BY-LAW 23: B.B.Q.

In relation to the use of the barbecue areas, a Proprietor or Occupier of a lot shall ensure:

- (a) that he and his invitees do not unreasonably disturb the peaceful enjoyment of the Proprietor or Occupier of another lot or of any person lawfully using the common property.
- (b) that the cooking appliances and appurtenances thereto are used in a proper manner and according to their operative instructions and that such appliances and appurtenances are thoroughly cleaned after use; and
- (c) that the area is left in a clean and tidy condition.

BY-LAW 24: TENNIS COURTS

By-Law 24.1:

The tennis courts shall be locked and access to same not permitted between the hours of 10.00 p.m. and 6.00 a.m. and without limiting the generality of the foregoing the Executive Committee may determine from time to time the tennis court be temporarily locked and access prevented for maintenance, service or repair to the facilities at such other times as the Executive Committee deems appropriate.

By-law 24.2:

A Proprietor or Occupier of a Lot shall be entitled to book the use of the tennis courts for a period of two (2) consecutive hours per week, monthly in advance by way of a permanent booking. Such booking shall be maintained by the Manager or his nominee on a sheet which is to be displayed on a board in the vicinity of the tennis courts area. Should the courts be unbooked residents shall be at liberty to play on the courts. However, if an unbooked group are playing on the courts and another unbooked group arrive, then that group playing on the courts may continue with the use of the court up to the next whole hour, wherein a hand over to the second group may occur. Booked court times take precedent over unbooked times.

BY-LAW 25: RECREATIONAL FACILITY AND PLAYGROUND

By-Law 25.1:

The recreational facility and playground shall not be used between the hours of 10.00 p.m. to 6.00 a.m.

By-Law 25.2:

The recreational facility and playground shall not be used for any illegal or immoral purpose nor for any purpose that may endanger the safety or good reputation of Proprietors or Occupiers nor which may cause any undue nuisance, annoyance or hazard to Proprietors and Occupiers.

By-Law 25.3:

Alcoholic beverages may be taken to and consumed in moderation at the recreational facility but no glass containers or receptacles of any type are to be allowed to remain at the facility.

BY-LAW 26: MAINTENANCE EQUIPMENT SHED

The person or company appointed by the Community Association to provide maintenance to the scheme will have access to the Maintenance Shed, which shall only be used in accordance with the following conditions:

- (a) removal of equipment from the Maintenance Shed should comply with the existing noise pollution regulations;
- (b) for the storage of equipment required for the maintenance of the Community Parcel.
- (c) not be used for any illegal purpose nor for any purpose that may endanger the safety or good reputation nor which may cause nuisance, annoyance or hazard to Proprietors or Occupiers.

BY-LAW 27: FIRE EQUIPMENT SHED

The Proprietors, Occupiers or persons who become members of the Volunteer Fire Brigade shall only have access to the fire equipment shed, which shall only be used in accordance with the following conditions.

- (a) keys to the fire equipment shed will only be provided to the Executive Committee and the designated Fire Captain;
- (b) for the storage of equipment necessary to combat the threat of fire to the Community Parcel;
- (c) removal of equipment from the fire equipment shed should only be in the event of fire, fire drill or maintenance; and
- (d) not to be used for any illegal purpose nor for any purpose that may endanger the safety or good reputation nor which may cause nuisance, annoyance or hazard to Proprietors or Occupiers.

BY-LAW 28: TRADE WASTE

The Community Association shall have the right to provide trade waste equipment on the Community Association Property, for the benefit of Proprietors or Occupiers, in such positions as the Community Association may from time to time in its absolute discretion determine.

BY-LAW 29: NOXIOUS AND PEST WEED CONTROL

By-Law 29.1:

All species listed as noxious or environmental weeds in the Bushland Management Plan are to be controlled and/or removed from the Lot by the Proprietor of that Lot or Lots as soon as practicable. Any future noxious weed listing by Great Lakes Council is to be added to the Bushland Management Plan list and weed control undertaken as required.

By-Law 29.2:

If a Proprietor/Occupier of a Lot fails to remove noxious or environmental weed as soon as practicable then the Community Association is authorised to enter the Lot for the purposes of removing the noxious or pest weed and reserves the right to levy a charge against the Proprietor of the Lot covering the costs of noxious or environmental weed control.

By-Law 29.3:

The Community Association must engage a suitably qualified Project Ecologist to review the ESMP, Bushland Management Plan, Squirrel Glider Habitat Management Plan, Eastern Habitat Corridor Restoration Plan and Fuel Management Plan once every five years or more regularly if required.

BY-LAW 30: BUILDING FOOTPRINTS

By-Law 30.1:

An Indicative Building Footprint is defined for each Lot within Development Control Plan No. 40.

By-Law 30.2:

No Building or Structure is to be constructed or permitted to remain outside the Final Building Footprint as approved in the Development Consent for the site with the exception of:

- a. driveways;
- b. pathways;
- c. underground services
- d. landscaping
- e. detached garages/carports; and
- f. pergolas/awnings as constructed by the Developer.

BY LAW 31: FIRE TRAILS

MEANS OF ACCESS

By-Law 31.1:

All Fire Trails are to be part of the Community Property.

By-Law 31.2:

The Community Association or any Subsidiary Scheme must impose contributions on the Proprietors of Lots including Lots in that Subsidiary Scheme for the cost of the control, management, operation, maintenance and repair of the Community Association Fire Trails.

PERMITTED USERS

By-Law 31.3:

The Community Association Fire Trails may be used by:

- a. Proprietor/Occupier of Lots and their guests;
- b. the Developer;
- c. fire management authorities; and
- d. such other person as the Community Association shall approve from time to time.

PRINCIPAL USES

By-Law 31.4:

The principal permitted uses of the Community Association Fire Trails are to provide good access to any bushfire or potential bushfire and an appropriate standard of access for fire fighter and resident safety and general Community Association purposes.

PROHIBITED USES

By-Law 31.5:

The Community Association Fire Trails shall not be used for the following activities:

- a. passage by any motor vehicles with the exception of maintenance and fire fighting vehicles;
- b. camping.

RESPONSIBILITY TO CONTROL AND MAINTAIN

By-Law 31.6:

The Community Association is responsible for the control, management, operation, maintenance and repair of the Community Association Fire Trails.

BY-LAW 32: WALKING TRAILS

MEANS OF ACCESS

By-Law 32.1:

Walking trails will primarily be part of the Community Property.

By-Law 32.2:

The Community Association is responsible for the control, management, operation, maintenance and repair of the Walking Trails.

By-Law 32.3:

The Community Association or any Subsidiary Scheme must impose contributions on the Proprietors of lots including lots in that Subsidiary Scheme for the cost of the control, management, operation, maintenance and repair of the Walking Trails.

PERMITTED USERS

By-Law 32.4:

The Community Association Walking Trails may be used by:

- a. Proprietors/Occupiers of lots and other guests;
- b. other persons authorised by the Community Association;

PRINCIPAL USES

By-Law 32.5:

The principal permitted use of the Community Association Walking Trails to provide access to Community Property throughout the Community Scheme.

PROHIBITED USES

By-Law 32.6:

The Community Association Walking Trails shall not be used for the following activities:

- a. passage by any motor vehicles with the exception of maintenance vehicles;
- b. camping.

By-Law 32.7:

The Community Association is responsible for the control, management, operation, maintenance and repair of the Community Association Walking Trails.

BY-LAW 33: COMMUNITY ASSOCIATION OPEN SPACE

PERMITTED USERS

By-Law 33.1:

Community Association Open Space may be used by:

- a. Proprietor/Occupier of Lots and their guests; and
- b. such other persons as the Community Association shall approve from time to time.

PERMITTED PURPOSES AND USES

By-Law 33.2:

The principal permitted purposes of the Community Association open spaces are:

- a. the protection, management and maintenance of the environmental equality of the area;
- b. the protection, management and maintenance of fauna and flora within the area;
- c. the protection, management and maintenance of the water quality of the site; and
- d. for the use and enjoyment of residents.

By-Law 33.3:

In addition to these principal permitted purposes of Community Association Open Spaces may be used for:

- a. bushwalking;
- b. photography, painting and sketching;
- c. observing fauna and flora;
- d. scenic appeal/appreciation;
- e. picnicing;
- f. entertainment;

- g. sports activities; and
- h. general recreation activities.

PROHIBITED USES

By-Law 33.4:

Community Association Open Space shall not be used for the following activities:

- a. passage by any motor vehicles with the exception of maintenance vehicles; and
- b. camping.
- c.

BY-LAW 34: PRESERVATION OF TREES

By-Law 34.1:

Subject to by-law 34.2 and any necessary Council requirements in the are within a Lot, no native trees or native understorey vegetation are to be removed or lopped unless:

- a. removal of native trees or native understorey vegetation is to be undertaken as part of an ongoing program of vegetation/fuel management (if required) contained in the approved Fuel Management Plan; or
- b. individual native trees or branches of trees can be demonstrated to be a clear risk to personal safety and/or property; or
- c. removal of native trees and understorey is essential to the provision of access to Lots.

By-Law 34.2:

Despite by-law 34.1 no native trees or native understorey vegetation shall be removed from any Lot without the prior written consent of:

- a. the developer (whilst ever it is the owner of a Lot), and after that the Community Association;
- b. the Community Association; and
- c. Council in accordance with its Tree Preservation Policy.

By-Law 34.3:

By-Law 34.1 and 34.2 do not apply if the trees need to be removed in advance to comply with By-Law 17 and By-Law 29.

By-Law 34.4:

If a Proprietor or Occupier of a Lot removes a native tree or vegetation without the approval of the Developer and/or the Community Association, the cost of restoring/replacing the vegetation/trees can be recovered from the Proprietor of a Lot.

BY-LAW 35: MAINTENANCE OF ARBOREAL CORRIDORS

By-Law 35.1:

An artificial arboreal glider bridge is to be installed in the event that the tree removal, management or damage results in a canopy separation of greater than 30m.

By-Law 35.2:

An identified arboreal corridor is to be maintained at all times utilising the dominant locally occurring canopy species as identified in the Squirrel Glider Habitat Management Plan.

By-Law 35.3:

In the event that trees are removed due to damage, ill health or other natural causes, those trees are to be replaced in the same location at a ratio of 3:1 utilising the same tree species sourced from locally occurring native plants.

POWER TO NOTIFY

By-Law 35.4:

The Community Association may give notice to the Proprietor or Occupier of a Lot requiring the Proprietor or Occupier to comply with the terms of this by-law.

BY-LAW 36: INSPECTIONS

By-Law 36.1:

The Proprietor of a Lot shall enlist the services of an appropriately qualified building inspector to determine the structural integrity of the roof and ancillary support relative to the effect of the salt content of the air. The inspections should be conducted at a maximum of ten (10) year intervals.

By-Law 36.2:

The Proprietor or Occupier of a Lot shall have an annual pest inspection of the lot and building conducted by a qualified pest inspection agent.

BY-LAW 37: EXHIBITION HOME

In Stage 4 of the development the Original Proprietor shall have the right to construct and maintain an exhibition home on proposed Lot 20.

The Original Proprietor shall ensure that sufficient parking is provided in order that persons inspecting the exhibition home do not interfere with the use of the Accessways by other Proprietors or Occupiers.

BY-LAW 38: INTERPRETATION

By-Law 38.1: Generally

In this Management Statement, subject to contrary intention, words and terms shall have the same meaning as is given to such words and terms by the Community Land Management Act 1989 or Community Land Development act 1989 as the case may be.

By-Law 30.2: Definitions

The following word shall have the meaning set out below:-

“Lot” shall mean a Community Lot as defined in the Community Land Management Act 1989 or Community Land Development Act 1989 as the case may be.

PART 5

BY-LAWS REQUIRED BY PUBLIC AUTHORITY

This part may specify by-laws made at the request of a public authority. These by-laws may provide that amendments may not be made without the consent of the public authority. For further details see schedule 3 Clause 4.

GREAT LAKES COUNCIL

Development is to proceed in accordance with Great Lakes Council Determination No. _____ dated _____

BY-LAW 40: ECOLOGICAL SITE MANAGEMENT PLAN

By-Law 40.1:

The purpose of the Ecological Site Management Plan (ESMP) is to combine the requirements, recommendations and actions of the supporting Development Control Plan (DCP) documents into one overall site management plan. The developed Community Association is to ensure implementation of the ESMP in all aspects. A suitably qualified Project Ecologist is to advise/review the outcomes against the ESMP and submit an annual auditing certificate.

By-Law 40.2:

Any discrepancies in the Ecological Site Management Plan should invoke reference to the supporting documentation for clarification.

SIGNATURES, CONSENTS AND APPROVALS

DATED day of

*Signature/*seal of developer/*developers authorised agent.....

Signature of witness

Name, address and occupation of witness.....

.....

CERTIFICATE OF APPROVAL

It is certified:

- (a) that the consent authority has approved of the development described in Development Application No.; and
- (b) that the terms and conditions of this management statement are not inconsistent with the development as approved.

Date:.....

Signature on behalf of consent authority.....

APPENDIX I

SITE COVERAGE FOR THE HOUSES, THE COVE & THE POINT

Precinct	Lot Number	Lot Area	House Type	House Area	Coverage
CREST	4.02	459	C2	156	33.99%
CREST	4.03	402	C3	130.5	32.46%
CREST	4.04	481.9	C2	156	32.37%
CREST	4.05	434.9	C3	130.5	30.01%
CREST	4.06	427.1	C4b	142	33.25%
CREST	4.07	440.1	C4a	142	32.27%
CREST	4.08	490.2	C2	156	31.82%
CREST	4.09	516.7	C5	151.5	29.32%
CREST	4.10	413.4	C5	151.5	36.65%
CREST	4.11	504.7	C5	151.5	30.02%
CREST	4.12	505	C2	156	30.89%
CREST	4.13	571	C4b	142	24.87%
CREST	4.14	441	C4	145	32.88%
CREST	4.15	591.8	C4a	142	23.99%
CREST	4.16	520	C2	156	30.00%
CREST	4.17	554.4	C4b	142	25.61%
CREST	4.18	488.7	C4c	133	27.22%
CREST	4.19	594.7	C1a	158	26.57%
CREST	4.20	627.2	C1	158	25.19%
CREST PRECINCT TOTALS		9,463.8		2,799.5	29.58%
DUNES 1	12	563	D6	153	27.18%
DUNES 1	13	622	D4	149	23.95%
DUNES 1	14	574.5	D6 a	150	26.11%
DUNES 1	15	588.8	D6 a	150	25.48%
DUNES 1	16	542.7	D9	146	26.90%
DUNES 1	17	518.4	D9	146	28.16%
DUNES 1	18	403.9	D5a	147	36.40%
DUNES 1	19	406.2	D6	153	37.67%
DUNES 1	20	693.7	D3d	118	17.01%
DUNES 1	21	409.9	D6	153	37.33%
DUNES 1	22	737.6	D3b	118	16.00%
DUNES 1	23	407.8	D7	137	33.59%
DUNES 1	24	742	D7	137	18.46%
DUNES 1	25	439.8	D2	149	33.88%
DUNES 1	26	683.6	D3b	118	17.26%
DUNES 1	27	454	D8	161	35.46%
DUNES 1	28	701.5	D7	137	19.53%
DUNES 1	29	468	D7	137	29.27%
DUNES 1	30	741.8	D3c	118	15.91%
DUNES 1	31	450.1	D2	149	33.10%
DUNES 1	32	694.7	D7	137	19.72%
DUNES 1	33	431.8	D7	137	31.73%
DUNES 1	34	636.1	D7	137	21.54%
DUNES 1	35	443.5	D8	161	36.30%
DUNES 1	36	597.3	D3b	118	19.76%
DUNES 1	37	482	D2	149	30.91%
DUNES 1	38	761.8	D5b	147	19.30%
DUNES 1	39	565.5	D2	149	26.35%
DUNES 1	40	792.5	D3c	118	14.89%
DUNES 1	41	567.1	D1	168	29.62%
DUNES 1	42	543.5	D9	146	26.86%
DUNES 1 PRECINCT TOTALS		17,665.1		4,393.0	24.87%

Precinct	Lot Number	Lot Area	House Type	House Area	Coverage
FRONDS	2.02	586.1	FR2b	141	24.06%
FRONDS	2.03	566.4	FR2a	141	24.89%
FRONDS	2.04	526.1	FR2b	141	26.80%
FRONDS	2.05	424.6	FR2	141	33.21%
FRONDS	2.06	429.6	FR2	141	32.82%
FRONDS	2.07	339	FR2a	141	41.59%
FRONDS	2.08	358.1	FR3	131.5	36.72%
FRONDS	2.09	670.5	FR4	131.5	19.61%
FRONDS	2.10	1,408	FR5	141	10.01%
FRONDS	2.11	632.6	FR1b	128.5	20.31%
FRONDS	2.12	588.5	FR1	128.5	21.84%
FRONDS	2.13	601.1	FR1a	128.5	21.38%
FRONDS	2.14	624	FR1b	128.5	20.59%
FRONDS	2.15	623.6	FR1	128.5	20.61%
FRONDS	2.16	772.4	FR1a	128.5	16.64%
DUNES	2.17	658.8	D1	168	25.50%
DUNES	2.18	611.7	D1	168	27.46%
DUNES	2.19	633.8	D1	168	26.51%
DUNES	2.20	575.9	D1	168	29.17%
DUNES	2.21	650.4	D1	168	25.83%
DUNES	2.22	536.1	D1	168	31.34%
DUNES	2.23	617.3	D3a	118	19.12%
DUNES	2.24	482.9	D3a	118	24.44%
FRONDS PRECINCT TOTALS		13,917.5		3,265.0	23.46%
DUNES 2	3.02	458.5	D5	147	32.06%
DUNES 2	3.03	657.1	D6	153	23.28%
DUNES 2	3.04	471.4	D2	149	31.61%
DUNES 2	3.05	602.5	D3	117	19.42%
DUNES 2	3.06	479.6	D2	149	31.07%
DUNES 2	3.07	578.7	D5a	147	25.40%
DUNES 2	3.08	495.8	D4	149	30.05%
DUNES 2	3.09	568.1	D3	117	20.59%
DUNES 2	3.10	412.6	D5a	147	35.63%
DUNES 2	3.11	561.4	D5a	147	26.18%
DUNES 2	3.12	400.2	D5	147	36.73%
DUNES 2	3.13	644	D6	153	23.76%
DUNES 2	3.14	433.9	D5a	147	33.88%
DUNES 2	3.15	611	D6b	152	24.88%
DUNES 2	3.16	435.6	D4	149	34.21%
DUNES 2	3.17	644	D5b	147	22.83%
DUNES 2	3.18	397.3	D5	147	37.00%
DUNES 2	3.19	598.1	D6	153	25.58%
DUNES 2	3.20	415.4	D6b	152	36.59%
DUNES 2	3.21	555.5	D5a	147	26.46%
DUNES 2	3.22	458.5	D5	147	32.06%
DUNES 2	3.23	609.5	D6	153	25.10%
DUNES 2	3.24	485.9	D6b	152	31.28%
DUNES 2	3.25	674.1	D5a	147	21.81%
DUNES 2	3.26	497.6	D4	149	29.94%
DUNES 2	3.27	654.3	D6	153	23.38%
DUNES 2	3.28	434.4	D2	149	34.30%
DUNES 2	3.29	678.8	D6	153	22.54%
DUNES 2	3.30	431.1	D2	149	34.56%
DUNES 2	3.31	630	D5a	147	23.33%
DUNES 2	3.32	532.1	D4	149	28.00%
DUNES 2	3.33	653.9	D6	153	23.40%
DUNES 2 PRECINCT TOTALS		17,160.9		4,717.0	27.49%

Precinct	Lot Number	Lot Area	House Type	House Area	Coverage
FOREST 1	5.02	828.7	F1c	122	14.72%
FOREST 1	5.03	876	F3e	101	11.53%
FOREST 1	5.04	970	F7a	134	13.81%
FOREST 1	5.05	646.5	F2a	135	20.88%
FOREST 1	5.06	496.5	F3d	101	20.34%
FOREST 1	5.07	573.2	F4	102	17.79%
FOREST 1	5.08	541.7	F1a	126	23.26%
FOREST 1	5.09	527.5	F4	102	19.34%
FOREST 1	5.10	447.7	F3e	101	22.56%
FOREST 1	5.11	530	F4	102	19.25%
FOREST 1	5.12	494.3	F3d	101	20.43%
FOREST 1	5.13	616.1	F6	77	12.50%
FOREST 1	5.14	405.1	F3	105	25.92%
FOREST 1	5.15	606.3	F6	77	12.70%
FOREST 1	5.16	400.2	F6a	77	19.24%
FOREST 1	5.17	758	F7b	134	17.68%
FOREST 1	5.18	444.7	F3c	106	23.84%
FOREST 1	5.19	1097.9	F7	134	12.21%
FOREST 1	5.20	400	F6	77	19.25%
FOREST 1	5.21	1194	F1a	126	10.55%
FOREST 1	5.22	782.9	F3f	105	13.41%
FOREST 1	5.23	711.4	F5b	76	10.68%
FOREST 1	5.24	582.9	F3	105	18.01%
FOREST 1	5.25	685.5	F3f	105	15.32%
FOREST 1	5.26	701.3	F5b	76	10.84%
FOREST 1	5.27	525.8	F1	125	23.77%
FOREST 1	5.28	508.5	F2a	135	26.55%
FOREST 1	5.29	583.3	F1	125	21.43%
FOREST 1	5.30	459.4	F4	102	22.20%
FOREST 1	5.31	479.2	F3a	105	21.91%
FOREST 1	5.32	511.6	F1a	126	24.63%
FOREST 1	5.33	420.7	F6	77	18.30%
FOREST 1	5.34	492.2	F3	105	21.33%
FOREST 1	5.35	499.3	F1	125	25.04%
FOREST 1	5.36	594.3	F4a	102	17.16%
FOREST 1	5.37	417.9	F1	125	29.91%
FOREST 1	5.38	547.9	F4b	97	17.70%
FOREST 1	5.39	427.9	F3d	101	23.60%
FOREST 1	5.40	513.8	F2	135	26.27%
FOREST PRECINCT TOTALS		23,300.2		4,192.0	17.99%

Precinct	Lot Number	Lot Area	House Type	House Area	Coverage
FOREST 2	6.02	584	F3d	101	17.29%
FOREST 2	6.03	808.3	F7c	134	16.58%
FOREST 2	6.04	460.9	F5b	76	16.49%
FOREST 2	6.05	579.9	F7a	134	23.11%
FOREST 2	6.06	652.1	F4b	97	14.88%
FOREST 2	6.07	526.4	F5	101	19.19%
FOREST 2	6.08	702.5	F1c	122	17.37%
FOREST 2	6.09	461.8	F5	101	21.87%
FOREST 2	6.10	546.9	F3a	105	19.20%
FOREST 2	6.11	481	F6	77	16.01%
FOREST 2	6.12	425.3	F3	105	24.69%
FOREST 2	6.13	715	F3e	101	14.13%
FOREST 2	6.14	453.1	F6a	77	16.99%
FOREST 2	6.15	601.1	F3d	101	16.80%
FOREST 2	6.16	543	F8a	140	25.78%
FOREST 2	6.17	464.1	F5a	140	30.17%
FOREST 2	6.18	445.4	F6	77	17.29%
FOREST 2	6.19	696.4	F3f	105	15.08%
FOREST 2	6.20	805.9	F7	134	16.63%
FOREST 2	6.21	819.8	F7	134	16.35%
FOREST 2	6.22	828.7	F1b	163	19.67%
FOREST 2	6.23	421.5	F3a	105	24.91%
FOREST 2	6.24	835.4	F7b	173	20.71%
FOREST 2	6.25	446.8	F5	122	27.31%
FOREST 2	6.26	857	F3g	140	27.30%
FOREST 2	6.27	492.7	F6a	77	15.63%
FOREST 2	6.28	810.3	F3g	99	12.22%
FOREST 2	6.29	766.4	F3g	99	12.92%
FOREST 2	6.30	1114	F5a	140	12.57%
FOREST 2	6.31	468	F8	140	29.91%
FOREST 2	6.32	643.9	F1a	126	19.57%
FOREST 2	6.33	466.4	F6a	77	16.51%
FOREST 2	6.34	781.8	F3d	101	12.92%
FOREST 2	6.35	668.6	F3	105	15.70%
FOREST 2	6.36	598	F5a	140	23.41%
FOREST 2	6.37	421.5	F3b	106	25.15%
FOREST 2	6.38	418.5	F3b	106	25.33%
FOREST 2	6.39	569.8	F3b	106	18.60%
FOREST 2	6.40	885.6	F3c	106	11.97%
FOREST 2 PRECINCT TOTALS		24,267.8		4,393.0	18.10%
PALMS	7.02	1768	P1a	79	4.47%
PALMS	7.03	849.3	P3b	133	15.66%
PALMS	7.04	628.3	P2	118	18.78%
PALMS	7.05	404.8	P1a	79	19.52%
PALMS	7.06	412.3	P1	79	19.16%
PALMS	7.07	548.1	P1a	79	14.41%
PALMS	7.08	475.2	P3a	133	27.99%
PALMS	7.09	399.5	P3	133	33.29%
PALMS	7.10	582	P2	118	20.27%
PALMS	7.11	444.9	P3	133	29.89%
PALMS	7.12	502.6	P3a	133	26.46%
PALMS	7.13	462.4	P3	133	28.76%
PALMS	7.14	564.6	P1a	79	13.99%
PALMS	7.15	798.8	P2b	118	14.77%
PALMS	7.16	757	P2	118	15.59%
PALMS	7.17	1116	P1	79	7.08%
PALMS	7.18	848.1	P1a	79	9.31%
PALMS PRECINCT TOTALS		11,561.9		1,823.0	15.77%

Precinct	Building Type	Building Area	Precinct Area	Coverage
The Boardwalk				
	Building A	275	22,811	1.21%
	Building B	905	22,811	3.97%
	Maintenance Shed	258	22,811	1.13%
	TOTAL FOOTPRINT	1438	22,811	6.30%
The Cove				
	Building A	1117	13,202	8.46%
	Building B	821	13,202	6.22%
	TOTAL FOOTPRINT	1938	13,202	14.68%
The Point				
	Building C	640	26,428	2.42%
	Building D	571	26,428	2.16%
	Building E	721	26,428	2.73%
	Building F	1057	26,428	4.00%
	TOTAL FOOTPRINT	2989	26,428	11.31%

APPENDIX J

PARKING REQUIREMENTS FOR THE BOARDWALK

	Commercial Area M2	Retail Area M2	Number of Cars
Ground Floor	84	369	22.7
First Floor	132	0	4.4
Staff Required			0
Total	216	369	28
Cars Spaces provided	Northern Carpark	Southern Carpark	Total
	26	27	53
Surplus Spaces			25

Allocation of Surplus Spaces		
Staff Spaces		9
Additional		16
Total		25