
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Director-General as delegate of the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- Ensure the design is compatible with the lake setting;
- Adequately mitigate the environmental impact of the project;
- Ensure orderly development across the site; and
- Minimise impacts to adjoining and neighbouring properties.

SHaddad

Sam Haddad
Director-General

Sydney, 4th January 2018

SCHEDULE 1

PART A—TABLE

Application made by:	Rustrum Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	08_0113
On land comprising:	216-222 Main Road & 21 Rowland Terrace Toukley Lots 2, 3 & 4 DP406181, Lot 2 DP 213097 & Lot 91 DP 565884
Local Government Area	Wyong Shire Council
For the carrying out of:	• construction of a housing development for older persons (seniors) or people with a disability comprising 49 self-contained units; • communal facilities including swimming pool, gymnasium, salon/clinic, meeting/community room; • basement parking for 70 vehicles; • excavation of part of the site; • provision of stormwater drainage; and • associated landscaping works
Type of development:	Project Application
Date approval is liable to lapse:	5 years from the date of determination

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 08_0113

Responsibility for other consents / agreements

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

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

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

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

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

BCA means Building Code of Australia

Council means Wyong Shire Council

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment prepared by ADW Johnson dated June 2009, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

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

Preferred Project Report means the Amended Architectural Plans prepared by Ancher Mortlock & Woolley, dated 17 September 2009 and document prepared by ADW Johnson dated 16 September 2009.

Proponent means Rustrum Pty Ltd or any party acting upon this approval.

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

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

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SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 08_0113

PART A—ADMINISTRATIVE CONDITIONS

A1 *Project Description*

Project approval is granted only to carrying out the project described in detail below:

- construction of a housing development for older persons (seniors) or people with a disability comprising 49 self-contained units;
- communal facilities including swimming pool, gymnasium, salon/clinic, meeting/community room;
- basement parking for 70 vehicles;
- excavation of part of the site;
- provision of stormwater drainage; and
- associated landscaping works.

A2 *Project in Accordance with Plans*

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

Architectural (or Design) Drawings prepared by Ancher Mortlock and Woolley			
Drawing No.	Revision	Name of Plan	Date
EA-010	B	Site Analysis Plan	17/09/09
EA-100	C	Ground Level Plan	17/09/09
EA-101	C	Level 1 Plan	17/09/09
EA-102	C	Level 2 Plan	17/09/09
EA-103	D	Level 3 Plan	16/12/09
EA-104	C	Level 4 Plan	17/09/09
EA-105	C	Roof Plan	17/09/09
EA-300	B	Site Sections	17/09/09
EA-400	B	Elevations	17/09/09
EA-401	B	Site Elevations	17/09/09
EA-402	B	Streetscape Elevations	17/09/09
EA-600	B	Shadow Diagrams	17/09/09
EA-601	A	Area Calculations	17/09/09
EA-602	A	Aerial Photo	17/09/09

EA-603	A	Materials and Finishes	17/09/09
EA-604	A	Natural Ventilation Principles	17/09/09
EA-610	A	Photomontage – Main Road	17/09/09
EA-611	A	Photomontage – Rowland Terrace	10/03/08
SK-102 to 106	D	Unit Plans	23/03/09
Sk108	B	Shadow Diagrams	1/10/09
SK109	A	Unit Plans	1/10/09
Landscape Concept Plan by Tract Consultants			
Drawing No.	Revision	Name of Plan	Date
208023 LD-EA01	02	Landscape Plan	12 May 2009
Engineering Plans – Stormwater and Erosion Control by Michael Fitzgerald			
Drawing Nos.	Issue	Name of Plan	Date
C1	2	Site works, retaining walls and cut levels sediment and erosion control	March 2009
C2	2	Ground level stormwater drainage and reuse plan	March 2009
C3	1	Level 1 stormwater drainage and reuse plan	March 2009
C4	1	Level 2 stormwater drainage and reuse plan	March 2009
C5	1	Typical section	March 2009

A3 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

- (1) Environmental Assessment prepared by ADW Johnson dated June 2009 on behalf of Rustrum Pty Ltd;
- (2) Draft Construction Management Plan (author and date not indicated);
- (3) *Traffic Impact Assessment* prepared by Traffic Engineering Services dated May 2009;
- (4) Design Report dated 14 May 2009 prepared by Ancher Mortlock and Woolley;
- (5) Site Survey, Aerial Photo, Site Analysis Plan, Site Constraints Plan, Context Plan;
- (6) Geotechnical Assessment dated 18 November 2008 prepared by Network Geotechnics Pty Ltd;
- (7) Acid Sulfate Report dated 18 November 2008 prepared by Network Geotechnics Pty Ltd;
- (8) Flora and Fauna Report (undated) prepared by ADW Johnson;
- (9) Aboriginal Archaeological Assessment dated March 2009 prepared by Insite Heritage Pty Ltd;

- (10) Coastal Issues, Flooding & Climate Change Report (undated) prepared by ADW Johnson;
- (11) Utilities letter dated 30 March 2009 prepared by McCallum PFCA;
- (12) Structural and Civil Engineering Certification dated 24 March 2009 prepared by Michael Fitzgerald Consulting Engineers;
- (13) Planning Report (undated) prepared by ADW Johnson;
- (14) Height Assessment Seniors Living Proposal (undated) prepared by ADW Johnson;
- (15) Crime Risk Assessment Report (undated) prepared by Martins Crime Consultancy;
- (16) Disability Access Report dated 7 April 2009 prepared by Lindsay Perry;
- (17) Consultation Report (undated) prepared by ADW Johnson;
- (18) Building Code of Australia Compliance Statement dated 6 May 2009 prepared by Anthony Protas;
- (19) Garbage Management Report (undated and no author provided) – Appendix X of the EA;
- (20) Preferred Project Report dated 16 September 2009 prepared by ADW Johnson;
- (21) Preliminary Acoustic Investigation dated 10 September 2009 prepared by Reverb Acoustics;
- (22) BASIX and NatHERS Certificates as follows:

Certificate Number	Project Name	Address
241280M*	Toukley Seniors Living Main Road Toukley	222 Main Road Toukley
42066827*	Not indicated	216-222 Main Road Toukley

* Where a new BASIX certificate is issued for the project (following detailed design), the old and new certificates must be presented to the Certifying Authority for comparison. The new BASIX certificate must equal or exceed the energy and water targets on the old certificate.

A4 *Inconsistency between documents*

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to in Conditions A2 and A3, the conditions of this approval prevail to the extent of the inconsistency.

A5 *Building Code of Australia*

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

A6 *Lapsing of Approval*

The project approval will lapse 5 years after the approval date in part A of Schedule 1 of this approval unless specified actions has been undertaken in accordance with Section 75Y of the Act.

A7 Additional Approvals Required

No approval is granted or implied for works such as building or earthworks, removal of vegetation or the stockpile of materials, equipment and machinery on the adjoining coastal foreshore. A separate application shall be submitted to the relevant consent authority for any works on the adjoining foreshore land including drainage infrastructure and/or landscaping.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 Design Modifications

The development shall be amended as follows:

1. Delete unit 13 (i.e. 3-13 on the plan) at the third level of the easternmost building fronting the lake; and
2. Provide details of the material/finish on the eastern external wall to the adjoining lift lobby. In that regard the material/finish should minimise its visual impact when viewed from the lake.
3. Remove the "kink" in the balcony to unit 15 at level 2 of the building fronting Rowland Terrace and provide a to 1.6m high fixed privacy screen along its eastern edge.
4. Provide a highlight window (min. 1.6m above floor level) to bedroom 2 of unit 14 (i.e. 2-14 on plan) at level 2 of the building fronting Rowland Terrace to mitigate privacy impacts to the rear of No. 10 Rowland Terrace.
5. Provide a highlight window to bedroom 1 of unit 4 (i.e. G-04 on the plan) at ground level, unit 6 (i.e. 1-06 on plan) at level 1 and unit 12 (i.e. 2-12 on plan) at Level 2 of the easternmost building fronting the lake to minimise overlooking impacts to No. 19 Rowland Terrace.
6. Reduce the size of the balconies of unit 13 (i.e. 2-13 on plan) and unit 14 (i.e. 2-14 on plan) at level 2 of the building fronting Rowland Terrace. In that regard the balconies should be a Juliette style in front of the bedrooms to allow light and air but minimise access and reduce the potential visual and acoustic privacy impacts to No. 19 Rowland Terrace.
7. The level of the habitable portion of the ground level of the building is to be raised from RL 3.1 to RL 3.4. The levels of the ground level carpark and the access ramp thereto may be adjusted and the internal room height reduced to 2.6m to accommodate this change. The maximum heights of the building (refer to condition B6) may not be adjusted to accommodate this change.

The details shall be submitted to and approved by the certifying authority prior to the issue of a Construction Certificate.

Note: The intention of this condition is to minimise the abrupt change of scale and overlooming effects to lower scale residential development adjoining in Rowland Terrace, reduce overlooking to Nos. 10 and 19 Rowland Terrace and provide greater protection from climate change impacts.

B2 Materials and finishes

In order to ensure the development is a high standard of design and compatible with the lake setting the following matters shall be submitted to and approved by the certifying authority prior to the issue of a Construction Certificate:

1. Details of the proposed external materials and finishes, including schedules and a sample board of materials and colours including glazing treatments. A light,

natural and earthy colour palette suitable for coastal localities shall be used. The timber privacy screens can be stained but not painted to maintain a natural finish. The façade shall be enlivened with vibrantly coloured privacy blades and upper level soffits. All gutter and downpipe treatments will be unobtrusive and complement the building.

2. Details of the balustrade along the edge of the balconies facing the lake. In that regard the balustrade should be glass either frameless or with a thin stainless steel handrail to minimise its visual impact.
3. Details of any proposed fencing along the eastern boundary with No.19 Rowland Terrace. If a fence is proposed it should be a maximum 1.2m high and of a natural material such as an open timber fence, hedge or other similar form of boundary treatment that blends in with the landscape and minimises obstruction of oblique views from adjoining property at No. 19 Rowland Terrace. Provide written evidence of consultation with the adjoining landowner at No. 19 Rowland Terrace.
4. Details of the stairwell to the basement and the electrical substation (and any screening) in the front setback along Main Road shall be provided. In that regard the material/finish shall be unobtrusive and complement the building to soften the appearance of these structures.

The certifying authority must be satisfied that all materials, colours and finishes are result in a high standard of design and are compatible with the lake setting.

B3 Acoustic Assessment

In order to minimise impacts to future occupants a detailed acoustic assessment, prepared by a suitably qualified acoustic engineer in accordance with relevant Australian Standards shall be submitted to and approved by the certifying authority prior to the issue of a Construction Certificate. The acoustic assessment shall consider the following:

1. All noise sources associated with the operation of the Beachcomber Hotel including live music and entertainment, plant and air-conditioning, parking/vehicle use, garbage collection, deliveries and patron noise inside the hotel property and the adjoining street;
2. The proposal must comply with *Department of Environment Climate Change and Water Noise Guide for Local Government and Chapter 19-3 of their Environmental Noise Control Manual (ENCM)* which states "the L1 level of any specific noise source should not exceed the background noise level (L90) by more than 15dB(A) when measured outside the bedroom window";
3. Traffic noise from vehicles using Main Road and the *Department of Environment Climate Change and Water Noise Environmental Criteria for Road Traffic Noise*;
4. Sound proof design details and mitigation measures that will be used to minimise the potential for sleep disturbance of the future occupants, particularly those units along the western boundary that face the hotel and the units facing Main Road.

B4 Impact on Infrastructure - Sea level rise and flooding

An assessment by a suitably experienced and qualified engineer is required to determine measures that will be adopted to protect/relocate infrastructure such as sewage and drainage (existing and proposed) and ensure its protection and proper functioning in view of rising sea levels and flooding. This shall be undertaken in consultation with *Wyong Shire Council* and the *Department of Environment, Climate Change and Water*. Details of the assessment shall be submitted to and approved by the certifying authority prior to the issue of a Construction Certificate.

Note: The intention of this condition is to ensure there is no risk of failure and subsequent damage to the environment as a result of inundation of infrastructure close to the lake due to flooding and sea level rise.

B5 *Evacuation Management Plan*

A suitably experienced and qualified engineer is required to prepare an Evacuation Management Plan that identifies safe exit routes above storm flood levels. Details of the assessment shall be submitted to and approved by the certifying authority prior to the issue of a Construction Certificate.

B6 *Verification of Height*

Prior to the issue of a Construction Certificate for above ground works, the Proponent shall submit to the Certifying Authority a Height Verification Statement from a qualified designer, verifying that:

- 1) The proposed building shall have a maximum height of no more than 16.6m for the building fronting the water, 13.5m for the building fronting Rowland Terrace and 19.7m for the building fronting Main Road above the Australian Height Datum (AHD) – measured to the ridge.
- 2) The above heights are a maximum and changes in Condition B1 will result in a lower height at the eastern end of the building facing the lake.
- 3) The height of the proposed development shall not exceed four residential storeys on the foreshore, 3 residential storeys on Main Road and two storeys on Rowland Terrace.
- 4) All additional structures such as lift overruns, vents, aerials and lightning rods must be contained within the maximum approved height of each building.

B7 *Design Verification Statement – Residential Flat Buildings*

Prior to the issue of a Construction Certificate for above ground works, the Proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the project, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Project*.

B8 *Treatment of Vehicular Entry*

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials to the satisfaction of the Certifying Authority. No service ducts or pipes are to be visible.

B9 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the certifying authority to ensure that access for people with disabilities to and from and between the public domain, residential units and all common open space is provided.

B10 *Outdoor Lighting*

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3.1:2005 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of Obtrusive Effects of Outdoor Lighting. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the certifying Authority prior to the issue of a Construction Certificate. Provide an external lighting plan to minimise impacts from light spill on neighbouring properties and provide customer safety.

B11 Reflectivity

The visible light reflectivity from building materials used on the facades and roof of the motel shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the certifying authority prior to the issue of a Construction Certificate.

B12 Signage

No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with the exempt provisions of State Environmental Planning Policy (Exempt and complying Development Codes) 2008. Note: Signage includes real estate signs and construction signs.

B13 Waste Management

A detailed Waste Management Plan in accordance with Council's *Development Control Plan 2005, Chapter 69 – Controls for Site Waste Management* shall be submitted to the certifying authority prior to issue of the Construction Certificate. The design and management for the storage and handling of waste must comply with the requirements of Council's policy.

B14 BASIX

The BASIX commitments and specifications outlined in the BASIX certificate shall be shown on the Construction Certificate plans. The plans are to be amended prior to the issue of a Construction Certificate. Pursuant to Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this approval that all the commitments listed in the BASIX Certificate for the development are fulfilled. All work is to be satisfactorily completed prior to the issue of the Occupation Certificate.

Landscaping

B15 Landscape Plan

A detailed Landscape Plan, prepared by a qualified landscape architect shall be submitted to Council before issue of a Construction Certificate. The landscape scheme should be conceived as a layered scheme of groundcovers, small and large shrubs and low and tall trees. The plan shall include details of:

1. screening along the eastern boundaries of the site adjoining Nos. 19 and 10 Rowland Terrace to minimise overlooking impacts;
2. details of all paving, driveway and retaining wall treatments;

3. removal of the street trees to ensure adequate sight distance for vehicles exiting the site. These trees should be replaced with trees at appropriate locations in consultation with Wyong Shire Council and Roads and Traffic Authority;
4. details of landscaping to be provided in the front setback along Main Road which is to soften the appearance of the building; and
5. a species list including only local native species as appropriate to the site and circumstances, as approved by Council.

B16 Tree Protection

An Arborists Report, prepared by a suitably qualified person shall be submitted to and approved by the certifying authority prior to issue of a Construction Certificate. The report will address the following:

1. The extent of excavation/building works that will be undertaken in the vicinity of all existing trees to be retained on the site;
2. The extent of excavation/building works that will be undertaken in the vicinity of all existing trees on the Beachcomber Hotel site and Toukley Gardens Park within 6m of the common boundary;
3. Identify impacts on the root zone/canopy of the abovementioned trees and measures that will be used to ensure their protection during excavation and construction and their ongoing health after construction; and
4. The arborists report must be completed in consultation with Wyong Council's Tree officer to ensure that any tree protection works in Toukley Gardens Park are to Council's satisfaction.

Demolition / Earthworks

B17 Erosion and Sedimentation Control

Erosion and Sediment Control shall be provided in accordance with the following:

1. Provision of a detailed erosion and sediment control plan prepared in accordance with Wyong Shire Council's Development Control Plan 2005 – Chapter 67 – Engineering Requirements for Development or Soils and Construction and Sediment and Erosion Control Plan No. C1 prepared by Michael Fitzgerald dated March 2009.
2. The soil erosion and sediment control measures are to follow the relevant management practices as outlined in the Landcom manual "Managing Urban Stormwater: Soil and Construction - Volume 1" (4th edition 2004) – the "Blue Book".
3. Details are to include all major stages of construction and sequences of work together with treatments necessary at these stages.
4. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B18 Pre-Construction Dilapidation Reports

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure, trees and roads (including Nos. 19 and 10 Rowland Terrace) and buildings close to the boundary on the Beachcomber Hotel site. The report must also document and clearly depict any existing damage to the road, kerb, gutter, footpath,

driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to Wyong Shire Council.

B19 Geotechnical Investigation

A detailed geotechnical investigation, prepared by a suitably qualified engineer, of the subsurface conditions across the site shall be undertaken prior to issue of a Construction Certificate for below ground works. The report should also address appropriate excavation methods and techniques and hydrogeological considerations and identify measures to ensure the adjoining properties (Nos. 19 and 10 Rowland Terrace) and buildings adjoining the boundary at the Beachcomber Hotel site are not impacted by the development. The results shall inform the Construction Certificate and be approved as part of the Construction Certificate for below ground works.

B20 Groundwater Study

A detailed Groundwater Study prepared by a suitably qualified engineer which identifies impacts on the groundwater table associated with excavation of the parking basement. Water quality issues associated with the groundwater and discharge to the lake must be addressed including construction methods and the development and design details of all proposals necessary to mitigate any effects.

Temporary dewatering will require a bore licence under Part 5 of the Water Act 1912. The objectives and water management principles of the Water Management Act 2000 shall be considered as part of the study. The discharge of extracted groundwater from dewatering will need to be in accordance with the conditions of a licence approval under the Protection of the Environment Operations Act 1997.

B21 Excavation

Any excavation below the adjoining land level requires the retaining of that land and the preservation and protection of any improvements or buildings to that land including public roads and utilities from damage. If necessary the improvements or buildings are to be supported in a manner designed by a practicing structural engineer. Design proposals are to include geotechnical investigations and are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

B22 Acid Sulfate Soils

Provide an Acid Sulphate Soil Investigation and Management Plan, prepared by a suitably qualified person, prior to issue of the Construction Certificate. The plan shall incorporate the recommendations outlined the preliminary report prepared by Network Geotechnics Pty Ltd dated 18 November 2008.

Stormwater and Sewerage Works

B23 Stormwater and Drainage Works Design

Prior to issue of a Construction Certificate the applicant must submit, for approval by the certifying authority, scaled construction plans and specifications in relation to the stormwater management and disposal system for the development in accordance with the following:

1. Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act.

The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate.

2. All works are to be designed and constructed in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Design plans must be approved by Council prior to issue of a Construction Certificate.
3. The provision of a stormwater system with water quality control facilities required to treat stormwater runoff from the development in accordance with Council's Urban Stormwater Quality Management Plan for the Tuggerah Lakes and Coastal Catchments and Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. It shall include the following details:
 - overland flowpaths through the site, including conveyance of flows to the outlet whilst maintaining pedestrian safety throughout the site.
 - control of the quantity and quality of overland flows entering the basement carpark.
 - sizing of the rock rip rap outlet including capacity, flows and velocities.
 - water quality treatment are required given location of the proposed development to the lake system.
4. The proposed rock mattress (drainage infrastructure) encroaching the adjoining coastal foreshore is to be relocated so it is entirely within the property boundary of the site. Written evidence is to be provided showing consultation has been undertaken with NSW Land and Property Management Authority and Wyong Shire Council in the design of the storm water system.

The stormwater system with water quality control facilities to treat stormwater runoff from the development discharging into Council's system or public land must be approved by Council under Section 68 of the Local Government Act prior to issue of the Occupation Certificate.

B24 Water and Sewer Services/Infrastructure

1. All water and sewer works or works impacting on water and sewer assets are to be designed and constructed to the requirements of Wyong Shire Council as the Water Supply Authority under the Water Management Act 2000. The requirements of Section 306 of the Water Management Act, 2000 which apply to this development, are detailed in the Section 306 requirements (refer to Wyong Shire council for a 306 letter requirements). All works required in the Section 306 letter must be shown on the design plans. The design plans must be submitted to and approved by Council prior to the issue of a Construction Certificate.
2. The sewer manhole is to be located and then protected for the duration of construction, to ensure that access is available at all times. The approval of Council is required should the level of the manhole need to be raised or lowered.
3. The proper functioning of the existing sewage infrastructure is to be designed with consideration of minimising future impacts from flooding and rising sea levels (refer to Condition B4).

B25 Road Design

Separate approval from the Roads and Traffic Authority must be obtained under the Roads Act 1993 prior to the issue of a Construction Certificate for any works within a Council road reserve. Design plans must be submitted to and approved by the Roads and Traffic

Authority and Council prior to issue of the Construction Certificate. The design plans shall include the following:

1. The access on Main Road shall be left in /left out only. This will require a central concrete median in Main Road across and past the full frontage of the development to prevent right turn movements into and out of the development. The median width must be a minimum of 900mm in width to comply with pedestrian safety requirements.
2. Streetlighting must be provided across the full frontage covering the central concrete median in accordance with the Australian Standards.
3. The central concrete median will require kerb and gutter to be indented to allow through traffic to safely pass a stationary garbage vehicle.
4. The proposed street tree planting as detailed on the Landscape Plan must be deleted.
5. No stopping signs must be provided across the full frontage of the development
6. "No Stopping" signs required in Main Road for a minimum 10m either side of the proposed central median.
7. Waste collection vehicles are to enter and depart the development in a forward manner.

All road signage and pavement marking works must be provided in accordance with the design plans approved by the Local Traffic Committee and Council prior to issue of the Construction Certificate.

B26 Engineering Details

1. Prior to the issue of the Construction Certificate, the applicant must apply under Section 305 of the Water Management Act 2000 to Council as the Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance. A Construction Certificate is to be issued by the Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
2. The submission to Council of a Practising Professional Engineer's design for the footings, concrete slab or details within the zone of influence of, or over the sewer main. The design is to indicate the proposed method of protecting the sewer main in accordance with Council's requirements for Building over or Adjacent to Sewers. Design details are to be approved by Council as the Water Supply Authority under the Water Management Act prior to the issue of a Construction Certificate.
3. Satisfactory structural plans prepared by a suitably qualified Structural Engineer must be submitted to the Certifying Authority for the structural steelwork and concrete prior to the issue of a Construction Certificate.

Construction Management

B27 Construction Management Plan

Prior to the issue of a Construction Certificate a Construction Management Plan shall be submitted to and approved by the certifying authority. A copy of the approved plan shall be

submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a) hours of work which must be in accordance with the conditions of this approval;
- b) contact details of site manager and all principle contractors
- c) Traffic and pedestrian management which is to be developed in consultation with Council and is to include;
 - Ingress and egress of vehicles to the site;
 - Management of loading and unloading materials;
 - Number and frequency of vehicles accessing the site;
 - The times vehicles are likely to be accessing the site;
 - Management of existing vehicular and pedestrian movements/routes around the site throughout the various stages of construction;
- d) Erosion and sediment control measures to be installed during construction which shall be designed in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1 (2004)* by Landcom and must include;
 - The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed control pollution device;
 - The procedures to be adopted for the prevention of run-off loose material and litter from the site onto the coastal reserve.
 - *Stormwater Plan and Soil and Water Management Plan Design and Detailed Drawings (sheets 1 to 5)* prepared by Van Leeuwen, Stoddard & Legle Consulting Engineers on behalf of Mr Barry Frost, dated November 2003
- e) Noise and vibration management which identify specific activities that will be carried out and associated noise sources, identify all potentially affected receivers, noise and vibration monitoring reporting and response procedures, description of specific mitigation treatments management measures and procedures to be implemented, and address any other relevant provisions of *Australian Standard 2436-1981 Guide to noise on Construction, Maintenance and Demolition Sites*;
- f) Dust control measures to be implemented to prevent the movement of airborne particles from the site throughout the construction process, and the tracking of material from the site by trucks and other vehicles. This is to include the appropriate use of physical barriers and the dampening of exposed excavated surfaces. The storage and stockpiling of material is also to be detailed.
- g) Construction waste management, identifying options for minimising waste in construction; reuse and recycling of materials; the storage, control and removal of construction waste;
- h) Any hazardous and/or intractable waste arising should be removed and disposed of in accordance with the requirements of the NSW Workcover authority and AS2601-2001 – *The Demolition of Structures* (eg. Asbestos).
- i) Tree protection measures that will be put in place to protect the existing trees to be retained on the site and adjoining properties close to the common boundary.

B28 Filling and Haulage

- 1 Prior to the issue of a Construction Certificate, the submission to and approval by the Consent Authority of details for the disposal of any spoil gained from the site and / or details of the source of fill, heavy construction materials and proposed routes to and from the site.
- 2 All earthworks is to be carried out on site in such a manner that surface water will not be diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.

- 3 The making good to the satisfaction of Council, or payment of the costs incurred by Council in making good, any pavement damage or structural deterioration caused to Council's roads by the use of such roads as haulage routes for materials used in construction or the operation of the approved development, prior to issue of the Occupation Certificate.

Parking and Layout

B29 Car Park Layout

1. A maximum of 70 car spaces shall be provided. Parking for visitors shall be provided in accordance with Wyong Shire Council's parking requirements.
2. The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
3. Disabled car parking spaces must comply with the requirements for parking for persons with a disability set out in AS2890.1 – parking spaces for people with disabilities.
4. Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the certifying authority prior the issue of a Construction Certificate.
5. The design of the carpark and accesses in accordance with AS2890.1/2. The design compliant with AS2890 is to be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate.

Monetary Contributions

B30 Section 94 Monetary Contributions

(1) Amount of Contributions

Prior to the issue of a Construction Certificate, the Proponent must pay the following contributions to Council pursuant to Section 94 of the *Environmental Planning and Assessment Act (1979)* (refer **Table 1**). An agreement can also be made with Council for alternative suitable payment arrangements based on the final floorplan.

Table 1: Section 94 Contributions

Category	Code	Amount
Shire Wide	Regional Open Space	\$5,300.32
	Performing Arts Centre/Public Art	\$12,269.25
	Administration	\$2,355.01
Open Space	Toukley District – land	N/A
	Toukley District – works	\$132,141.96
Community Facilities	Toukley District – land	\$29,548.80
	Toukley District – works	\$111,191.04
	Studies and co-ordinator	N/A
Water	Toukley DSP	\$78,833.57
Sewer	Toukley Area DSP	\$36,706.76
TOTAL		\$408,346.70

1) Timing and Method of Payment

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

Evidence of the payment to Council, shall be submitted to the certifying authority prior to the issue of the Subdivision Certificate for each stage of the project. The amount of contributions will be adjusted to the amount applicable at the date of payment.

2) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Wyong Shire Council

PART C—PRIOR TO COMMENCEMENT OF WORKS

Notification Requirements

C1 Notice to be Given Prior to Commencement / Excavation

1. The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
2. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.
3. The owner of adjoining properties must be given written notice of the intention to commence works and details of the proposal a minimum of seven days prior to the start of works.

Structural Works

C2 Structural Details

Prior to the commencement of construction the Proponent shall submit to the satisfaction of the Principal Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

1. the relevant clauses of the BCA,
2. the relevant project approval,
3. drawings and specifications comprising the Construction Certificate, and
4. the relevant Australian Standards listed in the BCA (Specification A1.3).

C3 Retaining Walls

Prior to commencement of works a certificate of adequacy of design, signed by a practising Structural Engineer on any proposed retaining walls in excess of 1.2m in height, must be provided to the certifying authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

Pollution Control

C4 Erosion and Sediment Control

Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the certifying authority.

Services

C5 Existing Services

The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the certifying authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

Contact Details

C6 Contact Telephone Number

Prior to the commencement of the works for each stage of the project, the Proponent shall forward to the Council a 24 hour telephone number to be operated for the duration of the construction works.

Roadworks

C7 Plan of Management

Provide Plan of Management to the certifying authority for approval under the Roads Act/Local Government Act for any works for the development that impact on any public roads or public land for the construction phase of the development, prior to that section of work commencing. The plan is to include a Traffic Control Plan and/or a Work Method Statement for any works or deliveries that impact the normal travel paths of vehicles, pedestrians or cyclists or where any materials are lifted over public areas. This plan must be certified by an appropriately accredited/qualified person prior to the commencement of works.

Trees/vegetation

C8 Tree Protection

1. No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written approval from Council.
2. Prior to the start of works the tree exclusion zone must be constructed and administered to the satisfaction of the Consent Authority in accordance with the endorsed plans including:

- Separate tree exclusion and building envelopes on private lots which have a tree or trees or are affected by the canopy of a tree marked for protection on the approved plans
 - A tree exclusion zone for individual trees and clusters of trees to be retained within open space and/or road reserves
3. Trees and native vegetation proposed for retention are to be clearly identified on all the final approved engineering plans. All construction contractors and personnel are to be advised of the importance of conserving these No Go Areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage of vehicles, fill or materials or access is to occur within retained areas.
 4. The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors. In addition the consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements.
 5. Any plant stock used in landscaping must be supplied from provenance specific seed/material collected from within the Tuggerah Lakes catchment area and shall be a minimum pot size of 100 litres
 6. The protection of trees retained on site by fencing or other accepted protection method in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Such protection measures must be installed prior to commencement of any works and maintained in good order for the duration of the works. No cement wastings, materials or vehicles are to be stored within the protective fence area.
 7. All services, including water and electricity, must be located, designed and installed to minimise or prevent root damage to retained trees. Methods for the installation of services within the tree's canopy perimeter are contained within Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development and include under boring and excavation by hand.

PART D—DURING CONSTRUCTION

Construction Management

D1 Approved Plans to be On-site

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

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

1. Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;

2. The approved hours of work;
3. the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
4. To state that unauthorised entry to the site is not permitted.

D3 Protection of Trees

The existing trees on the site (to be retained) and close to boundary on adjoining properties are to be suitably protected by way of tree guards, barrier or other measures as necessary to protect the root system, trunk and branches, during construction of the project.

Structural Works

D4 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the certifying authority demonstrating that structural works are in accordance with the approved project application. To ensure that siting, height and view sharing objectives are achieved, a survey of each floor level must be undertaken by a registered surveyor and submitted to the Principal Certifying Authority prior to the wall frames being erected. The survey is to detail that the boundary setbacks and finished floor levels are in accordance with the approved plans. In the case of roof structures the level of the roof ridge must be confirmed prior to the fixing of the roof cladding.

Site Maintenance

D5 Erosion and Sediment Control

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

D6 Disposal of Seepage and Stormwater

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

D7 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

1. Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
2. Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
3. All materials shall be stored or stockpiled at the best locations and not on the adjoining coastal reserve or other properties,

4. The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
5. All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
6. All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
7. Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
8. Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D8 Hours of Work

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

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

Works may be undertaken outside these hours where:

4. the delivery of materials is required outside these hours by the Police or other authorities;
5. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
6. the work is approved through the Construction Noise and Vibration Management Plan; and
7. residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D9 Construction Noise Objective

1. The construction noise objective for all stages of the project is to manage noise from construction activities (as measured by a $L_{A10(15\text{minute})}$ descriptor) so it does not exceed the background L_{A90} noise level by more than 5dB(A).
2. Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
3. Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
4. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.
- 5.

D10 Construction Noise Management

The Proponent shall:

1. schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Management Plan:
2. 9.00 am to 12.00 pm, Monday to Friday;
3. 2.00 pm to 5.00 pm Monday to Friday; and
4. 9.00 am to 12.00 pm, Saturday
5. ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Management Plan.

D11 Vibration Criteria

Any vibration resulting from construction of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC, 2006).

Heritage

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

In the event that future works disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment, Climate Change and Water, the relevant Local Aboriginal Land Council (LALC) and the relevant Aboriginal community must be informed. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Department of Environment, Climate Change and Water the relevant LALC and the relevant Aboriginal community.

D13 Site Works/Demolition

1. Building demolition work is to be carried out in accordance with the requirements/provisions of the AS2601-2001 - The Demolition of Structures. Prior to the demolition and/or removal of existing structures on site, all existing services are to be disconnected, sealed and made safe. The sewer and water service is to be disconnected by a licensed plumber and drainer. A Start Work Docket must be submitted to Council and Council's Plumbing and Drainage Inspector must certify that the works have been undertaken to the satisfaction of Council. The disposal of any asbestos materials must be in accordance with the requirements of WorkCover NSW and AS2601-2001 - The Demolition of Structures.
2. The provision of a temporary closet on site from the time of commencement of building work to ensure that adequate sanitary provisions are provided and maintained on the building site for use by persons engaged in the building activity. The temporary closet is to be a water closet connected to the sewerage system or approved septic tank or a chemical closet supplied by a licensed contractor.
3. All building materials, plant and equipment must be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council's recreation reserves and/or road reserves is prohibited.

4. The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project. Details to be submitted to the Principal Certifying Authority/appropriately Accredited Certifier unless the hoarding is required within the footpath area where approval from Council under the Roads Act as the Roads Authority is required.

D14 Noise Attenuation

Periodic inspections are to be conducted by a qualified acoustic engineer to ensure that retrofitting of the acoustic recommendations is not required at the completion of the project.

PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Design Verification Statement – Residential Flat Buildings

E1 Height

Prior to the issue of any Occupation Certificate, the Proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the height of the building complies with Condition B4.

E2 SEPP 65 – Design Verification

The certifying authority must not issue an Occupation Certificate to authorise a person to commence occupation or use of residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the Design Quality Principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.

E3 Lot Consolidation

The existing Lots 2, 3 and 4 in DP 40618, Lot 2 in DP 213097 and Lot 91 in DP 565884 are to be consolidated into one lot. Adequate proof of the consolidation is to be submitted to the certifying authority prior to issue of occupation certificate.

E4 Restriction on use

Prior to commencement of occupation of any part of the development approved pursuant to this consent or prior to the issue of an occupation certificate, the applicant must create a restriction as to user under the Conveyancing Act 1919 restricting the occupation of each dwelling in the subject development to:

1. people aged 55 years or over or people with a disability as defined by the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
2. people who live with such people as defined in sub-clause above; and

3. staff employed to assist in the administration of and provision of services to housing provided in this development.

The instrument creating the restriction as to user shall be prepared by the applicant at its own expense and submitted duly executed by the applicant or the owner of the property to the Council for approval by the Council's solicitors. The applicant will pay the costs of the instrument and proof of registration of the instrument upon the title to the subject property will be provided to the Council by the applicant prior to occupation or issue of an occupation certificate in respect of the property.

Fire safety

E5 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the PCA.

E6 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

Engineering details

E7 Mechanical Ventilation

Following completion, installation and testing of any mechanical ventilation systems, the Proponent shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate, that the installation and performance of any mechanical systems complies with:

1. The Building Code of Australia;
2. Australian Standard AS1668 and other relevant codes;
3. The project approval and any relevant modifications; and,
4. Any dispensation granted by the New South Wales Fire Brigade.

E8 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

1. The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
2. The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

E9 *Road Damage*

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

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

E10 *Roadworks*

All works requiring Council's approval as the Roads Authority under Section 138 of the Roads Act 1993 must be approved by Council prior to issue of an Occupation Certificate. All details are to be designed in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development.

E11 *Car park and layout*

Certification of the car park and layout/access construction is to be provided by a practicing Traffic Engineer (Member of AITPM) prior to issue of the Occupation Certificate. Certification shall include the parking areas/layouts, ramps etc showing conformance with AS 2890.

Prior to release of the Occupation Certificate the restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. All works must be approved by Council under the Roads Act.

E12 *Dilapidation Report*

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works to ascertain if any structural damage has occurred to buildings, infrastructure, roads and trees identified in Condition B16. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the certifying authority, prior to issue of the Occupation Certificate.

E13 *Utilities –Telephone and Electricity Services*

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Occupation Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

E14 *Works as executed*

1. The provision of Works as Executed information as identified in Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development prior to issue of the Occupation Certificate. The information is to be submitted in hard copy and in electronic format in accordance with Council's "CADCHECK" requirements. This information is to be approved by Council prior to issue of the Occupation Certificate.
2. The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire

Council as the Water Supply Authority prior to issue of the Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

E15 *Landscaping*

The landscaping works as shown on the endorsed plan must be completed to the satisfaction of the responsible authority and then maintained to the satisfaction of the responsible authority. All landscaping is to be maintained to maturity through the use of mulch and watering and allowed to achieve their natural height to the satisfaction of the Consent Authority. Where any approved landscaping dies or is substantially damaged within 5 years of planting, it must be replaced and maintained to maturity.

E16 *Swimming Pool*

- 1 Prior to the pool being filled with water, the swimming pool safety barriers and gates being installed in accordance with the approved plans and specifications and the Swimming Pools Act 1992, Swimming Pools Regulations 2008 and AS1926.1-2007 including the display of an approved sign regarding pool safety and resuscitation techniques that contains all of the following:
 - “young children should be supervised when using this swimming pool”;
 - “pool gates must be kept closed at all times”;
 - “keep articles, objects and structures at least 900mm clear of the pool fence at all times”; and
- 2 A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults).
- 3 The disposal of filter backwash to the sewer must be completed in a manner that will not cause a nuisance or where sewer is not available, the disposal of filter backwash must be discharged into a rubble absorption trench to the satisfaction of the Principal Certifying Authority.
- 4 All swimming pool plant being sited in accordance with the approved plans, or where necessary, it is to be sound insulated so as to minimise the noise to adjoining properties. Under the provisions of the Protection of the Environment Operations Regulations 2000, (Noise Control), a person must not cause or permit a swimming pool or spa pump to be used on residential premises if noise is audible within a habitable room of any other residential premises;
 - before 8.00am or after 8.00pm on any Sunday or public holiday, and
 - before 7.00am or after 8.00pm on any other day.
- 5 The swimming pool surrounds and/or paving must be constructed in a manner so as to ensure water from the pool overflow does not discharge onto neighbouring properties.

E17 *Noise Attenuation*

Following completion of the building, a statement from a suitably qualified acoustic engineer shall be provided indicating that the acoustic recommendations in the detailed acoustic assessment have been satisfactorily incorporated into the building. The statement is to be supported by validation measurements within dwellings (measure from a bedroom in one dwelling at each level) facing the Beachcomber and Main Road. The time of the validation measurements shall be stated in the validation report and justified. The validation statement shall be submitted to the Certifying Authority and approved prior to issue of Occupation Certificate.

PART F - POST OCCUPATION

Fire Safety

F1 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

F2 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

F3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Noise

F4 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

Public Access

F5 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

AN2 Requirements of Public Authorities for Connection to Services

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

AN3 Compliance with Building Code of Australia

The Proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN4 Structural Capability for Existing Structures

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN5 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN6 Stormwater drainage works or effluent systems

A Construction Certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (2) management of waste.

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

AN7 Temporary Structures

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

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

AN8 Disability Discrimination Act

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

AN9 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

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

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

MP08_0113

PROPOSED SENIORS HOUSING DEVELOPMENT

216-222 MAIN ROAD & 21 ROWLAND TERRACE, TOUKLEY

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)

RUSTRUM PTY. LTD.

ABN 094 517 067

P.O. Box 2657,

Bondi Junction, NSW 1355

Tel: 02 8324 1000 Fax: 02 8088 8099

Mobile: 0439 967715

Email: mw@harbourco.com.au

Statement of Commitments – December 2009

**Toukley Seniors Living Proposal
216 - 222 Main Rd, Toukley**

1 INTRODUCTION

In accordance with the Director General Environmental Assessment Requirements, the applicant is required to include a Draft Statement of Commitments in respect of environmental management and mitigation measures for the project.

2 Summary Of Commitments Contained Within Environmental Assessment Report

Construction Management –the development will occur in accordance with the construction management plan for the site.

Environmental Management Plan – An EMP will be prepared for the site incorporating all relevant conditions of approval and providing for the protection of adjoining, park, foreshore and lake areas, protection of the amenity of nearby dwellings and vegetation on adjoining sites. The EMP will allocate responsibilities for project and environmental compliance and provide detail of monitoring and reporting processes.

Water Management –the proposal will implement a water sensitive urban design approach to the site, providing, erosion and sediment controls, acid sulphate soils management and groundwater management.

Flooding – minimum floor levels are proposed that address potential climate change implications with capacity for future adaptation to increased flood risk should this occur.

Services and Waste Management – adequate provision for infrastructure and for domestic waste management, has been made

Seniors services - will be available consistent with the location in the Toukley town centre, the design of the building including pool, gym and visiting service provider rooms

Noise during construction will be addressed by the Construction Management Plan and Environmental Management Plan

Sustainable Development –compliance with sustainable development requirements such as SEPP 65, BASIX, Section J BCA and water sensitive urban design principles is integrated into the design

Indigenous Heritage – no issues have been identified that require a commitment to ongoing consultation and involvement with the Aboriginal community

Commencement of works - works will not commence until all required management plans and approvals are in place, neighbours will be notified of likely commencement dates.

3 Detailed Draft Commitments

Impact / Issue	Nature of Potential Impact	Mitigation Measures
3.1 Compliance with applicable planning requirements	Project non compliance with relevant standards and approvals	The project will comply with the conditions of approval. No departures from the conditions will occur without appropriate prior approval. An Environmental Management Plan will be prepared for the site incorporating all mitigation measures and conditions of approval.
3.2 Adjoining property and vegetation	Damage from site excavation	Piling will be installed on the perimeter of the excavation to protect the stability of adjoining properties and vegetation .
3.3 Built Form	Amenity and visual effects on adjoining land	The built form of the development will be as shown on the approved project plans by way of building heights, and the general arrangement of buildings and setbacks.
3.4 Flooding/Climate Change	Unacceptable increase in risk of inundation of habitable floor areas.	The development will proceed with floor levels 40cm above the current flood planning level. Flood risk will increase as a result of climate change but not significantly before 2100. There is the opportunity for future adaptive flood mitigation measures if required.
3.5 Dewatering	Pollution of Lake Budgewoi	Appropriate licenses under the POEO act will be obtained if disposal of groundwater is required. Monitoring of water quality and disposal will occur in accordance with license and approval conditions. A bore license under the WMA 2000 will be obtained. A license under the PoEO Act will be obtained
3.6 Water Quality	Possibility of increased levels of nutrients and contaminants in stormwater run off and of groundwater contamination.	The proposed development will incorporate water quality and sediment control measures as generally outlined in the civil engineering report.

Impact / Issue	Nature of Potential Impact	Mitigation Measures
	Possibility of disturbance of Acid Sulphate Soils	An Acid Sulphate Soils Management Plan will be prepared should further soils investigation identify that potential acid sulphate soils are to be excavated.
3.7 Acoustic	Potential noise impact on neighbours. Potential noise impact from the hotel	Controls over hours of work and construction will apply to limit the effects of noise. Detailed measures will be included in the EMP via the CMP. An acoustic report will be obtained to determine if additional architectural measures are required to meet sleep disturbance criteria. The internal noise amenity criteria specified by the RTA will be used to determine appropriate appropriate construction measures. The applicable noise criteria are: Habitable rooms 45dB(a) Leq (15 hr) Habitable rooms 40dB(A) Leq(9hr) Sleeping rooms 35dB(A) Leq(9hr)
3.8 Ecologically Sustainable design and water management	Long term cumulative environmental impacts.	The SEPP Basix recommendations and requirements for the building will be implemented. The development will be consistent with ESD and water sensitive urban design measures.
3.9 Erosion & Sedimentation	Soil erosion through construction process and resultant sedimentation of lake.	Erosion and sedimentation control measures as detailed in the EA will be implemented as part of the project under the Project Application Construction Management Plan and EMP. Landscaping of site will be implemented in accordance with submitted plans.
3.10 Toukley Gardens Park	Loss of recreational amenity	Landscaping and building setbacks as proposed will be implemented to protect recreational amenity of the park and increase casual surveillance.
3.11 Landscaping	Loss of visual amenity	The proposed landscape works will be implemented consistent with plans and managed to provide visual and recreational amenity for the development and adjoining park.
3.12 Crime Prevention	Inadequate personal security and safety for residents.	The recommendations of the Crime Risk Assessment Report will be implemented in full.
3.13 Section 94 Contributions	Demand on local community facilities and services	Prior to commencement of construction the proponent will enter into a Voluntary Planning Agreement with Wyong Shire Council to the value of the Contributions that would be required under the Toukley Section 94 Contributions Plan and Shirewide Contributions Plan. Suitable local projects for funding will be as agreed with Wyong Shire Council.