

Project Approval

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

RESIDENTIAL SUBDIVISION –

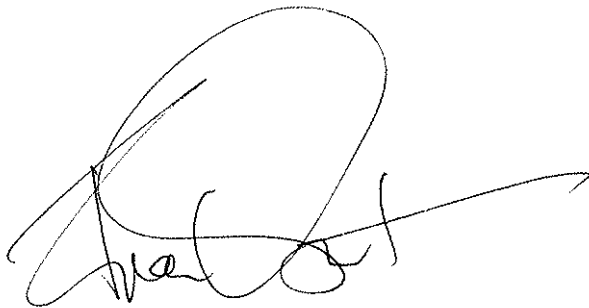
KANANGRA DRIVE, GWANDALAN (MP 07_0107)

FILE NO. S07/01345

I, the Minister for Planning, pursuant to section 75J of the *Environmental Planning & Assessment Act 1979* approve the project referred to in Schedule 1, subject to the conditions in Schedule 2, being

- 1) subdivision of Lot 3 in DP 588206 into 187 residential lots and one residue lot for the existing foreshore dwelling and curtilage;
- 2) civil works including earthworks and site regrading, major drainage controls and infrastructure provision and construction of roads;
- 3) a public road network with three access roads to Kanangra Drive;
- 4) public domain improvements, including two new parks, a 'green link' linking the two open space areas and street tree planting.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment identified in Appendix F, the Preferred Project Report prepared by Rose Property Group in conjunction with Lakeside Living Pty Ltd (dated 19 December 2007) and the Proponent's Statement of Commitments in Schedule 3, subject to the modifications in the attached Schedule 2.



Frank Sartor MP
Minister for Planning

Sydney, 2nd Sept 2008

SCHEDULE 1

PART A

Application made by:	Lakeside Living Pty Ltd
Application made to:	Minister for Planning
Major Project Number	MP07_0107
On land comprising:	Part of Lot 3 in DP 588206
Local Government Area:	Wyong Shire Council
For the carrying out of:	Development as described in Condition A1, Part A, Schedule 2
Capital Investment Value:	\$16 million
Type of development:	Project approval under Part 3A of the Act
Determination made on:	
Determination:	Determination is granted subject to the conditions in the attached Schedule 2.
Date of commencement of approval:	This approval commences on the date of the Minister's approval.
Date approval is liable to lapse:	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the EP&A Act.

PART A – ADMINISTRATIVE CONDITIONS

A1. Development Description

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

- (1) Subdivision of Lot 3 in DP 588206 into 187 residential lots and one residue lot for the existing foreshore dwelling and curtilage;
- (2) Civil works including earthworks and site regrading, major drainage controls and infrastructure provision and construction of roads;
- (3) A public road network with three access roads to Kanangra Drive;
- (4) Public domain improvements, including two new parks, a 'green link' linking the two open space areas and street tree planting.

A2. Staging

The development is to be delivered in four stages;

- (1) Stage 1 will comprise vegetation clearing, site preparation; Civil works including site regrading, major drainage controls and infrastructure provision and the bus route and roads.
- (2) Stage 2 will comprise the release of 64 lots.
- (3) Stage 3 will comprise the release of 42 lots.
- (4) Stage 4 will comprise the release of 81 lots.

The staging of the development can be varied with the written approval of the Director General.

A3. Development in Accordance with Plans

The Proponent shall carry out the project generally in accordance with the following:

- (a) *Gwandalan Preferred Project Report*, dated 19 December 2007 and prepared by Asquith and de Witt Pty Ltd;
- (b) *Concept Civil Engineering Design Plans* (revision D and dated December 2007) prepared by Asquith & de Witt;
- (c) *Landscape Drawings* prepared by Context Landscape Architect and dated 18 December 2007;
- (d) *Environmental Assessment Report: Catherine Hill Bay/Gwandalan Concept Plan, Rose Property Group*, prepared by Asquith & de Witt Pty Ltd and October 2007);
- (e) *Catherine Hill Bay/Gwandalan Aboriginal Heritage Assessment*, prepared by Environmental Resources Management Australia and May 2007;
- (f) *Ecological Constraints Study for Lot 3 DP588206 Kanangra Drive, Gwandalan NSW*, prepared by Wildthing Environmental Consultants and dated October 2003);
- (g) *Traffic Report: Kanangra Drive Gwandalan Subdivision*, prepared by Masson Wilson Twiney and dated 6 August 2007;
- (h) *Engineering Report for Residential Development – Stormwater Management Concept Civil Design and Services – Lot 3, DP 58820 Kanangra Drive, Gwandalan*;
- (i) *EPBC Draft Public Environment Report: Catherine Hill Bay/Gwandalan*, prepared by Asquith & de Witt Pty Ltd and August 2007;
- (j) *Geotechnical Investigation – Lot 3 Kanangra Drive, Gwandalan*, prepared by RCA Australia and August 2003);
- (k) *Ecological Assessment Report for Southern Lake Macquarie Lands*, prepared by Harper Somers O'Sullivan and December 2007;
- (l) *Updated EPBC Act Addendum Report for Proposed Subdivision Lot 3 DP588206 Kanangra Drive Gwandalan*, prepared by Harper Somers O'Sullivan and dated September 2007;
- (m) *EPBC Draft Public Environment Report: Catherine Hill Bay/Gwandalan*, prepared by Asquith de Witt Pty Ltd and dated December 2007;
- (n) *Preliminary Environmental Site Assessment Kanangra Drive Gwandalan, NSW*, prepared by HLA- Envirosciences Pty Ltd and dated 10 September 2007;
- (o) Letter regarding: Proposed Residential Subdivision, Kanangra Drive, Gwandalan – from Masson Wilson Twiney and dated 5 December 2007; and
- (p) Letter regarding Catherine Hill Bay Gwandalan Concept Plan – RFS Bushfire comments Gwandalan – from Barry Eadie Consulting Pty Ltd and dated 5 December 2007;

(q) the conditions of approval granted by the Minister for Planning for the Catherine Hill Bay and Gwandalan Concept Plan (Application Number 06_0330); and

(r) the conditions of this approval.

A4. *Lapsing of Approval*

In the event of an inconsistency between:

- a) the conditions of this approval and any document listed from condition A3(a) to A3(p) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
- b) any of the documents listed from condition A3(a) to A3(p) inclusive, the most recent document shall prevail to the extent of the inconsistency.

A5. *Lapsing of Approval*

Approval of Major Project No. 07_0107 shall lapse 5 years after the determination date in Part A of Schedule 1 unless specified action has been taken in accordance with Section 75Y of the Act.

A6. *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of project approval under Clause 75J (4) of the Act.

A7. *Determination of Future Applications*

The determination of future applications for development is to be generally consistent with the terms of approval of Major Project No. 07_0107 as described in Part A of Schedule 1 and subject to the conditions of approval set out in Schedule 2.

PART B

NOTES RELATING TO THE DETERMINATION OF MP No. 07_0107

Responsibility for other consents / agreements

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

Appeals—Third Party

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

Legal notices

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

PART C — DEFINITIONS

In this approval:

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

APZ means an Asset Protection Zones as defined in *Planning for Bushfire Protection 2006*.

BCA means Building code of Australia.

Council means Wyong Shire Council.

Department means the Department of Planning or its successors.

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

Major Project No. 07_0107 means the project described in Schedule 1, Part A, Condition A1 and the accompanying plans and documentation described in Schedule 1, Part A, Condition A3 and A4.

Minister means the Minister for Planning.

PCA means Principal Certifying Authority.

Project means development that is declared under Section 75B of the EP & A Act to be a project to which Part 3A of the Act applies.

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

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

RTA means the NSW Roads and Traffic Authority.

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

Gwandalan site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

CONDITIONS OF APPROVAL – MAJOR PROJECT NO. 07_0107

PART A – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of a construction certificate.

A1. Design Modifications

Perimeter road/pathway

- (1) The subdivision layout is to be modified to provide an Asset Protection Zone, that is designed in accordance with the *Planning for Bushfire Guidelines 2006* and that encompasses a publicly accessible pathway that is 6 metres wide or a perimeter road, between the urban development and Point Wolstoncroft State Conservation Area on lots 97 to 106 for the full length of these lots. Any design of the perimeter road shall address the sightline requirements and retention of significant vegetation; and
- (2) Road No.1 (for the length of lots 97 to 106) may be moved further to the north and a redistribution of lots 97 to 106 will be considered. However any such movement shall only occur if significant vegetation is retained and safer sightlines are achieved.

Intersections

- (3) Median strips are to be provided at all intersections with Kanangra Drive, provided this allows for adequate bus manoeuvring. The median strip shall be designed to prevent vehicles cutting across the incorrect side of the carriageway when entering Road no.1 from Kanangra Drive.

Gwandalan Public School – Bus Stop

- (4) The carriageway of Road No.1 shall be widened to 13 metres for the length of Gwandalan Public School and a bus lay-over shall be provided as a drop-off and pick-up point for students. The lay-over shall be of sufficient length to accommodate the number of school buses required without obstructing the carriageway width of Road no.1. The size of the lay-over area shall be determined in consultation with the NSW Department of Education and Training.
- (5) In consultation with Council, traffic management devices are to be installed, including speed humps, pedestrian crossings and/or parking restrictions if required to ensure the safety of students.

Footpath/Cycleway Kanangra Drive

- (6) The provision of a pedestrian cycleway 2.5m wide along the eastern side of Kanangra Drive for the length of the development if required by Council. The cycleway shall be consistent with the other cycle/foot ways to be provided in the subdivision.

A Subdivision Certificate for any stage is not to be issued unless the Subdivision Plan is amended to reflect conditions A1 (1) to (6) above and amended Plans have been

provided reflecting the required amendments has been submitted to the satisfaction of the Director General.

Construction Management

A2. Construction Management Plan

- (1) Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall include, but not be limited to, the following:
 - (a) hours of work;
 - (b) contact details of site manager;
 - (c) management plans as required by conditions A3 – A7 of Schedule 2 of this approval;
 - (d) noise and vibration management plan; and
 - (e) erosion and sediment control plan prepared in accordance with *Managing Urban Stormwater – Soils & Construction Volume 1* (Landcom, 2004).
- (2) The Construction Management Plan shall document the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve must be submitted to and approved by the Certifying Authority prior to the issue of the civil construction certificates. If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries this area must be identified in the Construction Management Plan and to the approval of Council.
- (3) The Proponent shall submit a copy of the approved plan to the Department and Council if Council is not the Certifying Authority.

A3. Flora and Fauna Environmental Management Plan

Prior to the issue of a Construction Certificate, a Flora and Fauna Environmental Management Plan for the Site shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (a) details for the implementation of the recommendations of the Harper Somers O'Sullivan Report (2007);
- (b) the preparation of a *Tetratheca juncea* management plan for areas to be developed;
- (c) retention of mature or hollow bearing trees wherever possible;
- (d) species selection for future landscape works and seed stock for revegetation to be limited to locally occurring native species and include *Eucalyptus robusta* and other regionally significant species;
- (e) measures to ensure the protection of drainage lines during and post construction; and
- (f) landscaping of sediment retention ponds to provide habitat.

A4. Construction Traffic & Pedestrian Management Plan

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

A5. Construction Waste Management Plan

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority a *Construction Waste Management Plan* (CWMP) prepared by a suitably qualified person. The Proponent shall submit a copy of the Plan to Council. The CWMP must be regularly monitored and reviewed.

A6. Vegetation Management Plan

Prior to the issue of a Construction Certificate, a Vegetation Management Plan (VMP) is to be prepared by a suitably qualified Landscape Architect for the watercourse that runs through the open space area at the southern end of the site, adjacent to Gwandalan Public School. The VMP is to:

- a) identify the location of the bed and banks of the watercourse and the footprint of an appropriate riparian corridor;
- b) be undertaken in accordance with the Department of Water and Energy's *Guidelines for Controlled Activities – Riparian Corridors*; and

- c) be prepared in accordance with the Department of Water and Energy's *Guidelines for Controlled Activities – Vegetation Management Plans*.

A7. Acid Sulphate Soil Management Plan

An Acid Sulphate Soil Management Plan (ASSMP) shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). In preparing the plan the number of ASS profiles that would be required is determined by the area of ASS affected, including the combined area of proposed excavations and the local area of groundwater drawdown. The ASSMP shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for below ground works.

A8. Streetscape Plan

Prior to the issue of a Construction Certificate, a Streetscape and Landscaping Plan for the Site is to be prepared by a suitably qualified Landscape Architect in respect to the proposed internal roads in accordance with Section 3.6 and 3.7 of Development Control Plan 66 (Street Trees and Landscaping) and in consultation with Council's Horticultural Officer and to the satisfaction of Council. Any dispute between the Proponent and Council is to be mediated by the written determination by the Director-General.

A9. Water Quality

- (1) Prior to the issue of a Construction Certificate and prior to the commencement of any works at the Site, the Proponent is to establish the pre-development water quality levels and condition of Lake Macquarie. This shall be undertaken by a suitably qualified and experienced professional.
- (2) The Proponent shall engage a suitably qualified professional to conduct regular water quality monitoring throughout all stages of construction at the site on a three monthly basis and report to the Council and any other relevant agency on the findings of this monitoring. The report is to include (but is not necessarily limited to) the following:
 - (i) an assessment of the data against relevant water quality standards and the baseline data collected as a requirement of (1) above,
 - (ii) identify any instance where the water quality results exceed the relevant standards,
 - (iii) identify all appropriate mitigation measures made to comply with the relevant standards in the event of their being exceeded.

Infrastructure and Services

A10. Stormwater and Drainage Works Design

Prior to the issue of a Construction Certificate, the Certifying Authority shall approve the final design plans of the stormwater drainage systems within the proposed development (above and below ground works). The plans shall be prepared:

- a) by a qualified practicing Civil Engineer; and
- b) in accordance with the requirements of Section 3.0 of Wyong Council's Development Control Plan No.66 and any relevant Australian Standard.

The hydrology and hydraulic calculations used in designing the above systems shall be based on models described in the current edition of Australian Rainfall and Runoff.

Subdivision work for each stage, in accordance with this approval, shall not commence until the Construction Certificate for the relevant work has been issued.

A11. Road Design

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and footpaths shall be constructed along the full length of the new roads within the development site.

Final road and pavement design plans shall be approved by the Certifying Authority prior to the issue of a Construction Certificate. The roads and pavement works shall be:

- a) prepared by a qualified practising Civil Engineer;
- b) designed in consultation with the relevant requirements of Wyong Shire Council and Australian Standards.

Subdivision work for each stage, in accordance with this approval, shall not commence until the Construction Certificate for the relevant work has been issued.

A12. Dedication of Roads

All roads are to be dedicated to Council. All roads to be dedicated shall be constructed in accordance with Council specifications.

A13. Open Space Dedication

Open space parklands within the Site shall be dedicated to Council at no cost. All open space parklands shall be constructed in accordance with Council specifications.

Should Council not accept the open space parkland, then the Proponent shall register these areas under the Community Title with the condition that public access rights are created over the relevant land through an Instrument under section 88B of the *Conveyancing Act 1919*.

A14. Section 64 Sewer and Water Head Works Charges

Payment to Council of the following contributions pursuant to Section 68 of the *Local Government Act, 1993* is required:

- a) Water Headworks - Nil
- b) Sewer Headworks - Nil

The present water connection points will require further upgrades in size in order to meet the increased demand on the site. Any increase in metre size will be subject to Council's Schedule of Fees and Charges current at the time.

A15. Services

- (1) Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to section 88B of the *Conveyancing Act 1919*.
- (2) Pursuant to section 88BA of the *Conveyancing Act 1919*, the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis. Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

A16. Costs

The Proponent is responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development and to construct, at own cost, all works required for the development.

A17. Mine Subsidence

- (1) Prior to the issue of a construction certificate, the final drawings for services and civil works that are to be constructed shall be certified by a qualified structural engineer to the effect that these works have been designed to respond to the geotechnical conditions of the site and that such structures will be safe serviceable and repairable over time.
- (2) The Mine Subsidence Board must be notified of any changes to lot numbering and of registered lot and DP numbers.
- (3) Subdivision plans and final drawings are to be submitted to the Mine Subsidence Board prior to the commencement of construction to ensure compliance with the requirements of the Mine Subsidence Board.

A18. Fauna Surveys

Prior to the issue of a Construction Certificate, the following fauna surveys are to be carried out:

- (a) Targeted Glossy Black-Cockatoo nesting site surveys are to be undertaken within the development lands during the appropriate season (March to August of the same year as vegetation removal is proposed); and
- (b) Targeted masked owl surveys are to be undertaken within the development lands and should include stagwatching of potential roosts, spotlighting and call playback.

Should any targeted surveys detect either species, the Proponent shall comply with the relevant requirements of condition C3, Schedule 2 of this approval.

PART B – PRIOR TO COMMENCEMENT OF WORKS

Excavation Works

B1. Notice to be Given Prior to Excavation

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

B2. Contact Phone Number

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

B3. Notification of Local Aboriginal Land Council

The Proponent shall notify the Local Aboriginal Land Council of the commencement of works at each stage of the development and provide it with an opportunity to view the works. Evidence of such notification and the response of the Local Aboriginal Land Council shall be submitted to the satisfaction of the PCA.

PART C – DURING CONSTRUCTION

Soil and Water

C1. Erosion and Sediment Control

- (1) All erosion and sediment control measures, as designed in accordance with *Managing Urban Stormwater – Soils & Construction Volume 1* (Landcom, 2004) are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- (2) All erosion and sediment control measures are to be installed prior to the commencement of any work, including cutting and filling.
- (3) All sediment control measures are to be constructed to prevent sediment from leaving the site or entering downstream properties, drainage lines, watercourses or Lake Macquarie.
- (4) Stockpiles of erodible materials (sand, soil, spoil and vegetation) must be protected by a sediment fence or bund. If the stockpile area is prone to high winds or is to be there for a long time then the stockpile must be covered.
- (5) All erosion and sediment control measures are to be regularly maintained in good working order at all times and inspected for adequacy following any rainfall event.
- (6) All disturbed areas are to be made erosion resistant by revegetation, turfing or stabilised by paving on completion of the works.
- (7) A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown.

C2. Disposal of Seepage and Stormwater

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

Flora and Fauna

C3. Fauna Management

- (1) All hollow bearing trees are to be inspected and flagged by a suitably qualified ecologist prior to the commencement of works;
- (2) A suitably qualified ecologist is to be present on site during vegetation clearing phase of construction to recover any native fauna that will be displaced as a result of clearing.
- (3) Under scrubbing of the entire site should be carried out by a 4x4 tractor with a slashing deck to minimise the establishment of degradation processes and leave a layer of mulch to aid in soils retention in the event of adverse weather.
- (4) Tree removal is to occur in the following two stages:
 - (i) Stage 1: A matrix of trees is to be retained to allow fauna movement in the tree canopy.
 - (ii) Stage 2: Clearing of habitat trees can occur after two weeks of the completion of stage 1. Clearing must be carried out from the fringe of the matrix towards the refuge area. Trees should be soft felled' and inspected by a suitably qualified ecologist for displaced fauna. All trees must be left for a minimum of two nights prior to being moved to a stockpile, to allow resident fauna to vacate tree hollows
- (5) In the event that Masked Owl breeding is recorded within the development lands as a result of targeted site surveys (required in condition A18, Schedule 2 of this approval):
 - (a) vegetation removal is not to commence until 3 months after the young have fledged and the nest is no longer being used to prevent nesting re-occurring.
 - (b) an ecologist is to oversee (a) above.
- (6) In the event that Glossy Black Cockatoo is found to be breeding within the development lands as a result of targeted site surveys (required in condition A18, Schedule 2 of this approval):
 - (a) vegetation removal is not to commence until the young have fledged and the nest is no longer being used.
 - (b) Vegetation removal must not occur within the breeding period (March-August).
 - (c) an ecologist is to oversee (a) and (b) above.

C4. Protection of Trees – Street Trees

All street trees along Kanangra Drive in the front of the Site shall be protected at all times during construction.

C5. Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

Heritage

C6. Non-Aboriginal Heritage

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and approval from the NSW Heritage Office may be required before further works can continue in that area.

C7. Aboriginal Heritage

- (1) A suitably qualified Aboriginal Cultural Heritage Consultant must be appointed to undertake a further consultative process and watching brief to assist during the site excavation monitoring and recording process in the event that sites are identified.
- (2) If any Aboriginal archaeological objects are exposed during construction works, the Proponent shall immediately notify the Department of Environment and Climate Change (DECC) and obtain any necessary approvals to continue the work. The Proponent shall comply with any request made by the DECC to cease work for the purposes of archaeological recording.

C8. Air Quality

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

- a) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- b) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- c) All materials shall be stored or stockpiled at the best locations,
- d) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- e) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- f) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- g) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- h) Cleaning of footpaths and roadways shall be carried out regularly.

Construction Noise and Vibration

C9. Hours of Work

- (1) Construction activities associated with the project shall only be undertaken during the following hours:
 - a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
 - b) 8:00 am to 1:00 pm on Saturdays; and
 - c) at no time on Sundays or public holidays.

Activities resulting in impulsive or tonal noise emission (such as rock breaking, rock hammering, sheet piling, pile driving) shall be limited to 8:00 am to 12:00 pm, Monday to Saturday and 2:00 pm to 5:00 pm Monday to Friday. The Proponent shall not undertake such activities for more than 3 continuous hours and must provide a minimum one-hour respite period.

- (2) Construction outside the hours stipulated in the above condition is permitted in the following circumstances:
 - a) any works that do not cause audible construction noise at any sensitive receiver; or
 - b) for the delivery of materials required outside these hours by the Police or other authorities for safety reasons; or
 - c) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm;
 - d) the work is approved through the Construction Noise and Vibration Management Plan; and
 - e) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

C10. Construction Noise

- (1) The construction noise objective for the Project is to manage noise from construction activities (as measured by a $L_{A10(15\text{minute})}$) so it does not exceed the background L_{A90} noise level by:
 - a) For the first four weeks of the construction period, not more than 20dB(A);
 - b) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and
 - c) For construction periods greater than 26 weeks, not more than 5dB(A).

The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

Background noise levels are those identified in the approved Construction Noise and Vibration Management Plan. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured

construction noise level when comparing the measured noise with the construction noise objective.

- (2) The Proponent shall ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.

C11. Vibration

- (1) Vibration caused by construction at any residence or structure outside the subject site must be limited to:
 - a) for structural damage vibration, *German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures*; and
 - b) for human exposure to vibration, the evaluation criteria presented in *British Standard BS 6472 – Guide to Evaluation of Human Exposure to Vibration in Buildings* (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

- (2) Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

Construction Management

C12. Approved Plans to be On-site

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

C13. Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- b) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- c) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any enquiries, including construction/noise complaint are to be displayed on the site notice; and

- d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

C14. Contact Telephone Number

The Proponent shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

C15. Site Safety Preparation and Management

Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.

C16. Sewer Drainage

A fully dimensioned and notated work as executed sewer drainage plan is to be submitted to Council upon completion of all drainage lines.

PART D - PRIOR TO THE ISSUE OF SUBDIVISION CERTIFICATES

D1. Easements

Copies of any instruments under Section 88B or 88E of the *Conveyancing Act 1919* is to be submitted with the final plan of subdivision, as relevant to any restrictive covenants, easements, rights of way created or affected by this development.

D2. Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

D3. Positive Covenant

- (1) A suitable Positive Covenant is to be created pursuant to Section 88A of the *Conveyancing Act 1919* over the title of the residue lot containing the detention basin, allowing maintenance and repair of the stormwater treatment system, allowing maintenance and repair of the stormwater treatment system, gross pollutant trap unit and any other erosion and sediment control device specified.
- (2) This restriction is to be clearly marked on the plan of subdivision.
- (3) Council is to be nominated as having an interest in this covenant.
- (4) A copy of the restriction is to be lodged for approval with the application for a subdivision certificate.

Bushfire Protection

D4. Bushfire Management Plan

Prior to the issue of a subdivision certificate, a bushfire management plan is to be prepared that addresses the establishment and ongoing maintenance and management responsibilities of all Asset Protection Zones in accordance with *Planning for Bushfire Protection 2006*.

D5. Bushfire Protection

All of the relevant requirements of the NSW Rural Fire Service, with respect to the provisions of the *Planning for Bushfire Protection 2006*, are to be met prior to the issue of a Subdivision Certificate/s to the satisfaction of the PCA.

D6. Interface Management

- (1) A management and monitoring plan is to be prepared for the site prior to the issue of the subdivision certificate in consultation with the relevant adjoining land owner that addresses the following interface management issues

between the development lands and Point Wolstoncroft State Recreation Area:

- (a) Pedestrian access arrangements;
 - (b) Edge effects;
 - (c) Sediment and erosion control measures;
 - (d) Water quality and quantity;
 - (e) Potential impact of domestic animals; and
 - (f) Management of exotic plant distribution.
- (2) The management plan identified in (1) above is to be maintained during the occupation of the site and shall identify monitoring and mitigation measures to ameliorate impacts on the adjoining Point Wolstoncroft Recreation Area (part of the Lake Macquarie State Conservation Area).

Road Works

D7. Pacific Highway / Kanangra Drive Intersection Upgrade

Prior to the issue of a subdivision certificate, the Proponent is to demonstrate to the Director-General that an agreement has been reached with the NSW Roads and Traffic Authority with respect to the upgrade of the Pacific Highway and Kanangra Drive intersection. This agreement may consist of works-in-kind or monetary contributions.

Any monetary contribution shall represent 31% of the costs of the upgrade. Should an agreement not be reached between the RTA and the Proponent with respect to the monetary contribution, then the contribution shall be determined by the Director-General.

Any such upgrade shall be completed prior to the issue of any occupation certificate for dwellings within the Site unless otherwise agreed by the Director-General.

Section 94 Contributions

D8. S94 Contributions – Public Amenities and Services

A monetary contribution is to be paid to Wyong Shire Council, pursuant to Division 6 of part 4 of the *Environmental Planning and Assessment Act 1979*, towards the provision of the following public amenities and public services within the locality, such contribution to be paid prior to the issue of a Subdivision Certificate in respect of each stage of the proposed development:

Category	Contribution per lot
Roads and Traffic Management	\$2,688.00
Open Space and Recreation Facilities	\$ 357.21
Community Facilities	\$2,512.00

Note: The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the following:

Cost Indexation Increase

The Construction Cost Index (CCI) will be used to increase contribution rates as follows:

$$\text{Current Rate} = \text{Old Rate} \times \frac{\text{Current CCI}}{\text{Base CCI}}$$

where,

- i) The Base CCI is calculated as the most recently published quarterly figure for the Price Index of Materials in Building Other than House Building for Sydney prior to the date of estimating. (Source: ABS 6427.0 Table 19).
- ii) The Current CCI is calculated as the most recently published quarterly figure for the Price Index of Materials Used in Building Other than House Building for Sydney prior to the date of payment.

D9. Infrastructure, Service and Facilities

A monetary contribution of **\$1,111.98 per additional lot** is to be paid to Wyong Shire Council, pursuant to Division 6 of part 4 of the *Environmental Planning and Assessment Act 1979*, towards the provision of **Infrastructure, Service and Facilities** transport facilities within the Shire, such contribution to be paid prior to the issue of a Subdivision Certificate in respect of each stage of the proposed development.

Note:

- i) This contribution is to be made in accordance with the provisions of the Wyong Shire Council Section 94 Contributions Plan No. 11 operational from 20 July 2007.
- ii) The monetary amount of contribution payable under this commitment is to be indexed at the time of actual payment in accordance with the following:

Cost Indexation Increase

The Construction Cost Index (CCI) will be used to increase contribution rates as follows:

$$\text{Current Rate} = \text{Old Rate} \times \frac{\text{Current CCI}}{\text{Base CCI}}$$

where,

- i) The Base CCI is calculated as the most recently published quarterly figure for the Price Index of Materials in Building Other than House Building for Sydney prior to the date of estimating. (Source: ABS 6427.0 Table 19).
- ii) The Current CCI is calculated as the most recently published quarterly figure for the Price Index of Materials Used in Building Other than House Building for Sydney prior to the date of payment.

Utilities and Services

D10. Certificate of Compliance

- (1) Prior to the release of the Subdivision Certificate/s, an application for a Certificate of Compliance pursuant to Section 305 of the *Water Management Act 2000* is to be made and a Certificate of Compliance lodged with Council indicating that the requirements of Section 306 of that Act have been met.

- (2) A Certificate of Compliance pursuant to Division 5 of the *Water Management Act 2000* will be issued by Council prior to the issue of Subdivision Certificate/s, subject to the following matters being complied with:
- (a) payment of a water supply and infrastructure contributions in accordance with Development Services Plan 12);
 - (b) extension of the town water supply main(s), sewer main(s) and water recycling main necessary to serve all of the allotments, at no cost to Council.
 - (c) The provision of a grey water reticulation system within the development.

D11. Telstra

The Proponent is to make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with the Certifying Authority prior to the release of the subdivision certificate.

D12. Electricity

The Proponent is to make satisfactory arrangements with the relevant electricity provider for the supply of electricity to each lot. A letter from relevant electricity provider stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with the Certifying Authority prior to the release of the subdivision certificate.

D13. Services

Certification is to be provided to the Certifying Authority by a Registered Surveyor prior to the issue of the subdivision certificate, that all services and domestic drainage lines are wholly contained within the respective lots and / or easements.

Work as Executed Plan

D14. Civil Work

A Work as Executed Plan is to be prepared for all of the civil work undertaken as work is completed. The Work as Executed Plan is to be prepared by a Registered Surveyor and lodged with Council for approval prior to issue of the Practical Completion Certificate and Subdivision Certificate/s.

Earthworks

D15. Certification

A Certificate issued by the Geotechnical Engineer is to be lodged with Council at the time a Subdivision Certificate/s is applied for, certifying that the fill materials, when placed in accordance with the Geotechnical Specification, will be suitable for future residential development and are in accordance with AS2870.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

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

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

- (1) the certifying authority before release of the Construction Certificate, and
- (2) the certifying authority before the release of the subdivision certificate.

AN2 Requirements of Public Authorities for Connection to Services

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

AN3 Application for Hoardings and Scaffolding

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with Council's relevant policies,
- (2) Structural certification prepared and signed by a suitably qualified practising structural engineer.

The Proponent shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works.

AN4 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN5 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN6 Application under Part 4A of the Act

An application under Part 4A of the Act shall be submitted to the certifying authority along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN7 Temporary Structures

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

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

AN8 Temporary Structures

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

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

AN9 Disability Discrimination Act

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