

**PLANNING & NATURAL SYSTEMS**

**ATTACHMENT A**

**DA 407/2017 - MANUFACTURED HOME  
ESTATE - 303 BLACKHEAD ROAD,  
TALLWOODS**

**EXTRAORDINARY MEETING**

**2 NOVEMBER 2017**

## **DA 407/2017- MANUFACTURED HOME ESTATE - 303 BLACKHEAD RD, TALLWOODS**

**Report Author**            **Petula Bowden, Senior Town Planner**  
**File No. / ECM Index**   **407/2017/DA**  
**Date of Meeting**         **27 September 2017**

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### **DETAILS**

Date Received:        13 April 2017  
Applicant:             Coastplan Group Pty Ltd  
Owners:                Brichris P/L; John Earning P/L; and Island Point Plantations P/L  
Land:                    Lot 3 DP 242332 No. 303 Blackhead Road Hallidays Point  
                              Zoning: R1 Residential and RE1 Public Recreation, GTLEP 2010

### **SUMMARY OF REPORT**

- The application proposes to develop a Manufactured Home Estate comprising 202 sites on land at Tallwoods.
- The development is proposed to be carried out in 4 stages and will provide for the dedication of land to Council for the purpose of public recreation.
- The application was notified and advertised, and 50 submissions were received.
- It is recommended that the proposal be approved, subject to the imposition of conditions.

### **SUMMARY OF RECOMMENDATION**

The proposed development application be approved subject to the conditions at the end of this report.

### **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.

### **ANNEXURES**

- A. Conditions of Consent
- B. Voluntary Planning Agreement
- C. Bushfire Safety Authority
- D. Approved Subdivisions Plan (Lot 4 Blackhead Road)

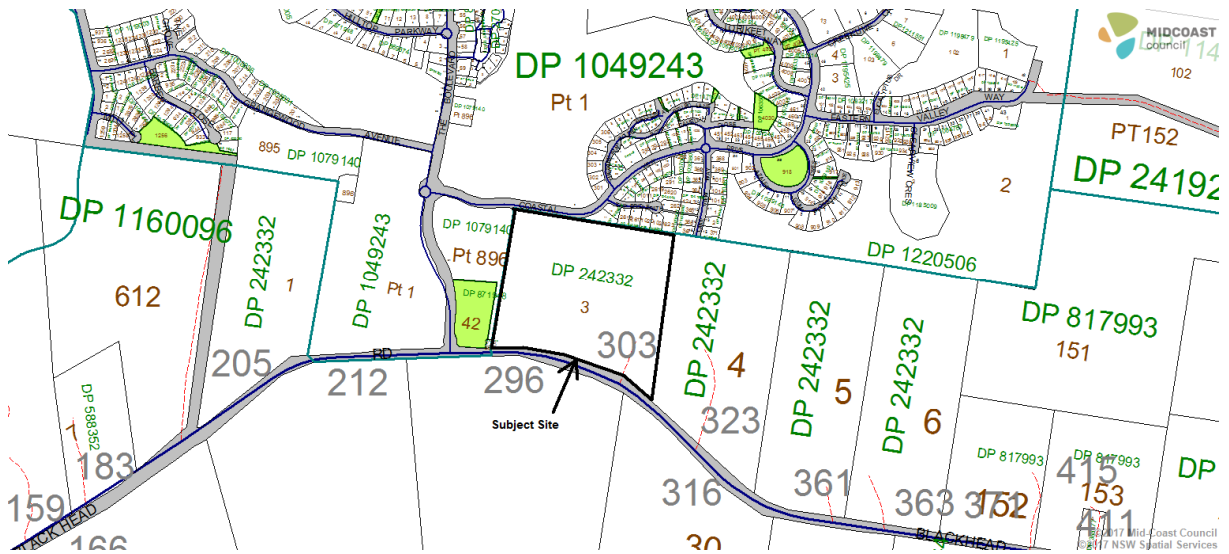
### **ATTACHMENTS**

- A. Development Plans
- B. Visual Analysis

Attachments A and B have been circulated in hard copy to the Councillors and Senior Staff, however these Attachments are publicly available on Council's website.

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## SUBJECT SITE AND LOCALITY



## BACKGROUND

The subject land is currently utilised for low intensity agriculture in the form of grazing of livestock. There is a dwelling located in the south eastern corner of the land.

The land was rezoned to residential and public recreation in 2010, at which time a Voluntary Planning Agreement [VPA] was made between Council and the owners of the land.

The VPA provided for the carrying out of certain public recreation works and the dedication of land to Council for public recreation purposes.

The VPA included a proposed plan of subdivision, however the VPA did not restrict development of the land solely for this purpose, and alternative subdivision or alternative forms of residential development can be considered on the land.

A summary of previous approvals is shown below:

Approval no.	Descriptions	Determination	Date
BA 124/86	Machinery Shed	Approval	25/2/1986
BA 316/79	Dwelling	Approval	18/7/1979

## **SITE DESCRIPTION**

The subject site has an area of 10.12 hectares and is located at the southern edge of the Tallwoods residential area. The southern boundary of the land fronts Blackhead Road, whilst part of the northern boundary is formed by the frontage to Coastal View Drive.

The site adjoins developed residential properties along Coastal View Drive and The Bridle Path.

Land in the locality is comprised of small residential properties with single dwellings, vacant residential lots, and private recreation zoned land (Tallwoods Championship Golf Course); Land zoned RE1- Public Recreation for future sports fields (in conjunction with the RE1 land within the subject site) and land zoned RE2- Private Recreation, containing a former sales office, now a gymnasium and medical centre, and parking area. Across Blackhead Road are large rural and rural residential allotments. This includes an allotment currently being developed for the purposes of a caravan park.

The land can generally be described as having low slopes and drains to the south- western corner of the site. The slopes on the land vary from 4.5% to 17.5%. The site contains one drainage line which crosses the south-western corner of the site.

Access to the site is currently available from Blackhead Road and Coastal View Drive. There is a gravel driveway from Blackhead Road which provides access to the existing dwelling, whilst there is also a second gravel driveway connecting to Coastal View Drive.

The subject land is not identified as being flood prone (within council's flood planning area) but is mapped bush fire prone land.

## **PROPOSAL**

The proposed development involves the establishment of a manufactured home estate. The proposal also involves the construction of public recreation facilities and dedication of land in a manner consistent with a voluntary planning agreement previously made over the subject land. The proposal will create 202 housing sites for the placement of manufactured homes, as well as the construction of a private community clubhouse, recreation facilities and caravan/RV parking. The proposed public recreation facilities include earthworks for the playing fields identified for the south western corner of the land, construction of a public carpark and public road access, construction of a cycleway along the frontage to Blackhead Road and dedication of the relevant lands to Council.

The manufactured home estate is to be maintained in single ownership.

The plan below depicts the development proposal.



In summary the proposed development has an estimated capital investment value of \$5 million and will comprise the following:

#### MHE (private facility)

- Demolition of an existing brick and tile dwelling, sheds and other structures
- 202 Manufactured Home Sites
- 34 Visitor parking spaces
- 13 Caravan/RV parking spaces
- Earthworks
- Road construction
- Stormwater Management Infrastructure
- Community Building/Facilities (Bar, Library, Café, Office etc.)
- Lawn Bowls Green
- Swimming pool
- Men's Shed
- Communal Garden
- Parks, BBQ's and vegetable garden

## Public infrastructure / facilities

- Earthworks
- Road construction and public carpark (17 spaces)
- Stormwater Management Infrastructure
- Walking trails and cycleway connection.

The Development will be carried out in 4 Stages comprising the following:

**Stage 1:** Lots 1-59; Community Centre; Pool, Bowling Green; Men's Shed, Office/Managers Residence, Roadworks, Public Car Park; Bulk Earthworks for playing field and future stages; Caravan Storage; and Construction Access



**Stage 2:** Lots 60-116; Open Space area; Roadworks and Car parks; dedicate public road and car park; complete playing field earthworks; and construct 2m wide cycleway



**Stage 3:** Lots 117- 167; Open Space and Car Parks; dedicate playing fields, water quality infrastructure, open space and cycleway



**Stage 4:** Lots 168-202; Roadworks; Car Parks and construction and dedication of remaining portion of cycleway and open space.





The application does not seek consent for the individual dwellings. If consent is granted for the manufactured home estate the dwellings would be subject to compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

It is intended that the proposed future dwellings will be single storey and have floor areas of approximately 107-135m<sup>2</sup>. The houses will be constructed in a variety of weatherboard and fibre-cement cladding with low-maintenance landscaping. Each will comprise 2 or 3 bedrooms or 2 bedrooms and a study, along with a covered (carport / garage) car parking space and landscaping.

Artist's impressions below depict the likely design of the future dwellings.

Typical house type



## REFERRALS

The following referrals were undertaken during the assessment process:

Authority/Department	Comment
NSW Police	No comment provided
NSW Rural Fire Service	See comments below
Development Engineer	Acceptable subject to conditions
Building Surveyor	Acceptable subject to conditions
Environmental Health	Acceptable subject to conditions
Natural Systems	Acceptable subject to conditions

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT – ASSESSMENT

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.***

## **STATE ENVIRONMENTAL PLANNING POLICY No 36 – MANUFACTURED HOME ESTATES**

Development for the purposes of manufactured home estates is regulated by State Environmental Planning Policy No 36- Manufactured Home Estates (SEPP 36). The aim of SEPP 36 is to facilitate the development of well designed, appropriately located manufactured home estates to provide an alternative contemporary form of medium density residential development.

This State Environmental Planning Policy essentially enables Manufactured Home Estates to be established on land where they may not otherwise be permitted due to local planning controls. The proposed development is permitted under the provisions of Greater Taree Local Environmental Plan. It does not rely on the provisions of SEPP 36.

Nevertheless *Clause 9* of SEPP 36 stipulates the matters that must be considered by Council when assessing development applications for manufactured home estates. The relevant sections of SEPP 36 are considered below:

<b>SEPP 36 Clause</b>	<b>SEPP Requirement</b>	<b>Comment</b>
Clause 6	Identifies land where manufactured home estates are not permitted under SEPP 36	Noted.
Clause 7 (2)	Approval to operate a manufactured home estate under the provisions of the Local Government Act 1993	<b>Complies:</b> A condition of the draft consent addresses this matter.
Clause 8	Subdivision of manufactured home estates	<b>Complies:</b> The application does not include subdivision of the MHE and it is proposed that the MHE be maintained on one allotment.
<b>Clause 9 (1) Council must not grant approval for a manufactured home estate unless it is satisfied that:</b>		
Clause 9 (1)(a)	Each of the sites on which a manufactured home is or will be installed within the manufactured home estate is or will be adequately provided with reticulated water, a reticulated sewerage system, drainage and electricity	<b>Complies:</b> All dwelling sites are to be connected to reticulated water, sewer, drainage and electricity.
Clause 9 (1)(b)	The manufactured home estate is or will be provided with adequate transport services	<b>Complies:</b> The estate has a single access point onto Coastal View Drive with the internal road network servicing each of the dwelling sites. Adequate visitor parking is provided on site 34 spaces.  Existing public transport buses are available within 300m of the site. The local road network is capable of accommodating the additional traffic generated by the development. The site is able to be serviced by public transport and taxi.

SEPP 36 Clause	SEPP Requirement	Comment
Clause 9 (1)(c)	Sufficient community facilities and services, whether situated within or outside the estate, are or will be available and reasonably accessible to the residents of the manufactured home estate	<b>Complies:</b> The MHE includes community and recreational facilities for the private use of residents within the estate.
Clause 9 (1)(d)	The development will not have an adverse effect on any: <ul style="list-style-type: none"> <li>• conservation area</li> <li>• heritage item</li> <li>• waterway or land having special landscape, scenic or ecological qualities, which is identified in an environmental planning instrument applicable to the land concerned.</li> </ul>	Complies
<b>Clause 9 (2) A council may grant a development consent pursuant to this Policy only after it has considered the following:</b>		
Clause 9 (2)(a)	The cumulative impact of the proposed development	Currently there are no other manufactured home estates in the locality. The proposed MHE is not perceived to generate any cumulative impacts if approved as it would be the first development of this type in the locality. The development will provide additional low maintenance housing opportunities for the Tallwoods community on a currently vacant site.
Clause 9 (2)(b)	Any relevant guidelines issued by the Director,	None applicable.
Clause 9 (2)(c)	The provisions of the <i>Local Government (Manufactured Home Estates) Transitional Regulation 1993</i> .	<b>Complies:</b> The application has been assessed against the provisions of The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Removable Dwellings) Regulation 2005.
Schedule 2	Categories of excluded land	<b>Complies:</b> The subject site is not: subject to any coastal erosion, tidal inundation, slip, dunal movement, flooding; located within a water catchment area; affected to an unacceptable level by an offensive or hazardous industry; or identified in an environmental planning instrument as any of the following:

SEPP 36 Clause	SEPP Requirement	Comment
		<ul style="list-style-type: none"> <li>• extractive resources,</li> <li>• services corridors,</li> <li>• airport/industry buffer area,</li> <li>• habitat corridor,</li> <li>• containing significant remnant vegetation,</li> <li>• littoral rainforest,</li> <li>• water catchment,</li> <li>• wetlands.</li> </ul>

### **STATE ENVIRONMENTAL PLANNING POLICY NO. 44- KOALA HABITAT PROTECTION**

The fauna assessment submitted in support of the application included an assessment pursuant to this policy, as one (1) koala feed tree was detected on the site.

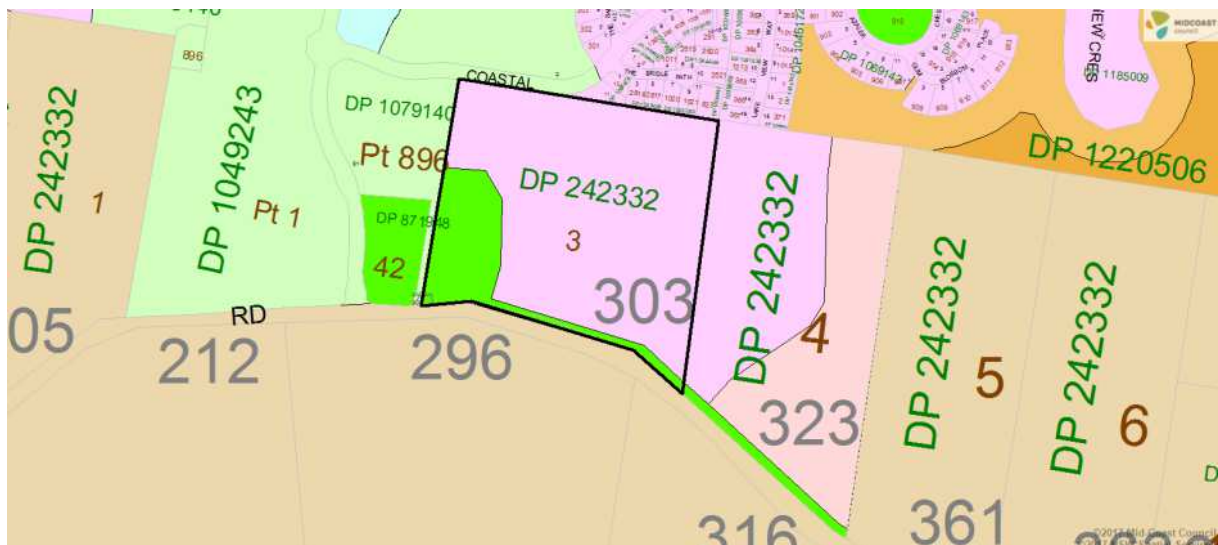
The closest record of Koalas to the subject site is located within the small patch of isolated forest on the adjacent lands to the immediate north of the subject site. Given the potential for Koalas on the site the complete Spot Assessment Technique (SAT) was undertaken as a measure of Koala 'activity' at two locations within the study area. No Koala scats were found within the SAT's undertaken. No Koalas were otherwise recorded directly or indirectly by other survey means such as spotlighting, call-playback or scratches on smooth-barked trees. Koalas are not considered likely to utilise the subject site as part of an established home range. As such, the subject site is not considered to comprise core Koala habitat (CKH) as defined under SEPP 44 and no further special considerations to this policy were required.

Nevertheless, it is acknowledged that the immediate surrounds support transitory habitat for koalas. Conditions of consent are proposed to ensure this continued activity.

### **GREATER TAREE LOCAL ENVIRONMENTAL PLAN 2010**

Having regard for the matters for consideration detailed in Section 79C(1) of the *Environmental Planning & Assessment Act 1979*, the following is a summary of the evaluation of the proposal pursuant to the provisions of the relevant clauses of the Greater Taree Local Environmental Plan 2010.

The land the subject of this application is zoned both R1 Residential and RE1 Public Recreation.



Greater Taree Local Environmental Plan 2010 does not define manufactured home estates, however they are defined in State Environmental Planning Policy (SEPP) No.36- Manufactured Homes Estates to mean *land on which manufactured homes are, or are to be, erected.*

A Manufactured Home is defined in the same SEPP to mean:

*a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:*

- a) *that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and*
- b) *that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.*

The following table outlines the permissibility of the use and any relevant LEP provisions.

A Manufactured Home Estate is not a land use defined in the LEP and is therefore permissible development with the consent of Council in accordance with the provisions of the relevant zoning table.

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Complies</b>
<b>Zone Objectives</b>	<p><i>R1- Residential</i></p> <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community.</i></li> <li>• <i>To provide for a variety of housing types and densities.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul> <p><i>RE1 Public Recreation</i></p> <ul style="list-style-type: none"> <li>• <i>To enable land to be used for public open space or recreational purposes.</i></li> <li>• <i>To provide a range of recreational settings and activities and compatible land uses.</i></li> <li>• <i>To protect and enhance the natural environment for recreational purposes.</i></li> </ul> <ul style="list-style-type: none"> <li>• <i>To provide for a range of educational, environmental, community and cultural uses for the benefit of the community.</i></li> </ul>	Yes
<b>Permissible use</b>	<p>Manufactured Home Estates are not defined within the LEP – they are an innominate use. The use is permissible in the zone with consent.</p> <p>Roads are likewise permissible with consent in the zone. As such, all the uses in the R1 zone are permitted with consent.</p> <p>The proposed recreation area and roads are permissible in the RE1 zone, with consent.</p>	Yes

LEP Requirement	Summary of Requirement	Complies
<b>LEP Provisions applicable to the proposed development</b>		
<b>4.3 –Height of buildings</b>	<i>8.5m</i>	Yes The maximum height of the community building is 6.5 metres. Manufactured homes to be installed on the sites are not buildings as defined in the Act and are technically not subject to this control, however, the likely buildings heights would generally be less than 5 metres.
<b>4.4 –Floor Space Ratio</b>	<i>0.6:1</i>	Yes The floor space ratio of the proposal is in the order of 0.01:1. - community building /office and managers residence are the only buildings on the site.
<b>7.1- Acid Sulphate Soils</b>	<i>Class 5</i>	Yes Clause 7.1 of the LEP applies to the land as parts of the land are mapped as Class 5 on the Acid Sulfate Soils Planning Maps for the area. The provisions of the clause only require further investigation if the proposal is likely to result in the lowering of water tables in other areas. The proposed development is unlikely to affect water tables in the area.
<b>Earthworks</b>		All earthworks proposed to be carried out on the site will be done in accordance with an erosion and sedimentation control plan prepared in accordance with Council's DCP that ensures that the earthworks will not have a detrimental impact on the functions and features of the surrounding land.

### **GREATER TAREE DEVELOPMENT CONTROL PLAN 2010**

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Greater Taree Development Control Plan 2010.

Part D – Environmental Requirements, Part M – Site Waste Minimisation and Management and Part N - Landscaping have requirements relevant to this DA. The proposed development complies with all relevant provisions of Greater Taree DCP 2010.

## **THE NSW LOCAL GOVERNMENT ACT 1993**

The NSW Local Government Act 1993 also provides for manufactured home estates and manufactured homes. Specifically s68 allows a manufactured home to be installed subject to an approval under that section. Unless otherwise approved, the dwellings will be constructed off-site.

The installation of the future dwellings will require application under s68 for their placement within the estate. A condition of consent is to be imposed to require this approval prior to the installation of any dwellings.

## **LOCAL GOVERNMENT (MANUFACTURED HOME ESTATES, CARAVAN PARKS, CAMPING GROUNDS AND MOVEABLE DWELLINGS) REGULATION 2005**

This Regulation sets out standards for the design and construction of manufactured home estates and manufactured homes to ensure the safety and amenity of occupants of manufactured homes.

The following table sets out the compliance of the subject proposal with the provisions of the regulation.

<b>Clause/Development Standard</b>	<b>Comment</b>
<b>Clause 12 - Minimum size of estate</b>	
A manufactured home estate must not have an area of less than one hectare or, if a lesser area is permitted by a relevant environmental planning instrument, that lesser area.	<b>Complies:</b> The subject site is 10.12 hectares.
<b>Clause 13 - Community amenities</b>	
(1) Of the total land area of a manufactured home estate: (a) at least 10 per cent, or (b) such lesser proportion (but not less than 6 per cent) as the approval for the manufactured home estate may allow, must be reserved for recreation or other communal activities.	<b>Complies:</b> The total area dedicated for communal activities is approximately 11,390m <sup>2</sup> . These areas represent approximately 14% of the total site.
2. In deciding whether to allow a lesser proportion, the council must have regard to the type and range of amenities to be provided and to such other matters as it considers relevant	<b>Not applicable</b> – the land available for communal activities exceeds 10%.
<b>Clause 14 - Size of dwelling sites</b>	
A dwelling site must have an area of at least 130 square metres.	<b>Complies:</b> The proposed development consists of 202 sites with areas ranging from 214m <sup>2</sup> to 370m <sup>2</sup>
<b>Clause 15 - Site identification</b>	
(1) A dwelling site must be numbered or identified and its site boundaries clearly delineated. (2) The site identification must be conspicuous.	A condition of the draft consent notice requires each allotment to be identified in accordance with this clause.
<b>Clause 16 - Dwelling sites to have road frontage</b>	
A dwelling site must have vehicular access to an access road.	<b>Complies:</b> Each of the dwelling sites have frontage to an internal access road.

Clause/Development Standard	Comment
<b>Clause 17 - Setbacks of community buildings</b>	
<p>(1) A community building must not be located closer than 10 metres to the boundary of a manufactured home estate, or to the boundary of a dwelling site, unless the approval for the manufactured home estate so allows.</p> <p>(2) The approval for a manufactured home estate must not allow a lesser distance than 10 metres unless the council is satisfied that the community building has been or will be properly screened, fenced, enclosed or otherwise treated.</p> <p>(3) A community building must not in any case be located closer than 2 metres to the boundary of a manufactured home estate or to the boundary of a dwelling site.</p>	<p><b>Complies:</b></p> <p>The proposed community building is located adjacent to the public carpark and playing fields. The closest dwelling site to the community building will lot 78, which is greater than 10m from the community building. The landscape plan indicates the areas around the community building will be suitably landscaped to screen the community centre and other facilities from neighbouring dwelling sites within the estate.</p>
<b>Clause 18 - Setbacks of dwelling sites from road frontages</b>	
<p>(1) A dwelling site must not be located closer than 10 metres to a public road or 3 metres to any other boundary of the manufactured home estate unless the approval for the manufactured home estate so allows.</p> <p>(2) The approval for a manufactured home estate must not allow a lesser distance than 10 metres unless the council is satisfied that the dwelling site has been or will be properly screened, fenced, enclosed or otherwise treated.</p>	<p>Lots closest to a public road are Lots 1-9 (Coastal View Drive and Road 1 to be dedicated) and Lots 189-193 (Blackhead Road).</p> <p>The setback to Coastal View Drive to the boundary of these lots is in the order of 5m, which is consistent with Council's setback requirements for residential development in the locality.</p> <p>The setback to Blackhead Road will be approximately 13m.</p> <p>The lots closer than the required 10m are to be screened and landscaped to ensure the amenity of residents.</p>
<b>Clause 19 - Use of buffer zones</b>	
<p>Nothing in this Part prevents land within a buffer zone arising from the setbacks required by this Subdivision from being used:</p> <p>(a) for community amenities, access roads, car parking spaces, footpaths or landscaping, or</p> <p>(b) for any similar purpose allowed by the approval for the manufactured home estate</p>	<p>Noted.</p>
<b>Clause 20 - Entrance and exit roads</b>	
<p>(1) A road that forms an entrance to or exit from a manufactured home estate must be at least 8 metres wide.</p> <p>(2) In the case of a divided road, the width of the sealed portion of the road on either side of the median strip must be at least 5 metres.</p> <p>(3) The arrangement for the width of an entrance or exit road to taper into or meet the width of the sealed portion of the access roads leading to the entrance or exit may be specified in the approval for the manufactured home estate.</p>	<p>The Road Network Plan shows a single access point allowing entry/exit to the estate from proposed Road 1 off Coastal View Drive. This road will have a minimum pavement width of 8m with verge of 4m.</p> <p>The internal roads all have a minimum pavement width of 6m with either single or double verges of 1.5m.</p> <p>The road adjacent to the community facilities has a width of 7.5m with a 1.5m verge.</p>



<b>Clause/Development Standard</b>	<b>Comment</b>
<b>Clause 21 - Width of roads</b>	
(1) The width of the road reserve must be: (a) at least 8.5 metres for a major access road, and (b) at least 6 metres for a minor access road.	Complies
(2) The width of the sealed portion of an access road must be: (a) at least 6 metres for a major access road, and (b) at least 4 metres for a minor access road.	Complies
(3) If a minor access road exceeds 80 metres in length, a passing bay or bays must be provided within the road reserve.	NA
(4) Passing bays must be provided at intervals of not more than 100 metres.	Complies
(5) The width of the sealed portion of an access road at any point at which there is a passing or parking bay must be: (a) at least 8.5 metres for a major access road, and (b) at least 6 metres for a minor access road.	Complies
<b>Clause 22 - Speed restrictions as part of road design</b>	
Access roads must be so designed as to limit the speed at which vehicles may travel on them to: (a) 30 kilometres per hour for major access roads, and (b) 15 kilometres per hour for minor access roads.	Conditioned.
<b>Clause 23 - Visitor parking</b>	
(1) A manufactured home estate must contain no fewer visitor parking spaces than the following: (d) 20 spaces for a manufactured home estate containing more than 105 sites, plus one additional space for each additional 7 sites (or part of a site) over 140.	The manufactured home estate requires the provision of 29 visitor parking spaces.  A total of 34 visitor spaces are provided for the 202 sites.
(2) Each parking space is to have, at minimum, dimensions of: (a) 5.4 metres by 2.5 metres, in the case of angle parking, and (b) 6.1 metres by 2.5 metres, in any other case.	Complies
(3) Visitor parking spaces must be clearly identified as such.	Complies

Clause/Development Standard	Comment
<b>Clause 24 - Visitor parking for people with disabilities</b>	
<p>(1) A manufactured home estate must contain at least one visitor parking space for people with disabilities.</p> <p>(2) A manufactured home estate that contains more than 100 sites must contain at least one visitor parking space for people with disabilities for each 100 sites or fraction of 100 sites.</p> <p>(3) Such parking is to be provided in accordance with AS/NZS 2890.1:2004, <i>Parking facilities—Off street parking</i>.</p> <p>(4) Visitor parking spaces for people with disabilities must be clearly identified as such.</p> <p>(5) Visitor parking spaces provided under this clause may be counted for the purposes of clause 23.</p>	<p>Only 1 space (No. 8) is nominated for disabled visitor parking. The requirement for 3 spaces is conditioned.</p>
<b>Clause 25 - Road surfaces</b>	
<p>All access roads, including all passing and parking bays, must have an all-weather sealed or other surface finish specified in the approval for the manufactured home estate, and must be adapted to the topography to allow for adequate drainage and to eliminate excessive grades.</p>	<p>Conditioned</p>
<b>Clause 26 - Lighting</b>	
<p>All access roads must be adequately lit between sunset and sunrise.</p>	<p>Conditioned</p>
<b>Clauses 27- 32 – Servicing</b>	
<p>All requirements for servicing of the site can be complied with.</p>	
<b>Clause 33 - Garbage removal</b>	
<p>Arrangements specified in the approval for the manufactured home estate must be instituted and maintained for the removal of garbage and for the maintenance of garbage receptacles in a clean and sanitary condition.</p>	<p>Conditioned</p>
<b>Clause 34 - Fire hydrants</b>	
<p>(1) No part of a dwelling site or community building within a manufactured home estate may be situated more than 90 metres from a fire hydrant.</p> <p>(2) Any fire hydrant located within a manufactured home estate must:</p> <p>(a) be a double-headed pillar-type fire hydrant, and</p> <p>(b) be maintained to the standard specified in the approval for the manufactured home estate.</p>	<p>Conditioned</p>

Clause/Development Standard	Comment
<b>Clause 35 - Buildings</b>	
<p>(1) A building must not be erected on a manufactured home estate unless the approval for the manufactured home estate so allows.</p> <p>(2) The approval for the manufactured home estate is to allow only the following kinds of buildings to be erected on a manufactured home estate:</p> <p>(a) community buildings,</p> <p>(b) brick or masonry walls in the form of separating walls between adjoining manufactured homes or in the form of external facades to manufactured homes.</p> <p>(3) The approval for a manufactured home estate is to allow the erection of a brick or masonry wall in the form of an external facade to a manufactured home only:</p> <p>(a) if the dwelling site on which the manufactured home is situated is a neighbourhood lot within the meaning of the <i>Community Land Development Act 1989</i>, and</p> <p>(b) the owner of the manufactured home is also the proprietor of the neighbourhood lot.</p>	Complies
<b>Clause 36 - Use of manufactured home estates</b>	
<p>(1) A manufactured home estate must not be used:</p> <p>(a) for any commercial purpose other than a manufactured home estate or an associated purpose, or</p> <p>(b) for the manufacture, construction or reconstruction of moveable dwellings.</p> <p>(2) Nothing in this clause prevents a manufactured home from being used for exhibition purposes.</p> <p>(3) This clause does not prevent the carrying out of work on a manufactured home that is installed in a manufactured home estate for the purpose of its renovation, maintenance or repair (such as painting, replacement of wall cladding or roof sheeting and the like).</p>	Conditioned
<b>Clause 37 - Community map</b>	
<p>The person who holds the approval to operate a manufactured home estate must provide the Council with a copy of the current community map:</p> <p>(a) as soon as practicable after any amendment is made to the map, and</p> <p>(b) at such other times as the council may reasonably require.</p>	Conditioned

Clause/Development Standard	Comment
<b>Clause 38 - Access to approval and community map</b>	
The holder of an approval to operate a manufactured home estate must ensure that copies of the following documents must be readily available for inspection without cost by any person in a location in the manufactured home estate specified in the approval for the manufactured home estate: (a) the approval for the manufactured home estate, (b) the current community map, (c) this Regulation.	Conditioned

### ***VOLUNTARY PLANNING AGREEMENT***

As previously mentioned, at the time of rezoning a VPA was made between Council and the land owners.

The agreement provided for the following:

#### **Construction works involving:**

- i) Earthworks required and associated with construction of playing field, including the provision and application of top soil.
- ii) Earthworks associated with the construction of public car parks (17) to be located on the western side of Road No. 2 as depicted on the Rezoning Plan.
- iii) Construction of raingardens/retention dams as required by Council to meet water quality objectives within the RE1 land and landscaping associated therewith and installation of all pipes and utilities connecting the development to these facilities
- iv) Construction of a 2 metre wide bicycle way/pedestrian path (of concrete) along the full extent of the southern boundary of the land adjacent to Blackhead Road and adequate lighting.

#### **Dedication of Land involving:**

- a) Dedication of the land zoned RE1 at no cost to Council.
- b) Dedication to occur after the construction works for the recreation project are complete.
- c) 12 month maintenance period for the dedicated land.

The voluntary planning agreement provided for all these works to occur when Council had released a subdivision certificate for development on the area of land identified as `B'.

The VPA did not exclude the application of Section 94 or 94A of the EPA Act, but did exclude development contributions payable in relation to land development as far as contributions relate to the local open space component. A copy of the VPA is provided as *Annexure B - Voluntary Planning Agreement*.

The agreement within the VPA set out that it shall exclude the application of Section 94 so far as such contributions relate to local open space.

In comparison, the current proposal involves the development and use of the land as a Manufactured Home Estate and will not involve residential subdivision. As such, the provisions of the Planning Agreement are not triggered by this proposal. The applicant is, however, aware of the public benefits of dedication of public land and has elected to include works and dedication of land to achieve the outcomes generally in accordance with the planning agreement.

There are however some changes to the works which are necessary due to the development type, including:

- 1) Public road access is no longer available to the eastern side of the sporting fields and the construction of carparks in this location would be illogical as they would have no legal access through the proposed development. In the alternative, the proposal will create 17 car parking spaces to the north of the sporting fields which will be accessed via a new public road access from Coastal View Drive.
- 2) The dedicated land will now include the public road from Coastal View Drive.
- 3) The proposed works are to be carried out in stages and the construction and dedication is proposed to occur progressively over the stages.

The proposed works/dedication are proposed to occur during the following stages:

<b>Stage</b>	<b>Construct</b>	<b>Dedication</b>
Stage 1	Commence construction of Public Road access and Carpark area and commence earthworks for playing fields.  Construction of water quality ponds, detention basins in RE1 zoned area.	Nil
Stage 2	Complete Public Road and Carpark.  Continue earthworks for playing fields and construction of 2 metre footpath up to construction/emergency access.	Dedicate Public Road and Carpark areas to Council prior to issue of an approval to operate for Stage 2.
Stage 3	Complete playing fields earthworks (including top soil) and 2 metre concrete footpath up to construction/emergency access	Dedicate RE1 playing fields area and access corridor along Blackhead Road frontage up to construction/emergency access prior to approval to operate Stage 3.
Stage 4	Construct remaining footpath from construction/emergency access to eastern boundary.	Dedicate remaining RE1 land to Council, upon installation of last home in stage 4

The timing of the dedication of land is considered acceptable, with the exception of that in Stage 4. To ensure the timely completion of the public works the dedication of the remaining open space land and construction of the final portion of the footpath is to be required at the release of the Subdivision Certificate for Stage 4.

In addition, an exemption from the following contributions in the Hallidays Point Works of the Greater Taree Section 94 Contributions Plan 2016 is sought (being works formerly in the Local Open Space contribution):

- HP2 - Acquisition of land for sport fields at The Boulevard, Tallwoods
- HP3 - Construction of fields at Tallwoods
- HP4 - Construction of carpark at playing fields, Tallwoods
- HP10- Blackhead Road Pathway West
- HP11 - Blackhead Road Pathway East
- HP13 - Construction of multipurpose Court at Diamond Beach.

It is important to note that at the time of entering into the VPA (9/2/2010) the proposed subdivision of Lot 3 was for the creation of 82 lots and dedication of a Public reserve of 1.45ha.

The current proposal seeks to allow 202 dwelling sites and dedication of 1.633 ha. The Open Space component of the Local Facilities portion of the plan amounts to 40%. It is considered acceptable therefore that this discount is applied at the time of payment of these monies.

Councils current S94 Plan (2016) requires the following contributions for the development.

Hallidays Point 2017-2018 rate ( 202 additional home sites)		
Local Facilities	\$5157.37 per site	\$1 036,631.3
Greater Taree area facilities	\$2275.28 per site	\$457 331.28
Total		\$1,493, 962.50

\*The 2016 Contributions Plan sets 1.5 persons per site as the assumed average household occupancy rate.

Assessment of the provisions of the S94 Contributions Plan 2016 shows that only certain works nominated in the plan will be covered by the development.

HP10 seeks contributions for a shared pathway 3m wide for 700m. The developer only seeks to provide a 2m wide pathway. Accordingly it is considered that a condition of consent be imposed to require the construction for the 3m wide pedestrian pathway/cycleway.

### **COUNCIL POLICY**

#### Stormwater Management Policy

On 26 July 2017 Council adopted a Stormwater Management Policy which requires significant stormwater treatment devices, bio-retention basins and drainage infrastructure with public benefit to be dedicated to Council.

The policy states that dedication of land for stormwater drainage, detention and treatment purposes will only be accepted along with a maintenance plan and a maintenance period and accompanying bond.

The current development seeks to retain the majority of stormwater treatment devices to be contained in the development site. As the DA proposes a stormwater management system on land to be dedicated to Council to largely service stormwater from Councils roadways and open space it is considered reasonable that the provisions of the policy are not enacted.

#### **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 land was zoned in 2010 to provide for residential development and to provide public open space for the local community. The proposed development will result in residential development with a density dissimilar to the existing setting of the land. The large area of open grassland will be replaced by areas of urban development, sports fields, carpark and a pedestrian cycleway corridor.

The existing residential area is developed with a variety of housing forms, including single dwellings on residential lots and medium density villa developments. The proposed outcomes for the site will provide for the establishment of single storey homes on sites within a managed resort setting.

Given that the estate will be largely detached from the existing residential area of Tallwoods the increased density and inward-facing proposal is considered not unreasonable. Screening along Blackhead Road and separation from the access to Tallwoods via the future playing fields will mitigate the impact of the increased density and nature of the development.

### ***Overshadowing/Privacy***

The development is proposed over low land and does not overlook any adjoining land. The setbacks from the boundaries and perimeter landscaping are effective to prevent any potential privacy impacts between development on the site and adjoining lands. The proposed development does not include any high building which could overshadow adjoining areas. Homes installed on sites would primarily be single storey and would be unlikely to generate any significant shading which could impact on other properties.

### ***Visual Impact***

The proposed development will create a visual impact with the construction of medium density residential development on a currently vacant site. The community building to be erected within the development is a single storey building. The density of the development when compared to the surrounding 'traditional' residential subdivision and development is considered high, however the visual impact of the development on the locality is somewhat mitigated by the following:

- Existing vegetation located along the Blackhead Road screens the development site from the west. This vegetation is located along the road reserve and will not be removed.
- The proposed landscaping and open space areas of the site will soften the built form that will eventually be located on the site.

A Visual Impact Assessment submitted with the proposal notes the limited opportunities to view the site from public places in the locality and asserts that both existing and proposed vegetation will assist in mitigating any adverse visual impact. Photomontages of the site when viewed from blackhead road indicate the pre and post-landscaping views from the 3 selected viewpoints. The photomontages are provided as *Attachment A- Visual Analysis*.



### ***Access, Transport and Traffic***

The proposed development will create additional traffic movements in the locality. A new road will connect Coastal View Drive to the manufactured home estate entrance. This road will be a Council owned and maintained road.

Coastal View Drive can safely accommodate peak traffic movements generated by the development and all vehicles can enter and leave the site in a forward direction. Council's engineers have advised that the surrounding road network is capable of servicing the increase in traffic activity generated by the development.

Resident access to the site will be via a single access point on Coastal View Drive. No resident access is proposed from Blackhead Road.

Adequate car parking and vehicle manoeuvrability is available on site for all types of vehicles that are expected to access the development. Road design, visitor parking, parking for people with disabilities and speed limits all comply with the relevant legislation.

The proposal also includes upgrade of the existing driveway from Blackhead Road for use during construction, as well as an emergency access for the estate. The driveway will be designed for use by articulated vehicles used for delivery of homes within the estate.

The traffic report submitted in support of the proposal states that daily traffic on the local road network are well within agreed capacity limits for an urban road network, that the location of the access road on Coastal View Drive is satisfactory, and that there is adequate car parking on site.

Specifically the report states that 202 lots will generate up to 80 vehicle movements in the weekday peak hour, assuming seniors living style demands. Daily trip generation is expected to be in the order of 425 vehicle movements. Even if it were conservatively assumed that the subject development was standard detached dwelling residential development, the PM peak traffic generation would only be 158 trips (143 in the AM peak hour). A service level of 'A' will be maintained at the Boulevard/Blackhead Road intersection.

### ***Drainage/Stormwater***

The subject land is not identified within a flood planning area on Council's mapping and there are no local flooding issues known which would affect the proposal. Hydraulic analysis shows that there is some ponding over the land as a result of back up water from the drainage under Blackhead Road. The area affected by such ponding is limited to the areas of the site zoned RE1 and proposed for future sports fields.

The stormwater management for the site involves:

- Collection of roof water from homes into rainwater tanks for reuse within the homes (toilet flushing and laundry), as well as for external use.
- Collection of tank overflow water and road water and conveyance to end of line Water Quality Bioretention Basins where pollutants and nutrients are removed from stormwater flows.
- Discharge of stormwater to the existing stormwater drainage connections under Blackhead Road.

To examine the effectiveness of the stormwater system for treating water quality, the Water Sensitive Urban Design Report included a Model for Stormwater Improvement Conceptualisation (MUSIC) which examined the effectiveness of the stormwater system in treating stormwater flows.

The results showed that, the proposed stormwater system meets the water quality treatment parameters as follows:

- Gross Pollutants - 98.4% Reduction
- Total Suspended Solids - Reduction from existing load (61% decrease from existing load)
- Total Phosphorous - Reduction from existing load (28% decrease from existing load)
- Total Nitrogen - Reduction from existing load (1% decrease from existing load)



The Water Sensitive Urban Design Report also included an analysis of stormwater flows of the existing site and the proposed site developed with the proposed stormwater system (including bio-retention areas but not water tanks). The analysis utilises computer modelling of flows and has found that the flows from the developed site with the proposed stormwater system will not increase flows (compared to existing) from the site in either the 5 year ARI flow or 100 Year ARI flow.

The development has been designed so as to reduce stormwater volumes, improve water quality and implement the principals of WSUD. The proposed development is considered consistent with Councils requirements.

### ***Flora and Fauna***

The proposed development site is disturbed and the proposed development will not involve disturbance of large areas of bushland or areas likely to be significant habitat areas.

The ecological impacts of the proposal have been examined in detail in the Flora and Fauna Assessment prepared for the proposal.

The proposal will remove and modify existing remnant habitat present within the subject site. This is represented by mature trees with four of these containing twenty-two hollows of varying small to medium sizes and of varying quality. Two (2) threatened fauna species including Little Bentwing-bat (*Miniopterus australis*) and Large-footed Myotis (*Myotis macropus*) were recorded present during survey. The Large-footed Myotis can be a hollow-dependent species and was recorded to a 'probable' level of certainty. The hollows present are not suspected of providing any important roosting habitat based on recent stag-watching and Anabat recording. Whilst other threatened fauna species have potential to frequent the site seasonally or on occasion, the development area is not expected as being critical to life-cycle requirements or central to home range areas of these additional species.

No threatened flora species or endangered ecological communities were detected within the study area and there is no considered potential for threatened flora species to occur.

Whilst the proposal does not result in any significant impacts to threatened flora and fauna, the flora and fauna assessment makes several recommendations in relation to the proposal as follows:

- Tree connectivity for koala and squirrel glider should be maintained and improved through the site with an east-west and a north-south option. With east-west connectivity created by planting within the landscape setbacks along the northern boundary of the property. North-south connectivity may be improved through the future landscape providing trees along the eastern perimeter planting and along the eastern edge of the playing field as shown in the diagram below. Planting would not need to be extensive and separations should be more than 2 metres apart for bushfire APZ (Asset Protection Zone) purposes but within 10 metres apart for gliding and Koala refuge.
- Fencing should be Koala friendly i.e. allow a minimum 300mm ground clearance to the first rail or strand. If it does not allow under passage then it should include timber sections or timber climbing poles placed at a minimum of every 50 metres.
- The felling of hollow-bearing trees is to be conducted under the supervision of a fauna ecologist to ensure appropriate animal welfare procedures are taken. Hollows of high quality or with fauna recorded residing within, should be sectionally dismantled for relocation and all hollows should be inspected for occupation, signs of previous activity and potential for reuse.

- Hollows of retention value are to be reattached to retained trees within the site. Difficult to relocate hollows should be replaced with appropriately sized nest boxes.
- If a threatened species is found to be occupying the hollow then the hollow section is to be reattached to a recipient tree as selected and directed by the fauna ecologist.
- If any nest or roost for fauna is located during development works, then works should cease until safe relocation can be advised by a contract fauna ecologist.
- Sediment and erosion control measures should be in place to minimise impact of possible sedimentation to local drainage lines.
- Landscaping should consider the use of locally occurring (endemic) native species including ground covers to encourage local fauna use and to consolidate remnant vegetation linkages within the locality.

Each of these requirements are provided for via conditions of development consent.

### ***Waste Management***

The site will generate waste during construction and the ongoing operation of the facility. A Waste Minimisation and Management Plan has been submitted with the application for the demolition of the existing dwelling.

The management plan identifies the need to manage waste during construction of the estate as well as providing options to manage domestic waste when the development is occupied.

Operationally, the estate has been designed to allow garbage trucks to circulate throughout the site to pick up domestic waste bins, and each site will have a kerb side pickup of waste and recycling bins. When home installation occurs on a site, an area is provided for the storage of bins, in a convenient location which allows them to be taken directly to the kerb via a hardstand access. Garbage collection within the estate will therefore be provided by a kerb side collection contractor. Arrangements for the private collection of such waste will be the responsibility of the site manager.

Greenwaste from operations will be collected by the estate maintenance staff and will be re-used on site (compost/mulch for vegetable gardens and other gardens) or transported to a waste transfer station for disposal/mulching of green waste.

### ***Bushfire***

This land is identified as being bushfire prone land due to *forest vegetation located beyond Coastal View Drive to the north, remnant forest adjoining Blackhead Road to the south as well as to the north-west, and grassland vegetation to the east of the site resulting in the buildings being exposed to potential radiant heat and ember attack. The assessment has concluded that the proposed development will provide compliance with: Planning for Bush fire Protection (PBP) 2006; AS3959 Construction of buildings in bush fire prone areas (2009) and Appendix B Method 2 (alternative solution) of AS3959 Construction of buildings in bush fire prone areas (2009).*

Pursuant to Section 79BA of *Environmental Planning and Assessment Act, 1979*, Council must be satisfied that prior to making a determination for development on bushfire prone land that the development complies with the document "*Planning for Bushfire Protection 2006*".

The development of the land is for a manufactured home estate and constitutes Integrated Development for the purposes of the Act and a Bushfire Safety Authority under the provisions of Section 100B of the *Rural Fires Act 1979* is required.

The subject application was referred to the NSW Bush Fire Service for their Bush Fire Safety Authority [BFSA]. The BFSA was issued and is attached to this report as *Annexure C*.

### ***Social and Economic Impacts***

The development is likely to result in a positive social impact within the locality by providing a housing type previously not available in the Tallwoods village area. The proposed development will provide increased housing choice, opportunities for downsizing, affordable, low maintenance housing; increased local service patronage and will increase housing supply in Tallwoods.

The provision of the communal open spaces and facilities within the estate will create a positive space for social interaction and bonding among residents.

The development will result in a positive economic impact, providing employment during the construction of the estate (in the vicinity of 50 local jobs) and employment opportunities for the maintenance and management of the estate (7-10 ongoing).

Negative social and economic impacts of the development include increased demand for local services; increased traffic; noise and amenity impacts.

On balance the adverse impacts of the development are outweighed by the positive contribution to the locality and are able to be mitigated through conditions of development consent to ensure that the development function in a socially acceptable manner.

### ***Cumulative Impacts***

The cumulative impact of the development has been considered in relation to the heads of consideration under s. 79C of the *EP&A Act 1979*. As each impact is considered minimal when the mitigation measures are applied, overall it is considered the cumulative impact of the development will be minimal and acceptable.

#### ***c) The Suitability of the Site for the Development***

The subject land is highly suitable for the proposed development, being land that has been identified as suitable for residential development forms in previous planning studies of the area. The proposal demonstrates compliance with Council's policies, where relevant and state legislation as it relates to manufactured home estates.

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

Prior to notification occurring, Council received 31 letters of objection to the proposal. These objections were made in response to the information provided on Council's on-line tracking facility, which were later amended.

The application was formally notified to adjoining owners in accordance with Council's Policy from 5 July to 3 August 2017. Persons who had previously written to Council were advised that their concerns would be taken into consideration in the assessment of the application. A further 19 submissions (one as a submission with 272 signatures) objecting to the proposal and 2 in support, were received.

In total 50 submissions were received. Issues raised in submissions and responses to those issues are detailed below:

Issue	Response
Dwellings will not be rated individually yet will require the same services as other residents	The land will be rated as residential based on its unimproved value, as per other residential land in the LGA.
With no 'sinking fund' the development can't be maintained	The economics of the management of the development is not a matter for Council
Enough public interest to warrant public consultation- Lack of consultation with community	Consultation with the community was undertaken through notification and advertising of the development.
No adequate access to essential services given the age and economic profile of residents	The age and economic profile of residents is not a set requirement for future residents, with all services available to the current community of Tallwoods available to the manufactured home estate residents. Additional on-site private services are to be provided.
Land is not zoned for a caravan park	The development proposed is not a caravan park.
Cumulative Impact	The cumulative impact of the development is not considered significant given the mitigating measures and environmental protections proposed.
Overdevelopment of the site – density is too high	The density of the development is in the order of 24 dwellings per hectare. At this density the development complies with the regulations for development of this form.
Negative visual impact from Blackhead Road	The visual impact of the development from Blackhead Road will be negligible once proposed landscaping for the site is established.
Construction will take 10+ years	The timing of the development is a matter for the developer. Requirements have been imposed on each stage of the delivery to ensure the amenity of the area during the completion of the estate.
Will lower the quality of life for Tallwoods residents	It is not considered that the proposed development will in any way lower the quality of life for residents in the Tallwoods village. The provision of an alternate housing stock and public infrastructure will provide benefit to the locality.
Impact on amenity through additional traffic	The additional traffic to be generated by the development can be adequately catered for via the existing road network in terms of volume of traffic movements.
Will devalue current and future development	There is no evidence to suggest that development of the site will adversely impact property values in the locality.
Emergency vehicle access should not be used by construction workers for safety reasons. 2 access points from Coastal View Drive would be preferable	The proposed access from Blackhead Road will alleviate the need for The Boulevard and Coastal View Drive to be utilised by construction vehicles.
Loss of mature trees	The minimal loss of mature trees will be compensated for by additional plantings within and around the site. The development does not impact any significant vegetation or fauna.
Roundabout required on Blackhead Road - Blackhead Road is not capable of catering for additional traffic	The volume of traffic generated by the development does not represent an impact beyond existing capacity limits.
Increased traffic- report does not reflect the true situation	The Traffic Report submitted in support of the application has been assessed by Council's Traffic Engineer and is considered satisfactory.
Noise impact	The noise generated for the development is not considered to be adverse to the surrounding environment.

<b>Issue</b>	<b>Response</b>
High density cheap housing is not appropriate	The density of the proposed development is within the parameters for this type of development. Market dynamics will determine the cost of the housing once established.
Insufficient car parking per dwelling	Each dwelling is proposed to be provided with a minimum of 1 car space. Some dwellings will have 2 allocated spaces. Adequate visitor car parking is provided within the development.
Owner to the east has a DA approval for 51 lots and physical commencement which relies on road access and servicing from this site	There is no legal requirement for the subject site to ensure that the adjoining land can be developed in the approved manner. There is no physical impediment to the approval on the adjoining land being carried out if the proposed development is approved. A copy of the approved plan for development on the adjoining site is attached as <i>Annexure D - Approved Subdivisions Plan (Lot 4 Blackhead Road)</i>
Will Council set a timeframe for the temporary access road	The vehicular access from Blackhead Road will be retained in perpetuity as an emergency access for use of the NSW Rural Fire Service.
Council has a duty of care to existing residents	Approval of the subject development would in no way compromise any duty of care between Council and the residents of Tallwoods.
No public transport to amenities	While public transport in the locality is limited it is available at a rate typical of surrounding areas.
Loss of tourist appeal	This claim cannot be substantiated.
Inconsistent with existing residential landscape	While a development of this nature is inconsistent with the surrounding established residential density, the zoning of the site of the site and the regulations for manufactured homes permit development of this kind in such areas.
Pedestrian access to Blackhead Road will be dangerous without a footpath	A footpath and cycleway will be established along Blackhead Road frontage.
Low lying and subject to high levels of runoff	The runoff from the site can be adequately catered for via the proposed stormwater management system.
Should be developed as per the Voluntary Planning Agreement	The Voluntary Planning Agreement was for a different development. The provisions in this plan are however being adopted by this development proposal. The overall public benefit will be similar.
Does not adequately address Koala habitat and threatened species	The proposal was accompanied by a Flora and Fauna assessment which adequately demonstrated that there will be no detrimental impact.
No positive social impact	The proposal was accompanied by a Social Impact Assessment which outlined both the positive and negative impacts of the development. These impacts are addressed separately in this report.

#### **e) The Public Interest**

Council received numerous submissions opposing the development from the public. On consideration of the development as a whole, the development is considered to be in the public interest by providing alternative low-maintenance housing and providing for future public recreation infrastructure, without having a detrimental impact on the Tallwoods community.

## **CONCLUSION**

The impacts of the proposed development are considered to be acceptable under S79C of the EP&A Act 1979. The development complies with Council's with all relevant legislation.

## **RECOMMENDATION**

It is recommended that Development Application 407/2017/DA for a Manufactured Home Estate on Lot 3 DP 242332- 303 Blackhead Road Hallidays Point be approved in accordance with the conditions of consent contained in Annexure A.

## ANNEXURES

A: Conditions of Consent

**The subject development is to be carried out in Stages. The Following Conditions apply to All Stages 1-4.**

### General Requirements

*The following conditions of consent are general conditions applying to the development.*

1. The development is to be carried out in accordance with the following approved development plans, except as modified by any conditions of consent:

Title/Name	Drawing/No.	Revision / Issue	Date	Prepared by
Concept Plan	-	C	20/6/17	Lidbury Summers Whiteman
Staging Plans 1-4	-	B	27/6/17	Lidbury Summers Whiteman
Site Plan	16124-DA-100	-	6/4/17	ddc architects
Ground Floor Plan	16124-DA-200	-	6/4/17	ddc architects
Elevations	16124-DA-300	-	6/4/17	ddc architects
Landscape Plan	17140-LDA(00 05)	D		NBRS Architecture Landscape
Mens Shed	10	A	9/6/17	Alderley Design

2. The following approval bodies has/have given general terms of approval in relation to the development, as referred to in Section 93 of the *Environmental Planning and Assessment Act 1979*:
  - a. New South Wales Rural Fire ServiceAll general terms of approval are to be complied with as conditions of this development consent.
3. The proposed pedestrian pathway and cycleway is to be constructed to a minimum width of 3 metres.
4. This development consent is granted for the development to be undertaken in four (4) stages as follows:
  - a) Stage 1- Lots and Dwellings (1-59); Community Centre; Pool, Bowling green; Men's Shed, Office/Managers Residence, Roadworks, Public Car park; Bulk Earthworks for playing field and future stages; Caravan Storage; and Construction Access.
  - b) Stage 2 - Lots and Dwellings (60-116); Open Space area; Roadworks and car parks; dedicate public road and car park; complete playing field earthworks; and construct 3m wide cycleway.
  - c) Stage 3 - Lots and Dwellings (117- 167); Open space and car parks; dedicate playing fields, water quality infrastructure, open space and 3m wide cycleway.

- d) Stage 4 - Lots and Dwellings (168-202); Roadworks; car parking and construction and dedication of remaining portion of 3m wide cycleway and open space.
5. No native vegetation clearing shall occur without prior written approval from Midcoast Council.
  6. Vegetation cleared from the subject land is not to be disposed of by burning. All usable trees and shrubs that are cleared from the land are to be salvaged by the applicant for re-use either in log form, or as woodchip mulch for erosion control and / or site rehabilitation.
  7. Suitable details must be provided for the approval of the Accredited Certifier of an appropriate system to control dust emissions from the site during construction works. The approved method of controlling dust emissions from the site is to be implemented and maintained for the duration of construction works on the site.
  8. Plans for the civil works, prepared in accordance with Council's Auspec Design Manual and the relevant Bush Fire Safety Authority are to be submitted to and approved by MidCoast Council. Plans are to be accompanied by the current appropriate fees, together with a civil works construction certificate application and long service levy.
  9. A Soil & Water Management Plan must be prepared by a suitably qualified and practicing engineer, detailing temporary and permanent measures proposed to be installed, and submitted with the engineering drawings.
  10. A pre-clearing survey is to be undertaken by a qualified ecologist to ensure the trees to be removed are not being utilised by any native fauna prior to clearing. The ecologist is to inspect all tree hollows and if any threatened fauna are detected, Council is to be notified and the felling of the tree postponed until the animal has been safely removed by the ecologist and relocated into an adjacent natural area. If a koala is detected in any of the trees to be removed, all works must cease within 100m of the tree and the koala permitted to vacate the area of its own accord.

The ecologist is to provide a report to Council within one-week of the tree clearing operation outlining the results of any fauna recovery operation and details of the number and hollows removed. Tree hollows must be salvaged and re-erected by the ecologist within the wildlife corridor.

Any injured fauna should be forwarded to a qualified Wildlife Carer such as FAWNA (Ph: 6581 4141) or Koalas in Care (Ph: 6552 2183).

11. The manufactured home estate must not be used for any commercial purpose (other than a manufactured home estate or an associated purpose), or for the manufacture, construction or reconstruction of moveable dwellings.
12. The site shall not be used as a manufactured home estate until an approval to operate under s68 of the *Local Government Act 1993* has been issued by MidCoast Council.
13. The person who holds the approval to operate a manufactured home estate must provide the Council with a copy of the current community map as soon as practicable after any amendment is made to the map, and at such other times as the council may reasonably require.



14. The holder of an approval to operate a manufactured home estate must ensure that copies of the following documents must be readily available for inspection without cost by any person in a location in the manufactured home estate specified in the approval for the manufactured home estate:
  - a) the approval for the manufactured home estate,
  - b) the current community map,
  - c) this Regulation.
15. The use and activities within or associated with the operation of the Community Building shall not unreasonably interfere with the amenity of the neighbourhood by reason of emission of noise and shall not give rise to an ‘offensive noise’ as defined under the provisions of the Protection of the Environmental Operations Act 1997. No noisy activities audible at any adjacent residential premises shall occur between the hours 10.00pm to 7.00am.
16. The holder of the approval to operate the manufactured home estate must ensure that copies of the following documents must be readily available for inspection (without cost) by any person:
  - a) the approval for the manufactured home estate,
  - b) the current community map,
  - c) *the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.*

#### **Prior to the Issue of the Construction Certificate**

*The following conditions of consent must be complied with prior to the issue of the Construction Certificate.*

17. The manufactured home estate shall be designed in accordance with the requirements of Division 3 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*, or any approved objection pursuant to Section 82 of the *Local Government Act 1993*.
18. Submission to Council for approval of intersection design drawings for the intersection of Coastal View Drive and the access road to the Manufactured Home Estate (MHE) that includes traffic calming devices as required.
19. The submission to Council as the Roads Authority of street lighting and reticulation design drawings. The design shall be prepared in accordance with AS/NZS 1158 and AS 4282-1997, including the provision of current best practice energy efficient lighting, documentation confirming a minimum of twenty (20) year design life and be approved by the Council as the Roads Authority prior to issue of a Construction Certificate.
20. A Vegetation Management Plan (VMP) is to be submitted and approved by Council prior to the issue of the Construction Certificate and address the following:
  - a) the establishment of a wildlife corridor as depicted in Figure 5 of the Flora and Fauna Assessment (Travers bushfire & ecology, April 2017);
  - b) the provision of compensatory planting at a ratio of 2:1 to offset the loss of native vegetation from the development site;
  - c) the implementation of any habitat enhancement measures required such as weed control;
  - d) the salvage and relocation of hollows from trees removed from the development site to the wildlife corridor; and
  - e) details of the type of fencing proposed to exclude fauna from the development and facilitate fauna movement through the corridor.

The VMP is to include the number and species of trees to be removed together with details of the compensatory planting to be undertaken including proposed location, numbers, species, the timing of works and maintenance schedules. Seedlings are to be of local provenance and comprise of local koala food trees and winter flowering eucalypts.

21. Prior to the issue of a construction certificate, a Damage Bond Application form together with payment of a bond in the amount of \$50,000 and a non-refundable administration fee of \$330.00 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/or
- b) Following the 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.

22. An Erosion and Sediment Control Plan (ESCP) / Soil and Water Management Plan (SWMP) shall be submitted to the certifier prior to the approval of the first Construction Certificate for the development. The plan shall contain information required for the area of disturbance of the development or its distinct and separate stages in accordance with "*Landcom. 2004, Managing Urban Stormwater: Soils and Construction. 4th Edition*". All controls shall be sized in accordance with the 80<sup>th</sup> percentile storm depth.

The plan shall include a signed and dated Statement of Compliance stating (in full):

i)	This plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
ii)	The plan complies with the requirements for the area of disturbance in accordance with " <i>Landcom. 2004, Managing Urban Stormwater: Soils and Construction. 4th Edition</i> ";
iii)	The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of total suspended solids (TSS); and
iv)	All erosion and sediment control measures are in accordance with " <i>Landcom. 2004, Managing Urban Stormwater: Soils and Construction. 4th Edition</i> ".

The ESCP / SWMP and the Statement of Compliance shall be provided to Council with the Construction Certificate documentation in accordance with clause 142(2) of the Environmental Planning and Assessment Regulation (NSW) 2000.

23. Plans for the civil works, prepared in accordance with Council's Auspec Design Manual and the relevant Bush Fire Safety Authority are to be submitted to and approved by Midcoast Council. Plans are to be accompanied by the current appropriate fees, together with a civil works construction certificate application and long service levy.
24. A Stormwater Drainage Report prepared by a suitably qualified and practicing engineer must be submitted to Council for approval.

The report must determine the extent of the 1% ARI storm event affecting the subject land, including the effects of the total development of the catchment, the effects on the downstream properties and the possible need for a water detention facility. Additionally, the report must analyse the impact of the upstream catchment developed to its full potential as well as the fully developed subject land on the downstream drainage system.

25. Submit final engineering plans and specifications for the stormwater management system, for approval by MidCoast Council. Engineering plans are to be designed in accordance with the concept plan prepared by Lidbury, Summers & Whiteman dated 20/6/17 and the approved Water Sensitive Design Strategy for Proposed Lifestyle Village, Lot 3 DP242332 Coastal View Drive, Tallwoods Village by Lidbury, Summers & Whiteman dated February 2017 and the Concept Plan for Development of Lot 3, DP242332 Coastal View Drive - Tallwoods Layout Plan by Lidbury, Summers & Whiteman dated 20/6/17 and include:
  - i) Northern Bioretention Basin 1 with a minimum filter area of 393m<sup>2</sup>
  - ii) Northern Bioretention Basin 2 with a minimum filter area of 184m<sup>2</sup>
  - iii) Southern Bioretention Basin 1 with a minimum filter area of 248m<sup>2</sup>
  - iv) Southern Bioretention Basin 2 with a minimum filter area of 220m<sup>2</sup>
  - v) Southern Bioretention Basin 3 with a minimum filter area of 373m<sup>2</sup>

Design the bioretention basins to meet the Water Sensitive Design Strategy and the following criteria:

- i) In accordance with Water by Design (2006), 'Water Sensitive Urban Design – Technical Design Guidelines for South East Queensland', South East Queensland Healthy Waterways Partnership, including calculations for the underdrain pipe hydraulic capacity.
- ii) Contain at least four species of plants selected from Great Lakes Councils Fact Sheet 15 'Local plant selection for raingardens, guidance for Water Sensitive Design, dated 10 August 2016, planted at densities indicated in the fact sheet.
- iii) Contain 0.4m filter media 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). Filter media must be tested by a NATA registered laboratory to confirm orthophosphate is a maximum 35 mg/kg.
- iv) Have a maximum surface storage depth of 0.4m and minimum surface storage depth of 0.3m, with a maximum batter/side slope of 1:4 (v:h), unless otherwise retained by a structural wall and landscaping.
- v) Have suitable access arrangements for operation and maintenance
- vi) Landscape batter slopes to provide separation from surrounding areas.
- vii) Configure stormwater drainage to avoid damage to the bioretention systems (particularly the filter media) during construction.

26. Suitable detailed design drawings and specifications demonstrating the design and construction of the food premise will comply with Standard 3.2.3 of the Food Standards Code and Australian Standard 4674-2004 "Design, Construction and Fit Out of Food Premises" are to be provided for the consideration and approval of Council's Environmental Health Officer. Such design drawings and specifications are to be prepared by a suitably qualified drafts person.

### **Prior to Commencement of Works**

*The following conditions of consent must be complied with prior to any works commencing on the development site.*

27. A Construction Certificate is to be issued by an Accredited Certifier prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
28. That five (5) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:
- a) The date when demolition will commence;
  - b) Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
  - c) The licence number of the demolisher, and relevant WorkCover licenses, and;
  - d) Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$10,000,000.00.

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition License" AND a current WorkCover" Class 2 (Restricted) Asbestos Licence".

Demolition works are restricted as follows:

- a) Monday to Friday inclusive: 7:00am - 5:00pm
  - b) Saturdays: 8.00am-12noon
  - c) Sundays and Public Holidays: No work
29. Erosion and sedimentation controls shall be installed in accordance with Erosion and Sediment Control Plan (ESCP) / Soil and Water Management Plan (SWMP).
30. A single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the construction site, is to be installed in order to provide appropriate access to the site during periods of inclement weather.
31. All site fill material shall be classified as virgin Excavated natural Material (VENM), Excavated Natural Earth (ENM) in accordance with the Waste Classification Guidelines - Part 1: Classifying Waste or comply with the Recovered Aggregate Exemption 2010. Site fill material shall be certified by a practising Geotechnical Engineer prior to haulage to the site. Certification documentation shall be provided to the Principal Certifying Authority prior to the commencement of works.
32. A Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Maritime Services (RMS) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan.

33. The extent of tree removal is to be clearly marked with flagging tape prior to clearing and contractors undertaking approved site works, including tree removal, must be instructed directly of all Council's conditions prior to works commencing. Tree removal is to be conducted by selective directional felling away from areas of vegetation to be retained.

### **During Construction Works**

*The following conditions of consent must be complied with during the construction stage of the development.*

34. Engage a suitably qualified stormwater engineer to inspect each bioretention during construction. Verify compliance with the approved plans using the sign off forms in 'Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands' Healthy Waterways, 2010 including:
- a) Earthworks and functional (hydraulic) structures and under drainage prior to covering in.
  - b) Filter media including NATA test results and verification through field tests of bioretention basin infiltration rates within 10% of the rates of the design parameters.
  - c) Finished levels (works as executed)
  - d) Landscape installation and establishment

Submit signed inspection forms to Council including photographs and NATA test results confirming that the assets have been constructed to comply with development consent conditions. Signed inspection forms and photographs will be used as part of asset handover determination for Eastern Bioretention Basin 1.

35. The construction and fit-out of the premise or any part thereof, to be used for the manufacture, preparation or storage of food, must comply with Standard 3.2.3 of the Food Standards Code and Australian Standard 4674-2004 "Design, Construction and Fit Out of Food Premises."
36. All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.
37. The swimming pool is to be fenced in accordance with the Swimming Pools Act 1992, and prior to the pool being filled with water a satisfactory inspection being carried out by the principal certifying authority.
38. All building materials must be reused, recycled or disposed of in accordance with the Waste Management Plan submitted with the subject application.
39. During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

40. Topsoil shall only be stripped from approved areas. It may be stockpile onsite for re-use during site rehabilitation and landscaping. Stockpiles of any material including but not limited to, soil, sand, aggregate, and spoil, stored on the site that is capable of being moved by water shall be stored clear of any drainage line or easement, natural

watercourse, footpath, kerb, and/or road surface. Suitable erosion and sediment controls shall be installed. The stockpile shall be treated so its surface is resistant to water and wind erosion. No stockpiles shall be located on the public footpath or road reserve without prior written approval from Council.

41. Work during construction which may result in noise nuisance being created, shall be restricted to hours of operation between 7 a.m. to 5 p.m. Monday to Friday, and 8 a.m. to 12 noon Saturdays. No work is permitted on Sundays and Public Holidays.
42. All excavated fill material that is to be removed from the site shall only be distributed to:
  - a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
  - b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

43. All existing sewer connections are to be capped and sealed prior to completion of the demolition operation. The sewer is to be excavated at the shaft, capped and adequately sealed at the sewer junction by a licensed plumber/ drainer. The sealing of the sewer junction is to be inspected by MidCoast Water's Plumbing Inspector prior to the excavation being backfilled.
44. Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work, must be undertaken by a person who carries on a business of such removal work in accordance with a licence issued under the provisions of Clause 318 of the Occupational Health and Safety Regulation 2001.
  - a) The person having the benefit of the consent must provide the Principal Certifying Authority with a copy of a signed contract before any development pursuant to the consent commences.
  - b) Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed and if so, must specify the landfill site (that may lawfully receive asbestos) to which the material is to be delivered for disposal.
45. All demolition work is to be carried out in accordance with the requirements of AS 2601-2001 - The Demolition of Structures.
46. Erosion and sedimentation controls shall be maintained in accordance with Erosion and Sediment Control Plan (ESCP) / Soil and Water Management Plan (SWMP).

#### **Prior to Issue of the Occupation Certificate**

*The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.*

47. A warning notice is to be erected in a prominent position in the immediate vicinity of the swimming pool. The notice must be erected and contain the necessary information in accordance with Clause 10 of the Swimming Pools Regulation 2008.
48. Safety barriers and gates are to be installed in accordance with the approved plans and specifications and the provisions of the Swimming Pools Act 1992, Swimming Pools Regulations 2008 and AS 1926.1-2012 Swimming Pool safety Part 1: Safety barriers for swimming pools".
49. Certification prepared by a suitably qualified person must be submitted to the Principal Certifying Authority stating that the swimming pool water recirculation system has been installed in accordance with Part 3.9.4 of the Building Code of Australia and AS 1926.3 – 2010, Water Recirculation Systems.
50. The owner must ensure that the pool is entered on the NSW State Government register. The registration of the pool can be done online at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
51. The parking areas, access lanes, vehicle movement areas and passing bays are to be designed, drained and constructed in accordance with the "Local Government (Manufactured Homes Estate, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
52. Speed limits on the internal access roads of the estate shall be limited to 30 kilometres per hour for major access roads (Roads 1 and 2) and 15 kilometres per hour for minor access roads (Roads 3 to 13). Appropriate signage and/or road markings that are clearly identifiable shall be installed.
53. Visitor parking space dimensions shall comply with Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Visitor parking spaces must be clearly identified on site.
54. All access roads and parking areas must have an all-weather sealed surface.
55. All access roads must be adequately lit between sunset and sunrise. Any outdoor lighting shall be appropriately located or shielded so no additional light is cast on adjoining land or distracts traffic.
56. The water supply service must comply with the *Plumbing and Drainage Act 2011* and any regulations under that Act.
57. Each dwelling site must be connected to the sewage disposal system for the manufactured home estate. The sewage disposal system must comply with the *Plumbing and Drainage Act 2011* and any regulations under that Act.
58. Each dwelling site must be supplied with electricity from a reticulated electricity service by means of an electrical circuit connected to a separate electricity meter. Any such electrical circuit must be installed in accordance with the requirements of AS/NZS 3000:2000, *Electrical Installations* (known as the Australian/New Zealand Wiring Rules) as in force on 1 September 2005.
59. Documentary evidence is to be provided to Council indicating underground electrical power to the development, including adequate street lighting for the estate, has been installed.

60. A Notice of Arrangement shall be submitted to Council demonstrating that telephone services, including connection to, or internal infrastructure installed ready for connection, to the NBN network, will be provided in such a manner that a connection is available to each dwelling site within the manufactured home estate. Documentary evidence is to be provided to Midcoast Council.
61. No part of a dwelling site or community building within the manufactured home estate shall be situated more than 90 metres from a fire hydrant. Any fire hydrant located within the manufactured home estate must be a double-headed pillar-type fire hydrant, and be maintained in accordance with industry standards.
62. All areas disturbed by construction activities associated with the construction of the development, shall be revegetated and stabilised so as to prevent erosion occurring.
63. Any damage caused to Council owned infrastructure, including the verge area, in connection with the construction works are required to be rectified in accordance with Councils current standards at no cost to Council.
64. All future dwellings to be located within the manufactured home estate shall comply with  
the provisions of Division 4 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

### **Ongoing Operations**

*The following conditions of consent shall be complied with throughout the operational life of the development.*

65. Each dwelling is to have a minimum 1,000L rainwater tank installed to collect 100% of the roof area for reuse in toilets and laundry.
66. No additional advertising signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior separate consent of Council.
67. The park must have a minimum of 3 disabled parking spaces.
68. Maintenance of all buildings, surrounds and parking areas within the site shall be carried out in such a manner to render the site to be neat, tidy and clean at all times.
69. All Landscaping works associated with this Consent are to be maintained and successfully established for a period of 12 months. The Maintenance and Establishment Period is to commence from the date of initial completion of the approved landscaping works i.e., the Date of Practical Completion (DPC).

It is the Applicants responsibility to arrange a site inspection, upon initial completion of the Landscaping works, to determine and agree upon, an appropriate DPC.

### **The following conditions apply to Stage 1 only**

*The following conditions of consent must be complied with prior to the issue of the Approval to Operate for Stage 1.*

70. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997 Documentary evidence from a suitably qualified professional is to be submitted to the Principal Certifying Authority demonstrating that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.



71. The applicant is to make a contribution to Council in accordance with section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with the *Greater Taree Section 94 Contributions Plan 2016*.

#### **Hallidays Point (59 Sites)**

Local facilities	\$304284.83 (to be discounted by 40% at payment)
Greater Taree facilities	\$134241.52
<b>Total</b>	<b>\$438526.35</b>

Contribution Plans may be inspected on Council's website [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au).

#### **Timing of Payment**

- a) For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).
- b) For development not involving subdivision, but where a construction certificate is required, the contribution must be paid prior to the release of the construction certificate.
- c) For works authorised under a complying development certificate, the contributions are to be paid prior to any work authorised by the certificate commences, as required by clause 136L of the *Environmental Planning and Assessment Regulation 2000*.
- d) For Heavy Haulage the contribution must be paid within 28 days after the end of March, June, September and December each year over the life of the development. The applicant must submit to Council independently verified tonnage returns of the material hauled over the preceding quarter when each payment to Council is made.

#### **Indexing**

- a) The contribution rate in "*Greater Taree Section 94 Contributions Plan 2016*" will be adjusted annually in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- b) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the total figure payable in this condition will be indexed and calculated according to the then current contribution rate.

**Please contact Council's Customer Service staff to confirm the amount payable, prior to payment.**

72. This stage shall not be used as a manufactured home estate until an approval to operate under s68 of the *Local Government Act 1993* has been issued by MidCoast Council, for this stage.

#### **The following conditions apply to Stage 2 only**

*The following conditions of consent must be complied with prior to the issue of the Approval to Operate for Stage 2.*

73. Compliance with bushfire conditions under Section 100B of *Rural Fires Act 1997* Documentary evidence from a suitably qualified professional is to be submitted to the Principal Certifying Authority demonstrating that the bushfire conditions as issued under Section 100B of the *Rural fire Act 1997* have been complied with.

74. The applicant shall dedicate to Council upon registration of the linen plan of subdivision, at no cost to Council Road No. 1 including the 17 space carpark and surrounding land.

The applicant is to make a contribution to Council in accordance with section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with the *Greater Taree Section 94 Contributions Plan 2016*.

**Hallidays Point (57 sites)**

Local facilities	\$293970,09 (to be discounted by 40% at payment)
Greater Taree facilities	\$129690.96
<b>Total</b>	<b>\$423661.05</b>

Contribution Plans may be inspected on Council's website [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au).

**Timing of Payment**

- a) For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).
- b) For development not involving subdivision, but where a construction certificate is required, the contribution must be paid prior to the release of the construction certificate.
- c) For works authorised under a complying development certificate, the contributions are to be paid prior to any work authorised by the certificate commences, as required by clause 136L of the *Environmental Planning and Assessment Regulation 2000*.
- d) For Heavy Haulage the contribution must be paid within 28 days after the end of March, June, September and December each year over the life of the development. The applicant must submit to Council independently verified tonnage returns of the material hauled over the preceding quarter when each payment to Council is made.

**Indexing**

- a) The contribution rate in "Greater Taree Section 94 Contributions Plan 2016" will be adjusted annually in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- b) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the total figure payable in this condition will be indexed and calculated according to the then current contribution rate.

**Please contact Council's Customer Service staff to confirm the amount payable, prior to payment.**

75. This stage shall not be used as a manufactured home estate until an approval to operate under s68 of the *Local Government Act 1993* has been issued by MidCoast Council, for this stage.

**The following conditions apply to Stage 3 only**

*The following conditions of consent must be complied with prior to the issue of the Approval to Operate Stage 3.*

76. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997 Documentary evidence from a suitably qualified professional is to be submitted to the Principal Certifying Authority demonstrating that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.
77. The applicant shall dedicate to Council upon registration of the linen plan of subdivision, at no cost to Council Playing Fields, 3m wide Bicycleway and Pedestrian pathway and water quality infrastructure within this land as Public Reserve.
78. The applicant is to make a contribution to Council in accordance with section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with the *Greater Taree Section 94 Contributions Plan 2016*.

**Hallidays Point (51 sites)**

Local facilities	\$263025.87(to be discounted by 40% at payment)
Greater Taree facilities	\$116039.28
<b>Total</b>	<b>\$379065.15</b>

Contribution Plans may be inspected on Council’s website [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au).

**Timing of Payment**

- a) For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).
- b) For development not involving subdivision, but where a construction certificate is required, the contribution must be paid prior to the release of the construction certificate.
- c) For works authorised under a complying development certificate, the contributions are to be paid prior to any work authorised by the certificate commences, as required by clause 136L of the *Environmental Planning and Assessment Regulation 2000*.
- d) For Heavy Haulage the contribution must be paid within 28 days after the end of March, June, September and December each year over the life of the development. The applicant must submit to Council independently verified tonnage returns of the material hauled over the preceding quarter when each payment to Council is made.

**Indexing**

- a) The contribution rate in “Greater Taree Section 94 Contributions Plan 2016” will be adjusted annually in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- b) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the total figure payable in this condition will be indexed and calculated according to the then current contribution rate.

**Please contact Council’s Customer Service staff to confirm the amount payable, prior to payment.**

79. This stage shall not be used as a manufactured home estate until an approval to operate under s68 of the *Local Government Act 1993* has been issued by MidCoast Council, for this stage.

## The following conditions apply to Stage 4 only

*The following conditions of consent must be complied with prior to the issue of the Approval to Operate Stage 4.*

80. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997 Documentary evidence from a suitably qualified professional is to be submitted to the Principal Certifying Authority demonstrating that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.
81. The applicant shall dedicate to Council upon registration of the linen plan of subdivision, at no cost to Council a 3m wide Bicycleway and Pedestrian pathway as Public Reserve.
82. The applicant is to make a contribution to Council in accordance with section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with the *Greater Taree Section 94 Contributions Plan 2016*.

### Hallidays Point (35 sites)

Local facilities	\$180507.95(to be discounted by 40% at payment)
Greater Taree facilities	\$79634.80
<b>Total</b>	<b>\$260142.75</b>

Contribution Plans may be inspected on Council's website [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au).

### Timing of Payment

- a) For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan).
- b) For development not involving subdivision, but where a construction certificate is required, the contribution must be paid prior to the release of the construction certificate.
- c) For works authorised under a complying development certificate, the contributions are to be paid prior to any work authorised by the certificate commences, as required by clause 136L of the *Environmental Planning and Assessment Regulation 2000*.
- d) For Heavy Haulage the contribution must be paid within 28 days after the end of March, June, September and December each year over the life of the development. The applicant must submit to Council independently verified tonnage returns of the material hauled over the preceding quarter when each payment to Council is made.

### Indexing

- a) The contribution rate in "*Greater Taree Section 94 Contributions Plan 2016*" will be adjusted annually in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- b) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the total figure payable in this condition will be indexed and calculated according to the then current contribution rate.

**Please contact Council's Customer Service staff to confirm the amount payable, prior to payment.**

83. This stage shall not be used as a manufactured home estate until an approval to operate under s68 of the *Local Government Act 1993* has been issued by MidCoast Council, for this stage.

## **INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL**

### **GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997**

1. The proposed manufactured homes estate is to comply with the following specified plans:
  - The site plan prepared by Travers Bushfire and Ecology, titled "Schedule 1 - Bushfire Protection Measures" and dated 5/4/17 (this plan is relevant to the required APZs), and
  - The site plan prepared by Lidbury, Summers & Whiteman, titled "Concept Plan for Development of Lot 3 DP 242332 Coastal View Drive -Tallwoods Layout Plan" identified as Issue B and dated 7/4/7 (this plan is relevant to the final layout of the development).

It is noted that some variation exists between these two plans, with regard to layout. The APZ information identified in the plan titled: "Schedule 1 - Bushfire Protection Measures" can be transferred to the referenced plan titled: "Tallwoods Layout Plan" as this plan is identified as the final layout plan applicable to the development.

**Asset Protection Zones** The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the commencement of building works and in perpetuity the entire property shall be managed 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 'Standards for asset protection zones'.
3. Fences, that are proposed to be constructed as part of the development, are recommended to be constructed in accordance with the NSW RFS Fast Fact 2/06, titled "Dividing Fences" version 5, and dated February 2012. The following points are made;
  - The RFS does not recommend the use of softwood or treated pine fencing in bushfire prone areas.
  - Where BAL-12.5 or BAL-19 construction is required for the manufactured home, hardwood fencing is considered suitable; subject to it being disconnected from the dwelling by at least 1m of non-combustible fencing material, otherwise the fence should be constructed from non-combustible materials.
  - Where BAL-29 construction is required for the manufactured home, fencing materials should be non-combustible.
  - Landscaping in the vicinity of timber fences should be selected, located and maintained to reduce possible fire activity due to; ember, radiant heat or direct flame contact, that may further impact timber fencing.

**Asset Protection Zones** The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

4. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on the area of land, located in the western part of the development site that is proposed (in the future) to become playing fields, public road, water quality ponds and car parking. This identified section of land is proposed to be dedicated to Council in stage 2 of the sites development. Management shall be in perpetuity 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 NS Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities** The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

5. Water, electricity and gas are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Access** The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

6. Public roads shall comply with section 4.1.3 Access (1) Public roads, of 'Planning for Bush Fire Protection 2006'. The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:
7. Internal roads shall comply with section 4.1.3 Access (1) of 'Planning for Bush Fire Protection 2006', except that mountable kerbs and verges are able to be used when considering the width of roads. The width of roads at bends, that have <40m radiuses (inside edge), or at intersections with other roads, will need to achieve the minimum requirements as specified in Table 4.1 Planning for Bushfire Protection 2006.

**Evacuation and Emergency Management** The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

8. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

**Design and Construction** The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

9. Construction of the proposed; managers residence and the community centre building, shall comply with Sections 3 and 5 (BAL. 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire protection'.
10. Future installation of manufactured homes, onto approved sites within the development site, shall be limited to siting that achieves the separations and construction standards provided by the plan prepared by Travers Bushfire and Ecology, titled Schedule 1 - Bushfire Protection Measures and dated 5/4/17.

Some sites are noted to permit various compliant levels of construction depending upon the separations available. No manufactured homes shall be located to require BAL-40 construction.

# **Voluntary Planning Agreement**

**Greater Taree City Council**

**And**

**John Earnings Pty Limited**

**And**

**Island Point Plantations Pty Limited**

**And**

**Briehris Pty Limited**

Stacks // The Law Firm  
Stacks // Taree  
207 Victoria Street  
Taree NSW 2430  
Tel 61 2 6592 6592  
Fax 61 2 6592 6596

File Reference: AJM:MD 090542



<b>Date</b>	
<b>Parties</b>	<ol style="list-style-type: none"> <li>1. <b>Greater Taree City Council</b>, 2 Pulteney Street, Taree in the State of New South Wales (<b>Council</b>)</li> <li>2. <b>John Earnings Pty Limited ACN 000 745 139</b> having its registered office located at 49-53 Mile End Road, Rouse Hill in the State of New South Wales (<b>Earnings</b>);</li> <li>3. <b>Island Point Plantations Pty Limited ACN 052 123 369</b> having its registered office located at Island Point, 34 Goola Place, Coomba Park in the said State (<b>Island Point</b>); and</li> <li>4. <b>Brichris Pty Limited ACN 102 308 887</b> having its registered office located C/- Walker Lynch Petersen, 20 Wallis Street, Forster in the said State (<b>Brichris</b>).</li> </ol>
<b>Recitals</b>	<ol style="list-style-type: none"> <li>A Earnings, Island Point and Brichris are the registered owners of the Land known as Lot 3 in DP242332.</li> <li>B Earnings, Island Point and Brichris have lodged a rezoning application with Council in relation to the Land substantially in accordance with the Rezoning Plan attached as Annexure "B" for the purpose of carrying out the Land Development (the <b>Rezoning Application</b>).</li> <li>C Earnings, Island Point, Brichris has offered, on a voluntary basis, to enter into this Agreement with Council as part of the Rezoning Application for the purpose of setting out the parties Agreement in relation to dedication of land and provision of other material public benefits to be used for or applied towards a public purpose in accordance with this Agreement.</li> </ol>

It is agreed as follows.

## **1 Interpretation**

### **1.1 Definitions**

The following definitions apply unless the context requires otherwise.

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

**Applicant** means Earnings, Island Point and Brichris or any transferee of the Land.

**Conditions Precedent** means those conditions set out in Clause 4.

**Dedicated Land** means the land to be rezoned RE1 – Open Space Recreation as indicated as Area “C” on the Rezoning Plan, being an area of approximately 1.45ha.

**Land Development** means Development of the Land (or part thereof), by the Applicant, any one or more of them, their nominee or any transferee for the purpose of residential development and the infrastructure and services associated therewith after rezoning of the Land pursuant to the Rezoning Plan.

**GST Law** means *A New Tax System (Goods and Services Tax) Act 1999*, as amended.

**Land** means the land identified in recital A of this Agreement and more particularly as set out in the Certificate of Title and Deposited Plan attached to this Agreement as Annexure “A”.

**Liabilities** means claims, losses, liabilities, costs or expenses of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

**Recreation Project** means the work and improvements to be carried out by the Applicant on the Dedicated Land for the provision of public amenities, infrastructure and services as set out in the Works Plan attached as Annexure “C”.

**Release Date** means the date of release by Council of the first Subdivision Certificate for the Area nominated “B” on the Rezoning Plan pursuant to Clause 4.

**Rezoning Plan** means the plan showing proposed rezoning of the Land by the Applicant, a copy of which is attached to this Agreement as Annexure “B”.

## 1.2 General

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) Where a word or a phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to any party to this Deed or any other agreement or document includes the party's successors and substitutes or assigns.
- (e) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (f) Clause means a clause of this Deed.
- (g) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Deed.
- (h) A reference to writing includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (i) Unless stated otherwise, one provision does not limit the effect of another.
- (j) A reference to includes or including means includes without limitation, or including without limitation, respectively.
- (k) All obligations are taken to be required to be performed duly and punctually.

## 2. Voluntary Agreement

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Each party to this Agreement agrees and acknowledges that it has entered into this Agreement voluntarily for the purpose of documenting a planning agreement between the parties pursuant to Section 93F of the Act.

## 3. Land Dedication

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- (a) The Applicant agrees, subject to the terms of this Agreement, to transfer the Dedicated Land to Council free of cost to Council and without compensation to the Applicant for the purpose of dedication as community public lands upon satisfaction of the Conditions Precedent.
- (b) The Applicant warrants that it has obtained written approval from all persons who have an estate or interest in the Land, including any mortgagee, in

relation to the dedication referred to in Clause 2(a) and the Applicant will, if requested by Council, provide a copy of such written consent.

#### **4. Conditions Precedent**

---

Transfer of the Dedicated Land to Council will not proceed until the following conditions are fulfilled in accordance with this Agreement:

- (a) rezoning of the Land has been gazetted substantially in accordance with the Rezoning Plan; and
- (b) the Recreation Project has been completed by the Applicant in accordance with this Agreement; and
- (c) the Applicant has received a development consent to the first stage of the Land Development for the area nominated "B" on the Rezoning Plan and Council has released a subdivision certificate in relation thereto.

#### **5. Management of Dedicated Lands**

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##### **5.1 Recreation Project and Conservation Project**

- (a) On or before the Release Date, the Applicant agrees to complete the Recreation Project and Conservation Project and to ensure, at the Applicant's cost, that appropriate access is provided to Council (or its nominee), to enable Council to monitor and assess the progress of the projects.

##### **5.2 Management of Dedicated Lands**

Upon transfer of the Dedicated Land to Council in accordance with this Agreement (Transfer Date), it is acknowledged and agreed by the parties that:

- (a) Council must immediately classify the land as community land;
- (b) the Applicant will continue to carry out the work, including maintenance, repairs and rectification of defects, relating to the Recreation Project for a further period of 12 months commencing on the Transfer Date (**Maintenance Period**) and will indemnify Council in respect of any claim for personal injury or death or property damage in connection with the Dedicated Land, arising from any negligent act or omission by the Applicant (or its agents, employees or contractors) or their failure to comply with the Works Plan, during the Maintenance Period; and
- (c) at the end of the Maintenance Period, Council agrees to take over and accept all responsibility for the future cost and maintenance of the Dedicated Land subject to the Applicant's compliance with the terms of this Agreement.

#### **6. Section 94 Contributions**

---

The parties acknowledge and agree that the terms of this Agreement:

- (a) Subject to (b), do not exclude the application of Section 94 and 94A of the Act; and
- (b) shall exclude the application of Section 94 of the Act in determining any development contributions payable by the Applicant in relation to the land development so far as such contributions relate to the local open space component .

#### **7. Goods and Services Tax**

---

- (a) Capitalised expressions which are not defined in this clause but which have a defined meaning in GST Law have the same meaning in this clause.
- (b) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional consideration.
- (c) No payment of the GST Amount pursuant to this clause is required until the supplier has provided a Tax Invoice or Adjustment Note, as the case may be, to the recipient.
- (d) Any reference in the calculation of Consideration under this Agreement to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.

#### **8. Council's Acknowledgements**

---

- (a) Council acknowledges and agrees that prior to entering into this Agreement Council has made its own enquiries in relation to the Dedicated Land and has caused a satisfactory inspection of the said land and matters and documents relating to it and will not make any claim, demand, requisition or objection or seek any compensation in relation thereto or rescind or terminate this Agreement or delay the approvals and/or release of the subdivision certificates as a result of any matter whatsoever relating to the Dedicated Land, including any environmental hazard or contamination, subject only to the Applicant's compliance with the terms of this Agreement.
- (b) Council acknowledges and agrees that in entering into this Agreement it has not relied upon any representations made by the Applicant other than the representations and statements set out in this Agreement and any annexures hereto.
- (c) On transfer of the Dedicated Land to Council, Council must:
  - (i) take out and maintain public liability insurance in relation to the Dedicated Land; and

- (ii) subject to Clause 8(b), indemnify the Applicant and agree to hold the Applicant harmless from and against all Liabilities incurred directly or indirectly from any negligent act or omission by Council from or in connection with the Dedicated Land.

#### **9. Applicants Warranty**

---

In consideration of Council's acknowledgements set out in Clause 8, the Applicant warrants that it is not aware of any contamination in, on or emanating from the Land or the Dedicated Land and is not aware of any notices or orders in relation thereto.

#### **10. Costs**

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It is agreed and acknowledged by the parties that:

- (a) the Applicant will pay its own costs and the reasonable costs of Council associated with the preparation, negotiation and execution of this Agreement;
- (b) Council will bear all costs associated with:
  - (i) the transfer of the Dedicated Land including stamp duty and registration fees; and
  - (ii) compliance with the Act in relation the advertising and registration of this Agreement as a Planning Agreement, including any stamp duty and registration fees.
- (c) the Applicant will bear all costs associated with obtaining mortgagee consent, and/or the consent of any other third party having an interest in the Land, required to complete any transaction contemplated by this Agreement, including registration of this Agreement.

#### **11. Dispute Resolution**

---

If any disagreement between the parties arises out of the construction or interpretation of the provisions set out in this Agreement, including the parties respective rights and obligations, the parties must use their best endeavours to resolve the issues directly and thereafter either party may refer the matter to the Director General of the Department of Planning, or such equivalent, for determination and the parties agree to be bound by such determination.

#### **12. Planning Authority**

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The parties acknowledge and agree that this Agreement does not in any way impose an obligation on Council or any other planning authority to grant development consent or to exercise any function under the Act in relation to a change to an environmental planning instrument.

#### **13. Consent to Registration**

---

It is acknowledged and agreed by the parties that this Agreement will be registered as a dealing in relation to the Land pursuant to S93H of the Act and in this regard the Applicant warrants that it has obtained written approval from each person who has an estate or interest in the Land to such registration.

---

**14. Severance**

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Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

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**15. No Merger**

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The rights and obligations of the parties will not merge on completion of any transaction under this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

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**16. Further Assurances**

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Each party shall take all steps, execute all documents and do everything reasonably required by any other party to give effect to any of the transactions contemplated by this Agreement.

---

**17. Governing Law**

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This Agreement is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

---

**18. Counterparts**

---

This Agreement may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement.

---

**19. No Assignment**

---

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

Executed as a deed

**EXECUTED by Greater Taree City Council:**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Authorised Officer

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Authorised Officer

\_\_\_\_\_  
Address of Witness

**EXECUTED for and on behalf of by  
John Earnings Pty Limited  
ACN 000 745 139 by authority of the Company  
in the presence of:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of Secretary

\_\_\_\_\_  
Name of Director

**EXECUTED for and on behalf of by  
Island Point Plantations Pty Limited  
ACN 052 123 369 by authority of the Company  
in the presence of:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of Secretary

\_\_\_\_\_  
Name of Director

**EXECUTED for and on behalf of by  
Briehris Pty Limited ACN 102 308 887 by  
authority of the Company in the presence of:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of Secretary

\_\_\_\_\_  
Name of Director



**ANNEXURE A**

**Land**

# ACS SEARCH PTY LTD

PO Box A1155, Sydney South NSW 1235. Phone: 02 9267 9728 Fax: 02 9267 9226  
<http://acssearch.urbispro.com.au>

Information contained in this document is provided by Global Information Services Pty Ltd (ABN 59 573 426 414)  
[www.globalix.com.au](http://www.globalix.com.au) an approved broker

## LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 3/242292

SEARCH DATE	TIME	EDITION NO	DATE
3/6/2009	9:51 AM	1	3/6/2009

### LAND

LOT 3 IN DEPOSITED PLAN 442122  
AT BLACK HEAD  
LOCAL GOVERNMENT AREA GREATER THREE  
PARISH OF BRYAN COUNTY OF GLOUCESTER  
TITLE DIAGRAM DP242122

### FIRST SCHEDULE

JOHN EARNINGS PTY LIMITED  
IN 50/100 SHARE  
ISLAND POINT PLANTATIONS PTY LIMITED  
IN 25/100 SHARE  
BAYCRUIS PTY LIMITED  
IN 25/100 SHARE  
AS TENANTS IN COMMON

(T 7659329)

### SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 6906713 EASEMENT FOR PIPELINE AFFECTING THE LAND SHOWN SO BURDENED IN DP591347
- 3 K554901 EASEMENT FOR PIPELINE AFFECTING THE PART OF THE LAND ABOVE DESCRIBED SHOWN SO BURDENED IN DP438713
- 4 AC332755 CREAVAT BY MARBLE HOLDINGS PTY LIMITED

### NOTATIONS

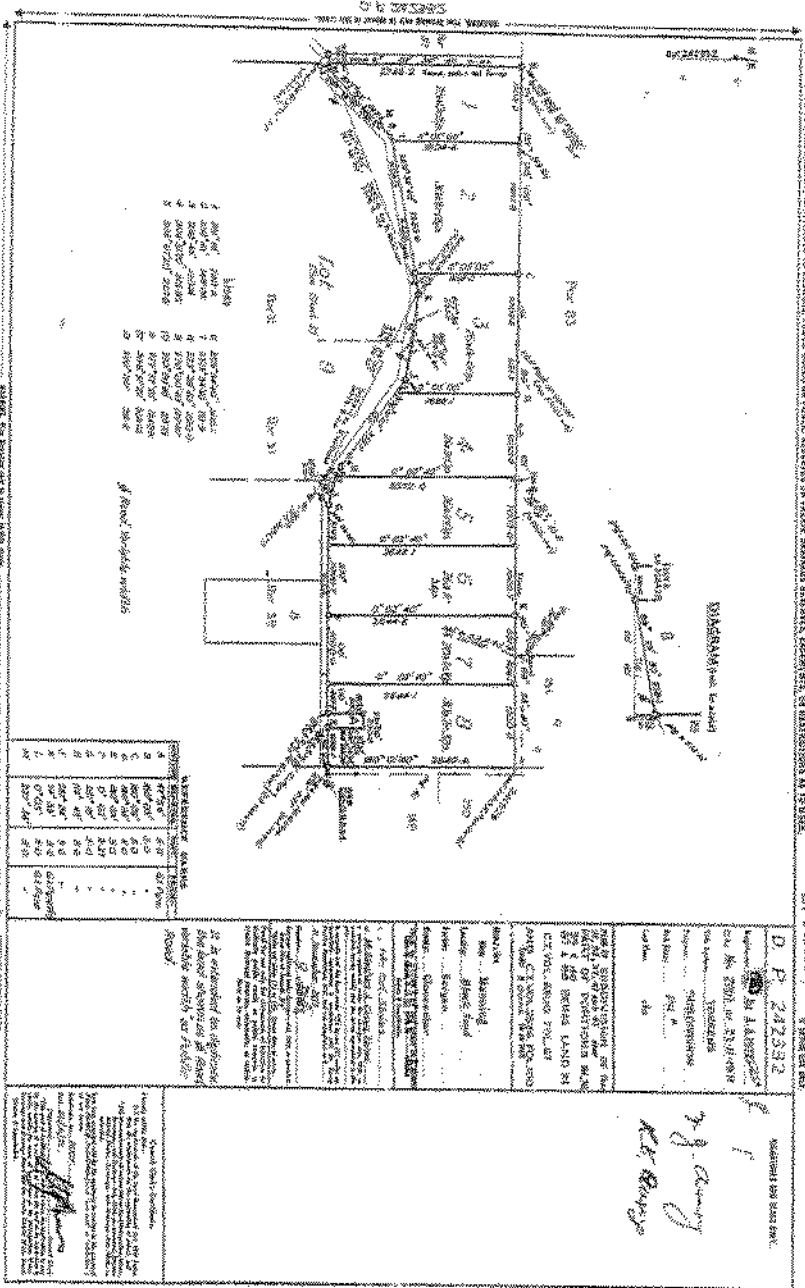
NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCEDURES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPREHENDED IN THIS FOLIO.

NOTE: DE559713 (ONS) &  
UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

Liberty, Sumner & Whitaker

PRINTED ON 3/6/2009



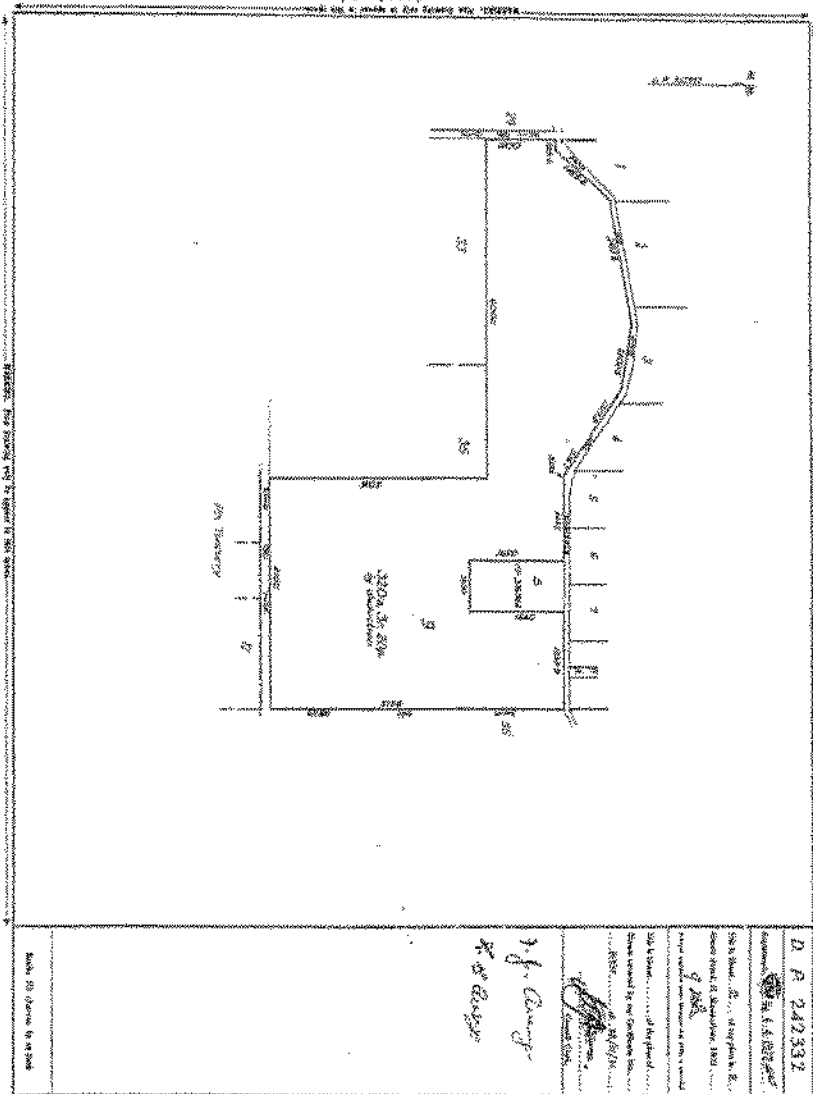
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CP-12345

*Handwritten signature/initials*



1. All work shall be done in accordance with the specifications and drawings furnished by the Engineer.

2. The Contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

3. The Contractor shall maintain access to all existing utilities and structures on the site.

4. The Contractor shall be responsible for the protection and preservation of all existing trees and vegetation on the site.

5. The Contractor shall be responsible for the removal and disposal of all debris and waste materials from the site.

6. The Contractor shall be responsible for the cleanup and restoration of the site to its original condition.

7. The Contractor shall be responsible for the safety of all workers and the public during the construction process.

8. The Contractor shall be responsible for the timely completion of the project.

**2**

LINE NO.	DESCRIPTION	AMOUNT	TOTAL
1	Site Preparation	100.00	100.00
2	Foundation	200.00	300.00
3	Structure	500.00	800.00
4	Roofing	150.00	950.00
5	Interior Finishes	300.00	1250.00
6	Exterior Finishes	100.00	1350.00
7	Site Work	50.00	1400.00
8	Contingency	100.00	1500.00
9	Subtotal		1500.00
10	Permit Fees	50.00	1550.00
11	Professional Fees	100.00	1650.00
12	Other Fees	20.00	1670.00
13	Grand Total		1670.00

**ANNEXURE B**

**Rezoning Plan**



NO.	DESCRIPTION	AREA	DATE	BY
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CONTRACT FOR LAND SURVEYING  
 AND ENGINEERING  
 BY THE ENGINEER  
 IN THE STATE OF MISSISSIPPI

**L.S.W. LIBBURY, SUMMERS & WHITEMAN**  
 ENGINEERS AND SURVEYORS  
 1225 NORTH BAY STREET, SUITE 100  
 TALLWOODS, MISSISSIPPI 38924  
 PHONE (662) 833-2222  
 FAX (662) 833-2223  
 WWW.LSWENGINEERS.COM

**PROPOSED SUBDIVISION OF LOT 3, DP 242132 "PARKVIEW ESTATE" TALLWOODS**

SCALE 1"=80'

DATE: 12/11/13

DRAWN BY: [Name]

CHECKED BY: [Name]

DESIGNED BY: [Name]

SUBJECT TO APPROVAL AND FINAL DESIGN AND SURVEY

DATE: 12/11/13

SCALE: 1"=80'

DATE: 12/11/13

SCALE: 1"=80'



<b>DALHOUSIE</b> ENGINEERING & SURVEYING 1000 UNIVERSITY AVENUE HALIFAX, NS B3H 2W4 TEL: (902) 420-1111 FAX: (902) 420-1112 WWW.DALHOUSIEENGINEERING.COM		<b>LSAW</b> LUDBURY, SUMMERS & WHITEMAN CONSULTING ENGINEERS 1000 UNIVERSITY AVENUE, 4TH FLOOR HALIFAX, NS B3H 2W4 TEL: (902) 420-1111 FAX: (902) 420-1112 WWW.LSAW.COM	
PROJECT NO: 1000 DRAWING NO: 1000	DATE: 10/10/08	SHEET NO: 1 OF 1	SCALE: 1:1000
PROPOSED SUBDIVISION OF LOT 3-99242332 PARKVIEW ESTATE TALEWOODS			

**ANNEXURE C****Works Plan****Applicants Works**

1. Earthworks required and associated with construction of a playing field being that component to be located on the Dedicated Land, including the provision of and application of appropriate top soil (as determined by Council).
2. Earthworks associated with construction of public carparks to be located on the western side of the Road No. 2 as depicted on the Rezoning Plan.
3. Construction of rain gardens/retention dams as required by Council to meet water quality objectives within the Dedicated Land and landscaping associated therewith and installation and connection of all pipes and utilities connecting same with the Land Development.
4. Construction of a 2m wide bicycle way/ pedestrian path (of concrete) along the full extent of the southern boundary of the Land adjacent to Blackhead Road and adequate lighting associated therewith.



C: Bushfire Safety Authority



**NSW RURAL FIRE SERVICE**



General Manager  
MidCoast Council  
PO Box 482  
TAREE NSW 2430

Your Ref: 407/2017/DA  
Our Ref: D17/1371  
DA17050507175 BS

**ATTENTION:** Petula Bowden

16 June 2017

Dear Ms Bowden

**Integrated Development for 3//242332 - 303 Blackhead Road Hallidays Point 2430**

I refer to your letter dated 28 April 2017 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The proposed manufactured homes estate is to comply with the following specified plans:
  - The site plan prepared by Travers Bushfire and Ecology, titled "Schedule 1 - Bushfire Protection Measures" and dated 5/4/17 (this plan is relevant to the required APZs), and
  - The site plan prepared by Lidbury, Summers & Whiteman, titled "Concept Plan for Development of Lot 3 DP 242332 Coastal View Drive - Tallwoods Layout Plan" identified as Issue B and dated 7/4/17 (this plan is relevant to the final layout of the development).

It is noted that some variation exists between these two plans, with regard to layout. The APZ information identified in the plan titled: "Schedule 1 - Bushfire Protection Measures"

Postal address  
Records  
NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

Street address  
NSW Rural Fire Service  
Planning and Environment Services (North)  
Suite 1, 129 West High Street  
COFFS HARBOUR NSW 2450

T (02) 6691 0400  
F (02) 6691 0499  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



can be transferred to the referenced plan titled: "Tallwoods Layout Plan" as this plan is identified as the final layout plan applicable to the development.

### **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the commencement of building works and in perpetuity the entire property shall be managed 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 'Standards for asset protection zones'.
3. Fences, that are proposed to be constructed as part of the development, are recommended to be constructed in accordance with the NSW RFS Fast Fact 2/06, titled "Dividing Fences" version 5, and dated February 2012. The following points are made:
  - The RFS does not recommend the use of softwood or treated pine fencing in bushfire prone areas.
  - Where BAL-12.5 or BAL-19 construction is required for the manufactured home, hardwood fencing is considered suitable; subject to it being disconnected from the dwelling by at least 1m of non-combustible fencing material, otherwise the fence should be constructed from non-combustible materials.
  - Where BAL-29 construction is required for the manufactured home, fencing materials should be non-combustible.
  - Landscaping in the vicinity of timber fences should be selected, located and maintained to reduce possible fire activity due to, ember, radiant heat or direct flame contact, that may further impact timber fencing.

### **Asset Protection Zones**

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

4. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on the area of land, located in the western part of the development site that is proposed (in the future) to become playing fields, public road, water quality ponds and car parking. This identified section of land is proposed to be dedicated to Council in stage 2 of the sites development. Management shall be in perpetuity 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 'Standards for asset protection zones'.

### **Water and Utilities**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

5. Water, electricity and gas are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

### **Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

6. Public roads shall comply with section 4.1.3 Access (1) Public roads, of 'Planning for Bush Fire Protection 2006'. The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:
7. Internal roads shall comply with section 4.1.3 Access (1) of 'Planning for Bush Fire Protection 2006', except that mountable kerbs and verges are able to be used when considering the width of roads. The width of roads at bends, that have <40m radiuses (inside edge), or at intersections with other roads, will need to achieve the minimum requirements as specified in Table 4.1 of Planning for Bushfire Protection 2006.

### **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

8. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

9. Construction of the proposed; manager's residence and the community centre building, shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

10. Future installation of manufactured homes, onto approved sites within the development site, shall be limited to siting that achieves the separations and construction standards provided by the plan prepared by Travers Bushfire and Ecology, titled Schedule 1 - Bushfire Protection Measures and dated 5/4/17.

Some sites are noted to permit various compliant levels of construction depending upon the separations available.

No manufactured homes shall be located to require BAL-40 construction.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours Sincerely

**Alan Bawden**  
**Team Leader – Development Assessment and Planning**

*The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.*

D: Approved Subdivisions Plan (Lot 4 Blackhead Road)

