

Please Quote

Our Ref: 98.2363.S

24 February 2011

Patent Development Pty Ltd  
PO Box 67  
MONA VALE NSW 1660

Dear Sir/Madam

**NOTICE TO APPLICANT OF DETERMINATION OF A  
DEVELOPMENT APPLICATION FOR STAGED 42 LOT SUBDIVISION**

Pursuant to Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, notice is hereby given of the determination of the consent authority of the development application number 218/11 dated 22 September 2010 and described by plan number 11/218A1 relating to land described as Lot 1&2, 65 & 6 Sec 33, 3, PRINCES HIGHWAY, FITZROY STREET, 1A SOUTH HEAD ROAD MORUYA.

**Date of determination:** 24 February 2011  
**Consent to operate from:** 24 February 2011  
**Consent to lapse on:** 23 February 2016

The development application has been approved as a stage development application under the provisions of Section 83B of the Environmental Planning and Assessment Act.

- Stage one of the proposal for which operational consent is granted consists of two parts;
  - Part “A” – subdivision into 4 allotments as proposed in plan 13226-5 Sheet 2 prepared by Conway Burrows and Hancock dated 10 September 2010, also
  - Part “B” creation of Lots 1-29 and 38, as proposed in plan 13226-5 Sheet 2A prepared by Conway Burrows and Hancock dated 10 September 2010
- Stage 2 of the proposal which is approved in concept and subject to further application demonstrating closure of crown road, transfer of title to Patent Developments (or ensuing owner of parent allotments) and satisfaction of all other applicable conditions. Stage 2 consists of lots 30-37 and lot 40 as proposed on plan 13226-5 Sheet 2B prepared by Conway Burrows and Hancock dated 10 September 2010 and labelled “proposed stage 3”.

The development application has been determined by granting of consent subject to the conditions set out below. These conditions have been applied to this consent for the following reasons:

- ensure the proposed development:
  - (a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
  - (b) complies with the provisions of all relevant environmental planning instruments;
  - (c) is consistent with the aims and objectives of Council’s Development Control Plans, Codes and Policies.

- ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
- meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
- minimise any potential adverse environmental, social or economic impacts of the proposed development.
- ensure the development does not conflict with the public interest.

## GENERAL CONDITIONS

1. This development is to be carried out in accordance with the plans stamped and numbered 11/218A1 and supporting specifications and documentation or as modified by these conditions or as noted in red by Council on the approved plans.

### *Notes:*

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

## STAGE 1A

2. No construction, works or activity is permitted by this stage.
3. ***Plan of Survey***  
At the completion of subdivision works an application using Council standard form for a Subdivision Certificate (currently \$223.00 plus \$25.00 per lot) is required. The application is to include all documents, information and fees as required by the application checklist.

## STAGE 1B

4. ***Construction Certificates***  
A Construction Certificate is to be issued by Council prior to any works, including clearing or installation of services, being undertaken on the site.

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Prior to the issues of a Construction Certificate, submission to and approval by Council of a stormwater network in accordance with the Australian Rainfall and Runoff Guide to Flood Estimation and Council's Stormwater Design Manual. Supporting information is to accompany the design to demonstrate the post-development condition does not exceed the pre-development condition for both quantity and quality of discharge.

6. ***Prior to the Issue of Infrastructure Construction Certificate***

Submission to and approval by Council of Engineers design for road, water, sewer is required prior to issue of Infrastructure Construction Certificate. Plans are to be in accordance with Council's Development Specifications, related Australian Standards and water and sewerage specifications.

The fee for the issue of the Infrastructure Construction Certificate will be charged at the rate for the current financial year at the time of issue, as set in Eurobodalla Shire Council Fees and Charges. [ 12.39 ]

7. ***Requirements of Public Authorities for Connection to Services***

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

8. ***Acid Sulphate Soil Assessment & Management Plan***

An Acid Sulphate Soil Assessment and (if necessary) an Acid Sulphate Soil Management Plan shall be prepared by an suitably qualified person in accordance with the NSW Acid Sulphate Soil Manual. The Assessment and Management Plan shall be prepared in accordance with Council's Acid Sulphate Soils Policy and shall be submitted to and approved by Council prior to the issue of a Construction Certificate..[ 10.04 ]

9. The 40 metres setback area between lots along South Head Road and the Princes Highway is to be landscaped and suitable acoustic treatment provided (including fences and mounds) located no nearer the boundary of the road than 30 metres and to be of height no greater than 2.5 metres. The sound attenuation devices are to achieve appropriate noise levels within future dwellings on the site, and are to be appropriately landscaped to protect the visual amenity of the adjoining roads. Details of such to be provided prior to release of Construction Certificate and work completed prior to release of lots in Stage 1 "B".
10. Prior to issue of a construction certificate, submission to and approval by Council of plans addressing the heritage issues nominated in concept approval including details of interpretive display and how this relates to footprint of original homestead.
11. Prior to the issue of a construction certificate, submission to and approval by Council of an Aboriginal Heritage Management Plan (AHMP) for the areas of development approved by this consent. The plan shall address the commitments required to manage and mitigate impacts to Aboriginal Heritage as specified in the concept approval. Alternatively, a Section 90 Permit is to be obtained from DECCW and a copy provided to Council.

## **PRIOR TO COMMENCEMENT OF WORKS**

### **12. *Erosion & Sediment Control Measures***

Provision of erosion control measures conforming to a plan submitted to and approved by Council prior to the commencement of any earthworks within the site.

Such measures are to be installed as necessary to effectively control soil erosion on the site and prevent silt discharge into drainage systems and waterways in accordance with Council's Policy - Erosion and Sediment Control from Building Sites. These controls are to remain in place until the development is completed and/or disturbed areas stabilised. In this regard, warning signs (minimum of two) to promote the awareness of the importance of the maintenance of sediment control techniques have been supplied with this consent. You are required to attach the signs to sedimentation fences with wire ties on the most prominent sediment fence or erosion control device, spaced every 20m, for the duration of the project.

**Note:** On-the-spot fines may be imposed by Council for non-compliance with this condition.[11.13]

### **13. *Tree removal***

Tree removal shall be in accordance with the Tree Retention Plan prepared by Conway Burrows & Hancock dated 10 September 2010 (plan No 13226-5 sheet 1). In this regard, 4 trees are permitted for removal with all other trees to be retained.

Prior to the commencement of works the retained trees shall be clearly marked onsite and protection measures installed in accordance with *AS 4970-2009 Protection of trees on development sites*. Such measures are to be maintained during all demolition, excavation and construction on the site.

## **DURING CONSTRUCTION**

### **14. *Approved Plans to be On-Site***

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority. [ 2.22 ]

### **15. *Loading and Unloading of Construction Vehicles***

All loading and unloading associated with construction must be accommodated on-site. If this is not feasible, an application may be made for the provision of a construction zone, during the specified hours of work.

### **16. *Spoil Removal***

No spoil to be deposited on public roads during the cartage of materials from or to the site. The deposition spoil shall cease, as directed by Council, if the Council determines that excessive deposition of spoil onto the road is taking place.[11.12]

### **17. *Hours of Operation – NOISE***

Construction and demolition work on the site shall only be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 8.00am to 5.00pm on Saturdays. No construction or demolition activity on Sundays and Public Holidays if audible at any residential premise or other sensitive noise receptor. [20.01 ]

## **PRIOR TO SUBDIVISION OR STRATA SUBDIVISION**

18. ***Electricity Supply***

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Country Energy that:

- (a) All relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable), headworks contributions, payments for extension of supply and creation of easements;

19. ***Telecommunications Cabling***

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra that arrangements have been made for telecommunication cabling to all lots.

20. ***Water Reticulation***

Prior to the issue of a subdivision certificate the applicant shall construct water reticulation including 20mm water service connections to each newly created lot in accordance with plan number 4753. The limit of the service connection shall be the 20mm M\*F stopcock.

The water reticulation plan shall be in accordance with Councils Water and Sewerage specification and is subject to approval and issue of a construction certificate with payment of fees applicable under the current fees and charges for the year of issue.

Work as executed plans are to be submitted to Council prior to the release of the subdivision certificate. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

21. ***Sewer Reticulation***

Prior to issue of Subdivision Certificate the applicant shall construct sewer reticulation to the new lots in accordance with plans subject of a Construction Certificate to Council's codes and specifications and provide certified works as executed plans to Council. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia. This is to be undertaken prior to the commencement of Stage 1B.

22. ***Road Dedication***

The plan of survey subject of a Subdivision Certificate shall include dedication of all roads, road widening and pathways to Council's standards and/or requirements free of all cost to Council.

23. The intersection for the subdivision with South Head Road shall be a CHR-AUL with pedestrian refuge included to link the internal pathway refuge included to link the internal pathway to the existing cycleway in South Head road. All in accordance with Eurobodalla Shires Council's Design specification. Lighting for the intersection and the subdivision is to be provided for in accordance with AS1158.1.

24. **Road Works**  
Prior to issue of a Subdivision Certificate the applicant shall construct roadworks to the standards of Council's development design specification D1, including associated drainage and erosion/sediment controls, in accordance with design plans subject of a Construction Certificate. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.
25. **Footpaths**  
Developers of urban zoned land shall provide footpaths on one side of all roads, both sides if the road is a bus route and where traffic volumes warrant such additional requirements as nominated by Council. Certified work as executed plans shall be submitted to Council prior to release of Subdivision Certificate.
26. **Maintenance Bond**  
Prior to issue of a Subdivision Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor being 5% of the contract price and applicable for six months from the date of issue of the Subdivision Certificate.
27. **Roadwork Maintenance Bond**  
Prior to issue of a Subdivision Certificate the applicant shall pay Council roadworks maintenance bond at the rate determined by Council current at the time of payment (currently 5% of total cost of roadworks) and applicable for six months from the date of issue of the Subdivision Certificate.
28. **Section 94 Contributions Subdivision**  
At the time of issue of a Subdivision Certificate the applicant shall pay Council contributions per additional lot at the rate current at the time of payment under Section 94 of the Environmental Planning and Assessment Act 1979, as it applies to this subdivision in relation to the following:
- |    |                |                           |
|----|----------------|---------------------------|
| a) | Administration | \$ 89.50 per lot created  |
| b) | Open Space     | \$ 458.75 per lot created |
| c) | Waste Disposal | \$ 110.00 per lot created |

These charge are payable at the time of release of lots in Stage 1B.

*Note: The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.*

29. **Water & Sewer Headworks**  
Pursuant to Section 64 of the Local Government Act 1993 payment to Council of headworks charges as follows:
- |    |                 |                             |
|----|-----------------|-----------------------------|
| a) | Sewer Headworks | \$ 9,050.00 per lot created |
| b) | Water Headworks | \$10,400.00 per lot created |

These charge are payable at the time of release of lots in Stage 1B.

The above contribution rates are applicable for a period of 3 months from the date of this notice. If not paid within this time contributions are to be paid at the time of issue of subdivision or occupation certificate at the rates applicable at that time.

**30. *Inter-allotment Drainage***

Prior to issue of a Subdivision Certificate the applicant shall, in accordance with design plans approved by Council and subject of a Construction Certificate, construct an inter-allotment drainage scheme for all lots that cannot discharge stormwater to Council's street or an approved stormwater drainage scheme.

**31. *"Work as Executed" Plans***

Prior to issue of a Subdivision Certificate the applicant shall provide "work as executed" plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work required pursuant to a condition of subdivision.

**32. *Easement Creation***

Construction of drainage or sewerage works over intervening private property for this development is dependant on the applicant negotiating a permit to enter that land and acquiring an easement or right to use the land under the surface for construction, and for future maintenance of works by Council. Proof of registration of legal access is to be submitted to Council prior to the issue of Subdivision Certificate.

**33. *Easements***

The plan of survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council.

**34. *Plan of Survey***

At the completion of subdivision works an application using Council standard form for a Subdivision Certificate (currently \$223.00 plus \$25.00 per lot) is required. The application is to include all documents, information and fees as required by the application checklist.

**ADVISORY NOTES**

**35. *Discovery of a Relic***

If, during work, an Aboriginal relic is uncovered then the National Parks and Wildlife Service (NPWS) is to be contacted urgently - Queanbeyan 6298-9736 and WORK IS TO CEASE IMMEDIATELY until further notice.<sup>[13.07]</sup>

**36. *Installation of Electricity Mains***

Prior to installation of electrical mains, contact Country Energy [telephone (02) 4472-5082, 0414 725 797 or (02) 4474-1731] to ensure that planning for electricity infrastructure takes into consideration possible future sub-division.

**37. *Underground Utility Services Check***

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development.

38. ***Chipping Contractors***

Chipping contractors be informed they should contact neighbours surrounding the property they are working on regarding new hours of operation (9am to 5pm Monday to Friday) and their intention to conduct chipping for vegetation, maintenance and clearing activities. The relocation of vegetation to a storage site away from occupied residential areas for the purpose of chipping and mulching would be desirable.<sup>[16,18]</sup>

**Note:** Under section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the Council to review its determination except where it relates to a Complying Development Certificate, designated development or integrated development.

If you are dissatisfied with this decision, Section 97 of the Act gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this Notice.

If you require further information, please contact me on (02) 4474 1304 between the hours 8.30am and 11.00am.

Yours faithfully

LINDSAY USHER  
DIRECTOR  
STRATEGIC, DEVELOPMENT & ENVIRONMENTAL SERVICES