

NOTICE OF MEETING

Notice is hereby given that a meeting of

MidCoastCouncil

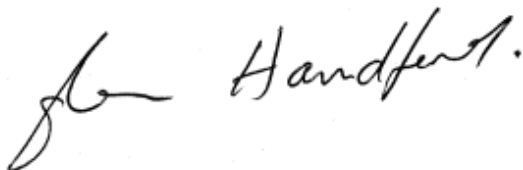
DEVELOPMENT CONTROL UNIT

Will be held at the Administration Centre, 4 Breese Parade, Forster

7 DECEMBER 2016 AT 2.00PM

The order of the business will be as detailed below (subject to variation by Council)

1. Declaration of Pecuniary or Conflicts of Interest (nature of Interest to be Disclosed)
2. Apologies
3. Confirmation of Minutes
4. Matters Arising from Minutes
5. Address from the Public Gallery
6. Matters for Information
7. Close of Meeting



Glenn Handford
INTERIM GENERAL MANAGER

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CONSIDERATION OF OFFICERS' REPORTS:

DIRECTOR PLANNING AND NATURAL SYSTEMS

1 DA 89-2016 - MULTI DWELLING HOUSING DEVELOPMENT - 19 GREENVIEW CLOSE, FORSTER

Report Author David Pirie, Senior Development Assessment Planner (Forster)

File No. / ECM Index DA 89/2016 & PK 20760

Date of Meeting DCU 7 December 2016

DETAILS

Date Received: Original proposal: 3 September 2015

Amended plans: 22 August 2016

Applicant: Dustin Leaney Homes & Architecture

Owner: Mr O Awad

Land: 19 Greenview Close, Forster (Lot 8 DP 806667)

Area: 1807m²

Property Key: 20760

Zoning: R2 Low Density Residential, GLLEP 2014

SUMMARY OF REPORT

1. The assessment report on the original development application for seven (7) townhouses was deferred from the Ordinary Council Meeting of 23 February 2016 at the applicant's request.
2. Amended plans for five (5) townhouses were subsequently lodged with Council on 22 August 2016. The amended proposal also reduces the northern two (2) dwellings to single storey dwellings, relocates the driveway to the eastern side of the site and introduces new roof designs, facades and external materials.
3. Five (5) submissions were received as a result of the notification of the amended proposal to adjoining owners and the original objectors.
4. The proposal complies with the statutory requirements of FSR and height and substantially complies with the numerical requirements of the Great Lakes Development Control Plan.
5. The amended proposal, which reduces the originally proposed number of dwellings by two (2) dwellings and also reduces the northern two (2) dwellings to single storey dwellings, will ensure an appropriate scale and contextual fit within the cul-de-sac streetscape to maintain a low density residential character to the area.

SUMMARY OF RECOMMENDATION

That the development application be approved.

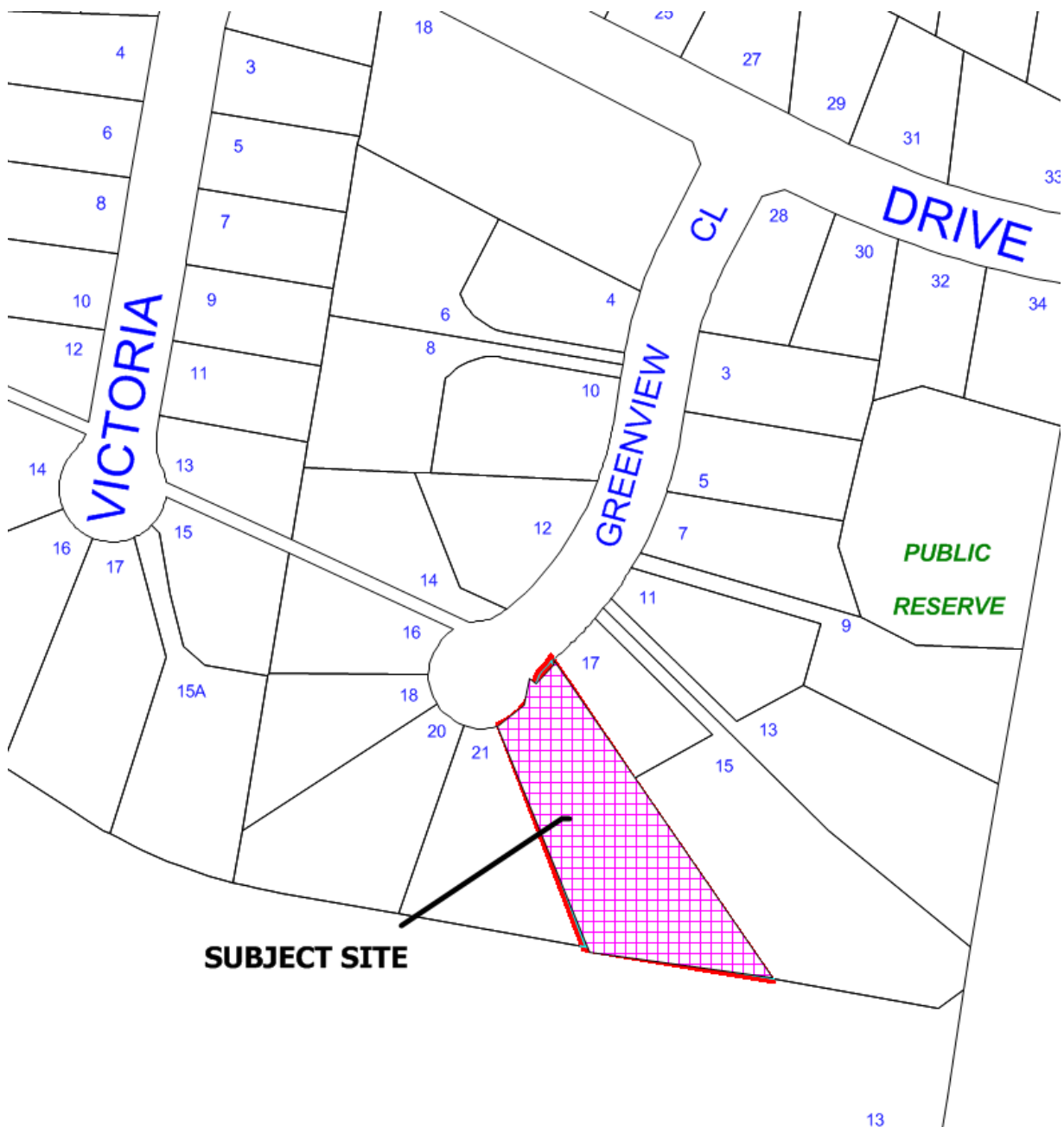
FINANCIAL/RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

As with any determination of a development application, the applicant will have appeal rights if dissatisfied with the determination. The Council must consider the application on its merits, despite any risk of legal proceedings being commenced.

SUBJECT SITE AND LOCALITY:



BACKGROUND

- The development application for the construction of seven (7) residential dwelling units, consisting of three (3) attached two (2) storey townhouses at the northern end of the site and four (4) attached three (3) storey townhouses at the southern end of the site was referred to the Ordinary Council Meeting of 23 February 2016. The application received seven (7) submissions containing objections to the application, including a petition with 27 signatures.
- The assessment report to Council recommended refusal of the application on 13 grounds of refusal, with the substantive consideration being that the proposal was an overdevelopment of the site and was contextually inappropriate given the site constraints and the retention of the area character. At the request of the applicant, Council resolved at that meeting to defer consideration of the matter, in order that the grounds for refusal be addressed through a redesign of the proposed development.
- Following the deferral of the application, the applicant attended a number of Development Assessment Panel meetings (15 March 2016 and 24 May 2016) to discuss the issues raised in the recommendation for refusal and to formulate a revised scheme for the application.
- Amended plans were received on 22 August 2016 for a revised proposal for five (5) townhouses on the site and the application was notified to neighbouring properties and original objectors on 13 September 2016. The amendments include the following:
 - Reduction in the number of dwellings by two (2) dwellings, with the number of dwellings now proposed being five (5) dwellings.
 - The northern two (2) dwellings reduced to single storey dwellings.
 - Relocation of the driveway to the eastern side of the site.
 - Changes to the roof designs, facades and external materials.

PROPOSAL

The amended application proposes the following:

- The construction of five (5) residential dwelling units, consisting of two (2) attached single storey villas at the northern end of the site and three (3) attached three (3) storey townhouses at the southern end of the site.
- Each proposed dwelling has three (3) bedrooms, with a double car garage provided for the two (2) northern villas and single car garages provided for each of the three (3) southern townhouses, with an additional external car parking space provided for each of these southern townhouses.
- Site works, including drainage and access driveways.
- Strata title subdivision of the completed development.

Plans of the proposal are contained in Attachment 'A' to this report

SITE DESCRIPTION

The subject site (the site) is vacant land located on the southern side of the head of the cul-de-sac on Greenview Close. The site is irregular in shape and has a frontage width of approximately 18m to Greenview Close and a rear boundary width of 43m, however, as the Statement of Environment Effects notes, the useable site width at the rear of the site is only approximately 31m due to the acute angle of the rear boundary. The site falls from the street to the south-eastern corner by approximately 6m.

The site has an overall area of 1807m², is identified as Lot 8 DP 806667 and is burdened by three (3) easements as follows:

- Easement to drain water 3m wide, along the western boundary of the site, from the street to the rear boundary.
- Easement to drain sewerage 3m wide, running east-west across the site, approximately mid-way down the site towards the rear boundary.
- Easement to drain water, 3m wide, running east-west across the site but situated towards the rear boundary.

The land adjacent to the north-east of the site has been subdivided into two (2) lots, with the lot to the north (17 Greenview Close) having a single storey dwelling on it, with the lot to the southern end (15 Greenview Close) also being occupied by a single storey dwelling with a large rear yard. This property (15 Greenview Close) has received a development consent to DA 364/2016 on 1 June 2016 for a further two (2) lot subdivision of the land.

Neighbouring the site to the west (21 Greenview Close) is a part one/part two storey dwelling located mid-way down the site. The site shares a rear (southern) boundary with the Lakeside Resort, which is a caravan park. The surrounding area, with the exception of the caravan park, is residential in character and consists predominantly of one (1) and two (2) storey dwellings and dual occupancies, comprising typically of brick veneer construction.

REPORT

The following matters listed under Section 79C of the *Environmental Planning and Assessment Act, 1979*, are relevant in considering this application:

- a) ***The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.***

Great Lakes Local Environmental Plan 2014

Clause 1.9A – Suspension of covenants, agreements and instruments

Under Clause 1.9A, for the purpose of carrying out the proposed development on the land, any covenant, agreement or other instrument that restricts the carrying out of the development as proposed does not apply unless the covenant is imposed by Council or that Council requires it to be imposed.

The restrictions in favour of Council are the easements to drain sewage and water, and the restriction on the title that limits access (other than pedestrian access) from Tea Tree Road and Pipers Bay Road and the erection of dwellings south of the sewer easement. All other restrictions on the title that include fence heights; metal roof pitch; dwelling size, and external building materials may be varied by the granting of development consent.

The only amendment/variation to the terms of the restriction that benefits Council that is required as a result of is the amended proposal is the location of Dwellings 4, 5 and 6 south of the sewer easement. As the Council is the beneficiary of the terms of this covenant, it is the authority that is empowered under the Instrument to release, vary or modify the restriction. MidCoast Water have advised that they have approved the amended proposal, which locates Dwellings 4, 5 and 6 south of the sewer easement, subject to conditions, and that also notes that the basements of Dwellings 3,4 and 5 cannot access the MidCoast sewer mains as they are lower than the mains. This does not restrict the connection to the sewer main for the other levels in these dwellings. Accordingly, Council may support the modification of the terms of the covenant to permit the development.

Part 2 - Land use table

The site is zoned R2 Low Density Residential under the *Great Lakes Local Environmental Plan 2014* (LEP) and the proposed development is characterised as a 'multi dwelling housing' development, which is permissible with development consent. 'Multi dwelling housing' is a type of residential accommodation and means:

"3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building".

The relevant objective of the zone is "to provide for the housing needs of the community within a low density residential environment". It is considered that the amended proposal, which reduces the originally proposed number of dwellings by two (2) dwellings and also reduces the northern two (2) dwellings to single storey dwellings, will ensure an appropriate scale and contextual fit within the cul-de-sac streetscape to maintain a low density residential character to the area. The proposal is therefore considered not inconsistent with the relevant zone objective.

Clause 4.3 Height of buildings

The maximum height of buildings for the site is 8.5m, as shown on the Height of Buildings Map. The proposal meets the height of buildings requirement, with the maximum height of the development being 8.46m on Dwelling 5.

Clause 4.4 Floor space ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The floor space ratio map provides a maximum floor space ratio of 0.5:1 for the site. The proposed development does not exceed the maximum applicable floor space ratio for the site, having a floor space ratio of 0.45:1.

Clause 5.5 Development within the coastal zone

The relevant objectives of the clause are to provide for the protection of the coastal environment by promoting the principles of ecologically sustainable development and to implement the principles of the NSW Coastal Policy (discussed later in this report under the heading 'NSW Coastal Policy 1997').

Under part 2(b) of this clause, Council must consider the suitability of the proposed development, its relationship with the surrounding area and its impact on its natural scenic quality, taking into account the type of the proposed development, its bulk, scale, size and overall built form of the design in relationship to its location.

It is considered that the amended proposal will not be inconsistent with the existing surrounding development, due to the reduction in the number of dwellings, the reduction in height of the front two (2) dwellings to single storey and the design changes proposed, including the changes in the type of materials to be used and changes in the roof form. The proposal is therefore considered to satisfy the relevant objectives and matters listed for consideration under this clause.

Clause 7.1 Acid sulfate soils

The objective of the clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The Acid Sulfate Soils Planning Map identifies the site as containing Class 2 land in the rear (southern) section of the site, and Class 5 land in the front (northern) section of the site. A Geotechnical Assessment report has been prepared for the site by Regional Geotechnical Solutions, dated 11 July 2016. This found that the test soils were:

“acidic in nature but are not considered to be Acid Sulfate Soils due to the absence of oxidisable sulphur. As such, an Acid Sulfate Soil Management Plan will not be required. However, it would be prudent to apply lime at a rate of 8kg/tonne (dry weight) to excavation spoil that is to be re-used in order to neutralise the acid which is present in the site soils”.

In accordance with the above findings, while the acidity is not sulphur based, it is considered a precautionary measure for the recommendation of the geotechnical report to be included as a condition of consent.

Clause 7.2 Earthworks

The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed development involves excavation and fill works to construct the development and install services. Issues of soil erosion, sedimentation and drainage impacts need to be managed during the construction process. Appropriate conditions of consent to address the objective of this clause are contained in the Recommendation of this report.

Clause 7.3 Flood planning

This clause applies to land identified as the "Flood Planning Area" on the Flood Planning Map. A small section at the rear of the site is mapped as flood prone land to the year 2060. The area is along the southern boundary where the bio-retention basin is to be constructed. The remainder of the site is considered flood free. As no buildings are proposed within the potential flood affected area, no substantive issues arise with regard to flooding.

Clause 7.5 Stormwater management

The objective of this clause is to minimise the environmental impacts of stormwater on the site and adjoining properties, native bushland, groundwater, wetlands and receiving waters. Council must not grant consent to development unless it is satisfied that the proposal will incorporate an appropriately managed and maintained stormwater management system that will maintain or improve the quality of stormwater discharged from the land.

It is proposed to drain the site stormwater to the bio-retention basin/rainwater garden that has been proposed to be located in the south-east corner of the site, parallel to the rear 3m wide easement to drain water that burdens the site. The amended proposal includes a Water Sensitive Design Strategy including a MUSIC model for the development, which was prepared by Josh Dennis of Dennis Partners. The MUSIC model was peer reviewed and amendments were made and on further review it was found to be satisfactory.

The stormwater treatment train proposed for the site includes:

- Rainwater tanks on each of the five (5) units for toilet and laundry reuse and outdoor garden irrigation.
- Runoff from the development footprint, including rainwater tank overflow and all other hardstand, to be directed to the bioretention basin, with filter area of 53m², on land that will be managed under the Strata Title Management.
- The bioretention basin and stormwater connections are to be constructed on common property that provides adequate access for regular maintenance.

The MUSIC model confirms that the proposed treatment train concept achieves the load reductions targets applying to this site.

The design provided is deemed adequate for approval, however further information is required to demonstrate the capacity of subsoil underdrains to adequately drain the bioretention basin and also the submission of a detailed maintenance plan. It should be noted that the bioretention basin (rain garden) is shown as Community Property in the Draft Strata Subdivision Plan, however, access for maintenance purposes appears to be over land which forms part of the entitlement of Dwelling 5. A sufficiently wide access path is required as community property for maintenance purposes. Appropriate deferred commencement conditions are included within the Recommendation of this report.

Clause 7.21 Essential services

This clause requires that development consent must not be granted to development unless the Council is satisfied that essential services (i.e. water, electricity, sewage, stormwater drainage and road access) are available or that adequate arrangements have been made to make them available. All services are available to the site and appropriate conditions of consent are included within the Recommendation of this report.

State Environmental Planning Policy No. 71 Coastal Protection

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) applies to all land within the coastal zone as defined in the Coastal Protection Act 1979 and accordingly applies to the subject site to the extent of requiring Council to consider the aims of the Policy and matters listed in Clause 8 and 16 (Stormwater) of the Policy. In this regard, the amended proposal is considered consistent with the aims of the Policy and acceptable for the following reasons:

- The reduction in scale of the amended design (when compared to the original proposal), in particular the location of the single storey built form to the front of the site and the higher level built form to the rear of the site is considered suitable for the site and the context of the surrounding area, without any significant detrimental impacts to neighbouring properties.
- The overall built form, including materials and roof form, have been amended to be more responsive to the coastal character of area.
- Issues previously raised in regard to the stormwater strategy have been substantially addressed with the amended proposal and any outstanding issues may be addressed by way of deferred commencement conditions (refer the 'Stormwater Drainage' in Part (b) of this report).

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP: BASIX)

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP: BASIX) applies to all new housing developments in New South Wales and requires that they be designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets. The SEPP: BASIX must be read in conjunction with the Environmental Planning and Assessment Regulation 2000, which requires that a development application must be accompanied by a BASIX certificate.

The BASIX certificate stipulates commitments that must be shown on the development application (DA) plans at the DA stage and on the construction certificate plans. In this regard the application is deficient in that, not all the DA commitments are shown on the plans, i.e. not all water tanks and their size specifications, thermal insulation requirements and solar panels are also not shown. Accordingly, the plans must be amended to reflect the DA commitments stipulated in the BASIX certificate. This may only be appropriately dealt with by way of a deferred commencement condition of consent.

NSW Coastal Policy 1997

The *NSW Coastal Policy 1997* (the Coastal Policy) is a Government Policy, which is a prescribed matter pursuant to Section 79(C) of the *Environmental Planning and Assessment Act, 1979*. This requires Council to consider the relevant strategic actions of the Policy when assessing development applications. The Coastal Policy contains a detailed range of objectives and strategic actions for coastal zone planning and management. Objective 3.2 of the Coastal Policy is:

"to design and locate development to complement the surrounding environment and to recognise good aesthetic qualities".

It is considered that overall built form and aesthetic value of amended design has been considerably improved by the change in materials and roof design. As such, the amended proposal will ensure a more complementary fit with the surrounding residential environment. Deferred commencement conditions are recommended to ensure an appropriate palette of colours are chosen for the materials selected in the design and the use of local native plant species in the landscaping.

Coastal Design Guidelines for NSW

The *Coastal Design Guidelines for NSW* (the Guidelines) were developed jointly by the NSW Coastal Council, Planning NSW Urban Design Advisory Service and Tourism NSW with reference to the NSW Government's Coastal Policy 1997, and complement the Government's Coastal Protection Package released on 26 June 2001 and *State Environmental Planning Policy No. 71 – Coastal Protection*. The Guidelines are based on the principles of ecologically sustainable development and are designed to assist in the decision making process for proposed development in the coastal zone.

It is considered that the architectural form of the amended proposal will not be inconsistent with that found in the coastal environment and the reduction in scale of the development, through the submission of the amended design, will be in keeping with the surrounding development in Greenview Place, where it will be viewed predominantly as a one (1) and two (2) storey development of units. Although the units in the southern portion of the site have a three (3) story form when viewed from the southern adjoining neighbour (the Lakeside Resort/Caravan Park), the view from within the caravan park is broken by the row of large *Casuarinas* planted in the caravan park along the fence line that adjoins the subject site. Additionally, the three (3) rear dwellings in the amended proposal have been provided with a large setback (approximately 10m), which forms a considerable area capable of deep soil planting, notwithstanding the bio-retention area is located at the south-eastern corner. A deferred commencement condition of consent is included for a revised landscape plan that provides additional screening at the rear of the site.

Great Lakes Development Control Plan

The amended proposal generally complies with the numerical provisions of the DCP (refer Annexure 'A' for a compliance table). The only areas of non-compliance are considered minor and related to the requirements for the front setback (Unit 1), the eastern side setback (Unit 5) and landscaping along the driveway. These minor areas of non-compliance are discussed in further detail below in the report.

The proposal has been amended to reduce the number of dwellings from seven (7) dwellings, consisting of three (3) attached (2) storey townhouses at the northern end of the site and four (4) attached three (3) storey townhouses at the southern end of the site to five (5) dwellings, consisting of two (2) attached single storey dwellings at the northern end of the site and three (3) attached three (3) storey townhouses at the southern end of the site.

The amended design, which sites the single storey element to the street front and the higher storey element at the rear of the site, projects a more appropriate mass and scale of buildings in Greenview Close. Unit 1 now has the front of the dwelling addressing the street, as opposed to the original design, in which the side of the dwelling was facing the street and the front orientated to the eastern neighbour. In addition, the amended design includes a more appropriate built form that includes an improved selection of materials (a combination of brick and lightweight cladding) to match the existing built form in Greenview Close, a roof form that includes metal roof sheeting with a greater roof pitch to the front dwellings, including a 15 degree skillion roof line on Unit 1 facing the street, and the introduction of eaves into the building design. Overall, it is considered that the amended proposal is more in keeping with the existing and desired future coastal character of the area. A schedule of external colours and materials is a requirement of a deferred commencement condition of consent to further ensure contextual fit in the locality.

Issues of overlooking/privacy and overshadowing, both to adjoining neighbours and internally within the site, have largely been resolved through the reduction of the northern most dwellings to a single storey building element on the site and the deletion of first floor northern balconies from the rear (southern) units. While the level of solar access afforded to the three (3) dwelling units at rear (southern end) of the site is not ideal, it is not considered a sufficient reason to sustain the refusal of the application.

The amended proposal has improved the amount of landscaped area and area capable of deep soil landscaping on the site when compared to the original proposal. However, notwithstanding compliance with the numerical requirements for overall landscape area and deep soil planting, the submitted landscape plan is deficient in that amendments are required to plant species, the introduction of specimen/feature trees within the front (street) setback, as well as detail to paving and structures over Council's drainage easement, amongst other matters. An appropriate deferred commencement condition of consent for an amended landscape plan is contained in the Recommendation of this report.

It should be noted that a 1.5m landscape strip along the eastern side of the driveway has not been provided in accordance with DCP requirements, however, a landscape bed with a general width of 1m is located on the western side of the driveway in front of Units 1 and 2, as well as a semi-circular garden bed on the eastern side of the driveway, immediately south of Unit 2. It is considered that these beds will provide some softening of the expanse of hard surface area of the driveway. While a larger curvilinear landscape bed located along the western edge of the driveway would be considered desirable to soften the driveway and shield the development from the eastern neighbours, it is considered that the form of the design, as proposed, is not sufficient reason to sustain refusal of the application.

All units are provided with private open space areas, well in excess of that required by the DCP. Although there is variability in the width of the private open space areas for Units 1 and 2, it is considered that these areas are still functional, with covered decks provided as outdoor extensions of the dining and lounge areas of these units respectively. As these decks can be higher than natural surface level by approximately 200mm at some points, it is considered that the western boundary fence should be constructed to a height of 2m instead of the 1.5m as proposed. Details for front fencing forward of the building line must be of appropriate materials to complement the built form of the building and be a maximum height of 1.2m and a minimum of 50% open construction. These details are required as part of the landscaping plan recommended as a deferred commencement condition of consent.

While the proposal provides a variable front setback between approximately 6m and 10.2m, which is a variation to the DCP requirement of 11m for infill development, the amended design does present a staggered building line between the neighbouring buildings to the east and west of the site fronting the cul-de-sac. This proposed building line is generally consistent with the curve of the cul-de-sac head. On this basis, the variation is considered acceptable in the circumstances.

In regard to the variation required for eastern side setback for Unit 5, the eastern wall of this dwelling has a setback to the eastern boundary varying between 1.675 and 3.001m, while the required setback based on its wall height is 1.92m. The length of wall for which a variation is required contains only opaque windows at the upper level. At the ground floor level, in this section of the wall, a laundry window is proposed with a sill height of 1.7m, the other two (2) windows in this section of the wall are provided for the bathroom and the kitchen. It is considered that these windows may be conditioned to be opaque also to minimise potential privacy impacts to the adjoining property to the east.

b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The scale, bulk and massing of the proposal has been significantly reworked in the amended design and it is considered that it will not be visually obtrusive in the context of the existing streetscape and will not detract from the character of the locality.

Site Design and Internal Layout

The siting of the units is constrained by the location of the drainage easement adjacent to the western boundary and Council's stormwater drainage pit on the kerb on the western side of the site frontage. This effectively limits vehicular access to the eastern part of the site. The drainage easement near to the southern boundary, as well as the sewer main that runs diagonally across the middle of the property, partitions the development into two (2) areas on the site and as well limits the southern extent of the development on the site.

Visual Impact

The visual impact to the street has been significantly reduced in the amended design through the reduction in the number of units in the front portion of the site (forward of the sewerage easement) to two (2) units and also the reduction in height in this part of the site to single storey development maintains the existing streetscape character.

Waste Management

Council has a three (3) bin collection system, with two (2) bins being collected for each unit on the designated collection day. The proposed five (5) dwellings will result in up to 10 bins on the kerb on collection day. It is considered that there is sufficient kerb space for the required number of bins on collection day, if placed on either side of the driveway crossing. Discussions with JR Richards (Council's Waste Contractor) has confirmed that there will be sufficient space to place the bins on either side of the driveway and in order to allow the normal waste collection vehicle to collect the bins (as a fully automated service), the area in front of the site would need to be made a no standing zone for cars. Alternatively, the future owners in the development would be required to pay an increased annual fee for their garbage service for the driver of the waste collection service to wheel the bins in and out to the waste collection vehicle.

It is proposed that each dwelling will provide individual waste storage within their private garage or their allocated car space and as such there is sufficient space to provide the necessary bin storage. Accordingly a bin enclosure at the front of the property (as previously proposed in the original application) is not required. Each dwelling will be responsible for the placement and retrieval of bins from the kerb as expected of any other dwelling in the residential precinct.

Access and Car Parking

The development has an approximate 18m road frontage to the cul-de-sac head of Greenview Close, with the access driveway located on the eastern side of the site and the double garage of the front dwelling facing the street. Access to the garages and car spaces provided for the other dwellings is proposed via the driveway that runs down adjacent to the eastern boundary to the central portion of the site. No visitor parking is required for this form of development under Council's Great Lakes Development Control Plan. As such, the three (3) external car spaces are proposed to be allocated individually to the three (3) rear units, which each only have a single enclosed garage. Both Dwellings 1 and 2 are provided with a double garage and it should be noted that the eastern car parking space of Dwelling 2 will require a 5 point turn instead of the normal 3 point turn to enter and leave the site in a forward direction. As the western car space to this dwelling will be able to be accessed with a 3 point turn, the entry to the western car space is considered a minor variation and is therefore acceptable.

Utilities

Electricity, telecommunications and reticulated water and sewer are available to the site

Easements

There is a 3m wide easement to drain water that burdens the site and benefits Council. This easement is located adjacent to the western boundary and also runs parallel to the southern boundary, approximately 7m from the rear (southern) boundary of the site. There is also an easement to drain sewer, which benefits MidCoast Water and is located approximately in the middle of the site running in an east-west direction. These easements limit the location of the built form of the development. It should be noted that access for maintenance purposes to the bioretention/raingarden and required detention area is limited by the external car space allocated to Dwelling 5 this will require a right of way to be created for this purpose within the strata plan.

Stormwater Drainage

The easement to drain water contains a 375mm diameter stormwater pipeline and drains the cul-de-sac head of Greenview Close. The original subdivision design plans for Greenview Close included a vee drain constructed over the easement for overflow for the stormwater flows in excess of the pipeline capacity. The vee drain allows a water depth of 0.15m. The vee drain will need to be re-established where the easement is located adjacent to the western boundary.

Note that there is an existing bottlebrush tree located at the front of the property within the drainage easement, which will be required to be removed.

There are a number of stormwater drainage issues that remain unresolved by the applicant and which are subject to a deferred commencement condition of consent:

- The applicant has not fully investigated the levels and the location of the stormwater drainage pipeline that burdens the site.
- The balconies located on the ground floor of Units 3, 4 and 5, and the patios of Units 3, 4 and 5 (at the basement level) encroach into the easement to drain water by 600mm. These balconies and patios will be required to be deleted from the plans. These balconies and patios do not comply with Council's Policy for *Building over or Adjacent to Council Stormwater Pipelines*, which requires any overhang onto easements to have a minimum 5m clearance from the ground.

Flooding and Climate Change

The development site levels vary from approximately RL 8.3m AHD at the front of the property to RL 1.8m AHD at the south-eastern (rear) corner of the site. The lowest proposed floor level is RL 3.25m AHD.

The Wallis Lake Floodplain Risk Management Study and Plan (2014) provides following flood levels for this area:

Event (ARI)	Year 2012 with no ocean level rise	Year 2060 with 0.5m ocean level rise	Year 2100 with 0.9m ocean level rise
PMF (extreme flood)	RL 4.4m AHD	RL 4.5m AHD	RL 4.6m AHD
100 year	RL 2.0m AHD	RL 2.4m AHD	RL 2.7m AHD
10 year	RL 1.5m AHD	RL 1.9m AHD	RL 2.3m AHD

The site is classified as an 'infill development', however, the site is mainly above the 2100 year flood levels, with the flood level due to sea level rise to 2100 being RL 2.7m AHD.

The development site is currently partially affected by flooding along the western boundary where the bio-retention basin and an associated retaining wall will be constructed. Otherwise the development is considered flood free.

c) The Suitability of the Site for the Development

The site is not significantly impacted upon by natural hazards, although constrained by a number of easements (as discussed previously), and is considered suitable for the scale of residential development as proposed in the amended design.

d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners and original objectors in accordance with Council's Policy between 13 September 2016 and 29 September 2016 and five (5) submissions were received. The submissions referred to the following issues:

1. Area character and overdevelopment of site

- The new plans of dwellings 1 and 2 at the top of the block are a vast improvement on the previous plans and quite attractive. From the front of the property it now looks in keeping with the rest of the street. The fact that they are now single storey and the driveway is relocated, is now quite acceptable as far as privacy is concerned to the adjoining property (17 Greenview Close).
- The proposed development is incompatible and out of character with this residential precinct.
- Acknowledge the reduction in the number of dwellings and improved appearance through a better choice of building materials, however consider the proposal is still an overdevelopment of the site and in conflict with title and building restraints as originally detailed (i.e. non-compliance with all the restrictions on the title of the land, including the use of materials and for no development south of the sewer easement).
- Density of development still too great with 5 units, including 3 x three storey units south of the sewer easement.
- Concrete driveway will be located over sewer easement.
- A lack of play area for any children. If there are children living in these dwellings, the only place they will be able to play is on the driveway and that is a great risk, especially if the children are down the back and cars fly down the side driveway and can't see until they turn at the back of Dwelling 2.

Comment:

The scale of the development has been considerably reduced in the amended proposal and has been discussed throughout this report. It is considered that it has an improved streetscape appearance, through the combined use of brick and lightweight materials and the changes made to the roof design. The design is generally cognizant with the constraints on the site layout imposed by the water and sewer easements (refer to the sub-heading discussion of easements under Clause 1.9A of 'Great Lakes Local Environmental Plan 2014' above in the report). In regard to the sewer easement, MidCoast Water have granted approval to the amended design and has acknowledged that their infrastructure may adequately service the development, however, the basement level of Dwellings 4,5 and 6 will not be able to access the MidCoast Water sewer mains as they are lower than the mains. Each dwelling is provided with their own areas of private open space, of sufficient size for outdoor recreation purposes in accordance with the Great Lakes Development Control Plan.

2. Loss of privacy and outlook

- Loss of privacy and amenity to adjoining and any future residents and their private yards from the 3x3 bedroom, 3 storey townhouses at the rear of the site. The applicant has not provided any landscape privacy screening on the site and is reliant on the existing planting on the adjoining boundaries to the south and east. This is unacceptable as there is no guarantee that this planting will remain in the future.
- The outlook from the back of 17 Greenview Close has not improved, i.e. looking straight at the north facing wall of the three 3 storey dwellings down the back of the block, instead of the lovely peaceful ambience that there is at present. If these three dwellings are to go ahead, then at least some large shrubs planted at the bottom right hand corner of 17 Greenview Close, on the side of the new development, so the view of the 3 story building is completely blocked from the back verandah, sunroom and back yard of No 17 Greenview Close. The back yard of 17 Greenview Close is a paved area and does not lend itself to the planting of any trees.
- There doesn't appear to be any added height to the fence along the eastern side of the site, as has been allowed on the western side of the development. Not only that, but as there will be a fair amount of traffic going up and down the driveway, a solid fence that will deflect any noise from vehicles using that driveway is requested.

Comment:

A 'Landscape Principles Plan' has been provided with the amended application, this demonstrates that sufficient landscape area and areas capable of deep soil planting can be provided in accordance with the Great Lakes Development Control Plan (DCP) - refer to the heading 'Great Lakes Development Control Plan' in Part (a) of this report. It is considered that the deep soil area at the rear of the site can be better utilised by way of improvements to species selection through the selection of local native species in accordance with the DCP and mounding of garden beds.

Overall privacy issues (and in particular to No. 17 Greenview Close) have been substantially addressed through the reduction in height of the first two (2) dwellings to single storey and the revised layout with the driveway on the eastern side of this site. As well, Dwellings 3, 4 and 5 no longer have north facing balconies which would overlook 17 Greenview Close. The revised location of the driveway to the eastern side of the site limits the amount of deep soil planting capable of planting trees, due to the turning circles required to access the external car space provided for Dwelling No. 5.

This does not allow any enlargement of the semi-circular area of garden on the eastern side of the access driveway and refusal on this basis could not be sustained. It is considered that aural privacy can be ameliorated to an acceptable level through the replacement of the existing colorbond fence with a 2m high lapped and capped timber fence, which would limit the exposure of No. 17 Greenview Close to the traffic generated by having the car parking for four dwellings located in the central portion of the site. An appropriate condition for a 2m high lapped and capped timber fence the eastern side of the driveway (and on the western side of the site) forms part of the Deferred Commencement Condition for a final landscape plan.

3. Traffic and car parking

- Greenview Close is a cul-de-sac with too many cars parked on the street at present.
- The amended proposal has no provision for visitor parking.
- The significant increase in traffic and street parking during and after construction will be create further congestion in this cul-de-sac and will be detrimental to the safety of the existing residents.
- No provision has been made for visitor car parking spaces on site, it being noted that such are not required within the DCP. The development is located at the head of a cul-de-sac with little or no street parking. This again creates further congestion in the street and also considered to be detrimental to the safety of the existing residents of this short street. It will create a significant increase in traffic and kerbside parking both during and after construction to the detriment of existing residents
- Location at end of cul-de-sac, the increased traffic and lack of paved footpaths will be an extra hazard for the elderly using the street and garbage trucks.
- Still a significant increase in traffic from the proposed additional five (5) dwellings at the head of the cul-de-sac, which will affect safety of children.
- Construction traffic will not be able to park in cul-de-sac and amenity of residents will be impacted.
- Lack of onsite visitor parking, which will inevitably cause an overflow of street parking. There is already a problem of not enough street parking for the existing residents

Comment:

Parking has been provided on the site in accordance with the numerical requirements of the Great Lakes Development Control Plan, which it should be noted does not require the provision of on-site visitor parking. The additional traffic generated by the proposed development is not likely to exceed the environmental capacity of Greenview Close. As such, the impacts of additional traffic or lack of parking would not be sufficient grounds to sustain a refusal of the application.

4. Water quality

- There is no mention of the open drain at the southern boundary within the Caravan Park. This proposal may have a detrimental impact on the integrity of the water quality of the nearby Wallis Lake.
- Rain garden will not be able to cope in heavy rain.

Comment:

The development complies with Council's water quality objectives, which ensures that there is not a detrimental impact on the downstream receiving water bodies - refer to the discussion of stormwater management under the heading "Great Lakes Local Environmental Plan 2014 in Part (a) of this report. Stormwater treatment systems are modelled to remove pollutant loads for small to medium events which generate the significant portion of pollutants. In the case of a large event, pollutants would be captured in the initial stages of the event.

5. Waste disposal

- There is no provision for garbage storage and collection.
- Garbage pickup of 10 bins each week cannot be achieved from the site frontage, new residents will be required to use other street frontages to place their bins for pickup.
- Insufficient kerb area for garbage bins on collection day.
- Congestion in the street with the collection of garbage bins.

Comment:

The issues raised in relation to waste storage and collection are addressed above in Part (b) of the report under the heading "Waste Management". There will be sufficient kerb space in front of the site for the required number of bins as proposed in the amended design. Additionally each dwelling will provide individual waste storage within their private garage or allocated car space.

6. Acid sulphate soil

- The development is still constrained by acid sulfate soils.
- The Geotechnical Report indicates that the soils are acidic in nature. Council must ensure that agricultural lime be thoroughly mixed with any excavated material to be used on site.

Comment:

The submitted Geotechnical report clearly states that the soils are acidic in nature but are not considered to be acid sulphate soils due to the absence of oxidisable sulphur. Therefore an acid sulphate soils management plan is not required, however, the Geotechnical Report has recommended that it would be prudent to apply lime to neutralise the acid that is present in the site soils. An appropriate condition of consent is contained within the Recommendation of this report.

7. Roof material

- Existing residential buildings all have tiled roofs in this area. The proposal provides Colorbond roofing and Council should ensure that the colour proposed for the roofs of the proposed development is non-reflective.

Comment:

An appropriate deferred commencement condition is contained within the Recommendation of this report for the submission of a Schedule of External Materials, Finishes and Colours, with the stipulation that they be non-reflective.

8. Flooding

- Flooding concerns with climate change resulting from building south of sewer easement.

Comment:

The lowest proposed floor level of the development south of the sewer easement is above 2100 year flood level due to sea level rise - refer to the heading "Flooding and Climate Change" in Part (b) of this report.

e) *The Public Interest*

The public interest has been considered throughout the assessment of this proposal and the amended development is not inconsistent with the public interest.

Section 94 Contributions are payable under the Great Lakes Wide and Forster District Contributions plans and have been calculated to be a total of \$42,375.25. Additionally a road haulage levy of \$456.00 is also payable based on an estimated 1200 tonnes of excavated/imported fill material.

CONCLUSION

The development has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to be a reasonable development suitable for the site and in the context of the locality. Accordingly, the application is recommended for approval.

RECOMMENDATION

It is recommended that:

- A.** That the Council resolve to support modification of covenant numbered 6 contained in the Section 88B Instrument attached to the Certificate of Title DP 806667 for the land to permit the development as provided by the following modification:
 - The erection of dwellings on the subject land south of the sewer easement.
- B.** Deferred commencement consent be granted under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 89/2016 for the construction of multiple dwellings (5) at Lot 8 DP 806667, 19 Greenview Close, Forster subject to the following deferred commencement conditions:

DEFERRED COMMENCEMENT CONDITIONS

In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this is a deferred commencement consent. The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by the consent authority and written notice given under Section 100(4)(b) of the *Environmental Planning and Assessment Regulation 2000* that the deferred commencement conditions have been satisfied and the date from which the consent operates:

A1. Stormwater Treatment System

Final engineering plans, specifications and calculations for the underdrain pipe hydraulic capacity must be submitted to and approved by Council.

Calculations are required demonstrating the hydraulic capacity of the single central subsoil drain connected to the outlet pit to exceed the infiltration capacity of the filter media.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

A2. Stormwater Drainage

- a) Submit the following details for an overland flow along the easement to drain water that burdens the western boundary of the site:-

- i) A longitudinal and associated cross sections. Details are to show/include:
- An overland flow path from the low point pit in Greenview Place to this easement.
 - The invert level of the overland flow path so that it is generally 150 mm below the adjacent concrete driveway within 21 Greenview Place
 - Open form steps and fences where they extend into/across the easement.
 - A suitable waterproofing membrane along the north western corners and western sides of dwelling 1 and dwelling 2. The waterproofing is to extend a minimum 450mm above the adjacent invert of the overland flow path within the easement to drain water. The waterproofing is not required where the floor level is above 450mm of the adjacent invert of the overland flow path.
 - A minimum 300 mm depth of soil cover is maintained over the pipeline within the easement to drain water.
- All associated plans (including the landscaping plans) are to be amended to suit the overland flow.
- ii) Submit the following details of the proposed covered outdoor spaces and the associated roofs for dwellings 1 and 2 :-
- Roof of the outdoor spaces independent of the roof of the dwelling.
 - All materials constructed with lightweight materials and easily dismountable (e.g. minimum and easily accessible bolt connections).
 - All structures (including steps) with open form construction allow a minimum 150 mm depth of overland flow down the easement to drain water.
- iii) Survey the existing stormwater pipeline located within the easement to drain water that burdens the site. Details must include:-
- Accurately locating the side of the stormwater pipeline to ensure it has a minimum clearance of 1.0 m from the eastern and northern sides of the easement.
 - A CCTV video inspection of the Council stormwater pipeline that burdens the site. The video is to be submitted to Council.
- b) Details showing on site detention storage area/s that will ensure that stormwater from the site is restricted to the pre-development discharge rate for all storm events up to and including the 1 in 5 year storm. The infiltration/detention storage area/s are to be located downstream of the water quality measures (e.g. bio-retention garden) with an overflow directed back to an inlet pit constructed within the stormwater drainage easement.
- c) Delete the ground floor balconies and the portion of the basement patios where they extend into the easement to drain water.

Reason: To ensure works are constructed to a suitable standard for public safety.

A3. Stormwater Treatment Maintenance Plan

An operation and maintenance plan (WSUD Operations and Maintenance Manual) for the final approved stormwater management system detailed in the final approved engineering plans is required to be submitted and approved by Council. The maintenance plan must include but not be limited to:

- a) details of the location and nature of stormwater management structures such as pits, pipes, the bioretention basin and other drainage works.
- b) identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures including the frequency of such activities including a reporting protocol and checklists (refer to Councils example maintenance plan for bioretention systems), and appropriate access to conduct maintenance work.
- c) A sufficiently wide access path to the bioretention basin (Rain Garden) for maintenance purposes is required to be shown on the Landscape Plan and on the Draft Strata Subdivision Plan as community property.

Reason: To ensure water quality measures installed on the site can be adequately maintained.

A4. Landscape plan

A final landscape plan must be submitted prepared by a qualified landscape architect or horticulturalist. The Final Landscape Plan must include the following information:

- a) The plan amended and notated to reflect the requirements of overland flow along the stormwater easement (refer Deferred Commencement Condition A2).
- b) Demonstration of the predominant use of species that are local native plants – refer to Chapter 13 of the Great Lakes Development Control Plan for indicative species.
- c) Location of proposed planting (trees, shrubs, groundcovers, etc) including the specification of the details of all proposed plantings on the land, including common and botanical names and potential height/ spread at maturity, planting densities, supply size and quantities.
- d) Removes the existing Callistemon species on site from the plans.
- e) Provides two (2) *Tristania laurina* (Water Gums) supplied in a minimum 20 litre pot size with the front building setback. One (1) tree to be provided on each side of the driveway but not within the drainage easement. The trees to be notated to be under-pruned to a height of 2m and maintained as such to retain sight lines for cars exiting the driveway.
- f) Provides for mounding and the planting of screening species in the deep soil zone at the rear of the site.
- g) The use of *Syzygium* species as a screening species instead of *Nandina domestica*.
- h) The use of *Brachyscome multifida* (Cut-leaf daisy) instead of *Erigeron karvinskianus*.
- i) Location of grassed and paved areas.
- j) Screening of clothes drying areas and garbage receptacles from public view.
- k) Location and size of water tanks. Note water tanks must not be located within the water drainage easements.
- l) Location of common tap(s) and/or irrigation system to ensure all landscape works can be adequately watered.
- m) Stormwater detention and bio-retention systems, including a sufficiently wide access path to the bioretention basin (Rain Garden) for maintenance purposes.
- n) The type of material to be used for sealing of all parking and driveway areas.
- o) Details of earthworks including cut/ fill, mounding and retaining walls.
- p) The western and eastern boundary fences detailed to be constructed as lapped and capped timber fences to a height of 2m behind the front building line.
- q) Details of the fencing forward of the front building line. Note any fence forward of the front building line must be a maximum of 1.2m high and have 50% minimum open construction.
- r) Any proposed fence and landscaping (or any other fixture) where it is adjacent to the driveway entrance and within the sight lines as detailed in Figure 3.3 from *AS/NZS 2890.1-2004: Parking facilities, Part 1: Off-street car parking.1*, i.e.

- 2m adjacent to each side of the driveway entrance, and
 - 2.5m from the front property boundary, must be below 0.5m in height in order to have clear sight lines of pedestrians and vehicles within the road reserve and must be notated as such on the landscape plan.
- s) Details of planting procedure and maintenance, including watering, management of safety and risk, replacement of lost and damaged stock.
- t) Details of the use of mulch and the type and quantity of soil material to be imported to the land.

Reason: To ensure privacy and amenity to the neighbouring property.

A5. Schedule of external colours, materials and finishes

Details of the proposed external colours, materials and finishes, by way of a schedule keyed to all building elevations. The colours and finishes are to blend with the surrounding locality and landscape of the site and are to be non-reflective.

Reason: To ensure an appropriate contextual fit of the development within the streetscape and locality.

A6. BASIX Compliance

Two sets of amended architectural plans with all BASIX commitments for the DA stage shown correctly.

Reason: To ensure statutory compliance

A7. Draft Strata Plan

An amended draft strata plan that clearly identifies all areas of unit entitlement and common areas, including the identification the bioretention area/raingarden, stormwater detention area and any necessary accessways to these area either as common areas or as right-of-ways within the strata plan.

Reason: To provide clarity and ensure compliance.

Evidence required to satisfy the above deferred commencement condition/s must, in accordance with Clause 95(3) of the *Environmental Planning and Assessment Regulation 2000*, be submitted to Council within 12 months of the date of this consent.

- C. Delegation be given to the Director, Planning and Natural Systems to determine satisfactory compliance with the above deferred commencement conditions and to make the consent to Development Application No. 89/2016 for the construction of multiple dwellings (5) at Lot 8 DP 806667, 19 Greenview Close, Forster operational.

Under Section 80A of the Environmental Planning and Assessment Act 1979, the following conditions will apply, following written notice given under Section 100(4)(b) of *Environmental Planning and Assessment Regulation 2000* and subject to any further conditions reasonably arising from compliance to the terms of the deferred commencement conditions.

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by the satisfaction of Deferred Commencement Conditions A6 and A7 of this consent and any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Title Page	A-01	Dustin Leaney Homes & Architecture	2/08/2016
Site Plan	A-02 Revision A	Dustin Leaney Homes & Architecture	22/08/2016
Earthworks Plan	A-04	Dustin Leaney Homes & Architecture	2/08/2016
Strata Concept Plan	A-08	Dustin Leaney Homes & Architecture	2/08/2016
Dwellings 1 & 2 Ground Floor Plan	A-10	Dustin Leaney Homes & Architecture	2/08/2016
Dwellings 1 & 2 Roof Plan	A-11	Dustin Leaney Homes & Architecture	2/08/2016
Dwellings 1 & 2 Elevations	A-12 Revision A	Dustin Leaney Homes & Architecture	21/11/2016
Dwellings 3,4,5 Basement & Ground	A-13 Revision A	Dustin Leaney Homes & Architecture	22/08/2016
Dwellings 3,4,5 Upper Floor & Roof	A-14 Revision B	Dustin Leaney Homes & Architecture	22/08/2016
Dwellings 3,4,5 Elevations	A-15 Revision C	Dustin Leaney Homes & Architecture	21/11/2016
Section Through Site	A-16	Dustin Leaney Homes & Architecture	2/08/2016

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Compliance with National Construction Code Series- Building Code of Australia

All building work must be carried out in accordance with the requirements of the *National Construction Code Series - Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

3. Notification of *Home Building Act 1989* requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

4. Adjustment to utility services

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

Reason: To ensure utility services remain in a serviceable condition.

5. Waste bin storage

All bin storage for individual dwellings must be located within the garage or car space allocated to the dwelling.

Reason: To ensure environmental amenity

6. Design Changes – Plan amendments

The proposal must be amended in the following manner:

- The ground floor kitchen and bathroom windows on the eastern elevation of Dwelling 5 must be designated as opaque. Plans detailing these amendments must be submitted with the application for a construction certificate.

Reason: To minimise privacy impacts.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any Construction Certificate:

7. MidCoast Water approval

Prior to the issue of a construction certificate, a Certificate of compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

8. BASIX Certificate

Prior to the issue of a construction certificate, plans and specifications detailing all of the BASIX Certificate commitments must be submitted to and approved by the certifying authority. The proposed development must be constructed in accordance with the requirements of the relevant BASIX Certificate. Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate will be required.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

9. S94 contributions

Prior to the issue of a construction certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Great Lakes Wide	Library Bookstock	8.6	persons	@	\$77.60	=	\$667.36
Great Lakes Wide	Headquarters Building	8.6	persons	@	\$465.93	=	\$4,007.00
Great Lakes Wide	s94 Admin	8.6	persons	@	\$213.77	=	\$1,838.42
Forster District	Major Roads Inner Zone	16	1-way trips	@	\$674.34	=	\$10,789.50
Forster District	Aquatic Centre	8.6	persons	@	\$305.66	=	\$2,628.64
Forster District	Surf Life Saving	8.6	persons	@	\$90.15	=	\$775.26
Forster District	Open Space	8.6	persons	@	\$1,461.77	=	\$12,571.22
Forster District	Library Facility	8.6	persons	@	\$505.79	=	\$4,349.79
Forster District	Community Facilities	8.6	persons	@	\$552.10	=	\$4,748.06
Great Lakes Wide	Road Haulage Levy	1200	tonnes	@	\$0.38 per tonne per km	=	\$456.00
				Total		=	\$42,831.25

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's web site or at Council's offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of facilities and services.

10. Long Service Levy

Prior to the issue of a construction certificate, a Long Service Levy must be paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government levy and is subject to change.

These payments may be made at Council's Customer Service Centres. Cheques must be made payable to Great Lakes Council.

Reason: Statutory requirement

11. Waste management plan

Prior to the issue of a Construction Certificate, a waste management plan prepared in accordance with the requirements of Council's Waste Management Policy must be submitted to and approved by the certifying authority.

Reason: To ensure adequate and appropriate management of waste and recycling.

12. Erosion and sediment control plan

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

13. Design to ensure the stormwater main will be protected.

Prior to the issue of a construction certificate, footings located within the zone of influence of Council's drainage system must be in accordance with details approved in satisfaction of Deferred Commencement Condition A2 of this consent.

Reason: To ensure structural adequacy of the drainage line and to maintain access to the pipeline for maintenance purposes.

14. Works within the Easement to drain water that burdens the site

Prior to the issue of a construction certificate, an application for a Public Engineering Works Permit (PEWP) must be submitted to and approved by Council for the road reserve works listed in the table below. Each work must be carried out in accordance with the standard specified in the column opposite the work. All works must include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Work	Standard to be provided
Construct standard Council junction pits where the site stormwater will drain into the Council stormwater pipeline	Junction pit/s in general accordance with Council's standard drawing no. STD 45/1.
Reconstruct the existing Council junction pit within the development site	Reconstruct this junction pit in general accordance with Council's standard drawing no. STD 45/1. The pit is to capture the overland flow within the drainage easement that burdens the site.
Construct a 150mm deep overland vee drain within the easement to drain water that burdens the site adjacent to the western boundary	Vee drain must be a minimum of 150mm at all locations below the adjacent concrete driveway within No 21 Greenview Close in accordance with the details submitted in satisfaction of Deferred Commencement Condition A2.
Where required by Council, relocate the stormwater drainage pipeline within the easement to drain water	Ensure there is a minimum distance of 1m between the Council stormwater drainage pipeline that burdens the site and the footings/ walls of the proposed dwellings.

Reason: To ensure works within Council's road reserve are constructed to a suitable standard for public safety.

15. Driveway levels application

Prior to the issue of a construction certificate, a Driveway Levels Application must be submitted to Council for approval. A Driveway Levels Application Form must be completed and submitted to Council together with the application fee and all required plans and specifications.

Driveways must be constructed by a qualified/licensed contractor at no cost to Council in accordance with the driveway levels and construction standards issued by Council and the following requirements:

- a) Driveway to be a minimum 1m from the common boundary;
- b) Driveway to have a minimum 5.5m width across the Council footpath (nature) reserve

Reason: To ensure works within Council's road reserve are constructed to a suitable standard for public safety.

16. Car parking

Prior to the issue of a construction certificate, plans and specifications detailing access, parking and manoeuvring on the site must be submitted to and approved by the certifying authority. Vehicular access, parking and manoeuvring must be in accordance with *Australian Standard AS/NZS 2890.1: Parking facilities: Off-street car parking* and have an impervious finish. Plans must include the following items:

- a) Driveway to have a minimum 5.5 m width for the first 6 m within the property.
- b) Pavement description must be hard surface (e.g. concrete or bitumen).
- c) Site conditions affecting the access.
- d) Existing and design levels.
- e) The driveway having either a 'vee drain' along the centre and/or a kerb constructed along the common boundary with 17 Greenview Close.
- f) Longitudinal section from the road centreline to each of the car space(s) and garages and taken along the critical edge of the vehicle travel path.
- g) Cross sections at appropriate intervals, and designed to contain the overland flow for a 1 in 100 year storm.
- h) Drainage (pipes, pits, on-site detention, etc).
- i) Turning paths.
- j) Line-marking and signs.

The engineering plans and specifications must be designed by a qualified practising civil engineer. The civil engineer must be a corporate member of the Institution of Engineers Australia or must be eligible to become a corporate member and have appropriate experience and competence in the related field.

Reason: To ensure suitable vehicular access and manoeuvrability is provided within the development.

17. Structural certification – flood affected structures

Prior to the issue of a construction certificate, engineering calculations and certification from a qualified structural engineer must be submitted to and approved by the certifying authority. The certificate must certify that any retaining wall of the rain garden, its structural components and associated earthworks have been designed to withstand flood forces due to wind wave run-up, water pressure, associated debris and impact loading arising from the 1% annual exceedance probability (AEP) flood.

For the purpose of this assessment the 1% AEP flood level can be assumed to be RL 2.7m AHD with a velocity of 0.5 m/s in a north-east direction and a 0.5 m high wave from a south-westerly direction

Reason: To ensure the structures are structurally adequate to withstand impacts from flooding in accordance with Council and NSW Government Policy.

18. On-site stormwater detention

Prior to the issue of a construction certificate, plans and specifications of the stormwater drainage system must be in accordance with the details approved in the satisfaction of Deferred Commencement Condition A2 of this consent.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

19. Bond required to guarantee against damage to public land

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of \$10,322.15 and a non-refundable administration fee of \$320.00 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
- b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

20. Zone of influence - stormwater/footings

The proposed dwellings 1, 2, 3, 4 and 5 and the proposed rain garden are identified as being adjacent to Council's drainage system, the depth of which varies through the length of the lot. All footings must be founded below the zone of influence of the trench and all external walls must not be located within 1m of the side of the pipeline.

Prior to the issue of a construction certificate, structural footing details addressing the zone of influence must be prepared by a qualified structural engineer and must be submitted to and be approved by the Certifying Authority.

Reason: To protect Council's infrastructure and ensure structural stability.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

21. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

22. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the *Environmental Planning and Assessment Act 1979*.

23. Site access

Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

24. Pollution prevention sign

Council's "PREVENT POLLUTION" sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council's PREVENT POLLUTION sign can be purchased at Council's Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

25. Toilet facilities - sewerred areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.

Reason: To maintain public health.

26. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

27. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

28. Traffic management plan

Prior to the commencement of work, a traffic management plan including measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development must be submitted to and approved by the certifying authority. The traffic control plan must be designed to ensure minimum street parking occurs from construction vehicles and workers in Greenview Close and adversely affect the local residents

Traffic management and control must be in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2* and *Australian Standard AS 1742.3: Manual of uniform traffic control devices - Traffic control for works on roads*.

The plan must incorporate measures to ensure that motorists using the road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites manual*.

The approved Construction traffic management plan must be implemented prior to the commencement of work.

Reason: To ensure public safety during the construction of the development.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:

29. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

30. Soil acidity

Lime must be applied to excavation spoil that is to be re-used on site at a rate of 8kg/tonne (dry weight) in accordance with the recommendations of the submitted Geotechnical Assessment Report prepared by Regional Geotechnical Solutions dated 11 July 2016.

Reason: To neutralise acid present in the site soils.

31. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a suitable waste bin/enclosure. Building materials must be delivered directly onto the property. Footpaths, road reserves and public reserves must be maintained clear of rubbish, building materials and other items at all times.

Reason: To ensure that materials and waste do not adversely affect traffic or pedestrian safety and amenity.

32. Maintenance of erosion and sediment control measures in accordance with approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

33. Compliance with waste management plan

During construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.

34. Survey of building location

A survey certificate prepared by a registered surveyor must be submitted to the certifying authority at the following stages of the development:

- a) Prior to the construction of footings or first completed floor slab showing the area of land, building under construction and boundary setbacks.
- b) At each level indicating the level of that floor to Australian Height Datum (AHD).
- c) Upon completion of the roof timbers, before roofing is laid, indicating the ridge height to AHD.
- d) At completion, indicating the relation of the building and any projections to the boundaries and that the building has been erected to the levels approved in the development consent.

Reason: To ensure compliance with the approved plans.

35. External materials, finishes, and colours

All external materials, finishes and colours must be provided in accordance with the schedule of external materials, finishes and colours as approved by the satisfaction of Deferred Commencement Condition A5 of this consent.

Reason: To ensure the visual amenity of the streetscape.

36. Inspection of stormwater treatment measures (Bioretention Basin) - Compliance of Raingarden to Plans

During construction a suitably qualified person (such as the designer of the bio-retention systems) is to undertake inspections to verify compliance with the approved plans. Inspections must be carried out and verified in accordance with the sign off forms in *'Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands' Healthy Waterways, 2010* and include but not be limited to:

- a) Earthworks and functional (hydraulic) structures and under drainage prior to covering in.
- b) Filter media including NATA test results.
- c) Finished levels.
- d) Landscape installation and establishment.

Signed inspection forms and NATA test results must be supplied to Council for approval.

Reason: To ensure that the bioretention is constructed in accordance with approved plans, standards and conditions of consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

37. Works to be completed

The building/structure or part thereof must not be occupied or used until an interim occupation/final occupation certificate has been issued in respect of the building or part.

Reason: To ensure compliance with the development consent and statutory requirements.

38. Stormwater Treatment System

Prior to issue of any occupation certificate, the infiltrating raingarden must be constructed in accordance with the approved Stormwater Strategy and plans (Stormwater Management Plan C01 Issue 3, and Bioretention Plan and Sections C02 Issue 4), including any amendments contained in these plans and conditions. The infiltrating raingarden must meet the following criteria:

- a) Have a minimum filter surface area of 53m² and positioned along the contours. The raingarden is to receive overflow from a 5 x 1.5KL (total storage capacity 7.5KL) rainwater tanks collecting 100% of the roof area. 100% of the driveway area runoff is to be collected via a series of grated drains and collection pits and connected to the raingarden.
- b) Have a minimum of 800mm fall from the raingarden inlet to the outlet discharge point into the stormwater system.
- c) Be consistent with the specifications contained in Great Lakes Council's Fact Sheet 'Designing a raingarden: Water Sensitive Design section, Great Lakes Development Control Plan' (April 2014) containing (from the base) 150mm of washed 5mm gravel housing a slotted drainage pipe, 100mm of coarse washed sand with particle size of 1mm, 400mm of sandy loam filter media and 275mm of depth for water detention. The top of the garden is to be finished a minimum of 325mm (freeboard) above the maximum water level water collection.
- d) The bio-retention filter media shall be of uniform sandy loam texture and be consistent with the specifications contained in Adoption Guidelines for Stormwater Biofiltration Systems, Facility for Advancing Water Biofiltration, (Monash University, June 2009).
- e) The bio-retention filter media shall be installed consistent with WSUD Engineering Procedures (Melbourne Water, 2005). Filter media shall be a minimum depth of 0.4 m. Filter media must be tested after installation to confirm infiltration rates are consistent with Adoption Guidelines for Stormwater Biofiltration Systems, Facility for Advancing Water Biofiltration, (Monash University, June 2009).

- f) Slotted drainage pipes at the base of the raingarden are to be laid on a 1:100 grade and connected to the inter-allotment drainage system via an overflow pit. All drainage works must be installed by a suitably qualified person and in accordance with the requirements of Australian Standard AS/NZS 3500.3: Plumbing and drainage – Stormwater drainage.
- g) Contain an overflow pit finished 275mm above the sandy loam filter media and topped with a grated cap so that the raingarden retains min 100mm of water following rainfall.
- h) The mulch layer on top of the filter media will be no deeper than 75mm
- i) Inlet pipes to the raingarden from tank overflow and driveway runoff to be connected to the coarse sediment forebay as per designs.
- j) Have 50% of the raingarden area planted with a minimum of 2 species from Great Lakes Council's Fact Sheet 15 'Local Plant Selection for Raingardens, Guidance for Water Sensitive Provisions of the Great Lakes Development Control Plan' (April 2014), at densities indicated in the fact sheet. The remaining area is to be planted with species of the owners choosing which are suited to intermittently dry and wet conditions.
- k) Be protected by sediment and erosion control measures during construction and be connected to the stormwater and planted after all hardstand areas have been paved / sealed and cleaned.
- l) Be fully lined with a HDPE impermeable liner or equivalent to avoid exfiltration of water into surrounding soils

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

39. Stormwater Treatment Maintenance

Prior to issue of any occupation certificate a permanent notice identifying the location of the raingarden is to be displayed in the metre box or other visible locations on the property.

The raingarden shall be maintained by the body corporate in perpetuity in accordance with the approved maintenance plan.

Reason: To ensure that ongoing compliance with the Water Sensitive Design section of the Great Lakes Development Control Plan.

40. Implementation of the Landscape Plan

The Registered Proprietor of the land, or their agents, shall fully implement all of the required actions outlined in the landscape plan as approved by the satisfaction of Deferred Commencement Condition A4 of this consent. The final occupation certificate shall not be issued until such time as the required landscaping set-out in the relevant plan has been appropriately established.

Reason: To appropriately conduct landscaping on the subject land.

41. MidCoast Water Certificate of Attainment

Prior to the issue of a final occupation certificate, a Certificate of Attainment from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the principle certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

42. BASIX Compliance

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

43. Survey certificate of complete building

Prior to the issue of a final occupation certificate, survey certificates from a registered surveyor must be submitted to the principal certifying authority upon completion of the building.

Reason: To determine the height of buildings under construction and ensure compliance with the approved plans.

44. House numbering

Prior to the issue of a final occupation certificate, the street number must be displayed at the main driveway entrance approved for the property. The street number for this property is 19 Greenview Close.

Reason: To ensure proper identification of buildings.

45. Sealed driveway in accordance with approved Driveways Level Application

Prior to the issue of a final occupation certificate, a driveway must be constructed from the edge of the road formation to the property boundary in accordance with the approved Driveway Levels Application.

Reason: To ensure suitable vehicular access to the development.

46. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, a hard paved driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plans.

Reason: To ensure suitable vehicular access is provided to the development.

47. Stormwater drainage work

Prior to the issue of a final occupation certificate, stormwater must be collected and disposed of in accordance with the approved plans and to the Council stormwater pipeline that burdens the site. All drainage works must be installed by a suitably qualified person and in accordance with the requirements of *Australian Standard AS/NZS 3500.3: Plumbing and drainage – Stormwater drainage*.

Reason: To ensure compliance with the development consent and statutory requirements.

48. Stormwater drainage work - works-as-executed plans

Prior to the issue of a final occupation certificate, works as executed plan/s together with written certification by the builder or plumber must be provided to the certifying authority showing the:

- raingarden and the stormwater detention system have been installed in accordance with the approved stormwater drainage plans and conditions of development consent;
- Any drainage stormwater lines (other than cross drainage) have been located outside the 3m wide easement to drain water that burdens the site and benefits Council;
- All drainage works have been installed by a suitably qualified person and in accordance with the requirements of *Australian Standard AS/NZS 3500.3: Plumbing and drainage – Stormwater drainage* and Council's water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan.
- Where development involves filling of flood prone land, an additional copy of the works-as-executed plan relating to earthworks must be submitted detailing the 1% annual exceedance probability (AEP) flood contour (RL 2.70m AHD)

Reason: To ensure that the stormwater bioretention and detention systems are constructed in accordance with approved plans, standards, conditions of consent and Council's water quality requirements.

49. CCTV

Prior to the issue of a final occupation certificate and after all significant construction works have been completed, a CCTV video inspection of the Council stormwater pipeline that burdens the site must be undertaken and submitted to Council. The pipeline must be replaced/repared to Council's satisfaction should damage to the pipeline have occurred during the construction works.

Reason: To ensure that any existing damage to the Council Stormwater pipeline is replaced/repared to Council's satisfaction after construction works are finalised.

50. Electricity supply certificate

Prior to the issue of any occupation certificate, a certificate of compliance from the electricity supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

51. Telephone supply certificate

Prior to the issue of any occupation certificate, a certificate of compliance from the telephone supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

52. Water and sewer supply certificate

Prior to the issue of any occupation certificate, a certificate of compliance from MidCoast Water must be submitted to Council stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development.

Reason: To ensure that utility services have been provided to the newly created lots.

PRIOR TO THE ISSUE OF A STRATA SUBDIVISION CERTIFICATE

The following conditions must be satisfied prior to the issue of a subdivision certificate

53. Plan of subdivision and Section 88B Instrument

An instrument created under Section 88B of the *Conveyancing Act 1919* must be submitted with the application for a subdivision certificate. The final strata plan of subdivision and accompanying Section 88B Instrument must provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Restriction as to user	A restriction which requires the body corporate/owners not to undertake any alterations to the levels or obstruct/hinder the overland flow along the easement to drain water (where the easement is adjacent to the western property boundary).
Restriction as to user	The body corporate/owners must remove the 'covered outdoor spaces' structures, when Council requires construction access to the adjacent Council stormwater pipeline.
Restriction as to user	Creation of right of access for maintenance purposes to service the bioretention/raingarden and detention area over the external car space for Dwelling 5.

Reason: To ensure the proper management of land.

54. Endorsement of Strata Documentation

Prior to Council or an appropriately qualified accredited certifier endorsing the strata plan/administration sheet, the development is to be fully completed in accordance with the endorsed draft strata plan and plans and conditions of the Notice of Determination No. 89/2016 and the building being fully compliant with the Building Code of Australia.

Reason: To ensure compliance with Statutory Requirements.

ONGOING USE

The following conditions must be satisfied during the ongoing use of the development:

55. Noise

Noise associated with the premises including all associated mechanical plant and equipment must not be a source of "offensive noise" at the nearest affected premises:

"offensive noise" is defined under the *Protection of the Environment Operations Act 1997* as noise:

- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - i. is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

- ii. interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

Reason: To maintain acoustic amenity to adjoining properties.

ATTACHMENTS

A: Plans of proposal.

ANNEXURES

A: Compliance Table - Great Lakes Development Control Plan DA 89/2016 (as amended)

Design Element	DCP	Provided	Compliance
<u>Front street setback (Unit 1)</u> Minimum frontage setback	<ul style="list-style-type: none"> Average of front setbacks of nearest 2 neighbouring houses within 40m = 11m 	6.005m – 10.2m	No
Garage/carport	Unit 1 garage (facing Greenview Close) <ul style="list-style-type: none"> 500mm (min) setback from front building line of dwelling 6m setback from front property boundary Door openings of attached garages should be: <ul style="list-style-type: none"> - Maximum total width of 6m; and - Maximum 50% of the width of the building 	Unit 1 garage 10.2m from front property boundary 1m setback from front building line 5.5m width & 42% width of building frontage	Yes Yes Yes Yes
<u>Private open space</u>	<ul style="list-style-type: none"> 24 m² - Ground level outdoor living area, with minimum length and width of 4m Not to be provided within front building line setback 	Approximate minimum areas Unit 1 = 54.5m ² Unit 2 = 34.4m ² Unit 3 = 121.2m ² Unit 4 = 85.6m ² Unit 5 = 113.2m ² Note Units 1 and 2 have variable widths for private open space: Unit 1 = 3.1m – 4.559m Unit 2 = 3.1m – 4.1m	Yes Yes Yes Yes Yes
<u>Walls</u>	<ul style="list-style-type: none"> Wall length no greater than 12 m for each building massing element 	Maximum wall length (approximately) Unit 1 = 6.7m Unit 2 = 11.8m Units 3 & 4 = 10.5m	Yes Yes Yes

		(first floor) Unit 5 = 6m	Yes
<u>Eaves</u>	<ul style="list-style-type: none"> 600 mm (minimum) for 70% of north, east and western façades 	600mm eaves	BASIX Certificate provided
<u>Setbacks</u>	<p><u>Side</u></p> <ul style="list-style-type: none"> 900mm + formula once a wall height of 3.8m is exceeded <p><u>Rear</u></p> <ul style="list-style-type: none"> 3m + formula once a wall height of 3.8m is exceeded 	<p>Minimum setbacks</p> <p>Unit 1 = 3.1m (East) 3.0m (West)</p> <p>Unit 2 = 4.15m (East) 3.1m (West)</p> <p>Unit 3 = 3.1m (West) 10.0m (South)</p> <p>Unit 4 = 10.5m (South)</p> <p>Unit 5 = 1.675m (East) 11m (South)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Partly*</p> <p>Yes</p>
<u>Solar access and Overshadowing</u>	<ul style="list-style-type: none"> 2 hours (minimum) of solar access to internal and outdoor living areas of adjacent dwellings between 9am and 3pm on 21 June 	Solar access maintained to adjoining properties	Yes
<u>Views and Privacy</u>	<ul style="list-style-type: none"> Where windows and balconies are within 9m of windows or balconies of other dwellings, screening or reduction in window areas to be provided. 	Windows located greater than 9m from other dwellings windows	See main body of report
<u>Front Fences</u>	<ul style="list-style-type: none"> 1.2m high and 50% (minimum) open construction 1.8m behind front building line 	<p>No detail for front fence forward of building line.</p> <p>New colorbond fence 1.5m proposed on western boundary. Existing fence on eastern side to remain.</p>	Subject to conditions of consent – see main body of report.

<u>Car parking</u>	<ul style="list-style-type: none"> • 1 space for dwellings with a floor area of 125m² or less. • 2 spaces for dwellings with a floor area greater than 125m² <p>Unit 1 = 144m² Unit 2 = 136m² Unit 3 = 186m² Unit 4 = 170m² Unit 5 = 205m²</p>	All units allocated two (2) car spaces.	Yes
<u>Landscaping and Open Space</u>	<ul style="list-style-type: none"> • 30% (minimum) of site area for landscaping • 1.5m wide landscape strip adjacent to any driveway and adjoining property • 50% of landscaped area to include deep soil zones 	32% Landscape strip provided adjacent to Units 1 and 1 and partially along western side of driveway 85%	Yes No Yes
<u>Energy Efficiency</u>	<ul style="list-style-type: none"> • BASIX compliance required 	BASIX certificate submitted	See main body of report

2 DA 97-2017 NEW DWELLING & ANCILLARY BUILDINGS 182 MYALL WAY TEA GARDENS

Report Author Peta Stimson, Multidisciplinary Planner, (Forster)

File No. / ECM Index DA 97/2017; 182 Myall Way Tea Gardens

Date of Meeting DCU 7 December 2016

DETAILS

Date Received: 8 September 2016

Applicant: Tattersall & Lander PTY LTD

Owner: Bao Lin Pty Ltd

Land: Lot 100 DP 1047534, 182 Myall Way, Tea Gardens

Area: 310 ha

Property Key: 34257

Zoning: RU2 Rural Landscapes, GLLEP 2014

SUMMARY OF REPORT

- Application submitted for new dwelling, detached garage, machinery shed, dam and secondary dwelling
- Proposed secondary dwelling located greater than 100m from the primary dwelling and did not comply with provisions for secondary dwellings in GLLEP 2014
- Application was revised 22 September 2016 for new dwelling, detached garage, machinery shed, dam and demolition of existing dwelling
- Proposal does not comply with the height limitations of GLLEP 2014. Application includes a submission under clause 4.6 of GLLEP 2014 seeking exception to the height control development standard. In accordance with Planning Circular PS-08-003, concurrence of the Director General for Planning may be assumed.
- Proposed development generally considered to be consistent with the various relevant planning controls.
- Application notified to neighbouring property owners in accordance with Council's Policy and no objections were received.
- In accordance with Planning Circular PS 08-014 the application is reported to Council for determination due to the proposed variation to the maximum height development standard being greater than 10%.

SUMMARY OF RECOMMENDATION

Approval subject to conditions

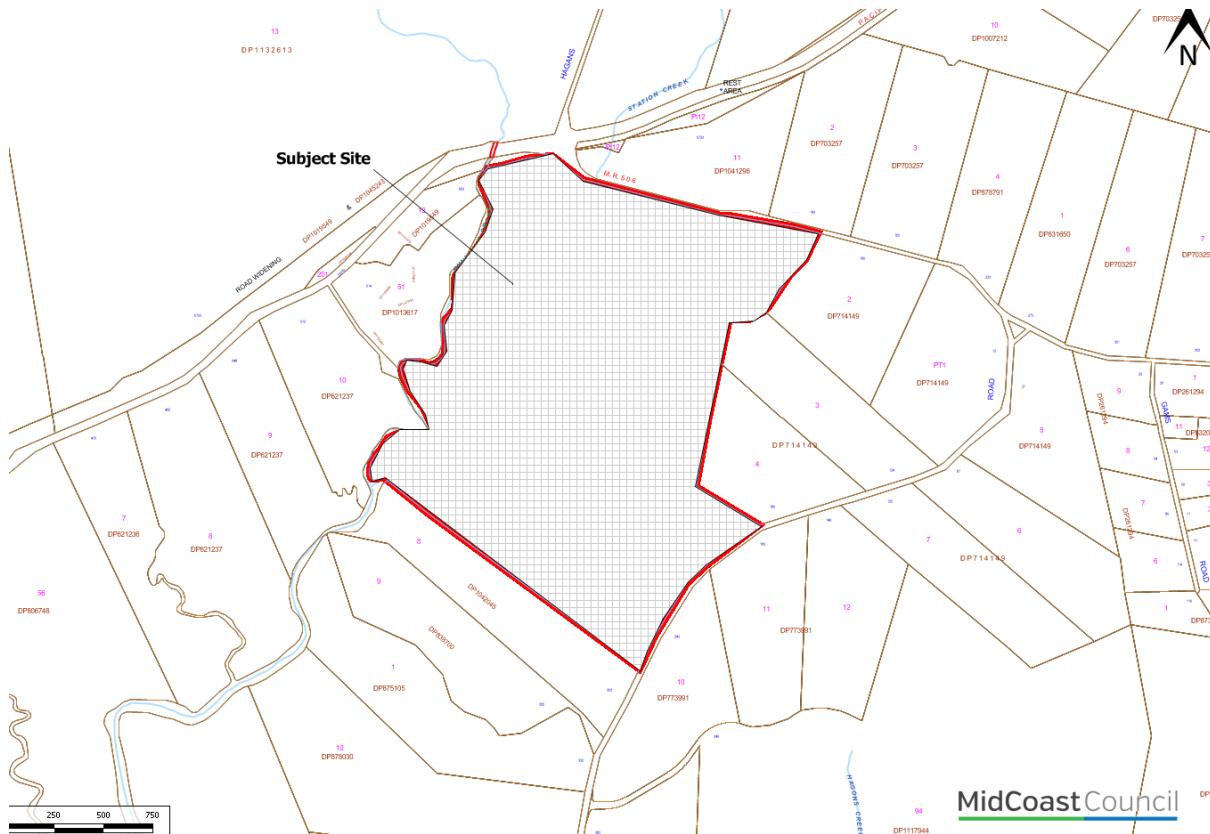
FINANCIAL/RESOURCE IMPLICATIONS

Cost of defending any appeal against Council's decision.

LEGAL IMPLICATIONS

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

SUBJECT SITE AND LOCALITY



BACKGROUND

The subject allotment is a large rural allotment. Council has a record of the following development applications on the subject allotment:

- DA 462/2011 Minor alterations and additions to existing dwelling, approved, 5/4/2011;
- BA 476/2008 Erection of commercial sign, refused 6/8/2009;

This application was submitted on 8 September 2016 and initially sought consent for the construction of a new dwelling and the retention of the existing dwelling as a secondary dwelling. The applicant was advised that GLLEP 2014 Clause 4.2B did not support the secondary dwelling being located more than 100m from the primary dwelling. The intension of the secondary dwelling is that it is supported and in conjunction with the primary dwelling.

On the 22/9/16 the applicant advised they wished to amend the proposal to construction of a new dwelling, garage, machinery shed, dam and demolition of the existing dwelling. Further information was requested 4 October 2016 seeking a Waste Minimisation Plan and information demonstrating that the proposal complies with DCP Chapter 11 – Water Sensitive Urban Design. This information was received by Council on 6 October and 12 October 2016.

Council's Senior Ecologist sought clarification of the proposed driveway which traversed two (2) minor watercourses. The applicant submitted revised plans on 27 October 2016 showing the relocation of the driveway to an existing track.

PROPOSAL

The proposal seeks consent to:

- demolish an existing dwelling (floor area 254m²)
- construct a new dwelling (floor area 1534m²)
- construct a detached garage (floor area 280m²)
- construct a machinery shed (floor area 1000m²)
- construct a dam (volume 4700m³)

Existing dwelling

The existing dwelling, proposed to be demolished, is located in the north western corner of the allotment. Access to the existing dwelling is from Myall Way, near the intersection of Myall Way and the Pacific Highway. The existing dwelling consists of three (3) bedrooms and has a floor area of approximately 254m². The dwelling is constructed of masonry walls and metal roof. The dwelling has two (2) large above ground water tanks and an onsite sewage management system.

Proposed New Dwelling

The proposed new dwelling is to be located in the southern section of the allotment, setback approximately 280m from the southern property boundary and 890m from the Pindimar Road frontage. Access to the dwelling is via an existing internal driveway, extending from Pindimar Road.

The proposed dwelling is three (3) storeys and will have a floor area of 1534m². The dwelling will consist of twelve (12) bedrooms, eleven (11) bathrooms, two (2) kitchens, swimming pool and associated living areas.

The height of the dwelling ranges from 13.995m -17.205m above natural ground level. A request for an exception to the development standard for height has been included with the application. The proposed dwelling will be constructed of masonry rendered walls and concrete tile roof. Balustrades will be a combination of masonry and decorative wrought iron finishes.

Excavation works associated with the dwelling includes a cut of approximately 3.75m to accommodate the basement level finished floor level at 10.75m AHD.

Detached Garage

The proposed development includes the construction of a detached garage, located approximately 30m from the dwelling. The proposed garage will have a floor area of 280m² and be capable of accommodating eight (8) vehicles. The garage also includes a bathroom and store room. Roof water from the garage and dwelling will be diverted into five (5) 20,000L water tanks located on the western elevation of the garage. A gas cylinder storage area is also located adjacent to the western elevation of the garage. The proposed garage will be constructed of masonry rendered walls and concrete tile roof.

Excavation works associated with the detached garage includes fill of approximately 1.5m to create a level platform for the garage to achieve a finished floor level at 10.0m AHD.

Machinery Shed

The applicant proposes to construct a large machinery shed in the eastern section of the property, setback approximately 276m from the Pindimar Road frontage and 20m from the common property boundary to Lot 4 DP 714149. The proposed shed is 50m long and 20m wide and will have a floor area of 1000m². The shed has a skillion roof design, and includes five (5) roller doors.

Excavation works associated with the proposed machinery shed includes a cut of approximately 0.8m and fill of approximately 1m to create a level platform and achieve a finished floor level of 24.0m AHD. The proposed shed will require the removal of up to sixteen (16) trees and shrubs as identified on the plan entitled "*Plan showing proposed machinery shed*" prepared by Tattersall Lander Pty Ltd.

Dam

The proposal also seeks consent to construct a dam with a volume of approximately 4700m³. The proposed dam is to be located in the south western section of the property in an existing watercourse, and requires the construction of a 2.5m high dam wall, and associated earthworks.

The proposed dam will require the removal of up to five (5) trees and shrubs as identified on the plan entitled "*Plan showing proposed dam*" prepared by Tattersall Lander Pty Ltd.

Internal driveway

The proposed development includes an internal access road (driveway) which will provide access from Pindimar Road to the machinery shed, dwelling and garage. The proposed driveway is an existing track that will be upgraded. The driveway runs adjacent to the common property boundary to Lot 4 DP 714149 and makes a 90 degree turn south travelling along the ridge line in a south western direction towards the proposed dwelling site.

Plans submitted for the stormwater quality management plan identify the access road to be a "compacted gravel driveway" and includes diagrams for a typical road cross section and culverts under driveway. The plan also indicates that the proposed upgrade to the existing driveway will have a 3% one way crossfall into surrounding grassed areas.

SITE DESCRIPTION

The subject allotment is described as Lot 100 DP 1047534, and is located at 182 Myall Way, Tea Gardens. The allotment is zoned RU2 Rural Landscape under the provisions of GLLEP 2014 has a land area of approximately 310ha. The land is a large irregular shaped allotment with frontages to the Pacific Highway, Myall Way and Pindimar Road. The property is bound by Bundabah Creek along its western boundary.

The site contains an existing dwelling in the north western corner of the property which is accessed via Myall Way. Station Creek is located within the property into which several streams and tributaries flow. The site is identified as being partially flood prone and bushfire prone land. The site is also identified as containing potential acid sulphate soils.

The site is predominately cleared of vegetation with several large stands of vegetation in the south eastern, south western and eastern sections of the property. Remnant vegetation also exists along creek lines and scatter trees throughout the site. The site is currently used for grazing cattle.

REPORT

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

- a) ***The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.***

Environmental Planning and Assessment Act 1979 (EP&A Act 1979)

The subject site is mapped as bush fire prone and in accordance with Section 79BA of the EPAA 1979 the application is to be assessed having regard to the provisions of the publication 'Planning for Bushfire Protection 2006'. In this regard the applicant has submitted a bushfire assessment and the proposed development is supported subject to conditions that are included in this report's recommendation.

State Environmental Planning Policy (BASIX) 2004 (SEPP BASIX)

SEPP BASIX applies to all new housing developments in New South Wales and requires that they be designed to use less potable water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets. The SEPP must be read in conjunction with the Environmental Planning and Assessment Regulation 2000, which requires that a development application must be accompanied by a BASIX certificate. A Basix Certificate No. 757354S has been submitted indicating that the proposed development conforms to the requirements of SEPP BASIX subject to the requirements identified in the documentation.

State Environmental Planning Policy No.71 – Coastal Protection (SEPP71)

The provisions of SEPP71 apply to the proposed development as the land is located within the *Coastal Zone*. The site is not located in a *Sensitive Coastal Location*, as defined by SEPP71.

The proposed development is considered to satisfactorily address both the aims and the relevant provisions of SEPP 71.

State Environmental Planning Policy (Rural Lands) 2008

All development being undertaken on land within a rural or environmental land use zone must be considered against the 'rural planning principles' contained within Clause 7 and the matters for consideration for rural dwellings under clause 10 of the SEPP. The site is zoned RU2 – Rural Landscape under the Policy. The proposed dwelling house is considered to be consistent with the rural planning principles and the matters for consideration listed in Clause 10. Accordingly, the proposed development is considered to achieve the aims of the Policy.

Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

Dwellings are permissible in the RU2 zone. The allotment has one (1) dwelling entitlement being a lot not less than 40 hectares. As such the existing dwelling located in the north western corner of the subject property is proposed to be demolished to make possible the erection of the new dwelling as proposed by this application.

The proposed detached garage and access road is ancillary to the dwelling, and permissible with consent. The proposed machinery shed is defined as a farm building and also permissible in the zone. The proposed dam is defined as a water supply system, being a water storage facility, and permissible with consent in the zone.

All elements of the proposed development are generally consistent with the objectives of the zone. The proposed development is permissible with consent and complies with the relevant aims, objectives and provisions of GLLEP 2014, with the exception of Clause 4.3 Height of Buildings.

Clause 4.3 - Height of Building

The overall height of the proposed dwelling is identified as being 17.2m above natural ground level. Clause 4.3 of GLEP 2014 identifies the maximum height of buildings on the subject land as being 8.5m above natural ground level. In accordance with the provisions of Clause 4.6 Variation to the development standard the applicant is seeking a variation to the development standard relating to height of buildings.

The applicant provides the following justification for the variation:

The location of the proposed dwelling is such that the dwelling will not be visible from any public place, and therefore, in reality, it shall not impact adversely upon any member of the public, amenity, or view from a public place. It is considered that the proposal is consistent with the objectives of clause 4.3 in that the existing environmental character is maintained. Contravention of the development standard as dictated by clause 4.3 will not raise any matter of State or regional significance, nor is it in the public's interest to enforce this development standard in this instance.

The proposed variation to the development standard will not result in any significant impact to the amenity or rural character of the locality. The proposed dwelling is setback approximately 890m from the nearest street frontage (Pindimar Road), as such will not be visible from any public place or nearby residences. The scale of the proposed dwelling is also considered to be compatible with the existing rural character, and proportionate in bulk and scale within the context of the site. Whilst the proposal seeks a variation to the development standard for height it is considered that the proposal will remain consistent with the objectives of the development standard.

It is accepted that the variation to the standard will not cause any affect to matters of state or regional significance. It should be note that support given to the requested variation for this proposal does not set a precedent for automatic support for future height variations within rural properties throughout the local government area. The development standard for height in rural zones is recognised as an important planning provision which ensures the protection of the visual amenity and character within rural areas. Requests to vary the development standard are assessed on the merits of each proposal which must effectively demonstrate the development standards are unnecessary and unreasonable.

The applicant's request to vary the development standard is supported and it is deemed that the development standard is unnecessary given the rural context and proposed siting of the proposed dwelling. Furthermore the applicant has demonstrated sufficient planning grounds to justify the contravention of the development standard.

Clause 7.1 – Acid Sulphate soils

The subject lot contains class 1 and 2 Acid Sulphate Soils (ASS) however the footprint of all building works will be not be located within these areas. Earthworks will not be undertaken within 500m of class 1 or 2 ASS and not below 5m AHD.

Clause 7.2 – Earthworks

The proposed earthworks associated with the construction of the buildings and dam will not have a detrimental impact on environmental functions and processes, providing compliance with conditions of consent.

Clause 7.3 - Flooding

The subject lot contains flood prone land however the footprint of all building works will be not be located within these areas. The proposed dam will be located on floor prone land, however it is considered that the dam:

- (a) is compatible with the flood hazard of the land, and

- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses,

Clause 7.7 – Riparian vegetation & watercourse

The subject lot contains several watercourses and riparian vegetation areas, however the proposed development will not be located within 40m of these areas. As such it is accepted that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

Draft Local Environmental Plan

Planning Proposal -Short Term Holiday Rentals

The proposed development contains twelve (12) bedrooms and would be eligible for obtaining development consent for short term holiday use under the proposed amendment to GLLEP 2014.

However the applicant has NOT requested that the dwelling be used as a short term holiday rental.

NSW Coastal Policy 1997

The New South Wales Coastal Policy is a broad policy for the *Coastal Zone* that is required to be considered having regard to the provisions of Clause 92 of the Environmental Planning and Assessment Regulations 2000.

The site is located within the *Coastal Zone*. Relevant to the principles of the Coastal Policy, the proposed development will not compromise the natural, cultural heritage (both indigenous and European) and spiritual values of the coastal area. The proposed development is considered to be a low impact development that incorporates the principles of sustainable development.

The proposed development will not compromise the goals or strategic actions of the Coastal Policy.

Development Control Plan No. 2014 (DCP 2014)

The aim of the Plan is to ensure good quality, sustainable development outcomes that maintain a high level of environmental amenity. The Plan is designed to allow flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved.

The proposal is generally consistent with DCP 2014 provisions contained in the following chapters:

- Chapter 4 – Environmental Considerations
- Chapter 5 – General Building Design
- Chapter 10 – Car Parking
- Chapter 11 – Water Sensitive Design
- Chapter 13 – Landscaping
- Chapter 14 – Waste Management

The proposal however does not comply fully with Chapter 5 – General Building Design and seeks a variation to section 5.6 – Building Height. Subclause (2) states that:

The floor level of the upper most habitable floor, including decks or verandahs, is to be no more than 5.1m above ground level on sites with slopes greater than 1:6.

The development proposes a three (3) storey dwelling with the upper most habitable floor approximately 8m above natural ground level. The proposed variation is support as it poses no impact on the visual amenity or privacy enjoyed by adjoining lands. The dwelling is located in a rural landscape well setback from road frontages and nearby dwellings.

Council Policy

Great Lakes Council Erosion and Sediment Control Policy

The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use and urban development, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.

The construction works associated with the proposed development will be managed to ensure that erosion and sediment control measures comply with the aims and requirements of the Policy thereby protecting the water quality of neighbouring natural and artificial water bodies. Appropriate conditions of consent are recommended.

b) *The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality*

The proposal is considered to be consistent with the context, setting and character of the locality. It is anticipated that the proposed development will not result in any significant impacts listed above.

Context and Setting

The proposed development is considered to be contextually appropriate on this large site in this rural location.

Site Design and Internal Layout

The large rural site readily accommodates the proposed dwelling house, detached garage, machinery shed and dam. The design of the dwelling is expansive and capable of accommodating staff and guests.

Views

The proposed building enjoys 360° views and does not impact on views from distant neighbouring properties.

Privacy (Aural and Visual)

The proposed development does not unreasonably impact on the privacy relationship with neighbouring properties.

Overshadowing

The proposed development does not overshadow distant neighbouring properties.

Visual Impact

The proposed development does not have an adverse visual impact.

Flora and Fauna

The application was referred to Council's Senior Ecologist who has commented on the impacts of the proposed development and evaluation the 7-part test as follows:

These impacts are somewhat moderated by the existing modified state of the vegetation of parts of the subject lands in which development is now sought, the ability to limit impacts within a development consent and the measures that can be deployed to manage important habitat areas and features.

My evaluation of the 7-part test shows that impacts cannot be reasonably considered likely to significantly impact the local representation, viability or integrity of threatened species, communities or populations on the subject lands or the adjoining locality. Development of this proposal is not likely to lead to the catastrophic loss of any threatened species populations that occur in the locality. There is the ability to adopt conditions of consent to confine the scale of likely impacts of the development.

Thus, I am satisfied that a significant ecological effect can be avoided and that a Species Impact Statement is not deemed required for this proposal. Conditions of consent are required.

I advise that this DA can be statutorily determined (by way of consent) in respect to ecological issues. The adoption of a range of identified ecological consent conditions is very important. Recommended conditions of consent are provided below.

Cumulative Impacts

Approval of the proposed development does not establish an undesirable precedent for future development in this rural locality.

c) The Suitability of the Site for the Development

The proposal is located on a large rural property and is well setback from street frontages and adjoining property boundaries. The proposed development, whilst of considerable scale, is deemed to be suitably located away from environmental sensitive areas and, with the exception of the machinery shed, will not be visible from public areas. As such the proposed development will not have a significant impact on the rural landscape and is therefore considered suitable within the context of the proposed site.

d) Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining landowners. No submissions were received. The application was renotified to the owner of Lot 4 DP 714149 to advise that revised plans had been submitted showing the relocation of the access road adjacent to the common property boundary. No submission was received.

e) The Public Interest

The proposed development, subject to conditions, does not compromise public interest

CONCLUSION

Development consent is sought for the construction of a dwelling, detached garage, machinery shed, dam and demolition of an existing dwelling. The proposed development seeks a variation to the development standard pertaining to clause 4.3 Height of Buildings. The applicant has provided suitable justification for the variation and in this instance the variation is supported.

The application was notified to neighbouring landowners and no submissions were received. The proposed development is generally consistent with the provisions of the GLLEP 2014 and DCP 2014. The development is unlikely to result in a significant impact on the existing built or natural environment.

The proposal has been assessed in accordance with Section 79c of the Environmental Planning and Assessment Act and is considered an acceptable development

RECOMMENDATION

It is recommended that Development Application No. 97/2017 for the construction of a dwelling, detached garage, machinery shed and dam, and demolishing of existing dwelling on Lot 100 DP 1047534, 182 Myall Way, Tea Gardens be approved as follows:

GENERAL CONDITIONS

1. Compliance with National Construction Code Series- Building Code of Australia

All building work must be carried out in accordance with the requirements of the *National Construction Code Series - Building Code of Australia* as in force on the date the application for the relevant construction certificate or complying development certificate was made.

Reason: Prescribed condition under the *Environmental Planning & Assessment Regulation 2000*.

2. Insurance requirements under *Home Building Act 1989*

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates has been given documentary evidence or written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) if the contractor is required to have a contract of insurance for any authorised works, a Statement of Cover with the name of the insurer by which the work is insured under Part 6 of that Act .

- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates has been given the notice of the updated information.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

3. Use of Dwelling

The approved dwelling must be used as a dwelling only. Any other uses, such as short term holiday lettings and tourist facilities, require a separate development approval from Council.

Reason: To protect the amenity of the surrounding area.

4. Notification of *Home Building Act 1989* requirements

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Reason: Prescribed condition under the Environmental Planning & Assessment Regulation 2000.

5. Driveway Access to Approved Dwelling

The driveway access to the approved dwelling shall be confined to the existing driveway notated as "*proposed upgrade to existing driveway*" as shown on the plan entitled "*Plan showing Stormwater Quality Management Plan Lot 100 in DP1047534 Myall Way & Pindimar Road Tea Gardens*" prepared by Tattersall Lander, dated 27/10/16, Revision B. No alternate driveway access to the approved dwelling shall be created.

Reason: To avoid ecological harm or damage associated with the creation of a new driveway.

6. Protection of the Natural Environment

The Registered Proprietor shall use their best endeavours to protect the natural environment, including areas of native vegetation and the quality and flow of watercourses on the land during all aspects of the construction and use of the approved development.

Reason: To avoid ecological harm or damage associated with the creation of a new driveway.

7. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Site Analysis Plan	A02 Rev 3	The Plan Centre of Newcastle	17/11/16
Site Plan (Part)	A03 Rev 2	The Plan Centre of Newcastle	2/9/16
Service Level Plan	A04 Rev 2	The Plan Centre of Newcastle	2/9/16
Lower Level Plan	A05 Rev 2	The Plan Centre of Newcastle	2/9/16
Upper Level Plan	A06 Rev 2	The Plan Centre of Newcastle	2/9/16
Elevations	A07 Rev 2	The Plan Centre of Newcastle	2/9/16
Elevations	A08 Rev 2	The Plan Centre of Newcastle	2/9/16
Sections	A09 Rev 2	The Plan Centre of Newcastle	2/9/16
Garage Details	A010 Rev 1	The Plan Centre of Newcastle	2/9/16
Proposed dam and machinery shed	Sheet 1-5	Tattersall Lander Pty Ltd	5/8/16
Tree Removal Plan for DA 97/2017	Plan 1 & 2	Senior Ecologist MidCoast Council	15/11/16
Plan showing Stormwater Quality Management Plan	Sheet 1 Rev B (Location of Proposed driveway)	Tattersall Lander Pty Ltd	27/10/16

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION WORK

The following conditions must be satisfied prior to the demolition of any building:

8. Erosion and sediment control plan

Prior to the commencement of demolition work, an erosion and sediment control plan prepared by a suitably qualified person in accordance with *"The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction"* (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

9. Installation of approved erosion & sediment control measures

Prior to the commencement of demolition work, erosion and sedimentation controls must be installed in accordance with the approved erosion and sediment control plan and are to be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any construction certificate:

10. Erosion and sediment control plan

Prior to the issue of a construction certificate, an erosion and sediment control plan prepared by a suitably qualified person in accordance with *“The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction”* (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

11. Driveway levels application

Prior to the issue of a construction certificate, a Driveway Levels Application must be submitted to Council for approval. A Driveway Levels Application Form must be completed and submitted to Council together with the application fee and all required plans and specifications.

Driveways must be constructed by a qualified/licensed contractor at no cost to Council in accordance with the driveway levels and construction standards issued by Council.

Reason: To ensure works within Council’s road reserve are constructed to a suitable standard for public safety.

12. Bond required to guarantee against damage to public land

Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of \$2000 and an administration fee of \$320 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
- b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

13. Detail of safety barrier for swimming pool

Prior to the issue of a construction certificate, plans and specifications for the swimming pool barrier must be submitted to and approved by the certifying authority. The barrier must be in accordance with the Swimming Pools Act 1992 and Australian Standard AS1926.1: Swimming pool safety – Safety barriers for swimming pools.

Reason: To ensure the development complies with swimming pool barrier construction standards.

14. Marking of the approved dwelling and garage footprints and Asset Protection limits

Prior to the issue of a construction certificate, the Registered Proprietor of the land, or their agents, shall engage a Registered Surveyor to identify on the land the external façade of the approved dwelling, garage and shed and then permanently mark on the land the accurate location of the extent of the approved Asset Protection Zone (APZ), as identified in these conditions, around the approved dwelling, garage and the existing sheds.

The APZ limit shall be permanently marked through the establishment of suitable 1.5-metre high vertical marker posts (steel or concrete posts) not greater than 30-metres apart and at each change of APZ area angle.

This shall define the APZ and promote the continued management of fuel loads in the understorey over this zone.

Reason: To identify the limits of bushfire asset protection zones.

15. Vegetated Swale, Dam Wall and Spillway to be resistant to erosion

Prior to the issue of a construction certificate, an experienced Soil Control Officer shall prepare or endorse in writing to Council that the dam wall, dam spillway and the vegetated swale from the garage to the dam are all designed in a manner that means that they are stable and functionally resistant to erosion.

Reason: To protect the environment from the effects of erosion and sedimentation.

16. On-site sewage management system - Section 68 application

Prior to the issue of a construction certificate, an application under Section 68 of the *Local Government Act 1993* to install a commercial on-site sewage management system must be obtained from Council. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters at a commercial level.

The report must address the site specific design of sewage management in accordance with the requirements of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and Guidelines approved by the Director General.

Reason: To ensure suitable onsite sewage disposal is provided to the development to protect public health and the natural environment.

17. BASIX Certificate

Prior to the issue of a construction certificate, plans and specifications detailing all of the BASIX Certificate commitments must be submitted to and approved by the certifying authority. The proposed development must be constructed in accordance with the requirements of the relevant BASIX Certificate. Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate will be required.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

18. Compliance with bush fire assessment plan

Prior to the issue of a construction certificate, plans and specifications detailing bush fire construction requirements must be submitted to and approved by the certifying authority. The development must be in accordance with the bush fire assessment plan referenced *Bushfire Threat Assessment Lot 100 DP 1047534*, prepared by Tattersall Lander Pty Ltd and dated August 2016.

Reason: To improve bush fire safety.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work:

19. Construction certificate required

Prior to the commencement of any building or subdivision construction work (including excavation), a construction certificate must be issued by a certifying authority.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 6591 7222.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

20. Notification of commencement and appointment of principal certifying authority

Prior to the commencement of any building or subdivision construction work (including excavation), the person having the benefit of the development consent must appoint a principal certifying authority and give at least two (2) days notice to Council, in writing, of the persons intention to commence construction work.

Reason: Statutory requirement under the Environmental Planning and Assessment Act 1979.

21. Site construction sign

Prior to the commencement of work, a sign or signs must be erected in a prominent position at the frontage to the site.

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

22. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

23. Toilet facilities - unsewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: To maintain the public health and the natural environment.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work:

24. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

25. Maintenance of erosion and sediment control measures in accordance with approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

26. Temporary pool fencing

Temporary fencing must be installed around the pool site during its construction to prevent entry by children. The temporary fencing must remain in place until permanent fencing is erected.

Reason: Public safety.

27. Tree removal to be restricted

Trees approved in this consent to be removed shall be restricted to those individual trees identified as "trees to be removed" on the marked-up plans entitled "Approved Tree Removal Plan for DA97/ 2017", prepared by Council's Senior Ecologist and dated 15/11/2016. In this manner, the development consent approves the removal of sixteen trees and shrubs from the vicinity of the approved shed and five trees and shrubs from the vicinity of the approved dam.

No tree clearing or harming shall be permitted or suffered on the land for the construction of the approved dwelling, garage and driveway or the demolition of the existing dwelling.

Only trees that are approved for removal in accordance with the conditions of this consent shall be cleared from the land.

All other trees on the land shall be protected and managed as part of the construction and use of the approved structures and access.

Reason: To minimise the removal of native vegetation for the approved development.

28. Vegetated Swale, Dam Wall and Spillway to be resistant to erosion

The dam wall, dam spillway and the vegetated swale from the garage to the dam are to be constructed in accordance with the approved sediment erosion control plans as required in these Conditions.

The registered proprietor of the land shall use their best endeavours to ensure that the dam wall, dam spillway and the vegetated swale from the garage to the dam remain stable, functional and resistant to erosion.

Reason: To protect the environment from the effects of erosion and sedimentation

29. Clearing of trees procedure

During the physical removal of the approved trees, the following shall be adopted at all times:

- Tree removal shall be conducted by licensed and accredited tree removal contractors only.
- Tree removal contractors shall ensure that only approved trees are to be removed.
- Tree removal contractors shall inspect the crown, foliage and trunks of trees that are approved for removal immediately prior to any felling to investigate the presence of koalas. If a Koala is detected, the tree and no other surrounding trees shall be cleared until the animal has dispersed of its own free will from the area.
- Removal of approved trees shall be conducted using directional felling away from trees that are to be retained on the land.
- Removal of approved trees shall be conducted in a manner that avoids any harm or the movement of machinery in the root zones of trees that are to be retained on the land.

Trees and shrubs removed from the study area shall be commercially re-used (logs), used in site landscaping (as edging or cover for terrestrial fauna) or retained and utilised by the occupier of the lot for the purpose of fuel for internal wood combustion heaters or stoves. Windrowing and pile-burning shall be avoided, except with the consent of the Rural Fire Service.

The construction of the dwelling, garage, shed and access road and the demolition of the existing dwelling shall be conducted in a manner that avoids impact, harm or removal trees that are otherwise not approved for removal and fill, stockpiles, machinery and equipment shall not be used or placed in the root zones of trees that are to be retained. Landform modification (cut/ fill) shall not occur in the root zones of trees that are to otherwise not approved for removal in this consent.

Reason: To protect trees and minimise the impacts of the approved development.

30. Protection of all Endangered Ecological Communities

All occurrences of Coastal Saltmarsh and Swamp Sclerophyll Forest on Coastal Floodplains on the subject land shall be preserved in its natural state, free of any direct or indirect harm associated with the construction of the approved structures.

Reason: To protect all occurrences of endangered ecological communities on the land.

31. Standards for demolition work

All demolition works must be undertaken in accordance with the provisions of Australian Standard AS 2601: The demolition of structures. Prior to demolition, all services must be disconnected and capped off.

Reason: To protect public health and safety.

32. Farm dam construction

The following specifications must be incorporated into the construction of the proposed dam:

- a) The site is to be cleared and all topsoil stripped to clay and cross-ripped prior to construction of the wall.
- b) All construction is to be carried out layer by layer to obtain good compaction. Clay is to be spread evenly in approximately 15 cm layers and not dumped into the bank or spill over the back of the bank.
- c) Inside wall batters are to be 3:1 (horizontal:vertical) and outside (downstream) wall batters no steeper than 2.5:1. Other excavation batters are not to be steeper than 2.5:1.
- d) No logs, large rocks or trees are to be left in the construction wall.
- e) Natural vegetation is to be left undisturbed below the spillway.
- f) All excavation, as far as possible, is to be within areas covered by stored water.
- g) The spillway must be designed for a 1:20 year storm.
- h) The dam wall must have a freeboard of at least 1 metre with a minimum wall crest width of 3 metres.
- i) The stockpiled topsoil is to be spread over the downstream batter, the crest of the wall and the upstream batter to at least to top water level.
- j) Dams located in spring fed area must have a trickle pipe installed to maintain water below the spillway level. The discharge for the trickle pipe must be located down the gully away from the lowest section of the dam wall;.
- k) Disturbed areas are to be immediately re-vegetated.

Reason: Environmental protection and structural adequacy.

33. Asset Protection Zone (APZ)

At the commencement of building works and in perpetuity, the property around the dwelling, to a distance of 35 metres and the property around the shed, to a distance of 20 metres must be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standard for asset protection zones.

Reason: To provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions must be satisfied prior to any occupation or use of the building:

34. Stormwater Treatment - Swale

Prior to issue of any occupation certificate, the Swale must be constructed in accordance with the approved entitled "*Plan showing Stormwater Quality Management Plan Lot 100 in DP1047534 Myall Way & Pindimar Road Tea Gardens*" prepared by Tattersall Lander, dated 27/10/16, Revision B, including any amendments contained in these conditions. The swale and site stormwater management must meet the following criteria:

- a) Be 5m wide at the base, by 86m long, and 0.3m deep.
- b) Receive overflow from the 100KL of rainwater tanks receiving 100% of the roof area
- c) Be constructed at a grade of 1-5% with a 1:8 batter to the existing surface
- d) Rock protection is to be situated at the overflow from the rainwater tank to protect the swale from erosion
- e) The end of the swale is to be contoured to prevent erosion
- f) Runoff from the driveway area is to be directed to adjoining landscaped areas with a 3% cross fall.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

35. Compliance of Swale to Plan

Prior to the issue of any occupation certificate, written certification by the builder or plumber shall be provided to the certifying authority that the swale has been installed in accordance with the approved plans and conditions.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met and ensure that the stormwater treatment system is constructed in accordance with approved conditions of consent.

36. Internal driveway in accordance with the approved plans

Prior to the issue of a final occupation certificate, a driveway must be constructed from the property boundary to the proposed car spaces in accordance with the approved plan entitled "*Plan showing Stormwater Quality Management Plan Lot 100 in DP1047534 Myall Way & Pindimar Road Tea Gardens*" prepared by Tattersall Lander, dated 27/10/16, Revision B.

Reason: To ensure suitable vehicular access is provided to the development.

37. Pool Safety

Prior to the issue of an occupation certificate, a warning sign/resuscitation chart must be erected in the immediate vicinity of the swimming pool/spa that is compliant with the *Swimming Pools Regulation 2008*. The sign must be in a prominent position and be in accordance with the *Swimming Pools Regulation 2008*. Fences, gates, walls, etc. enclosing the general swimming pool area must be maintained in good repair and condition at all times.

The swimming pool/spa must be registered with the NSW Swimming Pool Register with the registration number being provided to the certifier prior to the issue of an occupation certificate.

Reason: Statutory requirement and safety.

38. Pool backwash in rural areas

Prior to the issue of a final occupation certificate, pool water disposal and backwash must be directed to a soakage trench 3.0 metres long by 600mm wide by 600mm deep located so that it does not cause any nuisance or disturbance to any structures or effluent disposal areas.

Reason: To prevent environmental pollution and health impacts.

39. On-site sewage management system - approval to operate

Prior to the issue of an occupation certificate, the on-site sewage management system must be completed in accordance with the approved plans and current specifications and standards. The system must not be used and/or operated until it has been inspected by a Council Officer and an approval to operate the system has been issued.

Reason: To ensure public health and safety.

40. Survey certificate of complete building

Prior to the issue of a final occupation certificate, survey certificates from a registered surveyor must be submitted to the principal certifying authority upon completion of the building.

Reason: To determine the height of buildings under construction and ensure compliance with the approved plans.

41. Existing dwelling house to be demolished

The existing dwelling house must be removed prior to the issue of occupation certificate for the new dwelling house.

Reason: To ensure compliance with the development consent and the provisions of Great Lakes Local Environmental Plan 1996.

42. BASIX Compliance

Prior to the issue of a final occupation certificate, all of the required commitments listed in the BASIX certificate must be fulfilled.

Reason: Prescribed condition under the Environmental Planning and Assessment Regulation 2000.

ONGOING USE

43. Protection of all Endangered Ecological Communities

All occurrences of Coastal Saltmarsh and Swamp Sclerophyll Forest on Coastal Floodplains on the subject land shall be preserved in its natural state, free of any direct or indirect harm associated with the use of the approved structures.

Reason: To protect all occurrences of endangered ecological communities on the land.


44. Swale Maintenance

The swale and vegetation within the swale is maintained in perpetuity by the owner.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

ATTACHMENTS

A: Plans



Lisa Schiff
Director
Planning and Natural Systems