



3 May 2011

**Report on the Proposed Residential Subdivision
At Gwandalan by Lakeside Living Pty Ltd**

1. INTRODUCTION

On 10 February 2011, the former Minister for Planning, the Hon Tony Kelly MLC requested the Planning Assessment Commission (the Commission) to provide advice on the recommendations in the Director General's assessment report on the proposed subdivision at Gwandalan. He requested this advice be received within 2 weeks of receiving the report. He also requested Ms Kibble to chair the Commission to provide the advice because of her previous involvement on the Independent Hearings and Assessment Panel for the 2007 proposal for the site.

On 22 March 2011, the Commission received a second letter from the then Minister advising that he had reconsidered his earlier request. Due to the high level of public interest in the proposal he was of the view that it would be more appropriate for the Commission to determine the application. He also requested the Commission to comment on the draft Development Control Plan (DCP) that was submitted with the project application as required by the Director General's Requirements.

The Commission consisted of Ms Gabrielle Kibble AO (chair), Ms Janet Thomson, and Mr Richard Thorp. On 12 April 2011, Ms Kibble appointed Ms Donna Campbell to assist the Commission by providing some legal input on the proposed development before a determination was made on the project application.

1.2 Briefing Meetings and Site Visit

The Commission met with staff of the Department of Planning and Infrastructure Mr Tom Gellibrand and Mr Michael File and consultant Ms Helena Miller on 23 February for a preliminary briefing. A second meeting was held on 28 March 2011 following the submission of the Department's assessment report.

Commission members visited the surrounding areas of the site on 25 February 2011.

2. HISTORY OF THE PROJECT

On 16 October 2006 a Memorandum of Understanding (MOU) between the then Minister for Planning and Lakeside Living Pty Limited was signed providing for the transfer of 305 ha of land owned by the Rose Group to the NSW Government for inclusion into the Wallarah National Park. Following the MOU, a concept plan application was submitted for the development of land at Gwandalan for residential development at a density of 12 dwellings per hectare. This is the density proposed in the Wyong Residential Strategy. The MOU provided conservation offsets for the residential development.

On 11 November 2006, the then Minister for Planning appointed an Independent Hearing and Assessment Panel (IHAP) to advise on the proposed residential development. On 13 April 2007, the Panel provided an interim report outlining its concerns regarding the proposed subdivision pattern on the site and recommended it be redesigned in accordance with current best practice urban design principles to take account of the site's environmental and ecological attributes. In response to this report, the proponent undertook to prepare a revised development scheme for Gwandalan.

On 24 August 2007, the proponent lodged a new environmental assessment report and concept plan for the site and a project application for site preparation works and subdivision of the Gwandalan development. The Panel found the revised concept plan inconsistent with the planning principles set out in its interim report. However, the inadequacies could be readily addressed by redesign.

On 7 December 2007, a revised concept plan was submitted to the Department that incorporated the amendments and improvements recommended by the Panel. On 18 December 2007, the IHAP provided its final report to the Minister recommending approval of the concept plan as amended.

On 27 February 2008, the final PPR for the concept plan was lodged, which incorporated the redesign of the Gwandalan subdivision.

The Gwandalan concept plan and project application for subdivision were approved in September 2008. The land was also rezoned under the Major Development SEPP.

On 2 December 2008, a judicial review of the determination of the concept plan and project application was lodged by the Gwandalan Summerland Point Action Group on the basis that the approvals for the concept plan and project application for Gwandalan were invalid as there was a reasonable apprehension that the Minister was biased in his decision and that in making his decision the Minister took into account matters that were irrelevant to the decision. This related to the MOU and Deed of Agreement for the transfer of the conservation lands.

On 31 August 2009 the Land and Environment Court set aside the approvals for both the Catherine Hill Bay and Gwandalan Concept Plan and project application for Gwandalan. The MOU and Deed were subsequently terminated. However, the Court's decision did not affect the zoning of the land. However, the zoning was re-made as a precautionary measure.

3. THE CURRENT PROJECT APPLICATION

On 5 November 2010, the site was rezoned part R2 (Low Density Residential) and part E2 (Environmental Conservation) when it was added to Schedule 3 – South Wallarah Peninsula under the Major Development SEPP 2005 as a State Significant Site.

The current project application is to subdivide the site into 190 lots comprising:

- 187 residential lots;
- 2 lots for public open space;
- 1 residual lot for the existing dwelling on the eastern end of the site and stormwater management works to service the subdivision;
- Associated bulk earthworks;
- Infrastructure including roads, drainage and utility services; and
- Landscaping in public areas.

The proposed development was declared a Part 3A project as it is a proposal for subdivision of more than 100 lots where part of the site is located in a sensitive coastal location (Clause 1(1)(b) of Schedule 2 in Major Development SEPP).

4. THE DEPARTMENT'S ASSESSMENT REPORT

The proposed subdivision layout is generally consistent with the concept plan that was presented to the IHAP including road layout, open space locations, number of lots and restricting access to the lots direction fronting Kanangra Drive.

Twenty six (26) submissions were received by the Department during the notification period. Of these, 10 were from public authorities and 16 from the public. Fifteen (15) of the public submissions objected to the proposed subdivision.

The assessment report canvassed the following key issues relating to the proposal:

- potential impacts on threatened flora and fauna,
- road network including intersection operation and internal road design;
- public transport accessibility;
- landscaping and public open space;
- public access to the lake foreshore and connection to surrounding areas;
- stormwater management;
- geotechnical and ground subsidence;
- contamination;
- Aboriginal cultural heritage; and
- Bushfire.

The report concluded that the site has been identified as a proposed urban area in the Lower Hunter Regional Strategy, Central Coast Regional Strategy 2006-31, the Draft Wyong Structure Plan and Wyong Residential Development Strategy. The Department considers the proposed development will contribute to the meeting of dwelling targets for the subregion. The proposal is also considered to provide environmental, social and economic benefits to the region.

The report concluded that subject to recommended conditions the potential environmental and social impacts of the proposed subdivision could be minimised or managed to an acceptable level.

Recommended conditions include:

- Increased bushfire APZs for Lots 129 to 138 to 35m;
- Road 6 to be widened from 7.6m to 8m;
- An easement to be created for the stormwater system on the residual lot for management by Council;
- Management plans are required to manage and mitigate construction impacts including impacts on flora and fauna, and erosion and sediment control;
- Detailed plans to be submitted for road works, stormwater and public domain landscaping;
- Utility services to be provided to the residential lots prior to the issue of subdivision certificate; and
- Provisions for regional and local contributions to be made.

5. DRAFT DEVELOPMENT CONTROL PLAN

One of the key assessment requirements in the Director General's requirements is

The EA must address the following key issues and discuss how the proposed development is consistent with the Development Control Plan prepared for this part of the site:

Development Control Plan

- *Provide a Development Control Plan which includes, but is not limited to, the matters listed in Clause 29 in Schedule 3, Part 14 (South Wallarah Peninsula site) in the Major Development SEPP.*

The former Minister requested the Commission to provide comments on the draft DCP. The Commission's comments are provided in a separate report. The Commission noted a draft DCP was lodged with the project application and Wyong Council raised various concerns on the inadequacy of the draft DCP. The Council's concerns will be discussed in the Commission's report on the DCP. The Commission recommends that the Director General finalises and adopts the draft DCP as soon as practical following consideration of the Commission's comments to ensure appropriate development controls are in place before any Part 4 development application that is not covered by the Exempt and Complying SEPP is lodged with Council.

6. PAC COMMENTS

The Commission noted that the current subdivision layout is substantially the same as the previous concept plan endorsed by the Independent Hearings and Assessment Panel (IHAP). The minor differences including the deletion of a green link between Lots 236 & 237 and 227 & 228 and the extension of Road 5 to Road 3 through Road 2 are not significant and do not deviate from the basic design principles established by the IHAP.

The Commission has carefully considered the documents and plans provided by the Department and consider the issues raised in submissions have been satisfactory addressed in the assessment report. The Commission agreed with the recommendation that the application should be approved subject to conditions. However, the Commission has included a number of additional conditions in the approval to ensure potential environmental impacts, particularly during construction period, will be minimised and properly managed. The additional conditions are:

B1	Design Modifications
B6	Construction Waste Management
B8	Environmental Management Plan
B10	Water Quality Management Strategy
B11(7)	Weed Control Plan
C3	Dust Control
C5	Hours of Work
C6	Construction Noise Criteria
C7	Construction Noise Management
C8	Vibration Criteria and Management

The Commission also made significant modification to the recommended conditions relating to the following conditions:

- Construction Management Plan – to make it clear that the construction management plan should integrate the key environmental management plans required by this consent.
- The landscape plan – to require the plan to be prepared by a registered landscape architect and be approved by Council. Other details to be included in the plan include maintenance requirements and runoff control. A maintenance period of 12 months to be carried out by the proponent is also included to ensure the survival of the new plantings and that all necessary repairs and maintenance works are carried out by the contractor before handover to Council.
- A maintenance deposit for engineering works to guarantee the quality of work and ensure repairs and maintenance required during the maintenance period are carried out.
- Registration of easements and restrictions to use to clarify the purpose, type and mapping of restrictions and easements to be required.

The project application for subdivision of land to create a total of 190 lots at Gwandalan is approved subject to conditions in attachment 1.



Gabrielle Kibble AO



Janet Thomson



Richard Thorp

Attachment 1

Instrument of Approval

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF MAJOR PROJECT NO. 10-0205

Gwandalan Residential Subdivision proposed by Lakeside Living Pty Ltd

(File No. 10/22997)

The Planning Assessment Commission, having considered the matters in section 75J(2) of the *Environmental Planning & Assessment Act 1979* (the Act), determine pursuant to section 75J(1) of the Act to **grant approval** to the major project referred to in the attached Schedule 1 subject to the conditions of approval in Schedule 2 and Statement of Commitments in Schedule 3.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment, Preferred Project Report and Statement of Commitments, subject to the conditions of approval in Schedule 2.

The reasons for the imposition of conditions are:

- (1) To adequately mitigate the environmental and construction impacts of the development;
- (2) To reasonably protect the amenity of the local area; and
- (3) To protect the public interest.



Member of the Commission



Member of the Commission



Member of the Commission

Sydney,

3 May 2011

SCHEDULE 1

PART A — TABLE

Application made by:	Lakeside Living Pty
Application made to:	Minister for Planning
Major Project Number:	10- 0205
On land comprising:	Lot 3 DP 588206
Local Government Area	Wyong
For the carrying out of:	Subdivision of land to create a total of 190 lots.
Capital Investment Value	\$16 million
Type of development:	Project approval under Part 3A of the EP&A Act
Determination made on:	3 May 2011
Determination:	Project approval is granted subject to the conditions in the attached Schedule 2.
Date of commencement of approval:	This approval commences on the date of the Commission's approval.
Date approval is liable to lapse	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART B — DEFINITIONS

In this approval the following definitions apply:

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

Advisory Notes means advisory information in relation to the approved development

Environmental Assessment means the document titled Environmental assessment Report – Bulk Earthworks, Infrastructure and Subdivision, including all appendices, prepared by ADW Johnson Pty Ltd

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

Council means Wyong City Council.

Department means the Department of Planning and Infrastructure.

Director General means the Director General of the Department of Planning and Infrastructure.

EEC means *endangered ecological communities*

Minister means the Minister for Planning and Infrastructure.

OEH means the Office of Environment and Heritage

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

PPR and Preferred Project Report means the document titled Preferred Project Report MP 10/0205 prepared by ADJ Johnson Pty Ltd, including Appendices A-H.

Proponent means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

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

Statement of Commitments means the final Statement of Commitments submitted to the Department of Planning as part of the Preferred Project Report for this project.

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

SCHEDULE 2

CONDITIONS OF APPROVAL

Major PROJECT APPLICATION No. MP 10_0205
Gwandalan Residential Subdivision proposed by Lakeside Living Pty Ltd

PART A – ADMINISTRATIVE CONDITIONS

A1 Development Description

Project Approval is granted for the following works:

- Subdivision of the site into 190 lots, including 2 lots for open space and a residual lot for the existing dwelling;
- Associated bulk earthworks;
- Infrastructure works including roads, drainage works and utility services provision;
- Landscaping works.

A2 Development in Accordance with Plans and Documentation

The development shall be in accordance with the following plans, documentation and recommendations made therein:

Environmental Assessment Report – Bulk Earthworks, Infrastructure and Subdivision, prepared by ADW Johnson Pty Ltd, including Appendices A-M.

and as amended by:

Preferred Project Report MP 10/0205 prepared by ADJ Johnson Pty Ltd, including Appendices A-H.

A3 Inconsistency between plans and documentation

In the event of any inconsistency between conditions of this project approval, the plans and documentation referred to above and the proponent's final Statement of Commitments the conditions of this project approval prevail.

A4 Compliance with Relevant Legislation and Australian Standards

The proponent shall comply with all relevant Australian Standards and Codes (including Building Code of Australia) and obtain all necessary approvals required by State and Commonwealth legislation in undertaking the project described in Condition A1, Part A, Schedule 2 of this approval.

A5 Mediation

Where this approval requires further consent from Council or another Authority, the parties shall not act unreasonably preventing an agreement from being reached. In the event that an agreement is unable to be reached within 3 months or a timeframe otherwise agreed to by the Director General, the matter is to be referred to the Director General for resolution. All areas of disagreement and the position of each part are to be clearly stated to facilitate a resolution.

PART B—PRIOR TO COMMENCEMENT OF WORKS

B1 Design Modifications

The subdivision layout shall be amended as follows:

- (1) The Asset Protection Zones for Lots 129 to 138 shall be a minimum of 35m. The proponent shall demonstrate that the lots are capable of accommodating a dwelling;
- (2) The carriageway of Road 6 shall be a minimum of 8m; and
- (3) The carriageway of Road 10 shall be a minimum of 6m.
- (4) A copy of the amended subdivision plan shall be submitted to the Council.

B2 Certificates/Engineering Details - General

- (1) A Construction Certificate is to be issued by the Principal 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) Prior to the issue of the Construction Certificate, the proponent 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. Note for a single dwelling the payment of the required plumbing and drainage inspection fees satisfies the requirements of the Water Management Act.
- (3) Prior to preparation of any engineering design plans, the consultant preparing the design plans shall consult Council's Development Department Design Section to discuss the extent and scope of all works and details required on the design plans to meet the requirements of Council's DCP 2005, Chapter 67 – Engineering Requirements for Development.

B3 Construction Management Plan

- (1) Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Principal Certifying Authority. The Plan shall address, but not be limited to, the following:
 - (a) hours of work;
 - (b) contact details of site manager;
 - (c) written notice to the PCA and Council prior to commencement of works on site;
 - (d) induction procedures for all site workers on measures to protect Aboriginal heritage and native flora and fauna, particularly Endangered Ecological Communities (EEC)
 - (e) integration of the following management plans:
 - construction traffic management plan,
 - noise and vibration management;
 - waste management
 - erosion and sediment control;
- (2) The Construction Management Plan shall document the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve must be submitted to and approved by the Principal Certifying Authority prior to the issue of the civil construction certificates. If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries this area must be identified in the Construction Management Plan and to the approval of Council.

- (3) The Proponent shall submit a copy of the approved plan to the Department and Council (if Council is not the Principal Certifying Authority).

B4 Construction Traffic Management Plan

- (1) Prior to the issue of a Construction Certificate, a Construction Traffic Management Plan (CTMP) prepared in consultation with Council and RTA by a suitably qualified person shall be submitted to and approved by the Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:
- (a) proposals for reducing any impact of the construction site on the adjacent traffic network and school;
 - (b) construction staging plan indicating the estimated start and finishing date of each stage
 - (c) traffic management of short term activities such as delivery of materials
 - (d) accessing, exiting and parking in and near the work site by trucks, tradesmen work vehicles and the like;
 - (e) mitigation measures to ensure that delivery trucks and trade vehicles do not deposit any spoil on public roadways.
 - (f) loading and unloading, including construction zones,
 - (g) predicted traffic volumes, including traffic volumes generated from the neighbouring public school, during the peak traffic times before and after school hours, types and routes, and,
 - (h) pedestrian and traffic management methods.
 - (i) specific pedestrian/ traffic measures in place for the protection of school children from the Gwandalan Public School during the peak morning and afternoon drop-off pick times.
 - (j) Public consultation procedures – procedures to be put in place for notification of adjoining residents of the relevant details of the CTMP and details of complaint handling procedures.
- (2) The Proponent shall submit a copy of the approved plan to Council, if Council is not the Certifying Authority.

B5 Construction Waste Management

- (1) Prior to the issue of any Construction Certificate which involves works, the proponent shall submit a Waste Management Plan prepared by a suitably qualified person in accordance with Council's Development Control Plan 2005 for Council's approval. An on site storage area for reuse, recycling and disposal of materials is to be provided during construction.
- (2) During construction, building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan.

B6 Erosion and Sediment Control Plan

Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Wyong Shire Council's Development Control Plan 2005 – Chapter 67 – Engineering Requirements for Development or Soils and Construction – Managing Urban Stormwater (Blue Book). Details are to include all major stages of construction and sequences of work together with treatments necessary at these stages. The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate. The plans are to include nutrient and sediment control measures to mitigate runoff affecting the Swamp Sclerophyll Forest EEC.

Nutrient and sediment control devices should be erected pre-clearing and post-construction works in sensitive areas where degradation processes may be triggered such as areas adjacent to watercourses until suitable

rehabilitation has occurred to maintain surface integrity. Furthermore, stockpiles should be subject to individual sediment and nutrient control devices.

B7 Environmental Management Plan

Prior to commencement of work, the proponent is to submit an environmental management plan to the Council for approval. The plan is to integrate the following management plans to ensure their implementation will complement each other and maximise the environmental outcomes of their performance.

- storm water management;
- water quality management
- flora and fauna management;
- habitat restoration; and
- riparian zone management.

B8 Stormwater Management

- (1) The provision of a stormwater system with water quality control facilities required to treat stormwater runoff from the development in accordance with Australian Runoff Quality, the Stormwater Management and Concept Engineering Report by ADW Johnson (ref11778 stormwater version 5 November 2010) and Council's Development Control Plan 2005 Chapter 67 - Engineering Requirements for Development. Design plans must be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate.
- (2) The proposed constructed wetland shall be designed by an appropriately qualified person and generally in accordance with the Constructed Wetlands Manual (DLWC 1998).
- (3) The submission of a Wetland Management Plan to the Council for approval prior to issue of the Construction Certificate. Details to include operational, access and maintenance requirements and are to be included on the approved Construction Certificate plans.

B9 Water Quality Management Strategy

- (1) An appropriately qualified person shall prepare a Water Quality Management Strategy detailing monitoring methods for surface and groundwater quality. The strategy is to be approved by Council and shall include a plan scheduling maintenance of the detention basin, detailing the type of maintenance that is required and the body that is responsible to undertake the activity.
- (2) Water quality is to meet Council's baseline target objectives.
- (3) Water quality monitoring is to be carried out throughout the length of the project and for a period of 12 months after the release of the final subdivision of this approval. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the construction Certificate for each stage.
- (4) Water quality testing is to be carried out under sub clause (3) immediately after each storm event and significant phase of construction, or at 3 monthly intervals.
- (5) Copies of the monitoring results are to be forwarded to Council on a quarterly basis.
- (6) Should the water quality not comply with the target levels, works are to be carried out to ensure compliance with the levels.

B10 Flora and Fauna Environmental Management Plan

Prior to the issue of a Construction Certificate, a Flora and Fauna Environmental Management Plan for the Site shall be prepared by a suitably qualified and experienced ecologist and submitted to and approved by the Council. The Plan shall address, but not be limited to, the recommendations in the Ecological Assessment report prepared by RPS, and include the following:

- (1) A minimum amount of clearing to take place as a general objective of the project, particularly within those areas that currently contain identified native vegetation communities, especially for EEC's.
- (2) **A tree retention plan** is to be prepared identifying the mature and/or hollow-bearing trees to be retained, including those identified in the Ecological Assessment Report by RPS report and the PPR. The plan is also to show tree retention where possible to retain areas for shade on the site. The plan is to reference the bulk earthworks plan to demonstrate consistency.
- (3) Pre-clearance surveys are to be conducted within the development areas during the period before construction commencement in order to identify any breeding or nesting activities by native fauna within wooded areas. No breeding attempts or active nests should be disrupted as far as is practical during the course of the project. Species to be targeted are to include the Powerful Owl and Masked Owl;
- (4) During the construction/vegetation removal phase, for any tree removal within forested areas, and in particular where hollow-bearing trees may be removed, all works should be supervised by an ecologist to recover any native fauna that are potentially displaced. Furthermore, where such risks occur, site-specific ecological advice should be sought to minimise impacts during the entire process. A clearing protocol should be adopted for the removal of trees containing suitable habitat hollows as follows (this is considered as a guideline, variations on the methods employed may be required to accommodate site specific factors):
 - (a) All hollow bearing trees are to be flagged by an ecologist prior to the commencement of works on site.
 - (b) Trees and native vegetation proposed for retention are to be clearly identified on all the final approved engineering plans. The location of any threatened species or threatened communities is also to be marked on all plans.
 - (c) Underscrubbing of the entire site should be carried out by a 4x4 tractor with a slashing deck, this will minimise the establishment of degradation processes and leave a layer of mulch to aid in soil retention in the event of adverse weather. At this time felling of non habitat trees can take place, however a matrix of trees must be maintained to allow animal movement into the designated refuge area.
 - (d) After a period of two weeks, clearing of habitat trees could commence. Clearing must be carried out moving from the fringe of the matrix towards the refuge area. Trees should be 'soft felled' and inspected immediately by an ecologist for displaced fauna. All trees must be left for a minimum of two nights prior to being moved to a stockpile, to allow resident fauna to vacate tree hollows.

Note: *Clearing should ideally take place outside of the main breeding seasons of resident fauna, preferably during late Autumn and Winter.*

- (5) Species selection for future landscaping works and seed stock for revegetation should be limited to locally occurring native species to maintain local genetic diversity. This should include *Eucalyptus robusta* and other regionally significant species. Landscaping the private domain is not to include *Angophora costata* or *Corymbia maculate* due to lack of acceptable structure in subdivision soil conditions.
- (6) Where possible, earthworks (and certainly all works in the vicinity of drainage lines) should be undertaken during appropriate (i.e. dry) weather conditions. This will ensure that any potential erosion events will be intercepted and that no downstream impacts occur within any of the drainage lines. This will help to maintain existing habitat characteristics for native fauna in those areas, including those for threatened species.
- (7) **A weed control plan** shall be prepared by an appropriately qualified person. The plan shall detail management of exotic weeds and pests including infection by *Phytophthora cinnomoni*, exotic perennial grasses, Bitou, Boneseed, Lantana, exotic vines and scramblers to be undertaken by the proponent across the site until 80% of all lots have been developed.

- (8) Timber, tree waste and other vegetative matter removed through the development activity should be disposed in accordance with this condition unless otherwise approved by the Certifying Authority.
- Millable timber is to be recycled for use in construction, furniture or fencing or similar or through local saw mills or sawyers.
 - Other tree waste must be woodchip or tub ground or used for firewood.
 - Tree stumps that cannot be reasonably tub ground may be disposed of to a Council approved site.

Unless otherwise approved the resultant materials must be used in the final landscape works for soil stabilisation, improvements and rehabilitation. It is not permitted to dispose of vegetated matter removed through development activity by burning and the NSW Rural Fire Services is unable to provide a permit to dispose of such material in this manner.

- (9) Strict management of stormwater runoff into the planning, construction and occupation phases to minimise potential impacts on EECs, known Wallum Froglet habitat and other threatened species.
- (10) Riparian vegetation, and sediment and water management strategies to mitigate the impact on the Wallum Froglet, Regent Honeyeater and Swift Parrot, which are threatened species.
- (11) Where possible, landscape sediment retention ponds with fringing wetland vegetation (eg *Typha* sp.) to provide habitat for species such as Green and Golden Bell Frog.
- (12) Management of interface issues between the site and Lake Macquarie State Conservation Area, including clear definition of the boundary. Office of Environment and Heritage's (OEH) Parks and Wildlife Group should be consulted on fence types.
- (13) The implementation of responsible pet ownership measures for future residents to reduce the potential impact on the Glossy Black Cockatoo, including the impact on native flora by feral cats.
- (14) Sensitive construction fencing and responsible gardening practices to protect the Grey Headed Flying Fox.

B11 Habitat Restoration Plan

- (1) Prior to issue of a Construction Certificate, a Habitat Restoration Plan (HRP) shall be prepared by a suitably qualified and experienced ecologist and submitted to and approved by the Council. The HRP is to address the proposed habitat protection areas and buffers to the development and integrate with the required Landscape Plan and Erosion and Sediment Control Plan. In preparing the HRP the applicant is to have due regard to the following specific and required components of the HRP:
- (a) A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the Habitat Restoration Plan.
 - (b) The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate 2 in Bushland Regeneration and two years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Bushland Regeneration and one year demonstrated experience (for other personnel). In addition the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).
 - (c) The mulch/tubgrindings generated from the removal and thinning of native trees associated with the development is/are to be re-used in restoring the habitat protection areas as required.
 - (d) Any natural hollows removed by the development are to be placed wherever possible as ground hollows within retained bushland under the supervision of the consulting ecologist.

- (e) Restoration areas are to be maintained for a minimum of three (3) years. Reports are to be submitted to Council detailing the progress of the bush regeneration works twice per year, with a final report certifying the completion of the works at the end of the three year period.
 - (f) Any plant stock used in revegetation (if required) will be supplied from provenance specific seed/material collected from within the Tuggerah Lakes catchment area. Non-provenance specific material is prohibited.
- (2) A Wildlife Management Strategy (WMS) shall be prepared by a suitably qualified and experienced ecologist and submitted to and approved by the Council. The WMS is to show how mitigation against native animal welfare issues will be achieved. The WMS is to include, but not be limited to the following protocols:
- (a) The consultant ecologist is to identify fauna likely to occur on site and advise on management actions to mitigate any native animal welfare issues;
 - (b) The consultant ecologist is to clearly mark each potential habitat tree required to be removed;
 - (c) The consultant ecologist is to inspect all potential habitat trees prior to removal and identify evidence of fauna use. All clearing of habitat trees is to be done under the direct supervision of a consulting ecologist and/or DEC licensed wildlife carer. When fauna are present, the animals are to be removed and relocated to the adjacent bushland/nest boxes prior to felling or the tree shall be sectionally dismantled under the supervision of the ecologist or wildlife carer before relocating animals to the adjacent bushland/nest boxes;
 - (d) Clearing will commence with the most distant vegetation from secure habitat and progressively work toward the retained bushland in order to allow fauna to disperse;
 - (e) Trees should be slowly lowered or sectionally dismantled using an excavator or similar technique;
 - (f) Any natural hollows removed by the development are to be placed wherever possible as ground hollows within retained bushland under the supervision of the consulting ecologist;
 - (g) Nest boxes are to be provided on a one for one basis for any natural hollow removed by the development and are to be constructed of appropriate durable materials. All nest boxes are to be erected prior to the issue of a Construction Certificate and at least one month prior to vegetation clearance on the site. The monitoring of nest boxes to determine their usage and to carry out repairs or replacement (as required) every six (6) months for a minimum period of three (3) years following erection. Monitoring reports are to be forwarded to Council after each monitoring event.

B12 Riparian Zone Management

- (1) A Riparian Zone Management Plan shall be prepared to the satisfaction of NSW Office of Water (or its successors) and implemented for the stream passing through the South East Park, and below the swale drainage. The plan should include:
- (a) Detailed design of the Stormwater detention basin, including volume of water to be stored, appropriate lining;
 - (b) Design of the inlet structure to the detention basin, sized to avoid erosion;
 - (c) A riparian zone assessment and rehabilitation plan for the creek through South East Park into the detention basin, and downstream of the detention basin;
 - (d) Detailed design of the rehabilitation proposed for the creek outlet to Lake Macquarie.
 - (e) Management responsibility and requirement details.

B13 Landscaping Plan

- (1) Prior to the issue of a Construction Certificate, a detailed landscape plan is to be prepared by a registered landscape architect in accordance with Council's Landscape Policy L1 for a Category 3 development. The plan is to be submitted and approved by Council. The Plan is to include, but is not limited to, the followings:
 - (a) Details of street planting with appropriate locally endemic species;
 - (b) tree planting and embellishments in the parks including picnic tables, bbqs, play equipment and bicycle racks to encourage community interaction.
 - (c) Seating should also be provided along pathways in the road reserve.
 - (d) Details on weed control;
 - (e) Details of on-going maintenance requirement; and
 - (f) Management of stormwater runoff to minimise impact on vegetated areas.
- (2) The Landscape Plan shall also show the location of Water Sensitive Urban Design devices and integrate these with other public domain treatments.
- (3) The proponent shall maintain all hard and soft landscaping works in areas to be dedicated to Council for a period of 12 months after completion to ensure all maintenance and repairs required are carried out during the maintenance period.

B14 Roads

- (1) Separate approval from the Roads 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 Council prior to issue of the Construction Certificate.
- (2) The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development at no cost to Council. Design plans are to be approved by the Roads Authority prior to the issue of a Construction Certificate.
- (3) The northern laneway (Road 10) adjoining lots 129 to 138 is to be constructed under the same standards, and be under the same ownership as the other laneways within the subdivision (Roads 5 and 11), and is to have a minimum carriageway of 6m.
- (4) The provision at no cost to Council of kerb and guttering, half road construction and associated stormwater systems for the full street frontage of Kanangra Drive in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. The design plans must be approved by the Roads Authority prior to the issue of a Construction Certificate.
- (5) The pavement design axle loading for pavements shall be as follows:
 - (a) Kanangra Drive 5×10^6 .
 - (b) Bus routes 3×10^6
 - (c) All remaining roads 6×10^5 .
- (6) Kanangra Drive must have, for the full extent of the development, a minimum sealed pavement width of 9 metres and be kerb and guttered and/or WSUD treatment to Council's requirements.
- (7) Central median islands containing pedestrian refuges are to be provided in Road MC01 and Road MC02 at their intersections with Kanangra Drive to prevent cars "cutting" the corner. This will entail adjustment to the road reserve width to retain parking adjacent to the intersection.
- (8) The Kanangra Drive/Orana Road intersection is to be converted to a standard "T" intersection.
- (9) Splayed property corners are to be provided at all Lane Way intersections.

- (10) All intersections need to comply with Austroads "Guide to Road Design Part 4A: Unsignalised Intersections Table 3.2 – Safe Intersection Sight distance (SISD)". This may entail adjustment to proposed property boundaries.
- (11) All Lane Way's are to be one-way in a northerly direction.
- (12) "No Parking" signs are to be provided for the full length, along the western side of the Lane Way's.
- (13) Street lighting shall be in accordance with AS 1158 ensuring all light poles are located outside of any clear zone.
- (14) The provision at no cost to Council of concrete paving for the full street frontages of the development. A 2.5 metre wide off road shared path is required for the Kanangra Drive frontage and extending to the school entrance; and Road 1. The footpath design is to be 1.5 metres wide for Roads 2, 3, 4, 6, 7, 8 and 9. The concrete paving is to be 100mm thick with SL72 reinforcement and is to be constructed on 75mm compacted road base and on compacted sub grade. All other details are to be in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. The design plans must be approved by the Roads Authority prior to issue of a Construction Certificate.
- (15) The provision of traffic management facilities throughout the development in accordance Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Minor adjustments to lot boundaries may be required to achieve a satisfactory design. Design plans must be approved by the Principal Certifying Authority/appropriately Accredited Certifier prior to issue of a Construction Certificate and include (but not be limited to):
 - (a) Raised platforms, together with pedestrian refuges are to be provided at all road crossings on pedestrian desire lines to the school. The following locations are to be included:
 - Intersection of Road MC01 and MC11
 - On Road MC01, in the vicinity of proposed Lot 209 – location subject to satisfactory sight distance
 - (b) All four-way internal intersections treatments need to be to Council's satisfaction, which may include a combination of signage and raised intersections to reduce the through speed of vehicles.
 - (c) The provision of a raised pedestrian crossing on Kanangra Drive in front of the school at the crossing location. This is also to include a review of the parking configuration and the bus turning facility along the school frontage.
- (16) The construction of a driveway for the full length of the accessway of the battle axe lot in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. The design plans must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.
- (17) The submission of a comprehensive road signage and pavement marking plan identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic/Development Committee prior to issue of the Construction Certificate.
- (18) The submission to Council and approval of the proposed names for the roads under the Roads Act within the subdivision prior to issue of a Construction Certificate.
- (19) Upgrading of Pacific Highway and Kanangra Drive intersection.
- (20) Upgrade and widen the curves in Kanangra Drive between Pacific Highway and Summerland Road

B15 Dilapidation

A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that 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.

B16 Public Transport

- (1) The proponent is to liaise with Transport NSW and local bus operators to address the integration of the site with the existing bus network.
- (2) Bus stop design is to address the following:
 - (a) Bus stops and bus shelters are to be provided in accordance with the requirements of the Bus Operator, TNSW and Council. All facilities need to be installed in accordance with Disability Discrimination Act (DDA) requirements.
 - (b) Footpaths and pedestrian refuges are to be provided to service the bus stops, to Council's satisfaction, to ensure pedestrian safety and encourage the use of public transport.
 - (c) Details of proposed bus stop locations are to be submitted to Council for approval

B17 Bushfire

- (1) A bushfire risk management plan is to be prepared in consultation with the Rural Fire Services by a suitably qualified person. The plan is to be submitted and approved by the Certifying Authority.
- (2) Water supply for fire fighting purposes and water, electricity and gas are to comply with Planning for Bushfire Protection 2006.
- (3) landscaping is to be in accordance with Planning for Bushfire Protection 2006.

B18 Acid Sulphate Soils

A detailed acid sulphate soil investigation shall be undertaken and an acid sulphate soil management plan prepared where proposed development involves excavation, drainage or disturbance to soils and groundwater conditions over the Unit A area identified in Site Plan in Appendix A of the Geotechnical Investigation report prepared by RCA Australia dated August 2003 (in Appendix I of the EA). The management plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998) and submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate.

B19 Filling and Haulage

Prior to the issue of a Construction Certificate, the submission to and approval by the Principal Certifying Authority of details for the final design of the cut and fill details for the site, the disposal of any spoil gained from the site and / or details of the source of any fill for the site, heavy construction materials and proposed routes to and from the site.

B20 Water and Sewer Services/Infrastructure

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 apply to this development, and all requirements by Council in this regard 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.

B21 Water Licensing Requirements

- (1) An authorisation under the Water Act 1912 or the Water Management Act 2000 is to be obtained from the NSW Office of Water (or its successors) with the appropriate purpose identified for any activity relating to the taking of or interception of groundwater prior to that activity commencing.
- (2) Prior to the construction of the detention basin, the proponent should contact the NSW Office of Water (or its successors) to determine if a surface water licence is required.

B22 Aboriginal Cultural heritage

The proponent shall continue to consult with and involve all the registered local Aboriginal representatives in the project, in the ongoing management of the Aboriginal Cultural heritage.

B23 Retaining Wall

Retaining walls shall be designed and certified by a qualified structural engineer in accordance with AS4678 Earth Retaining Structures. The retaining walls shall be located fully within the boundaries of the subject property. Details are to be provided with the Construction Certificate which includes the retaining walls.

B24 Contamination

The fuel tanks located on the site shall be removed, and the affected land remediated. Works are to be undertaken in accordance with the recommendations of a suitably qualified environmental consultant and a report certifies works have been satisfactorily completed to be submitted to the Principle Certifying Authority.

PART C—DURING CONSTRUCTION

C1 Approved Plans

A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council or the Department.

C2 Aboriginal Relics

If Aboriginal engravings or relics are unearthed during construction, all work is to cease immediately and the National Parks and Wildlife Service must be notified. Works may only recommence following endorsement for such from the Office of Environment and Heritage.

C3 Dust Control

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) The surface should be dampened to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
- (4) 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 and wheels washed before leaving the site;
- (5) Gates shall be closed between vehicle movements and shall be fitted with shade cloth; and

- (6) cleaning of footpaths and roadways shall be carried out regularly.

C4 Ecology/Trees

- (1) The applicant is to engage a suitably qualified and experienced consulting ecologist, arborist and soil erosion consultant to supervise the construction of each stage of the development and to ensure and certify to that the trees and vegetation are adequately retained and protected during construction. Evidence of this engagement is to be forwarded to the Principal Certifying Authority prior to the issue of a Construction Certificate. The consultant ecologist and arborist are to provide reports to demonstrate the proposal is meeting tree retention and protection requirements following completion of the following stages of development:
- (a) Following erection of required tree protection fencing (and prior to the issue of a Construction Certificate/Commencement of Works)
 - (b) Following induction of each civil contractor and subcontractor
 - (c) Following initial clearing and excavation/filling of the site
 - (d) Following provision of services
 - (e) Following completion of each construction phase (and prior to the issue of a Subdivision Certificate/Occupation Certificate/Final Certificate/Practical Completion).
- (2) The following tree protection measures shall be used during construction/vegetation clearance
- (a) Trees and vegetation to be retained are to be protected by the erection of 1.8 metre-high man-proof fencing as per the consulting arborist and ecologist's direction and maintained in good working order for the duration of the works.
 - (b) Erection of tree protection fencing is to be confirmed to Council's Development Ecologist in writing by the consultant arborist/ecologist prior to the issue of a Construction Certificate.
 - (c) All fenced tree protection areas and are to be clearly marked as "No Go Area" on all final approved engineering plans.
 - (d) All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas.
 - (e) The consultant arborist/ecologist may require other habitat and/or trees to be protected via fencing from time to time. This fencing is to be erected at the appropriate root zone protection limits (as determined by the consultant arborist / ecologist), prior to works being carried out around that particular habitat or tree.
 - (f) 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.
 - (g) The consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements.
- (3) All construction contractors and personnel are to be advised of the importance of conserving No Go Areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage or vehicles, fill or materials or access is to occur within retained areas.
- (4) Tree protection measures must be installed in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development prior to commencement of work. Documentary evidence from a qualified Arborist / Horticulturist that suitable tree protection measures have been installed may be submitted to the Principal Certifying Authority and Council, or alternatively Council must be notified to undertake an inspection of the works.

- (5) Native fauna must be appropriately managed during clearing and construction phases of the approved works. In this regard, an appropriately licensed fauna ecologist is to be employed to advise and supervise the clearing of trees. Where, in spite of precautions, wildlife is injured, the fauna ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as W.I.R.E.S or Wildlife Arc.
- (6) Trees containing trunk or branch hollows provide habitat and shelter to native wildlife. Removal of hollow bearing trees is to be done under the advice and supervision of an experienced wildlife carer or consultant who holds an appropriate National Parks and Wildlife Services Licence to mitigate against any animal welfare issues. The wildlife carer or consultant ecologist is to inspect all potential habitat trees prior to removal and identify evidence of fauna use. Should a threatened species be positively identified, all clearing works are to cease and the advice of the National Parks and Wildlife must be sought. When fauna are present, the animals are to be removed and suitably relocated by the ecologist prior to felling or the tree shall be sectionally dismantled under the supervision of the ecologist before relocating animals. Wildlife must be relocated locally to an area with adequate resources and provided with a nest box or relocated hollow under instruction from the licensed carer or consultant.

C5 Hours of Work

- (1) 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:
 - (a) between 7.00am and 6.00pm, Monday to Fridays inclusive;
 - (b) between 8.00am and 1.00pm, Saturday;
 - (c) no work on Sundays and public holidays.
- (2) Works may be undertaken outside these hours where:
 - (a) the delivery of materials is required outside these hours by the Police or other authorities;
 - (b) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
 - (c) the work is approved through the Construction Noise and Vibration Management Plan; and
 - (d) 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.

C6 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:
 - (a) for construction period of 4 weeks and under, not more than 20dBA;
 - (b) for construction period greater than 4 weeks but not exceeding 26 weeks, not more than 10dBA; and
 - (c) for construction period greater than 26 weeks, not more than 5dBA.
- (2) 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 Noise and Vibration 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), 5dBA must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

C7 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 Noise and Vibration Management Plan:
 - (a) 9.00am to 12.00pm, Monday to Friday;
 - (b) 2.00pm to 5.00pm, Monday to Friday;
 - (c) 9.00am to 12.00pm, Saturday.
- (2) 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 Noise and Vibration Management Plan.

C8 Vibration Criteria and Management

- (1) For all Stages of the project, vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the Environmental Noise Management - Assessing Vibration: A Technical Guide (DEC, 2006).
- (2) Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified in the DEC Technical Guide referred to above.

C9 Erosion and Sedimentation Control

The provision of soil erosion and silt controls on the site in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and/or Construction - Managing Urban Stormwater (Blue book) and the approved development plans prior to any works commencing on the site. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**

C10 Other Authorities

Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:

- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
- AGL Sydney Limited for any change or alteration to gas line infrastructure;
- Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
- Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

C11 Site requirements

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer; or
 - (b) have an on-site effluent disposal system approved under the LGA 1993, or be a temporary chemical closet approved under the LGA 1993 supplied by a licensed contractor.
- (2) 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.
- (3) The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) that
- identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work;
 - providing the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and
 - stating that unauthorised entry to the site is prohibited.
 - The sign must be maintained while the work is being carried out and is to be removed when the work is completed. (Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.)
- (4) The proponent shall ensure that the outside business hours contact telephone number is managed by a person with authority over the works for the duration of the development.

C12 Aboriginal Cultural Heritage

- (1) In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and representatives of the local aboriginal community must be contacted to determine the significance (cultural and scientific) of the object(s). The site is to be registered in the Aboriginal Heritage Information Management system (AHIMS) (managed by OEC) and the management outcome for the site included in the information provided to the AHIMS). The proponent will consult with the Aboriginal community representatives the archaeologist and OEC to develop and implement management strategies for all objects/sites.
- (2) If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEC's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until OEC provide written notification to the proponent.
- (3) All reasonable efforts must be made to avoid impacts to aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and OEC. All sites impacts must have a OEC Aboriginal Site Impact Recording (ASIR) form completed and submitted to OEC AHIMS unit within three (3) months of completion of these works.
- (4) An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on the site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community.

PART D – PRIOR TO SUBDIVISION CERTIFICATE**D1 Certificate/engineering details**

- (1) An application for a Subdivision Certificate must be submitted to and approved by the Council prior to registration of the plan of subdivision.
- (2) The submission to Council of documentation to demonstrate full compliance with all approval conditions in accordance with Section 157 Clause 2 (f) of the Environmental Planning and Assessment Regulations 2000 prior to issue of the Subdivision Certificate.
- (3) Prior to the issue of a Subdivision Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act and Council's Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

The following contributions are applicable to the proposed subdivision (based on 187 residential lots):

Category	Code	Rate (per DU/Lot)	Total Payable
Shire Wide	Regional Open Space	\$161.30	\$30,164.95
	Cycleway Network	\$330.90	\$61,882.05
	Performing Arts Centre and Public Art	\$373.40	\$69,827.65
	Administration	\$71.65	\$13,402.30
Roads	Northern Districts E	\$5360.45	\$1,002,407.90
Open Space	Northern Districts Open Space Local Parks	\$4209.20	\$787,120.40
Community Facilities	Northern Districts Community Facilities	\$3560.45	\$665,806.00
Administration	Northern Districts Administration	\$495.90	\$92,737.05
	TOTAL	\$14,563.36	\$2,723,348.40

The next indexation is to occur on 1 May 2011.

Agreements will need to be reached with Council regarding the provision of works in kind for any of these contributions.

- (4) 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 Subdivision Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

D2 Dilapidation

Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Subdivision Certificate.

D3 Landscaping

To ensure landscaping works are properly completed, the landscape architect must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan, prior to issue of an Occupation Certificate. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.

D4 Roads

- (1) All road signage and pavement marking works must be provided in accordance with the plans approved by the Local Traffic/Development Committee and approved by Council prior to issue of the Subdivision Certificate.
- (2) All additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council prior to issue of the Subdivision Certificate.
- (3) All works within a public road such as kerb and guttering, road pavement, drainage, footpaths, cycleways and vehicular access crossings must be in accordance with Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development and approved by Council as the Roads Authority under the Roads Act 1993, prior to the issue of an Subdivision Certificate.
- (4) The provision of a post construction Road Safety Audit for the intersections with Kanangra Drive. To be submitted to and approved by Council, prior to any Subdivision Certificate and/or any occupation, whichever comes first. Any alterations resulting from the audit are to be carried out by and at the developers cost.

D5 Stormwater

- (1) The stormwater system on the residual lot, including the stormwater detention basin and drainage to the discharge point to Lake Macquarie, shall be constructed by the proponent, and an easement created for the Council to manage the stormwater system on this lot, prior to issue of the Subdivision Certificate
- (2) The provision of details for the access, maintenance and operation of the constructed wetland in accordance with the wetland management plan are to be approved by Council prior to issue of the Subdivision Certificate. Arrangements are to be made to Council's satisfaction regarding the provision of easements for the receiving waters.
- (3) 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 Subdivision Certificate.

D6 Subdivision Works

- (1) The submission of a survey prepared by a registered surveyor certifying that all lots have been filled to the required flood planning level and any additional requirements by the Mine Subsidence Board prior to the issue of the Subdivision Certificate.
- (2) The provision of a report to Council by a consulting engineer classifying each lot being created in accordance with AS2870-1996 - Residential Slabs and Footings, prior to issue of a Subdivision Certificate.
- (3) The provision of Works as Executed information as identified in Council's Development Control Plan 67 - Engineering Requirements for Development prior to issue of the Subdivision 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 Subdivision Certificate.

D7 Maintenance Deposit

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

D8 Registration of Easements/Restrictions to use

- (1) Prior to the issue of any Subdivision Certificate, the Proponent shall provide evidence to the Certifying Authority that all easements for services including sewer, water supply, stormwater system and drainage and Section 88E covenants required by this approval, and other consents have been or will be registered on the certificates of title.
- (2) Covenants pursuant to Section 88E of the Conveyancing Act 1919 shall be established for
 - (a) the provision of and maintenance of asset protection zones in accordance with Planning for Bushfire Protection 2006, on the title to Lots 129 to 138; and
 - (b) the prohibition of direct vehicular access to properties from Kanangra Drive, on the title to Lots 101 to 111, and 115 to 129.

Where possible, the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.

- (3) Any Section 88B or 88E Instruments creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

PART E – ONGOING CONDITIONS

E1 Mine Subsidence

Any changes to the lot numbering and registered DP than that shown in the Environmental Assessment shall be reported to the Mine Subsidence Board.

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Wyong Shire Council, 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.

AN2 Roads Act, 1993

A separate application shall be made to Council for approval under Section 138 of the *Roads Act, 1993* to undertake any of the following:

- (1) erect a structure or carry out a work in, on or over a public road, or
- (2) dig up or disturb the surface of a public road, or
- (3) remove or interfere with a structure, work or tree on a public road, or
- (4) pump water into a public road from any land adjoining the road, or
- (5) connect a road (whether public or private) to a classified road.

AN3 Stormwater Drainage Works or Effluent Systems

Works that involve water supply, sewerage and stormwater drainage work or management of waste as defined by Section 68 of the Local Government Act, 1993 require separate approval 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.

AN4 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.

AN5 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

AN6 Long Service Levy

Under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Council. Under section 109F(1) of the *Environmental Planning & Assessment Act, 1979* this payment must be made prior to commencement of building works.

AN7 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 and Assessment Act, 1979*. 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
STATEMENT OF COMMITMENTS

PART A - GENERAL

A1. Development Control

The Proponent commits to a set of design guidelines setout in the Draft Development Control Plan. Future development is to comply with the approved DCP.

Responsibility – Proponent and Department of Planning

A2. Dedications

A plan of subdivision providing for dedication of the environmental offset lands has been previously approved and the subject land transferred to DECC.

Note

A3. Bushfire Management

Bushfire hazard will be managed consistent with Planning for Bushfire Protection Guidelines by:

- Use of fire trails.
- Installation of hydrants as appropriate APZ's implemented as required.

Asset Protection Zones managed as follows:

- On Torrens Title subdivision lots by incorporating the APZ into the individual lots with positive covenants applying management requirements;

Responsibility – Proponent and Occupants

A4. Land Contamination Investigation

To ensure the site is suitable for residential purposes additional assessment will be carried out as required. Site audits will be carried out as necessary to certify the suitability of the site for the proposed uses and according to SEPP55 Guidelines.

Responsibility – Proponent

A5. Community Consultation

A detailed programme for future community consultation will be formalised by the proponent and agreed by the Department, within three months after the determination date of the Project Application to the satisfaction of the Department.

Responsibility – Proponent

A6. Utilities

Utilities will be provided as follows:

- Provision of water and sewer services by Wyong Council;
- Collection of stormwater for open space irrigation
- Carefully managed and treated stormwater discharges.

Responsibility – Proponent and Wyong Council

A7. Traffic Management

The Proponent commits to negotiate with the bus operators and Transport NSW to discuss potential to expand the bus service into the site.

Responsibility – Proponent

A8. Submission of Subsequent Applications

Subsequent project applications for the development of the subject site will be in accordance with the approved Design Control Plan(DCP).

Responsibility – Future Applicant

A9. Developer Contributions

The Proponent will pay contributions in accordance with the Wyong Council Section 94 Plan for Northern Districts Catchment E. The total monetary contribution will be made up of dedication, monetary contribution and Works in Kind or any combination of them.

The Proponent will enter into a Deed of Agreement with Wyong Council.

Responsibility – Proponent/Department of Planning

A10. Regional Infrastructure

The Proponent proposes to make a monetary contribution or Works in Kind for the provision of regional infrastructure as determined by the state government generally in accordance with the principles setout in the Infrastructure Contributions Plan Circular PS08-017, 23rd December 2008. The Proponent has agreed to enter into a Voluntary Planning Agreement with the Minister which is currently on exhibition.

Responsibility – Proponent/Department of Planning

A11. Council Dedications and Titling Arrangements

The following items are to be dedicated to the local Council at no cost to the Council:

- All roads within the development.
- Main Reserve on the south east corner of the site
- Pocket Park at the northern central part of the site.

All other land is to be Torrens Title freehold land.

Responsibility – Proponent/Department of Planning

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1. Landscaping and Bushfire Management

Detailed landscape plans are to be submitted to the Certifying Authority prior to the issue of a Construction Certificate. The landscape plans are to be generally in accordance with the approved plans. The plans are to show compliance with Planning for Bushfire Protection requirements for asset protection zones.

B2. Flora and Fauna Environmental Management

A Flora and Fauna Environmental Management Plan shall be submitted to the Certifying Authority in accordance with the recommendations outlined in the Ecological Assessment Report No. 24619 dated September 2010 prepared by RPS. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B3. Bushfire Management

The final design of the subdivision is to take into account the recommendations made in the Bushfire Hazard Assessment Report Version A dated 17th November 2010. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B4. Geotechnical

Provide a geotechnical report confirming classification of soil and that the footing design complies with AS2870 taking into account the recommendations made in the Geotechnical Investigation Report No.3438-003/0 prepared by RCA and the Preliminary Environmental Site Assessment Report No.N4080801 prepared by HLA. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

PART C — PRIOR TO COMMENCEMENT OF WORKS

C1. Notice to be Given Prior to Excavation

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

C2. Traffic & Pedestrian Management Plan

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and

The Applicant shall submit a copy of the approved plan to the Department.

C3. Noise and Vibration Management Plan

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Director. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this consent,
- (4) The construction vibration criteria specified in the conditions of this consent,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this consent.
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

The Applicant shall submit a copy of the approved plan to The Department.

C4. Construction Noise Objective

Approved silencing measures shall be provided and maintained on all power-operated plant used in demolition, excavation, earthworks, and construction of the building, or work.

C5. Aboriginal Heritage

Prepare a brief report which includes an updated search of the AHIMS register by DECCW and if required, updated mapping advice.

PART D — PRIOR TO SUBDIVISION CERTIFICATE

D1. Subdivision of Land

This consent allows for a 189 lot land subdivision plus 1 residual lot. A subdivision certificate for complying development may be issued by an accredited private certifier under Division 3 of Part 23 of the Conveyancing Act 1919.

D2. Registration of Easements

Prior to the issue of the relevant Occupation Certificate for subsequent project applications, the applicant shall provide to the PCA evidence that all easements required by this approval and subsequent project approvals, and other relevant consents have been or will be registered on the certificates of title.