

Riverside at Tea Gardens
Concept Plan and Project Application

Environmental Assessment Report
Volume 1

for Crighton Properties Pty Ltd

January 2009

0043707 - Final

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Riverside at Tea Gardens
Concept Plan and Project Application

Environmental Assessment Report
Volume 1

for Crighton Properties Pty Ltd

Principal Consultant:	*Steve O'Connor*
Date:	*January 2009*

Environmental Resources Management Australia Pty Ltd Quality System

January 2009

0043707 - Final

This report has been prepared in accordance with the scope of services described in the contract or agreement between Environmental Resources Management Australia Pty Ltd ABN 12 002 773 248 (ERM) and the Client. The report relies upon data, surveys, measurements and results taken at or under the particular times and conditions specified herein. Any findings, conclusions or recommendations only apply to the aforementioned circumstances and no greater reliance should be assumed or drawn by the Client. Furthermore, the report has been prepared solely for use by the Client and ERM accepts no responsibility for its use by other parties.

SUBMISSION OF ENVIRONMENTAL ASSESSMENT

prepared under Part 3A of the Environmental Planning and Assessment Act 1979

EA PREPARED BY

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PROJECT PLAN APPLICATION

Applicant name:	*Crighton Properties*
Applicant address:	*PO Box 3369* *Tuggerah* *NSW 2359*
Land to be developed:	*Property description of land to be developed is contained in the EA.*
Proposed development:	*Concept approval is sought for a residential, tourist and commercial development at the Riverside site in Tea Gardens and project approval for the first stages of the development, including a residential subdivision, under Part 3A of the Environmental Planning and Assessment Act, 1979 (EP&A Act).*

ENVIRONMENTAL ASSESSMENT

☑ *An EA is attached which addresses all matters listed under Part 3A of the Environmental Planning and Assessment Act 1979.*

CERTIFICATE

I certify that I have prepared the contents of this EA and to the best of my knowledge:

- *it contains all available information that is relevant to the environmental assessment of the development to which the EA relates; and*
- *it is true in all material particulars and does not, by its presentation or omission of information, materially mislead.*

Signature:



Name:	*Steve O'Connor*
Date:	*30 January 2009*

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EXECUTIVE SUMMARY

Introduction and Proposal

Environmental Resources Management Australia Pty Ltd (ERM) has been engaged by Crighton Properties Pty Ltd (Crighton Properties) to prepare an environmental assessment (EA) of a Concept Plan for a residential, retail, commercial and tourist development at the Riverside site in Tea Gardens and Project Application for the first stages of the estate under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act). This EA has been prepared in accordance with the Director-General's Environmental Assessment Requirements, issued on 16 September 2008. It describes the proposal, the environmental implications associated with the key issues of the proposed development and identifies subsequent management or mitigation measures. Architectural and Engineering Plans and Technical Reports, prepared as part of the Environmental Assessment are submitted as supporting documents in Volumes 2 and 3 respectively.

The Concept Plan for the Riverside at Tea Gardens site illustrates a residential / mixed use precinct over the majority of the site and a tourist and residential component located in the north eastern corner of the site. Crighton Properties is seeking concept approval for an extension of the existing town centre along Shoreline Drive, future residential development of the site that creates the potential for 1045 dwellings, tourist facilities (conference centre and accommodation) and residential lots (which are included in the 1045 dwellings) in the north east portion of the site.

The residential development of the site will include a variety of lots, access from Toonang Drive and Myall Street, an extension of the existing town centre on the north side of Shoreline Drive, an internal road network, water sensitive urban design (WSUD) measures including a two hectare extension of the existing detention and water quality management lake, creation of three new fresh water basins and extension of an existing lake – river connection channel, an open space network which provides for public recreation and a wildlife corridor, and community facilities. Substantial areas of the Residential 2(f) zoned land are proposed to be protected and enhanced as open space / wildlife movement corridors, over and above those already protected within the Environmental Protection 7(a) and 7(b) zones.

Project approval is sought for Stages 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the mixed use retail, commercial and residential subdivision and relates to Lot 40 DP 270100, Lot 5 DP 270561, Pt Lot 1 DP 270561, Pt Lot 2 DP 270561, Lot 10 DP 270100, Lot 19 DP 270100, Lot 30 DP 270100 and Lot 1 DP 270100. The Project Application seeks to create residential lots as follows:

Size of Lots (square metres)	***Number of Lots***	***Number of Dwellings***
Multi dwelling lots	*26*	*61*
350 - 449	*17*	*17*
450 – 549	*70*	*72*
550 – 649	*160*	*152*
650 +	*75*	*79*
Total	*348**	*381*

* *Includes 108 home based business lots which are discussed below.*

The Project Application includes roadways and associated infrastructure associated with the future expansion of the existing town centre on the north side of Shoreline Drive. The Project Application also includes a two hectare extension of the existing brackish detention and water quality management lake, the inclusion of several new freshwater detention basins and ponds and the creation of a new channel connecting the detention lake to an existing channel which leads to the Myall River, to cater for the water quality treatment of drainage from the proposed development. Roadwork construction, open space for recreation and water quality management, and associated landscaping and infrastructure works are also proposed. A community clubhouse and associated tennis courts, active and passive open spaces, pool and BBQ facilities will also be developed. The subdivision would be created under Community Title, as part of the existing approved Community Title development.

Home based business lots are proposed to be located in two precincts and will create an environment that supports new businesses and provides a place where people can live, work and recreate. The two precincts will each have a technology / community meeting place that incorporates meeting rooms and facilities to be accessible to all residents of the home based business lots.

Voluntary Planning Agreement

A draft Voluntary Planning Agreement (VPA) has been prepared to provide appropriate contributions towards the need for infrastructure generated as a result of the proposed development. The VPA will span the life of the project and provide flexibility in the future should the development concepts change or demands for specific public infrastructure or services fluctuate.

Specific development contributions are provided either through monetary contributions paid to Council, land dedication, upgrading of road networks or other works in kind to provide public embellishments. The specific details of the contributions and the obligations of the signatory parties are outlined within the draft Voluntary Planning Agreement prepared jointly by Crighton Properties and Great Lakes Council and contained in Annex E.

The Site

The Riverside at Tea Gardens site ('the site') includes Lot 1 DP 270100, Lot 10 DP 270100, Lot 19 DP 270100, Lot 30 DP 27010, Lot 40 DP 270100, Lot 5 DP 270561, Pt Lot 1 DP 270561 and Pt Lot 2 DP 270561 and is approximately 229 hectares in area. It has approximately a one kilometre frontage to Myall Street and two kilometre frontage to the Myall River. An existing brackish detention lake within Lot 1 DP 270100 is proposed to be extended adjacent to the proposed town centre within Myall Quays. The existing detention lake is to function as part of the water treatment system for the site in conjunction with the proposed three (3) new freshwater detention ponds and basins and the extension of an existing channel connected to the Myall River.

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14) applies to the wetland within a portion of the site adjacent to the Myall River. The SEPP 14 wetland will not be disturbed by the proposed development as it is proposed to

preserve these wetlands as part of the project. The majority of the site is available for urban purposes and zoned for mixed use urban development. The Shearwater Residential Estate lies to the north of the site and residential development of Tea Gardens is to the south.

The site is flat with generally sandy soils. The majority of the site was previously used for a pine plantation and has been substantially cleared of native vegetation. The majority of the Riverside at Tea Gardens site is zoned Residential 2(f) – Mixed Residential-Commercial. Part of the site adjacent to the Myall River is zoned Environmental Protection 7(a) Wetlands and Littoral Rainforest and 7(b) Conservation. The proposed development is permissible with consent.

Environmental Considerations

Environmental considerations have been identified within the Director General's requirements which relate to management of the land and water interface including protection of the coastal zone including land within 100m of the Myall River and the Port Stephens- Great Lakes Marine Park (protection of SEPP 14 Wetlands adjoining the Myall River have been highlighted). Water cycle management and impacts on the receiving waters and groundwater table from the proposed development require special consideration. Management of the development with respect to acid sulphate soils, bushfire protection and conservation of Aboriginal and European heritage are also identified. Special consideration is also to be given to the impacts associated with infrastructure provision, density of development, flora and fauna preservation and cumulative impacts. These environmental considerations are addressed within the EA and accompanying technical studies. Recommendations relate to management measures including monitoring to address these environmental considerations.

Coastal Protection

There is a SEPP 14 Wetland within the Riverside Concept Plan site. SEPP 14 Wetland No. 746 is located adjoining the Myall River within the eastern portion of the site. State Environmental Planning Policy 71 – Coastal Protection (SEPP 71) applies as the site is within the coastal zone. The parts of the site that are within 100 metres of the Myall River, the Port Stephens-Great Lakes Marine Park and within the SEPP 14 Wetland are defined as 'sensitive coastal locations' under SEPP 71. No development is proposed within the SEPP 14 Wetlands. The proposed extension of an existing channel connected to the Myall River so that it is connected to the existing lake, is limited to an area zoned 2(f) mixed commercial / residential and a small section of land zoned 7(a). No works or disturbance will be undertaken within the adjacent SEPP 14 Wetland. The extension of the channel is required in order to maintain the current hydrological regime of the existing extended detention lake post development. Thirteen residential lots and a community facility including a clubhouse and surrounding active and passive recreational areas forming part of Precinct 1 are located immediately adjacent to the 7(b) Conservation zone (wetland buffer). The proposed development therefore is located within a sensitive coastal location. The environmental impacts of development on the SEPP 14 Wetland have been addressed within this EA.

Water Cycle Management

Groundwater Levels

The groundwater table over the site ranges from 0.5 metres to 1.7 metres below ground level and tends to be shallower in proximity to the Myall River. Groundwater is currently used within Tea Gardens only for minor home irrigation (Coffey, 2007a).

Groundwater modelling indicates that groundwater levels within the site are not significantly affected by the proposed development. It indicated that the water sensitive urban design solution proposed for the site would cause localised drawdown toward the centre of the site by up to one metre. The affected area however is limited and the exceedance of criteria of ASSMAC is only minor for the predicted resulting groundwater levels. It is considered that the proposed extension of the lake would not adversely affect site groundwater outside the proposed lake extension (Coffey, 2007a). It also indicated that there would be negligible impacts to the SEPP 14 wetlands with only a marginal decrease in groundwater levels (less than 0.1 m drawdown) on the western edge of the wetland (Coffey, 2007a).

Groundwater Quality

Testing completed as part of current investigations has indicated that groundwater quality has not changed significantly since 2004. The results are generally below the key criteria for protection of species in marine water presented in the ANZECC guidelines, with the exception of some metal concentrations. The groundwater from the bores closer to the Myall River tends to be characterised by higher EC and a similar anion and cation ratio as seawater. When compared to the Australian Drinking Water Guidelines it is not potable due to concentrations of a range of analytes exceeding the drinking water guidelines.

Groundwater modelling indicated that the saltwater interface would not be significantly affected by the development.

Reuse of Reclaimed Water

Investigations have confirmed that the reclaimed water from treatment facilities in the area may be suitable for irrigation of open spaces and gardens within the development area subject to a small reduction in total nitrogen concentrations. This reduction could be achieved through a combination of treatment and dilution of the reclaimed water, with water of a higher quality (Coffey, 2007a). Ongoing discussions are occurring with MidCoast Water to explore this option further.

Appropriate monitoring of irrigated areas will ensure key indicators remain within the relevant guidelines. Monitoring would include the irrigation water and groundwater quality, application rates and timing of irrigation water and soil testing.

Water Quality Management

The catchment is located on the eastern side of Myall Street and extends from Myall River northwards to high ground near Viney Creek Road. The total area of the catchment is approximately 272 hectares. Surface water drains towards the existing lake and the SEPP 14 wetlands on the eastern boundary of the site. The impact of the existing development on flood flows was mitigated by constructing a detention lake to temporarily store floodwaters and to release it at a rate similar to predevelopment conditions. A number of small retarding basins have also been built within the existing development to meet retardation requirements, in addition to serving a water quality function.

A water quality management program was established in 1996. The primary aim for the existing management of water quality is to protect the SEPP 14 wetland by directing the runoff from the catchment to a tidally flushed lake within the Tea Gardens development directly to the south. This lake is also supported by a number of smaller ponds and wetlands located within the residential areas.

Seven (7) potential water management schemes were identified for consideration and assessed with respect to their strengths and weaknesses and impacts on the existing water quality of the Myall River catchment. An integrated water management plan was prepared which addressed the extension of the existing detention lake at Tea Gardens and the inclusion of several new freshwater detention basins and ponds designed to provide the water quality management system for the development (the proposed scheme).

Consideration of Climate Change

To mitigate the impacts of climate change, the Riverside at Tea Gardens development has adopted an additional freeboard of 0.3 m for minimum floor levels over and above Council's adopted minimum floor level of R.L.2.6 m AHD in areas subject to inundation from the Myall River to avoid over floor flooding in a 100 yr ARI event under all climate change scenarios. Elsewhere in Riverside the adoption of a minimum floor level of 0.5 m above the local 100 yr ARI flood level (under no climate change) would provide a minimum 0.22 m freeboard above the local 100 yr ARI flood level under a worst case of a high climate change scenario (0.91m sea level rise and 30 percent increased in rain fall intensity).

Under a high climate change scenario there would be increased inundation of a number of planned roads by up to 0.8 m (which would be still Low Hazard due to the expected very low velocity of flow on the fringes of the river flooding through the development) but this would comply with the requirements for safe wading. Even under a high climate change scenario, planned roads would provide flood free egress via a number of roads for residents evacuating from threatened properties to higher ground on the northern and north western boundaries of the development.

Wetland Management

The Great Lakes Local Environmental Plan 1996 (LEP) provides for the protection of wetlands on the site. The wetland covered by SEPP 14 is zoned '7(a) - Wetlands and Littoral Rainforest' and an adjacent broad band of freshwater wetland vegetation is covered by 'Zone 7(b) – Conservation' (Winning, 2009).

Developments adjacent to wetlands have the potential to indirectly affect the wetland communities in a number of ways including:

- *changes in quantity and quality of surface and groundwater flows into the wetlands;*
- *human pedestrian and vehicular intrusion;*
- *general 'edge effects', including:*
    - *predation of native fauna by domestic cats and dogs;*
    - *'light spill' of street lights which can affect the behaviour of native animals;*
    - *dumping of rubbish and garden refuse;*
    - *'weed creep' from lawn grasses, etc.; and*
    - *mowing of wetland margins (Winning, 2009).*

To address the potential impacts to the SEPP 14 Wetland, an Integrated Water Management Strategy has been developed to manage the groundwater and surface water flows. The management of the groundwater and surface water flows should mitigate any impacts on the wetlands resulting from the potential pollutants identified. In addition, the Ecological Site Management Strategy identifies controls and mitigation measures to be implemented to protect adjacent wetland areas. The works associated with the extension of the existing drainage channel will result in no loss of SEPP 14 wetland vegetation.

Canal Estate Development

Legal advice from Malcolm G. Craig, Q.C. regarding the applicability of SEPP 50 to the proposed detention basis, indicates that the proposed extension of the existing detention lake would not represent a canal estate development within the meaning of clause 3 of SEPP 50, provided the area of any basins and the lake is the minimum required for stormwater detention and treatment.

Land / Water Interface

Land / Water Interface (residential)

The Concept Plan and Project Application maintain the wetland and wetland buffer. The proposed extension of an existing channel connected to the Myall River will largely occur within 2(f) zoned lands, with a small component within 7(a) zoned land. No works will be undertaken within the SEPP 14 Wetland. Groundwater and surface

water flows from the channel entering the wetland via the existing drainage channel will be managed in accordance with the Integrated Water Management Strategy, to ensure that any impacts on the wetland resulting from potential pollutants are mitigated. A 21 hectare buffer (zoned 7(b) Conservation) will separate the residential area from the wetlands. Land within the 7(b) zoned buffer lands will also be retained in an undeveloped state with the exception of the creation of a foreshore park and a small extension of the existing channel.

Land / Water Interface (Extension of the Existing Drainage Channel)

An existing drainage channel which is connected to the Myall River is proposed to be extended. A three metre wide channel with maximum depth of 0.7m will be created to connect to an existing drainage channel. The total area of excavation is approximately 150m^2 and the total volume of material to be excavated is approximately 60m^3. This will involve the direct loss of approximately 150m^2 of Melaleuca ericifolia scrub (3b) with small patches (unmapped) of Juncus kraussii. This vegetation loss will occur largely on land zoned 2(f) but some vegetation will be removed from 7(a) zoned land. No clearing willoccur within the SEPP 14 Wetland. The resultant shallow water channel would provide alternative wetland habitat (Winning, 2009).Works are anticipated to take approximately two days to complete, followed by subsequent rehabilitation activities and ongoing monitoring to be detailed in the Wetland Management Plan to be developed for the works.

Erosion control methods are to be installed and maintained prior to, during and following excavation activities in order to minimise the impact of sedimentation on the SEPP 14 wetland, adjacent environs and the Myall River. Prior to the commencement of channel extension works, the pH level of the soil will be tested to determine whether acid sulphate soils are present. Should they be present, the mitigation measures detailed in the Acid Sulphate Soil Management Plan will be implemented. The channel is required to be extended in order to maintain the current hydrological regime of the existing lake by a corresponding variation of the rate of flow of water in and out of the lake.

Fishing and Aquaculture

Several studies have been undertaken to gauge the health and diversity of the fish community of the existing artificial lake. These studies include a survey which was undertaken in April 2007. Survey results from 2007 indicate that the number of fish species and individual fish have increased from previous studies. Previous recommendations include increasing the amount and quality of aquatic habitats with respect to increasing the extent, complexity and quality of near-shore habitats for fish, invertebrates and birds. Recommendations for optimising the quality of aquatic habitats incorporate the current proposal to extend the existing detention lake. This will add diversity and provide increased habitat within the lake system.

The planned extension of the lake would increase tidal ventilation and reduce water-quality variability as well as improving the availability of habitats and food for aquatic and water-associated plants and animals. The proposed development at Riverside will continue to contribute to environmental assets of the Tea Gardens area by providing for the extension of marine habitats and supporting the existing aquaculture.

Soils and Contamination

According to the Acid Sulphate Soils Risk Map for Port Stephens the site is located in an area where there is a low probability of acid sulphate soil materials occurring between one metre and three metres below the ground surface. The map indicates that acid sulphate soil (ASS) materials, if present, are sporadic and may be buried by alluvium or windblown sediments. As a result 105 samples across the site were collected and screened for ASS.

Results from laboratory testing indicated that 19 of the 28 samples analysed for SPOCAS / SCR exceeded the Acid Sulphate Soil Management Advisory Committee action criteria. An Acid Sulphate Soils Management Plan has, therefore, been prepared that relates to future earthworks at Riverside. The plan provides information for all lot purchasers and contractors required to work on the site.

A Phase 1 Environmental Site Assessment was undertaken to identify potentially contaminating activities that have previously, or may currently be occurring on the Riverside at Tea Gardens site. The assessment identified that pesticide use occurred in pine plantations, which is an identified past landuse occurring on the site. However, use of pesticides is usually confined to the first two years of a plantation crop cycle and all chemical pesticides used in commercial pine plantations in Australia are also used in general agriculture. Therefore the potential impact to the site from the use of pesticides associated with the former pine plantation is considered to be minor.

Potential for existing site contamination is considered to be low and if encountered, contamination is likely to be limited in extent to localised zones within the site. Therefore the site is considered to have low potential to adversely affect human health or the environment either on surrounding properties or local receiving waters. The Phase 1 ESA undertaken for the Riverside at Tea Gardens site did not identify any significant potential for site contamination. The site is therefore considered suitable for the proposed development.

Soil excavated through the construction of the subdivision, including the water detention lake, basins and ponds, and the extension of an existing channel will be reused on site, with excess topsoil to be stockpiled for future reuse at the proposed sporting complex on the eastern side of Myall Street which will be dedicated to Great Lakes Council as part of the Voluntary Planning Agreement.

Aboriginal Heritage

An Aboriginal Heritage Assessment has been undertaken to identify whether there are any Aboriginal heritage constraints to the proposed development. The assessment involved a review of the environmental, historical and archaeological context of the Riverside at Tea Gardens site, consultation with the Aboriginal community and field investigations of the survey area in conjunction with members of the Aboriginal community.

Two archaeological sites have previously been identified in the locality during investigations carried out by Dallas (1982) and Brayshaw McDonald Pty Ltd (1988). Additional field investigations undertaken in May 2008 as part of the Aboriginal heritage assessment identified a midden site adjacent to the SEPP 14 Wetland buffer.

This site is considered to be a new midden site. The site identified by Dallas (1982) has been previously removed with consent when residential development took place several years ago.

The midden site identified by Brayshaw McDonald Pty Ltd (1988) was not relocated during the current survey due to access limitations and very low visibility associated with the inundation of the SEPP 14 wetland and surrounds. However this site, which was previously recorded within the SEPP 14 wetland, will not be impacted by the proposed development. The adjacent 7(b) Conservation lands provides additional buffer to the SEPP 14 Wetland. Whilst the exact location and context of this site was not reconfirmed within the current survey, the large buffer area provided by the SEPP 14 Wetland and adjacent wetland buffer will ensure that it is not directly impacted.

The newly recorded midden (Riverside_01) is located within the proposed tourist precinct and the Concept Plan has been amended to ensure that it is protected by a minimum 10 metre buffer on all sides.

Neither the newly identified midden nor that previously recorded by Brayshow McDonald (1988) will be directly impacted by the proposed development, however ancillary or indirect impacts cannot be discounted. Alterations to drainage patterns could accelerate erosion of the deposits and greater visitation (on foot and vehicular) may cause damage or erosion. To ensure that indirect impacts do not damage the middens (in particular the recently identified midden located within the proposed tourist precinct), ('Riverside_01'), the following recommendations will be implemented on site:

- *Riverside_01 should be protected on all sides by a minimum 10 metre buffer. No construction/excavation works, including the storage of machinery should impinge on this buffer zone;*

- *a management plan should be developed in consultation with the local Aboriginal community to ensure the long-term protection of the middens. This management plan should consider the use of fencing, designated walkways and interpretive signage at Riverside_01 as an educational resource. No development or excavation works should be undertaken within the tourist precinct until this management plan has been finalised and approved by the Karuah LALC and DECC;*

- *based on the location of site 38-05-0148 within the protected SEPP 14 Wetland and associated buffer zones, no further protection measures are required;*

- *based on the predictive modelling and confirmed by field survey it is likely that a consistent low-density scatter of midden material is likely to occur within the eastern portion of the study area. This area will be protected within the SEPP 14 Wetland and associated buffer zones and no specific management measures or monitoring is recommended;*

- *the remainder of the study area has limited potential for additional sites to be recorded and no specific management measures or monitoring is recommended from an archaeological perspective. Following consultation with the local Aboriginal community, monitoring of clearing and initial excavation works has*

been recommended by the Karuah LALC. This would not be undertaken as an archaeological activity; and

- *a suitable area should be set aside for the possible containment of any cultural heritage material that is uncovered during the construction works. This dedicated 'keeping place' would only be required in the event that material is uncovered and would be under the care and control of the local Aboriginal community.*

Bush Fire

Part of the site is mapped as bush fire prone land in the Great Lakes Council bush fire prone land mapping. The potential bush fire threat was identified from dry sclerophyll forest vegetation to the north west, north east and south east directions. A reduced risk was considered present from the west, south west and south as a result of cleared grass land, scattered trees, industrial land use and existing residential development. The proposal incorporates a range of bush fire mitigation measures, including Asset Protection Zones, building construction, hazard management, evacuation routes, and availability to fire fighting services, water supply and communication.

Flora and Fauna

Detailed flora surveys have been undertaken within the Riverside at Tea Gardens site, or portions of it, over the period 1988 to 2008. Fauna surveys were completed within the site in 2002 (October and September), 2004 (February, March and August), 2005 (August and September), 2007 (March, July, August and September) and 2008 (January, February, March and April) (Conacher Environmental Group, 2008b).

Flora

The majority of the site's vegetation forms a mosaic of highly disturbed grasslands with scattered trees and woodland/open forest communities. However, the eastern portion of the site is dominated by a large remnant of naturally vegetated Swamp Forests, Heaths and Estuarine vegetation communities associated with the low lying areas adjoining the Myall River. This remnant is largely isolated from adjoining vegetation to the south by existing residential development and to the north by an area of cleared agricultural land.

No endangered flora populations or threatened flora species as listed in the TSC Act 1995 have been identified in the local area. Three endangered ecological communities, being Coastal Saltmarsh, Swamp Sclerophyll Forest on Coastal Floodplains and Swamp Oak Floodplain Forest have been identified within the site (Conacher Environmental Group, 2008b).

Fauna

A range of fauna habitats are present within the site reflecting the diversity in the vegetation communities present. The majority of the site is, however, of decreased habitat quality due to the large amount of disturbance through removal and modification of the groundcover and shrub layer through grazing and slashing. The

lack of cover however does increase foraging opportunities for raptorial and other bird species. The open grassed areas contain suitable habitat for macropod species, particularly the Eastern Grey Kangaroo and Red-necked Wallaby.

Areas of the site are prone to ponding after rain, providing suitable habitat for a range of amphibian species. The drainage depressions associated with tracks and tree removal holes contain suitable foraging and breeding habitat for these locally occurring amphibian species.

The denser, less disturbed vegetation types associated with the Myall River (Swamp Forest, Closed Heathland, Low Closed Forest/Open Scrub, Closed Sedgeland, Closed Rushland) provide higher quality habitat due to the increased density and diversity of the various structural layers. These less disturbed habitats provide increased foraging, refuge and breeding opportunities for mammal, bird, reptile and amphibian species. This is reflected in the species richness of these vegetation types in comparison to the majority of the site containing the disturbed vegetation communities. These higher quality vegetation and habitat types will be largely retained as part of the proposed development (Conacher Environmental Group, 2008b).

Threatened Species

There are two Endangered Populations listed on Schedule 1, Part 2 of the Threatened Species Conservation Act (1995) that occur in the local area. These are the Hawks Nest and Tea Gardens Endangered Koala (Phascolarctos cinereus) Population and the Emu population in the NSW North Coast Bioregion and Port Stephens Local Government Area (Conacher Environmental Group, 2008b).

There are no records of Emus on the Atlas of NSW Wildlife (DEC 2007). It is considered that the site contains sub-optimal habitat for the endangered population of Emus. This species was not observed on site or in adjacent areas. Habitat requirements and food tree species that characterise habitat for the Hawks Nest and Tea Gardens population of the Koala were located on the site and adjacent lands. No sightings during surveys or evidence of koala usage such as scats, scratches or sightings were made on the site (Conacher Environmental Group, 2008b).

Seven threatened fauna species were observed within the site during surveys conducted within the last five years.

Management

The proposed development will require approximately 126 hectares of vegetation to be removed or modified, however much of this consists of disturbed/cleared land. The concept plan proposes the retention, protection and management of approximately 78 hectares of higher quality vegetation and habitat types including the vast majority of the endangered ecological community Coastal Saltmarsh and areas within the SEPP 14 wetland (Conacher Environmental Group, 2008b). A further 20 hectares of vegetation will be improved or maintained. An Ecological Site Management Strategy has been developed to manage habitat fragmentation, and preservation of habitat corridors throughout the site (Conacher Environmental Group, 2008d).

Infrastructure

In preparing a strategy for servicing the development, investigations of the capacity of existing infrastructure to accommodate the proposal were completed.

Water

Reticulated water supplies are available to the existing development area south of the site and MidCoast Water has completed the upgrade and augmentation of potable water storages at the Viney Creek Road Reservoirs. In addition, MidCoast Water also has a secure coastal bore water supply that has a known water supply capacity which exceeds the requirements of the potential developments at Riverside, Myall River Downs Estate, North Shearwater and Hawks Nest North. The proposed water supply servicing strategy includes a reorganisation of major water supply services from existing dual supplies in Myall Street to a triple supply via North Shearwater. Investigations are being conducted by Tattersall Surveyors in consultation with MidCoast Water, on the potential for the reticulation of treated effluent via a third pipe to all new residences within Riverside and areas to the north and west.

Sewer

A reticulated gravity sewer system already serves an area south of the site. MidCoast Water has recently constructed a 'state of the art' vacuum sewer pumping station, which is sited adjacent to the Myall River Downs Estate, west of Myall Street. It has been sized to provide services for the lots in the Riverside development.

Electrical and Communications

The proposed electrical and communication services will extend from existing services. Crighton Properties has provided Country Energy with the proposed subdivision layout so that they can commence designing for major new links for the existing overhead supplies.

Amenity and Scale

The desired future character under the NSW Coastal Design Guidelines (2003) includes interconnectedness of residential areas, an ability to provide total water cycle management, a design that provides wildlife corridors and avoids areas of ecological significance and preserves and protects waterways as significant coastal locations. The desired future character is achieved within the Riverside development through the extension of the existing detention lake, the inclusion of three (3) separate freshwater detention ponds and extension of an existing drainage channel connected to the Myall River to provide total water cycle management and an attractive visual landscape within the open space networks which also function as wildlife corridors. The site adjoins a SEPP 14 Wetland which will be preserved as part of this development proposal.

Urban Design

The major urban design principles include walkable neighbourhoods, connected communities, a mix of building types and uses, design of quality open space, and the use of civic buildings as local point and destinations. These urban design principles have been achieved in the following ways:

- *a reduction in the size of neighbourhoods to smaller communities to allow walkability to community facilities and public transport nodes;*

- *design of road networks to provide alternative routes to destinations which include connected pedestrian pathways and separation between vehicles and pedestrian movement to encourage walkability;*

- *provide a mix of uses within a community to provide for passive surveillance within a community to increase safety and security whist moving through the neighbourhood;*

- *by providing a full range of housing types and work places, age and economic classes are integrated and the bonds of an authentic community are formed;*

- *open space is provided in the form of specialised corridors, reserves, playgrounds and parks . Each type is defined by its size; the landscaping used, if any; and the way the space is surrounded; and*

- *civic buildings, such as meeting rooms, churches and community centres are located within open spaces or at the termination of important vistas. Such structures promote democratic initiatives and the balanced evolution of society is facilitated (Roberts Day, 2007).*

Site Permeability

The Myall River Downs and Riverside site is split down the middle by Myall Street which is the major entry to the township of Tea Gardens. In its current state it does not provide a memorable arrival experience. The proposed Master Plan for Riverside and Myall River Downs represents the realisation of this challenge. The plan is structured on three main elements: Nature Preserve, Neighbourhoods and Corridors (Roberts Day, 2007). The context of the Tea Gardens area requires an assessment of the access and servicing over both the Riverside and Myall River Downs site as both sites will need to demonstrate links between the employment, industrial and retail areas which will be developed on both sites to service the area. The Urban Design Report prepared by Roberts Day outlines the Urban Design Forum undertaken with the local community in February 2006 which identified the urban design principles which have influenced the design of the Riverside development.

Traffic and Access

Vehicle Movement and Intersection Capability

Vehicle access for the project application will be from Shoreline Drive via the existing intersection at Myall Street. In the concept plan access will also be provided from a

new access point along Myall Street and two access points from Toonang Drive as part of the future development of Riverside.

Traffic Generation and Movement

Existing traffic flows at the intersection of Myall Street and Shoreline Drive are low. A traffic survey indicated that during the morning peak period the two way traffic flow along Myall Street (west of Shoreline Drive) was in the order of 362 vehicles, with vehicles predominantly going to the west (193 vehicles). The results from the afternoon survey show a peak flow of 421 vehicles with movement predominantly to the east (250 vehicles).

The traffic flows along Shoreline Drive are significantly less with 135 vehicles recorded during the morning survey and 256 vehicles recorded in the afternoon. Based on the RTA Guide to Traffic Generating Developments Myall Street has the capacity to accommodate 1,400 vehicles per hour in one direction. When comparing this capacity with the existing traffic flows it is evident that Myall Street has capacity to absorb additional traffic.

Reducing the RTA Guide to Traffic Generating Development rates by around 35 percent is appropriate to reflect the profile of this development. This gives an external trip generation rate of 0.55 trips per dwelling during peak periods. The daily rate can also be reduced. Based on these rates the project application would generate approximately 215 vehicles per hour two-way. The concept plan (that is full development) would generate 575 vehicle movements per hour.

Intersection Operations

The Myall Street and Shoreline Drive intersection provides a give way control with a central right turn lane, so that west bound traffic is not impeded by traffic turning right, and a deceleration lane for traffic turning left form Myall Street.

An assessment of the operation of this intersection using the Sidra computer program indicated that the existing priority controlled intersection will continue to provide a high level of control for all road users over a ten year design period for the project application. The approach capacity on Myall Street is also satisfactory as a two lane configuration, and does not required upgrading to cater for the project application.

With the development of Myall River Downs on the west side of Myall Street, the existing intersection will need to be upgraded to a roundabout control to allow for a four way intersection. A second intersection will be constructed to the north of the existing intersection, as part of the concept plan. It will be a priority controlled intersection similar to the intersection of Shoreline Drive and Myall Street. It will eventually need to be upgraded to a roundabout control, which is triggered by the development of Myall River Downs or the industrial land west of Myall Street.

Urban Design

The Riverside development incorporates a number of transport objectives that relate to pedestrian, vehicle and cycle movement, public transport and parking.

Public Transport and Pedestrian and Cycle Access

Riverside is currently served by buses along Myall Street. The proposed Riverside development will increase the population of Tea Gardens, contributing to greater potential patronage levels to sustain a viable bus service.

Walkability and cycle access has been integrated in the development of the site, with a shared cycle / pedestrian network through the residential subdivision and the existing commercial centre and the wider area.

Social and Economic Implications

Population Change

At the time of the 2006 Census the total population of Tea Gardens was 2,094 people. Between 1991 and the 2001 Census the population of Tea Gardens doubled from 684 people to 1,372, an average growth of 7.5 percent annually. Between 2001 and 2006 the population of Tea Gardens rose from 1,372 people to 2,094, an average growth of eight percent annually. Between 1991 and 2006, the Tea Gardens population grew by 206 percent.

Riverside is expected to add over 2,000 people to the population of Tea Gardens with the addition of 1,045 new dwellings.

Community Facilities

Riverside is well served by education and medical facilities and has access to public transport and employment areas. The development offers the opportunity to significantly enhance the services and community facilities in Tea Gardens, and build on the enhancement of services already delivered by the existing Riverside commercial centre. To ensure that the community benefits from the development, Crighton Properties commits to:

- *ensuring the internal roads in Riverside will be sufficient to accommodate a bus route generally within walking distance of each dwelling (that is 400 metres);*
- *providing a comprehensive cycle network that connects all community facilities, the commercial centre and directly to Council planned cycle path network;*
- *contributing to the provision of a multipurpose community function / meeting facility;*
- *keeping the principals of both Tea Gardens Public School and Bulahdelah Central School informed of the growth of the school age population in Riverside. Crighton Properties will also discuss opportunities for courses run by TAFE and University of Newcastle to be conducted in the community facilities proposed as part of Riverside;*

- *providing meeting rooms and telecommunications as part of the home business precincts;*

- *consolidating sporting and recreational facilities on the North Western side of the Myall Road site, as part of the Myall River Downs development;*

- *providing opportunities for the expansionof the existing commercial centre (roadways and associated infrastructure are part of the Project Application); and*

- *providing the approved Concept Plan to the Population Health Unit of the Hunter New England Health Service, to assist them in the planning for preventative health.*

Housing

The 2006 Census data indicates that housing in Tea Gardens is dominated by detached dwellings (92 percent). Since 2001 there has been a housing boom, which increased the number of townhouse and unit developments in the town. There is sufficient aged care and retirement living services in the adjoining Myall River Downs development to accommodate the anticipated population growth in Tea Gardens.

At Riverside six approaches will be implemented to encourage the provision of affordable housing, namely:

- *the inclusion of at least ten percent of lots less than 450 square metres, to provide housing options (substantially through the provision of duplexes);*

- *encouraging shared use dwellings incorporating home office facilities to create affordable lifestyle opportunities;*

- *to allow for alternative dwelling types, such as 'dual key' dwellings where areas of a dwelling can be rented out as self contained units;*

- *allowing for an adequate supply of housing in the concept plan;*

- *providing a subdivision design that maximises opportunities for an affordable lifestyle through the use of non motorised transport modes, accessibility of services and facilities and energy and water efficiency; and*

- *encouraging a rental market.*

Economy and Employment

Riverside will contribute to attracting more jobs and working people to Tea Gardens, through the provision of home business lots. The incorporation of these lots offer strong social benefits in terms of allowing people the opportunity to avoid the need to commute long distances, reduced dependence on child care services and prevent the social dislocation that is associated with long distance commuting (Duo, 2007). In addition, the development of Riverside will have a positive effect on employment and

the economy in terms of employment during construction, residential consumption activities and the day to day operation of the site and ongoing maintenance programs.

Retail/ Commercial Demand

The Wakefield Planning Tea Gardens Retail Study – Update of IBECON's 2000 Study (Wakefield, 2007) provided an update using population projection figures produced by the Planning Workshop Australia in 2005, the most recent census information and various Council studies and reports.

There is a high demand for the proposed commercial/retail development of the Riverside site, and it would be able to provide for the Tea Gardens and Hawk Nest area well beyond the year 2016.

Retail Hierarchy

Tea Gardens/Hawks Nest is a relatively isolated area. Raymond Terrace provides the closest level of hierarchy in terms of shopping, followed by numerous opportunities in the Newcastle region.

Based on floorspace and associated changes, Raymond Terrace is the only relevant shopping centre in relation to Tea Gardens/Hawks Nest. Raymond Terrace is 52 km by road from Tea Gardens. It is therefore appropriate to provide retail capacity in Tea Gardens/Hawks Nest at a higher level than might otherwise be expected, given its population.

Community Title

The Community Management Statement for Myall Quays does and will continue to apply to the community land within Riverside at Tea Gardens. All footpaths, cycleways, open space areas, parks and water treatment facilities outside of road reserves will be owned by the Community Association. The commercial precinct will operate under separate Community Title. The benefits of community title are:

- *the ongoing maintenance of the site, including areas of open space, will be undertaken at no cost to rate payers, despite the areas being publicly accessible;*
- *the Community Management Statement regulates development within the community lands, thereby restricting unwanted development and ensuring consistency in the use, maintenance and development of community land;*
- *provision of a collective single entity empowered and effectively ensured to liaise with land and water management groups; and*
- *ability to fund and effectively implement commitments and conditions of consent.*

Conclusions

The Mid North Coast is recognised in the draft Mid North Coast Regional Strategy (MNCRS) as one of the fastest and most consistent growth areas of NSW, with the demand to live near the coast resulting in the majority of the anticipated growth being accommodated in existing identified growth areas, including Tea Gardens – Hawks Nest.

The proposal provides a variety of dwelling types, which would appeal to a range of household types, thereby contributing to a more diverse housing pattern to support the dynamic social character within Tea Gardens. The proposal represents the ongoing development of a site which has already provided over 260 homes / lots in the growth of the region.

The local community will also benefit significantly from the proposed development with an estimated $256 million supporting 1,557 local jobs across all sectors, spread across the anticipated 10 year life of the project. This support will facilitate the anticipated growth of the Mid North Coast and provide a holistic response to growth within the Tea Gardens/ Hawks Nest area.

Comprehensive planning has been undertaken to create an attractive environment for future residents. An assessment of the natural constraints of the site, urban capability, availability of public services, access to employment, commercial and community facilities and the provision in choice of housing and location were all taken into consideration when planning Riverside. These considerations are discussed in detail throughout this Environmental Assessment Report and supported by technical studies and surveys contained within Volume 3.

1 INTRODUCTION

This chapter describes the project, including the site and surrounds and includes background information about the site and project.

Crighton Properties Pty Ltd (Crighton Properties) seeks Concept Plan approval for a residential, retail, tourist and commercial development at the Riverside site in Tea Gardens and approval of a Project Application for the initial stages of the development, including a residential subdivision, under Part 3A of the *Environmental Planning and Assessment Act, 1979 (*EP&A Act).

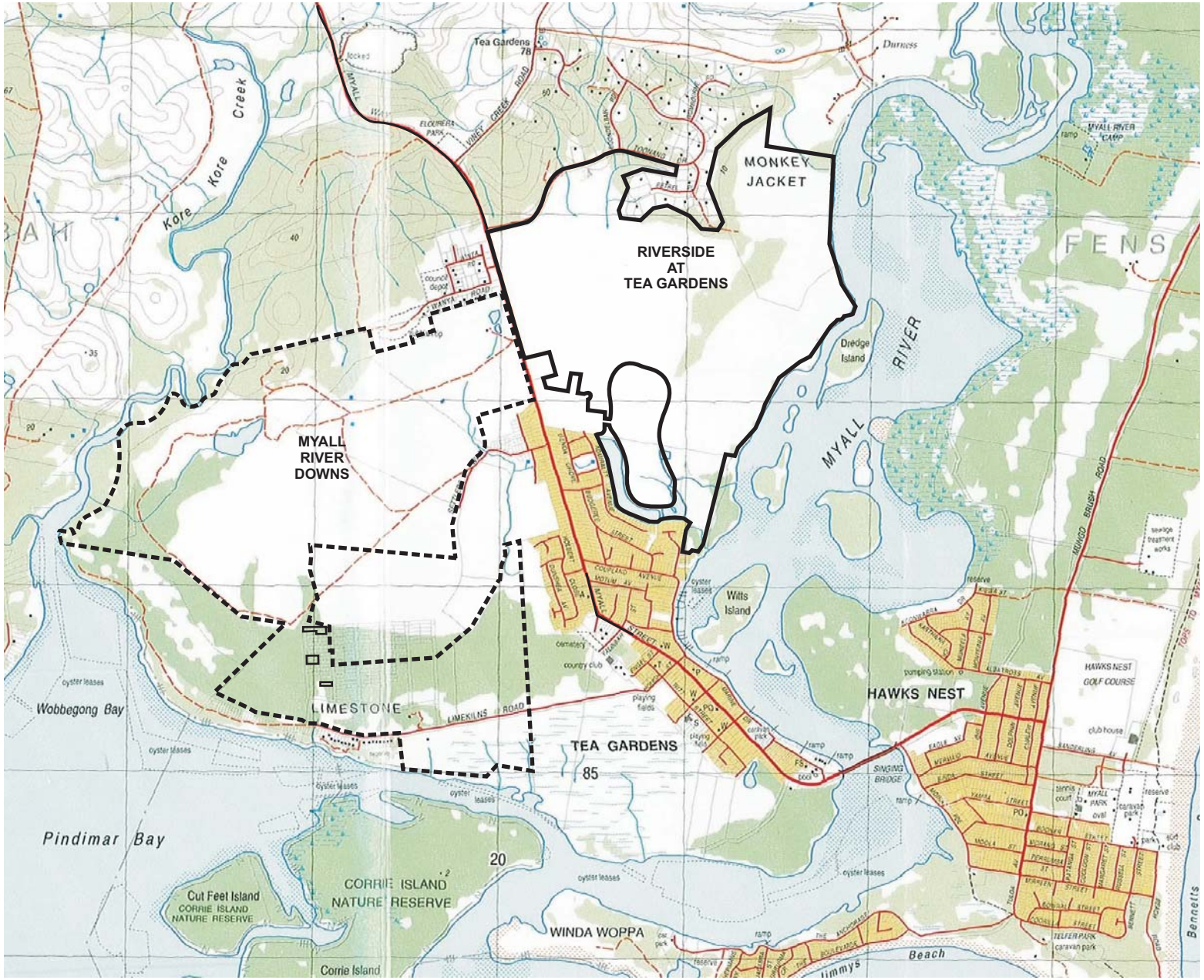
Environmental Resources Management Australia Pty Ltd (ERM) has been engaged by Crighton Properties to prepare an environmental assessment (EA) of a Concept Plan for a residential, retail, tourist and commercial development and Project Application for the initial stages of the development. This EA has been prepared in accordance with the Director-General's Environmental Assessment Requirements, issued on 16 September 2008. It describes the proposal, the environmental implications associated with the proposed development and identifies subsequent management and mitigation measures.

1.1 BACKGROUND

Crighton Properties, or its affiliated companies and associates, are the owner of three substantial development sites at Tea Gardens on the Mid North Coast of NSW. A locality plan is provided in *Figure 1.1*. In 1991 Crighton Properties bought the site currently known as 'Riverside' at Tea Gardens (formerly 'Myall Quays') which lies immediately to the west of the Myall River and to the east of Myall Street (the main road linking Tea Gardens / Hawks Nest with the Pacific Highway). This site has subsequently been subdivided and comprises two large lots. The third development site owned by Myall River Downs Pty Ltd (part of the Crighton Groups) is known as the 'Myall River Downs' site and comprises approximately 320 hectares of land located to the west of the Riverside site and on the western side of Myall Street. The location of these three sites is shown in *Figure 1.1.*

The Myall River Downs Estate has the potential for the creation of approximately 1500 dwellings. A Concept Masterplan has been prepared illustrating how the development of both the Myall River Downs and Riverside at Tea Gardens sites would occur. The Concept Masterplan was based on the findings of environmental studies and design forums held with members of the community, Councillors and Council officers. The concept Masterplan is provided in *Annex A*.

The Myall River Downs site is not part of this Concept Plan and Project Application.



Legend

Riverside at Tea Gardens
Site Boundary

Figure 1.1

Locality Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_01		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	1:25,000 Topo Series Port Stephens Sheet		
Scale:	Refer to Scale Bar		

N

0 250 500 750m

Environmental Resources Management Australia Pty Ltd
53 Bonville Avenue, Thornton, NSW 2322
Telephone +61 2 4964 2150

ERM

This EA relates to the Riverside at Tea Gardens site. Crighton Properties lodged a rezoning request with Great Lakes Council for a multi-stage residential/resort development on the site. The Council first resolved to prepare a draft Local Environmental Plan (LEP) for the site in 1989 subject to the findings of a formal LES. The LES was prepared in 1991 and the site was finally rezoned to *2*(f) Mixed Residential - Commercial in 2000.

In 2002 Crighton Properties began the process of seeking approval to develop a substantial portion of this site for residential purposes and for a nine hole golf course and tourist facilities. Following the introduction of *State Environmental Planning Policy No 71 – Coastal Protection* (SEPP 71) in November 2002, a master plan was required to be adopted by the Minister for Planning before any further residential subdivisions could be approved.

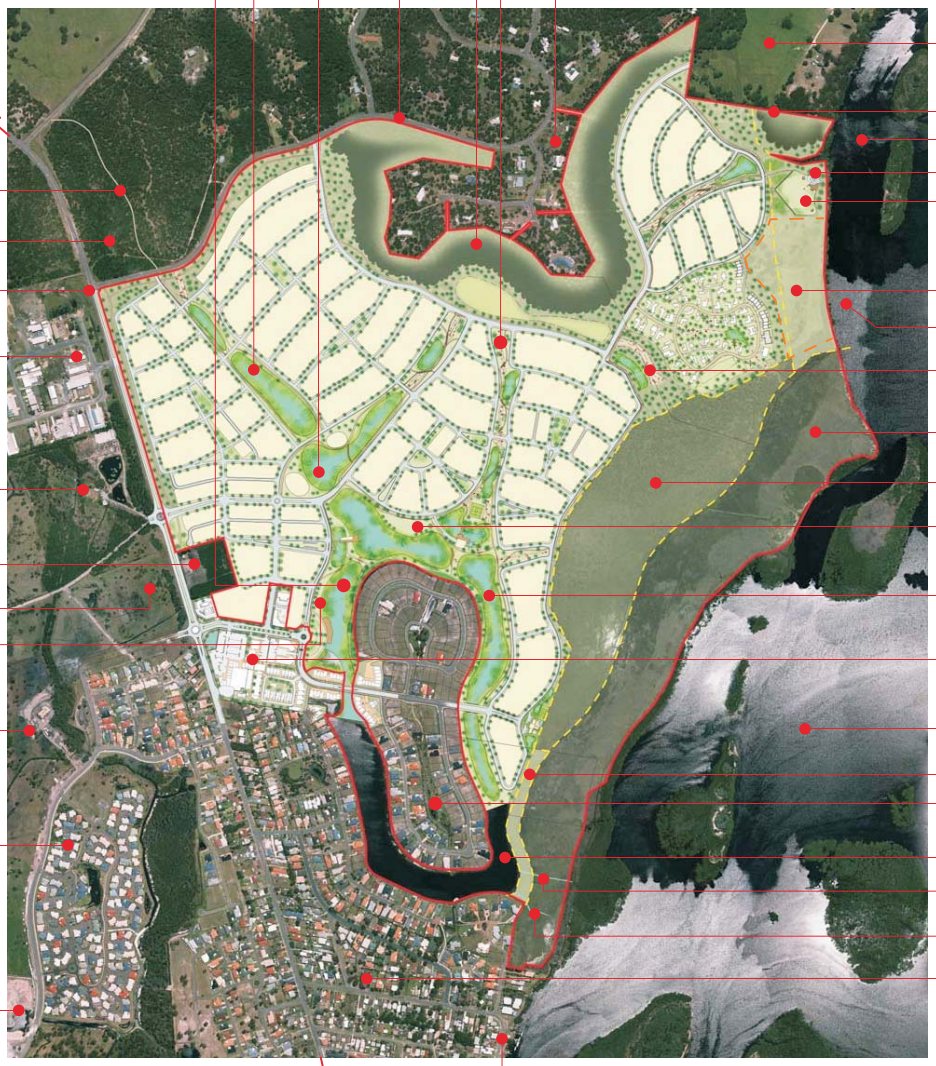
A Planning Focus Meeting was held on site on 28 December 2003 to discuss the master plan and the various development proposals. The Director-General's requirements for an EIS were subsequently issued by the Department of Infrastructure, Planning and Natural Resources in January 2004 (Ref: N91/00721) for the artificial water detention body and the residential/tourist/recreational components of the development. The Department also provided requirements regarding the preparation of a master plan for the development under SEPP 71 (Ref: S03/03010). Since the issue of the Director-General's requirements, the EP&A Act has been amended to include Part 3A Major Projects provisions. Refer to *Section 3.3.1* for further discussion on these provisions.

1.2 SITE DESCRIPTION

The Riverside at Tea Gardens site ('the site') incorporates Lot 10 DP 270100, Lot 19 DP 270100, Lot 30 DP 270100, Lot 1 DP 270100, Lot 40 DP270100, Lot 5 DP 270561, Pt Lot 1 DP 270561 and Pt Lot 2 DP 270561, and is approximately 229 hectares in area.

Lot 40 DP 270100, Lot 5 DP 270561, Pt Lot 1 DP 270561 and Pt Lot 2 DP 270561 were created from Lot 38 DP 270100. Lot 38 was subdivided into the four lots, one within the current residential community association (Lot 40) and three within the newly created commercial community association (Lot 5, Pt Lot 1 and Pt Lot 2). The purpose of the creation of the alternative community title arrangements was to facilitate effective administration of the lots and reduce potential for conflict and competing priorities of the community and commercial precincts.

The proposal includes Lot 1 DP 270100 which supports a brackish detention lake which is proposed to be extended adjacent to the proposed town centre within Myall Quays. The two hectare extension of the existing detention lake within the Riverside development is to function as part of the water treatment systems for the site in conjunction with the proposed three (3) new freshwater detention ponds and basins.



Legend

Riverside at Tea Gardens Site Boundary

Distance to:	
Pacif c Hwy	12 km
Karuah	24 km
Bulahdelah	39 km
Raymond Terrace	51 km
Newcastle	76 km
Sydney	215 km

Figure 1.2

Context Plan for Riverside at Tea Gardens

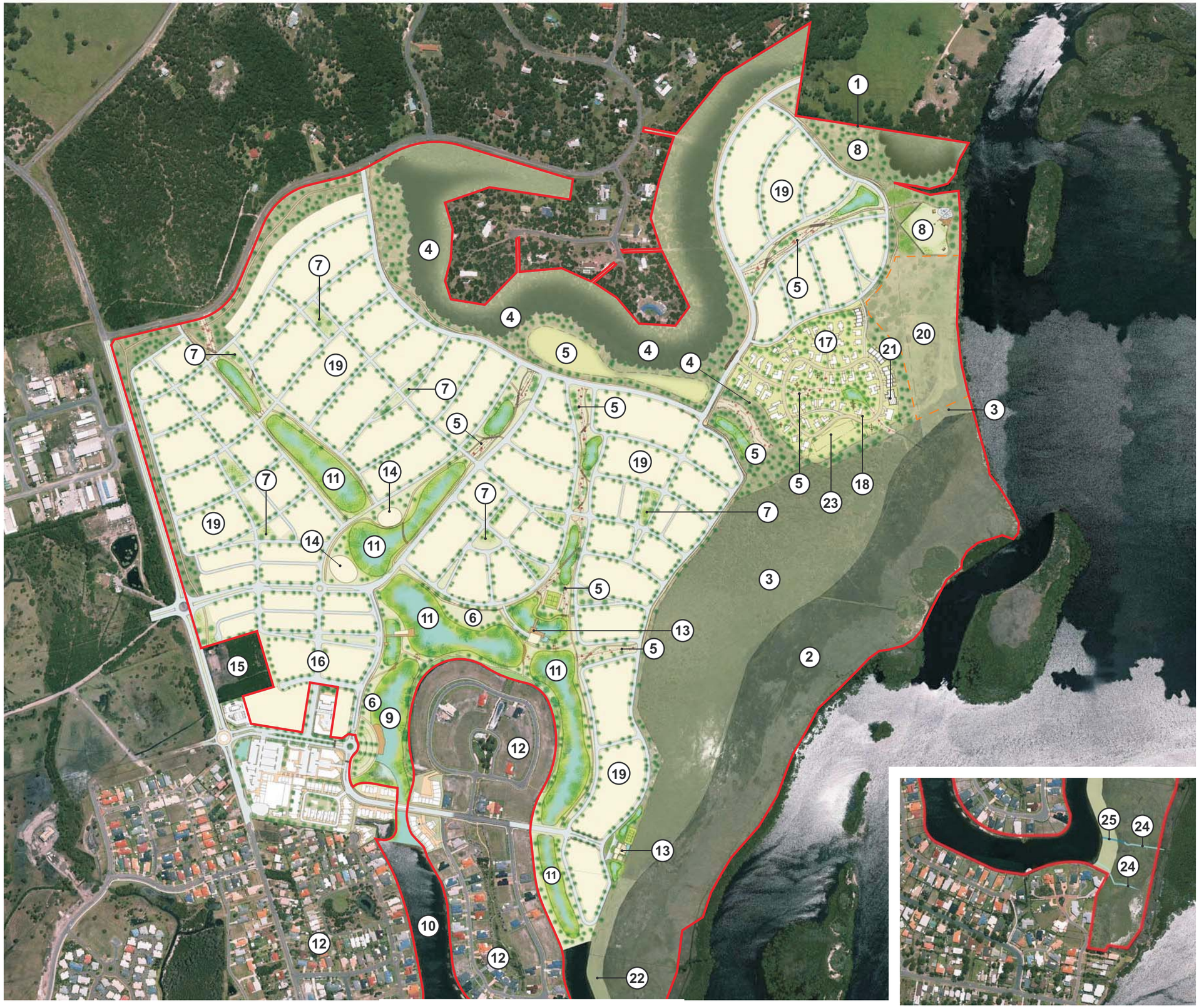
Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_jan_02		
Date:	23/01/09	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties Context Plan RC .01		
Scale:	Refer to Scale Bar		

N

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Item	Description
1	Extent of concept plan area 'Riverside' at Tea Gardens.
2	Existing 7(a) wetland zone.
3	Existing 7(b) buffer zone.
4	Wildlife movement corridor.
5	Water management & open space corridors.
6	Community parks incorporating walking/cycle ways, BBQs, children's play area equipment.
7	Community pocket parks.
8	Myall foreshore park including structured and unstructured open space.
9	Extended lake area for water detention & water quality management (2.0 Ha).
10	Existing detention and water quality lake.
11	New fresh water water quality management & detention ponds.
12	Existing residential development.
13	Precinct community facilities.
14	Future precinct community facilities.
15	Site area currently owned by Great Lakes Council.
16	Super Lots for future development.
17	Tourist lodgings precinct.
18	Conference & community facilities, associated low rise town house accommodation.
19	Proposed residential lot development to be developed under community title.
20	Future development site.
21	Existing house.
22	DCP buffer.
23	Location of known midden & buffer.
24	Existing drain outlet to Myall River.
25	Existing drain to Myall River to be extended to connect with existing lake.

Land Use Legend

Total Site	Ha	%
Open Space		
- Wetlands (zoned 7a)	28.4	12.4
- Buffer Zones (zoned 7b)	20.6	9.0
- Additional Conservation Buffer	1.4	0.6
- Wildlife Corridors	27.3	11.9
- Myall Foreshore Park	5.6	2.4
- Drainage Corridors, Ponds & Large Parks	35.1	15.4
- Pocket Parks	2.6	1.1
- Existing detention & water quality lake	6.7	2.9
Total	**127.7 Ha**	**55.7%**
Built Upon Area		
- Residential (including roads & community facilities)	83.6	36.5
- Tourist/Residential (Lodgings)	8.4	3.7
- Future Development Site	5.0	2.2
- Commercial/Retail	4.3	1.9
Total	**101.3 Ha**	**44.3%**
Total	**229.0 Ha**	**100%**

Figure 1.3

Concept Plan for Riverside at Tea Gardens

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_jan_03		
Date:	27/01/09	Drawing size:	A3
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties - Plan R.C - 03		
Scale:	Refer to Scale Bar		

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ERM



PROJECT YIELD TABLE

Project Application		
Lot Size Range	**No. of Dwellings**	**% of Total**
Multiple Dwellings <450m²/DW	61	16.0%
<450m²/DW	17	4.5%
450-550m²/DW	74	19.4%
550-650m²/DW	150	39.4%
>650m²/DW	79	20.7%
Super Lots for future development	-	-
Total	**381**	**100%**
Yield	381/ 29.3 Ha	13 DW/Ha
Concept Plan		
Lot Size Range	**Approx No. Dwellings**	**% of Total**
Multiple Dwellings <450m²/DW	96 approx.	16%
<450m²/DW	27 approx.	4.5%
450-550m²/DW	113approx.	18.9%
550-650m²/DW	239approx.	39.9%
>650m²/DW	124approx.	20.7%
Total lots	**599**	**100%**
Tourist lodges	**50**	**NA**
Town houses	**15**	**NA**
+Project Application	**381**	
OVERALL TOTAL	**980/65**	
YIELD	980/75.4 Ha	13 DW/Ha

Note: *yield not inclusive of tourist lodges or town houses*

Figure 1.4

Urban Development Structure Concept Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_jan_04		
Date:	23/01/09	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties - Plan R.C -07		
Scale:	Refer to Scale Bar		

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The site is bounded by Myall River to the east and Myall Road to the west (refer to *Figure 1.2*). The Shearwater Residential Estate lies to the north of the site and residential development of Tea Gardens is to the south. The site has an approximate one kilometre frontage to Myall Street and two kilometre frontage to the Myall River. *State Environmental Planning Policy No. 14 – Coastal Wetlands* (SEPP 14) applies to wetlands within the eastern portion of the site adjacent to the Myall River. These wetlands were clearly identified along with a buffer to the wetlands and zoned for environment protection when the site was rezoned in 2000. The remainder of the site is available for urban purposes and zoned for mixed use urban development.

The site is flat with generally sandy soils. The majority of the site was previously used for a pine plantation and has been substantially cleared of native vegetation. Some scattered isolated occurrences of both pines and natives currently exist on the site.

Part of the Riverside Estate has previously been developed and comprises a range of residential, retail/commercial, recreation and tourist development including 261 residential lots that have been sold or are on the market, a 3600m^2 shopping centre and supermarket as well as a state of the art medical centre, service station and monthly markets. There are a range of development consents related to this area as a result of the staged nature of the development. The most relevant development consents are provided in *Annex B along with the history of the creation of the detention lake on the Myall Quays site.*

1.3 CONCEPT PLAN DESCRIPTION

The Concept Plan developed for the Riverside at Tea Gardens site illustrates a residential / mixed use precinct over the majority of the site and a tourist and residential component located in the north eastern corner of the site (refer to *Figure 1.3* and *Figure 1.4*).

Concept plan approval is sought for the following:

- an extension of the existing town centre on the north side of Shoreline Drive, to accommodate a range of uses (which will be subject to future applications) including additional retail and commercial uses (approximately 4 hectares);

- residential development of the site (covering approximately 84 hectares), which will include a variety of lots, access from Toonang Drive and Myall Street;

- an internal road network, upgrading of intersections and associated road works along Myall Street and other construction works, such as cycleways, external to the site;

- water sensitive urban design (WSUD) measures including a two hectare extension of the existing detention lake and the creation of three new freshwater detention basins and numerous additional ponds surrounded by parklands and extension of an existing channel which is connected to the Myall River to link the detention lake to the Myall River to enhance water quality management ;

- an open space network comprising 127 hectares in total which provides for public recreation, stormwater management, a wildlife corridor, conservation areas, and community facilities. Substantial areas (approximately 27 hectares) of the Residential 2(f) zoned land are proposed to be protected and enhanced as wildlife movement corridors, over and above those already protected within the Environmental Protection 7(a) and 7(b) zones (which comprise 28 and 21 hectares respectively); and

- the Concept Plan for Riverside at Tea Gardens has the potential to create 1045 dwellings as detailed in *Table 1.1.*

Table 1.1 Concept Plan Dwellings

Development	Number of Dwellings
Residential (variety of lots)	980
Tourist Precinct – lodges (individual lodge houses for permanent residential and tourist accommodation)	40
Tourist Precinct – units (permanent residential and tourist accommodation, maximum two storey in height)	15
Tourist Precinct – permanent residential	10
Total	**1045**

- an 8 hectare tourist/residential development (including a conference centre and accommodation);

- a residential subdivision in the north east portion of the site, together with a foreshore park of 5.6 hectares;.

- clubhouse facilities and associated tennis courts, active and passive open spaces, pool and BBQ facilities; and

- associated landscaping and infrastructure works.

Further descriptions of the Concept Plan and Project Application are set out in *Chapter 2*.

1.4 PROJECT APPLICATION DESCRIPTION

Project approval is sought for Stages 1, 2, 3, 4, 5, 6, 7, 8 and 9 and relates to Lot 40 DP 270100, Lot 5 DP 270561, Pt Lot 1 DP 270561, Pt Lot 2 DP 270561, Lot 1 DP 270100, Lot 10 DP 270100, Lot 19 DP 270100 and Lot 30 DP 270100 (refer to

Figure 1.5). Staging is discussed in *Section 2.11* of this report. The stages are grouped into three precincts as follows:

- Precinct 1 comprises Stages 1 and 2;
- Precinct 2 comprises Stages 3, 5, 6, 7, 8 and 9; and
- Precinct 3 comprises Stage 4.

The Project Application includes the following:

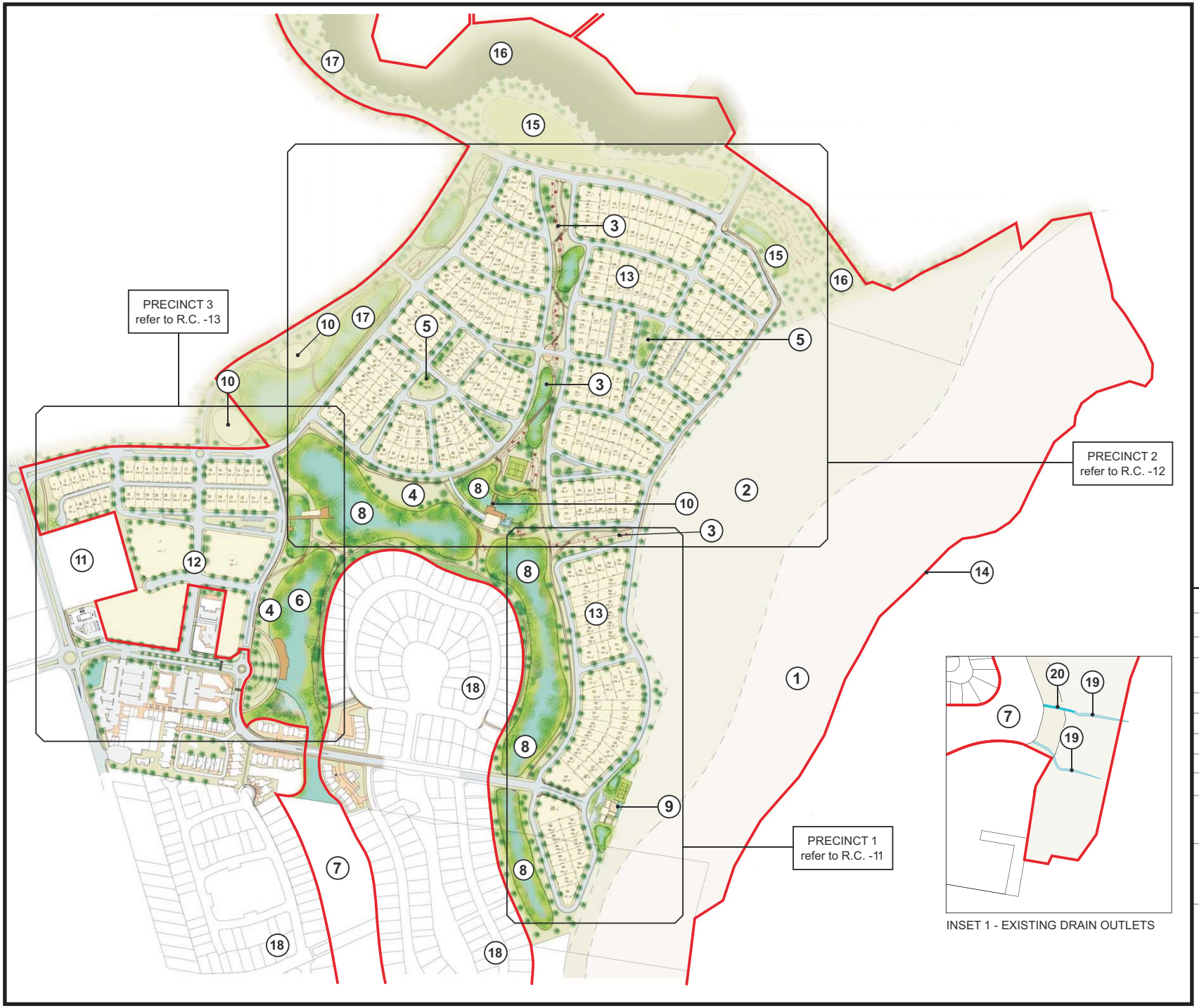
- the creation of residential lots as detailed in *Table 1.2;*

Table 1.2 Project Application Residential Allotments

Size of Lots (square metres)	Number of Lots	Number of Dwellings (%)
Multi dwelling lots	26	61
350 - 449	17	17
450 – 549	70	74
550 – 649	160	150
650 +	75	79
Total	**348***	**381**

* Includes 108 *home based business* lots which are discussed below.

- roadways and associated infrastructure throughout the proposed commercial area (no buildings are proposed in the commercial precinct as part of the Project Application);
- water sensitive urban design measures (WSUD) including a two hectare extension of the existing detention lake, the creation of three (3) new freshwater detention basins and numerous additional ponds surrounded by parklands and open space and the extension of an existing drainage channel which is connected to the Myall River to link it to the detention lake to enhance water quality management within the proposed development;
- construction of a new connection to Myall Street for vehicle access and construction of internal roads and cycleways;
- construction of a community clubhouse and associated tennis courts, active and passive open spaces, pool and BBQ facilities;
- the provision of buffer (21 hectares) to the wetlands (zoned 7(b) Conservation);
- the retention of approximately 28 hectares of wetlands zoned 7(a) Wetlands and Littoral Rainforest; and
- associated landscaping and infrastructure works.



INSET 1 - EXISTING DRAIN OUTLETS

PROJECT APPLICATION YIELD TABLE

Lot Size Range	No. of Dwellings	% of Total
Multiple Dwellings <450m^2	61	16.0%
<450m^2	17	4.5%
450-550m^2	74	19.4%
550-650m^2	150	39.4%
>650m^2	79	20.7%
Total	381	100%

Note: *Total Area 29.3 Ha @ 13 Dwellings per Ha*

Item	Description
1	Existing 7(a) wetland zone (to be further protected as community land).
2	Existing 7(b) wetland buffer zone (to be further protected as community land).
3	Water management & open space corridors.
4	Community parks incorporating walking/cycle ways, BBQs, children's play area equipment.
5	Community pocket parks.
6	Extended lake area for water detention & water quality management (2.0 Ha).
7	Existing detention and water quality lake.
8	New fresh water quality management & detention ponds.
9	Precinct community facilities. Refer to R.C. -31, R.C. -32 , R.C. -33, & R.C. -34
10	Future precinct community facilities.
11	Site area currently owned by Great Lakes Council.
12	Super Lots for future development.
13	Proposed residential lot development to be developed under community title.
14	Extent of project application.
15	Establishment of upper catchment. Dry & wet basins, as well as swales.
16	Augmentation & management of wildlife movement corridor.
17	Temporary works required in these areas to establish drainage & diversions (refer to engineering drawings).
18	Existing residential development
19	Existing drain outlet to Myall River
20	Existing drain to Myall River to be extended to connect with existing lake.

Figure 1.5

Project Application Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_jan_05		
Date:	23/01/09	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties - Plan R.C -10		
Scale:	Refer to Scale Bar		

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The subdivision will be created under Community Title, as part of the existing approved Community Title development.

Approval is sought for one clubhouse sited within the centre of the Riverside development within a community precinct (Precinct 1). The clubhouse will form part of the community precinct including tennis courts, active and passive open spaces, and BBQ facilities. The clubhouse will be surrounded by parklands adjoining the freshwater treatment pond. The clubhouse will include a gymnasium, recreation rooms, children's play area, toilets, offices, lounge room areas, outdoor living area and lap pool (refer to Drawings R.C. -32 to R.C. -35 within *Volume 2* of the EA).

Further description of the Project Application is set out in *Chapter 2*.

Home Based Business Lots

The concept of the *home based business* lots is based on emphasising the nexus between home and work as a means of enhancing quality of life and choice of occupation. It has been recognised that a number of new jobs being created in western democracies are being created by micro enterprises and self employed people, which provides for new ways in which we live and work (Sirolli, 2007). In particular it has manifested in the growth of home based businesses. In Australia there are one million people that conduct business from their place of residence, which is slightly less than 50 per cent of all Australian businesses (Sirolli, 2007). It is one of the fastest growing sectors of the economy, which is facilitated by communication and technological advancements, such as the internet, and a quality of life decision to start a business (Sirolli, 2007).

The 381 residential lots incorporate 108 '*Home based business*' lots, which are located in two precincts, one in the south-west part of the site, at the Myall Road entrance to the development, and the other adjacent to the east side of the water body. These lots will provide for home based businesses with an employment base of up to two people that are not residents of the house. This will facilitate newly developing businesses to establish themselves. The '*Home based business*' lots are detailed in *Table 1.3*.

Table 1.3 Home Based Business Lots

Size of Lots (square metres)	Number of Dwellings
350 – 450	17
451 – 550	25
551 – 650	42
651+	24
Sub Total	**108**

The *home based business* lots in the overall residential subdivision will create an environment that supports new businesses and provides a place where people

can live, work and recreate. The two precincts will have a technology/ community meeting place that incorporates, meeting rooms and facilities to be accessible to all residents of the *home based business* lots.

The intention of the home based business lots is consistent with the definition of '***home business***' in the *Standard Instrument (Local Environmental Plans) Order 2006 (Standard LEP)*. In the Standard LEP home business "*…means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:*

(a) the employment of more than 2 persons other than those residents, or

(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

(c) involve the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or

(d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or

(f) the use of more than [insert number] square metres of floor area to carry on the business, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises".

It also allows for *home industry* as set out in the Standard LEP. Home industry "*means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:*

(a) the employment of more than 2 persons other than those residents, or

(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or

(d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or

(f) the use of more than [insert number] square metres of floor area to carry on the light industry, but does not include bed and breakfast accommodation or sex services premises".

1.5 REPORT STRUCTURE

This Environmental Assessment report consists of three volumes. *Volume 1* contains an outline of the scope of the project, consideration of the relevant statutory and non-statutory provisions, a summary of the findings of the technical investigations undertaken as part of the environmental assessment, justification for the project and a draft Statement of Commitments.

Volume 1 includes the following chapters:

Chapter 1 provides an introduction and relevant background information and an overview of the site and project;

Chapter 2 outlines the scope of the project including a site analysis, discussion of the subdivision design and layout including details of alternative designs considered;

Chapter 3 considers relevant statutory and non-statutory provisions arising from relevant environmental planning instruments, development control plans and planning strategies;

Chapter 4 contains summaries of the key issues identified in the environmental assessment including measures and strategies proposed to mitigate any adverse impacts on the environment. The environmental assessment includes investigations in relation to urban design, water management, traffic management, flora and fauna, hazard management (bushfire, acid sulphate soils) infrastructure provision and heritage significance;

Chapter 5 examines the social and economic impacts of the proposal ;

Chapter 6 outlines the consultation that has taken place with government authorities and the community with respect to the proposed development;

Chapter 7 documents the draft Statement of Commitments which sets out the management, mitigation and monitoring measures to be implemented to minimise any potential negative impacts associated with the project; and

Chapter 8 draws conclusions based on the finding in the previous chapters and provides a justification in terms of the suitability of the site for the proposed development and the public interest.

Annexes within ***Volume 1*** include:

- *Annex A*: the initial Riverside at Tea Gardens and Myall Rivers Downs Master Plan prepared under State Environmental Planning Policy 71;

- *Annex B:* Previous Development Consents relating to adjacent development;
- *Annex C:* Environmental Assessment Requirements of the Director General;
- *Annex D:* Architectural and Landscape Design Brochures prepared by Crighton Properties;
- *Annex E:* draft Voluntary Planning Agreement (VPA) prepared by Crighton Properties;
- *Annex F: Community Management Statement – Myall Quays*, prepared by Mallesons Stephens Jaques, 1996, *Community Management Statement for the Myall Quays Town Centre*, prepared by Hunt and Hunt, 2008, and *Precinct Management Statements* for Precincts 1,2 and 3, prepared by Crighton Properties;
- *Annex G: Legal Opinion on SEPP 50 – Canal Estates* prepared by Malcolm Craig QC, March 2004;
- *Annex H:* Compliance with Relevant Policies;
- *Annex I:* Correspondence;
- *Annex J:* Solar Access: and
- *Annex K:* Cost Estimates.

Volume 2 includes the following plans:

- Riverside Concept Plan and Project Application Plans; and
- Riverside Estate Engineering Drawings

Volume 3 includes the following technical reports:

Volume 3A:

- *Construction Environmental Management Plan*, prepared by Environmental Resources Management (ERM), 2009;
- *Riverside at Tea Gardens Integrated Water Management,* prepared by Cardno Willing, 2008, including as annexures:
  - *Assessment of Water Quality Management Options,* prepared by Cardno Willing, 2004;
  - *Groundwater Assessment,* prepared by Coffey Geotechnics Pty Ltd (Coffey), 2007;
  - Fish Community Survey of the Riverside Lake, prepared by Harris Research Pty Ltd, 2007; and

- Riverside at Tea Gardens: Practical Considerations of Climate Change, prepared by Cardno Willing, 2008;

- *Riverside at Tea Gardens Probable Maximum Flood*, prepared by Cardno Willing, 2008;

- *Riverside Estate Project Application and Master Plan Area, Tea Gardens - Geotechnical and Acid Sulfate Soils Assessment,* prepared by Coffey Geotechnics Pty Ltd (Coffey), 2008;

- *Myall Quays Detention Lake Sediment Sampling and Analysis*, prepared by Coffey Geotechnics Pty Ltd (Coffey), 2007;

Volume 3B:

- *Ecological Site Assessment (including Threatened Species Assessment),* prepared by Conacher Environmental Group, 2008, incorporating the *Koala Habitat Assessment and Management Strategy* and *Ecological Site Management Strategy;*

- *Wetlands Assessment for Riverside at Tea Gardens* prepared by Geoff Winning, 2009;

- *Riverside at Tea Gardens Aboriginal Assessment* prepared by Environmental Resources Management (ERM), 2008;

- *Servicing Strategy* prepared by Tattersall Surveyors Pty Ltd (Tattersall Surveyors, 2008;

- *Review of s93 and s94 Requirements – Crighton Properties*, prepared by Connell Wagner Pty Ltd (Connell Wagner), 2007;

- *Traffic Impact Assessment*, prepared by Mark Waugh Pty Ltd, 2008; and

- *Bushfire Protection Assessment Riverside, Myall Road Tea Gardens,* prepared by Conacher Environmental Group, 2008.

Volume 3C

- *Myall River Downs / Riverside at Tea Gardens Recreation Study* prepared by Environmental Resources Management (ERM), 2008;

- *Myall Quays – Architectural and Landscape Design Guidelines*, prepared by Crighton Properties, 2006;

- *Riverside at Tea Gardens – Landscape Design Report and Detailed Design Manual*, Andrews Neil, , 2007;

- *Tea Gardens Retail Study - Update Report IBECON Study of 2000,* prepared by Wakefield Planning, 2007;

- *Riverside at Tea Gardens Economic Impact Statement,* prepared by Parsons Brinckerhoff Pty Ltd (PB), 2007;

- *Riverside @ Tea Gardens, Statement of Social Impacts*, prepared by Duo Consulting Pty Ltd (Duo), 2008;
- *An Assessment of Housing Issues relating to Riverside at Tea Gardens,* prepared by Duo Consulting Pty Ltd (Duo), 2007;
- *Riverside Design Report*, prepared by Roberts Day Urban Designers, 2007;
- *Riverside at Tea Gardens Design Forum*, prepared by Roberts Day Urban Designers, 2007;
- *Riverside at Tea Gardens Phase 1 Environmental Site Assessment* prepared by Environmental Resources Management (ERM), 2008; and
- *Riverside at Tea Gardens Construction Noise Impact Assessment* prepared by Environmental Resources Management (ERM), 2008.

1.6 DIRECTOR GENERAL'S REQUIREMENTS

The Director General's requirements for the preparation of the EA are provided in *Annex C* of this report. A summary of the key issues set out in the DGRs, as well as the relevant section in this EA report in which they are addressed is provided in *Table 1.4*.

Table 1.4 Director General Requirements

Key Issue	Relevant Section in the EA Report
General Requirements	
Part A: Concept Plan Application	
1. An executive summary;	Executive Summary
2. An outline of the scope of the project including: (i) any development options; (ii) justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest; (iii) outline of the staged implementation of the project, if applicable;	Section 1.4, Section 2.11 and Section 8.1 and Chapter 2
3. A thorough site analysis and description of the existing environment	Figures 2.1 and 2.2, Section 2.1 and 4.19
4. Accurate mapping of zones for the site and surrounds, overlayed on the site survey plan;	Volume 2, specifically drawings R.C. 49 and R.C. 50
5. Consideration of any relevant statutory and non-statutory requirements and identification of any non-compliances with such provisions, in particular relevant provisions of Environmental Planning Instruments, Regional Strategies (including draft regional Strategies) and Development Control Plans;	Chapter 3, Annex H within Volume 1
6. Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999;	Section 3.1.1, Section 4.12
7. An environmental risk analysis of the project including consideration of the issues raised during consultation;	Section 4.21
8. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;	Chapters 4, 5 and 7
9. The plans and documents outlined in Schedule 2;	Volume 2
10. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and	In side the front cover
11. A Quantity Surveyor's certificate of cost to verify the capital investment value of the project; and	Annex K of Volume 1
12. A detailed assessment of the key issues specified below and a table outlining how and where in the EA document these key issues and the above requirements have been addressed.	Chapters 3, 4, 5 and 8 and Table 1.4
Part B: Project Application	
1. The matters listed above in Part A (with the exception of Point 2);	Chapters 2, 3, 4, 5 , 7 and 8
2. A detailed description, including plan details, of the project application component (comprising Stage 1 of the development); and	Section 1.4 and Volume 2
3. Where relevant, demonstrate compliance with BCA and relevant Australia Standards for proposed building; traffic, road and parking; utilities' noise and flooding.	Chapters 3 and 4
Key Issues	
Part A: Concept Plan Application Environmental Assessment	
1. Strategic Assessment	
1.1 Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies;	Chapter 3 and Annex H of Volume 1
1.2 Demonstrate consistency with the Sustainability Criteria set out in the	Section 3.4.2 and

Key Issue	Relevant Section in the EA Report
relevant Regional Strategy (including draft Regional Strategies);	Annex H of Volume 1
1.3 The proposal must demonstrate compliance with the provisions of *State Environmental Planning Policy No. 71 – Coastal Protection* ;	Section 3.3.6 and Annex H of Volume 1
1.4 The proposal should not include any elements which would be defined as Canal Estate development, as defined in *State Environmental Planning Policy No. 50 – Canal Estate Development*;	Section 3.3.5 and Section 4.6 and Annex G
1.5 Demonstrate that the proposed densities are appropriate for the future housing needs of the Tea Gardens area. Demonstrate compliance with the recommendations of the *Tea Gardens Housing Strategy* (May 2006) particularly relating to affordable housing types and their location;	Section 4.15
1.6 Provision of all development consents issued for the subject site and the adjoining site (known as Myall Quays) including the existing detention lake and connection to the Myall River;	Annex B of Volume 1
1.7 Provision of the Community Management Statement for the existing development adjoining the site, known as Myall Quays;	Annex F of Volume 1
2. Subdivision Design, Layout and Desired Future Character	
2.1 Demonstrate the consistency of the proposal with the character of existing development in terms of the locality, street frontage, scale, building envelopes and future built form controls, aesthetics, energy and water efficiency and safety;	Section 2.10, Section 4.16, Section 4.17, Section 4.18
2.2 Demonstrate the consistency of the proposed subdivision design and layout with the *Coastal Design Guidelines for NSW*, *NSW Coastal Policy 1997* and *SEPP 71 – Coastal Protection*;	Section 3.3.8, Section 3.3.6, Section 4.2 and Annex H of Volume 1
2.3 Identify the type of subdivision proposed across the site i.e. community,. Torrens, strata. A draft community management statement should be provided if community title is proposed;	Section 2.12 and Annex F of Volume 1
2.4 provide details of any staging that demonstrates that lots will be released in an orderly and coordinated manner and identify how the proposal relates to the existing and proposed future stages to ensure an integrated and holistic approach to environmental management;	Section 2.11 and Volume 2 Plans
2.5 Outline the long term management and maintenance of any areas of open space or conservation including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management;	Section 2.10, Section 2.12 and Annex F of Volume 1
2.6 Address any public access to the shoreline in accordance with the principles of ecologically sustainable development and the NSW Coastal Policy.	Section 4.7
2.7 Address safety and security of the proposal and provide mitigation measures where required.	Section 4.20
2.8 Demonstrate compliance with relevant zone objectives;	Section 3.5.1
2.9 Demonstrate the application of sound urban design principles in the design of the proposal;	Section 2.4, Section 4.17
3. Visual Impact	
3.1 Demonstrate suitability of the proposal with the surrounding area in relation to the proposed and potential bulk scale, amenity (including noise) and visual amenity having regard to the Coastal Design Guidelines of NSW (2003). In particular, address impacts on the amenity of the foreshore, loss of views from public places and cumulative impacts;	Section 2.2, Section 2.4, Section 2.6, Section 3.3.8, Annex H of Volume 1
4. Infrastructure Provision	
4.1 Address the capacity of existing infrastructure to accommodate the proposed development such as water, electricity gas,	Section 4.14

Key Issue	Relevant Section in the EA Report
telecommunications and their staging. Specific consideration should be given the capacity of the sewerage treatment facility at Hawks Nest to accommodate the proposal. Identify and describe staging, if any, of infrastructure works;	
4.2 A risk assessment of effluent disposal including the potential impacts and relevant mitigation measures in the event of a failure of the effluent disposal system through flood or other events;	Section 4.4, Section 4.14, Section 4.21
4.3 Provide details of any planning Agreements entered into or proposed as part of this development and the proponent payment of Section 94 contributions. Note: Any Planning Agreement must be outlined in the Statement of Commitments as an 'offer' under Section 93G of the Act. This should take the form of a draft agreement. Planning Agreements should only contain matters outside the scope of Section 94;	Section 2.13, Section 2.9.2, Chapter 7 and Annex E
5. Traffic and Access	
5.1 Prepare a Traffic Impact Study in accordance with the RTA's *Guide to Traffic Generating Developments*;	Section 4.20 and Volume 3
5.2 Protect existing public access to and along the coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate;	Section 4.7.1
5.3 Demonstrate the compliance with sound urban design principles, including parking, access and transport. This must be demonstrate options, particularly as they relate to access to and from adjoining urban areas, with a view to minimise traffic loads on one or more particular access way. In addition consideration must be given to: - pedestrian/cycle access through the site; - public transport access though the site, with particular emphasis on road compatibility for bus access through the site; and - intersection capacity to withstand anticipated traffic loads. With respect to traffic and access, traffic modelling in accordance with the relevant standards is required;	Section 2.6, Section 2.10, Section 4.17, Section 4.20
5.4 Demonstrate the provision of access and servicing links between the subject site and Shearwater Estate (through the Myall Quays site). Consideration of any alternative access requirements of the Great Lakes Hawks Nest / Tea Gardens Conservation and Development Strategy is also required;	Section 4.20
6. Hazard Management and Mitigation	
Coastal Processes	
6.1 Address coastal hazards and the provision of the Coastline management manual. In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms in accordance with the principles of ecologically sustainability development ands the NSW Coastal Policy;	Section 3.3.7, Section 4.4.1
Contamination and Acid Sulphate Soils	
6.2 Address any existing contamination and required remediation of soils on the site. Particular regard must be given for Acid Sulphate Soils on the site, particularly relating to the excavation of these soils;	Section 4.9
Bushfire	
6.3 Address the requirements of Planning for Bush Fire Protection 2006 (RFS);	Section 4.11
Geotechnical	
6.4 Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.	Section 4.9.1
Flooding	
6.5 Provide an assessment of any flood risk on site (for the full range of	Section 4.4.1

Key Issue	Relevant Section in the EA Report
floods including events greater than the design flood, up to probably maximum flood; and from coastal inundation, catchment based flooding or a combination of the two) and having consideration of any relevant provisions of the *NSW Floodplain Development Manual 2005*. the assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development, address the impact of the development (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event.	
6.6 Assess the potential impacts of sea level rise and an increase in rainfall intensity on the flood regime of the site and adjacent lands with consideration of *Practical Consideration of Climate Change – Floodplain Risk Management Guideline* (DECC, October 2007).	Section 4.4.1
7. Water Cycle Management	
7.1 Assess the impacts of the proposal on surface and groundwater hydrology and quality during both construction and occupation of the site;	Section 4.3, Section 4.4
7.2 Address potential impacts on the water quality of surface and groundwater, having regards to the relevant State Groundwater, Rivers, Wetlands and Estuary Policies. Consideration must be made for water impacts to the Myall River and identified SEPP 14 Wetlands. Particular regard must be given to how the proposal will minimise altered salinity, pH, litter, weeds, exotic fauna, gross disturbance of these wetlands, and nutrients intake to receiving water bodies;	Sections 3.3.3, 4.3, 4.4 and 4.5
7.3 An Integrated Water Cycle Management (IWCM) Plan based on Water Sensitive Urban Design principles is required. This must address the requirements of the *NSW Floodplain Management Manual*;	Section 4.4.1
7.4 Demonstrate the suitability of using the lake to be a receiving body for stormwater runoff;	Section 4.3 and Section 4.4
7.5 Demonstrate and justify the proposed widening and deepening of a channel connecting the existing lake with the Myall River, particularly in relation to the removal of vegetation fro the SEPP 14 wetland and an Endangered Ecological Community;	Section 4.5 and Section 4.7.2
7.6 Address the aims, objectives and requirements (particularly Clause 7) of State Environmental Planning Policy No 14 – Coastal Wetlands (SEPP 14), particularly in relation to the proposed removal of vegetation from the wetland for the proposed channel works.	Section 3.3.3
7.7 Stormwater management should be designed to ensure ongoing protection of the groundwater aquifer in accordance with the principles of ANZECC & ARMCANZ: *Guidelines for Groundwater Protection in Australia, National Water Quality Management Strategy*, Commonwealth of Australia, 1995. Ensure there is no impact on the existing groundwater aquifer and existing groundwater quality resulting from the proposal. Suitably justify the stormwater treatment measures to be used (amended by DGRs – 28/12/06) in the proposal;	Section 4.3
7.8 A Wetland Management Plan is required to guide the rational conservation, management, and restoration of the wetland habitats and their buffers;	Section 4.5
7.9 Details of any proposed dredging and reclamation activities including methods, uses, timing, extent and duration of works, nature of sediment to be dredged, etc. Specific details must be provided to outline any activities that may harm marine vegetation, or block the passage of aquatic fauna;	Section 4.7.2 and CEMP in Volume 3
8. Heritage and Archaeology	
8.1 An Independent Archaeology Report must be included in the Environmental Assessment. This must address and document	Section 4.10

Key Issue	Relevant Section in the EA Report
information requirements set out in the draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DECC 2005) and Interim Community Consultation Requirements for Applicants (DEC 2004);	
9. Flora and Fauna	
9.1 Outline measures for the conservation of existing wildlife corridor values and / or connective importance of any vegetation on the subject land;	Sections 3.2.2, 3.2.5, 3.2.6 and 4.12
9.2 Address measures to protect and manage the SEPP 14 wetland and adjacent aquatic habitats;	Section 4.12
9.3 Outline and document commercial, recreational, and indigenous fishing activities that may be affected by the proposal. Investigation is required into whether the proposal will impact on the continuing operation and viability of nearby aquaculture or marine culture ventures;	Section 4.8
9.4 Demonstrate that any water discharge shall meet the benchmark set under the *Oyster Industry Sustainable Aquaculture Strategy* (amended by DGRs – 6/3/07);	Section 4.8
9.5 Outline measures for the conservation of flora and fauna and their habitats within the meaning of the *Threatened Species and Conservation Act 1995, Native Vegetation Act, 2003* and the *Fisheries Management Act, 1994* including, but not limited to Koala populations, and other EECs;	Section 3.2.4, Section 4.8
9.6 The EA must consider how the proposal has been managed to conserve flora and fauna habitats on the subject site and subject area. The measures proposed to mitigate any effect of the proposal must be provided, including any long term strategies to protect areas within the study area with threatened species. This may include elements that restore or improve habitats. Pre-construction monitoring plans or on-going monitoring of the effectiveness of the mitigation measure must be outlined in detail;	Section 4.12.
10. Socio-Economic Impacts	
10.1 Address social infrastructure including health services and schools. Consultation with service providers, Council, Department of health and Department of Education is required. Provide evidence of the capacity to service the proposed development and expected growth in the locality (amended by DGRs – 6/3/07);	Chapter 5
Part B: Project Plan Application Environmental Assessment (Stage 1 of the development)	
1. Compliance with Concept Plan	
1.1 The EA must demonstrate consistency with all Environmental Assessment requirements as detailed above in part 1, and the following additional matters;	Chapters 2, 3, 4, 5, 7 and 8
2. Subdivision Design, Layout and Desired Future Character	
2.1 Provide details of potential building envelope, built form and design quality controls and the means for implementing them. Ensure subdivision and road works are contained within the relevant zone;	Chapter 2, Chapter 4
2.2 Provide details of the construction of Community facilities where proposed as part of the Project Application for Stage 1 works;	Section 1.4 and Volume 2 Plans
2.3 Demonstrate compliance with BASIX requirements for any BASIX affected development (as defined by the Environmental planning and Assessment regulation 2000) that is proposed as part of the Project Application for Stage 1 works;	Section 4.3
3. Water Cycle Management	
3.1 Provide a detailed Construction Management Plan which mitigates the impacts of the proposal on surface and groundwater hydrology and quality on the site;	Volume 3
3.2 Provide a detailed Integrated Water Cycle Management (IWCM) Plan	Section 4.4.1 and

Key Issue	Relevant Section in the EA Report
based upon Water Sensitive Urban Design Principles;	Volume 3
3.3 Provide a detailed Stormwater Management Plan in accordance with the Environmental Assessment requirements for the Concept Plan application;	Section 4.4.1 and Volume 3
4. Bushfire	
4.1 Provide a detailed plan which addresses the requirements of planning for Bush Fire Protection 2006 (RFS), in particular in relation to asset protection zones, adequacy of water supply, and future management of areas of hazard remaining, including natural areas and buffer zones;	Section 4.11 and Volume 3
5. Earthworks and Filling	
5.1 Address impacts of earthworks and filling on the existing hydrology and water quality, the conservation of flora and fauna and the management of acid sulphate soils and any contamination on the site;	Section 4.3, Section 4.4 and Section 4.9,
5.2 Provide details of the source of fill including types of material and soils, and details of suitable revegetation planting;	Section 4.9
Consultation You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment: *(a) Agencies or other authorities:* • Great Lakes Council; • Department of Environment and Climate Change; • Department of Primary Industries (Fisheries); • NSW Rural Fire Service; • Department of Water and Energy; • NSW Maritime; • Department of Lands; • NSW Police Service; • State Emergency Service; • Hunter and Central Rivers Catchment Management Authority; • Prot Stephens – Great Lakes Marine Parks Authority; • Local Aboriginal Land Council/s and other Aboriginal community groups; and • MidCoast Water. *(b) Public:* Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation,. This should include any contingencies for addressing any issues arising form the community consultation and an effective communication strategy; The consultation process and the issues raised should be described in the Environmental Assessment.	Chapter 6

2 CONCEPT AND PROJECT PLAN

This chapter describes the Riverside Project and refers to the site analysis, discussion of the built environment, streetscape, facilities to be provided, staging, community title and alternatives considered.

2.1 SITE ANALYSIS

The site is located to the north of the existing residential area of Tea Gardens as illustrated in *Figures 1.1* and *1.2*. It represents a natural extension to the existing residential area of Tea Gardens and will provide a series of walking trails and public open space which connects the two areas.

The design and layout of the Riverside Estate was determined through an overlaying process of mapping various opportunities and constraints to determine the overall building envelope and the character of the open space network. The aim of the mapping exercise was to maximise benefits to future residents of, and visitors to Riverside while protecting areas of environmental sensitivity. The elements that guided the formulation of the design include:

- the surrounding wetland;
- the presence of Wallum Froglet and its habitat;
- visual impact and vistas from key vantage points;
- the integration of adjoining developed areas;
- traffic and access considerations;
- the stand of mature vegetation to the north of the site;
- the topography of the land and the existing drainage network; and
- areas of cultural significance.

Figures 2.1 and 2.2 illustrate key constraints of the site. The constraints map and site analysis plan identify the following ecological habitats and values and other features within the site in relation to the proposed development footprint:

- 7(a) Wetland and Littoral rainforest zone;
- 7(b) Conservation zone;
- DCP 22 buffer;
- asset protection zones;

Either of these accesses to be provided before registration of 700th lot

Elevated lookout

Line of sight to Yacaaba Headland

25 M APZ

25 M APZ

Second site access to be provided before registration of 500th lot

Provision for roundabout intersections triggered by future development of Myall River Downs site - not Riverside

24 M APZ

Existing drain outlet to Myall River to be extended to connect with existing lake

Existing site access

Only 2 access points allowed to Myall Street (DCP 22)

Existing Lake

Existing drain outlet to Myall River

Legend

- 7A Lands
- 7B Lands
- DCP Buffer
- 2.1 mAHD Contour
- 24 m APZ
- 25 m APZ
- 60 m Special Fire Protection Purpose (Relevant to Tourist Accommodation)
- Wildlife Movement Corridor 50m Core (DCP 22)
- Wildlife Movement Corridor - Buffer Edge 25m *Limited Works Allowed (DCP 22)*
- Proposed Actual Green Buffer
- Designated Water Course
- Location of Known Midden
- Coastal Saltmarsh (EEC)
- Swamp Oak Floodplain Forest (EEC)
- Swamp Sclerophyll Forest on Coastal Flood Plain (EEC)
- Wallum Froglet Habitat
- Existing Residence

Vegetation Communities

1. Pasture with Scattered Trees
2. Acacia/Melaleuca Regrowth Scrub
3. Open Forest (*Corymbia gummifera*)
4. Open Forest (*Corymbia maculata, Eucalyptus paniculata*)
5. Open Forest (*Eucalyptus microcorys*)
6. Open Forest (*Eucalyptus pilularis*)
7. Woodland (*Eucalyptus resinifera*)
8. Woodland/Open Forest (*Eucalyptus robusta*)
9. Woodland (*Eucalyptus signata*)
10. Woodland/Open Forest (*Eucalyptus umbra*)
11. Pine Forest (*Pinus eliotii*)
12. Disturbed Estuarine Vegetation
13. Casuarina Forest (*Casuarina glauca*)
14. Mangroves (*Avicennia marina*)
15. Saltmarsh (*Juncus kraussii*)
16. Rushland (*Baumea juncea*)
17. Scrub (*Melaleuca ericifolia*)
18. Paperbark Forest (*Melaleuca quinquenervia*)

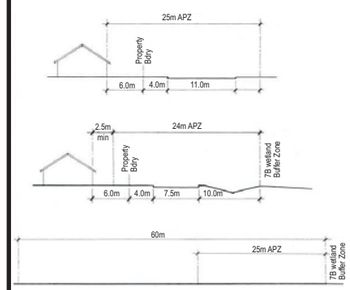


Figure 2.1

Constraints Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_jan_06		
Date:	27/01/09	Drawing size:	A3
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties - Plan R.C - 49		
Scale:			

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- wildlife corridors;
- vegetation communities;
- endangered ecological communities;
- Wallum Froglet habitat;
- aboriginal midden site; and
- existing drainage lines.

The proposed development has been designed having regard to ecologically sensitive areas. The less disturbed vegetation communities (Wetland Fringing Woodland and Forests, Wetlands) with higher habitat values are afforded a higher level of retention and protection. The development will require the removal or modification of proportions of threatened species habitats within the more disturbed terrestrial open forest and woodland communities (Conacher Environmental Group, 2008b).

Careful consideration has also been given to the Coastal Design Guidelines and the feedback received during and following the Design Forum held in February 2006 in the preparation of the Concept Plan and Project Application.

2.2 *VISUAL IMPACT*

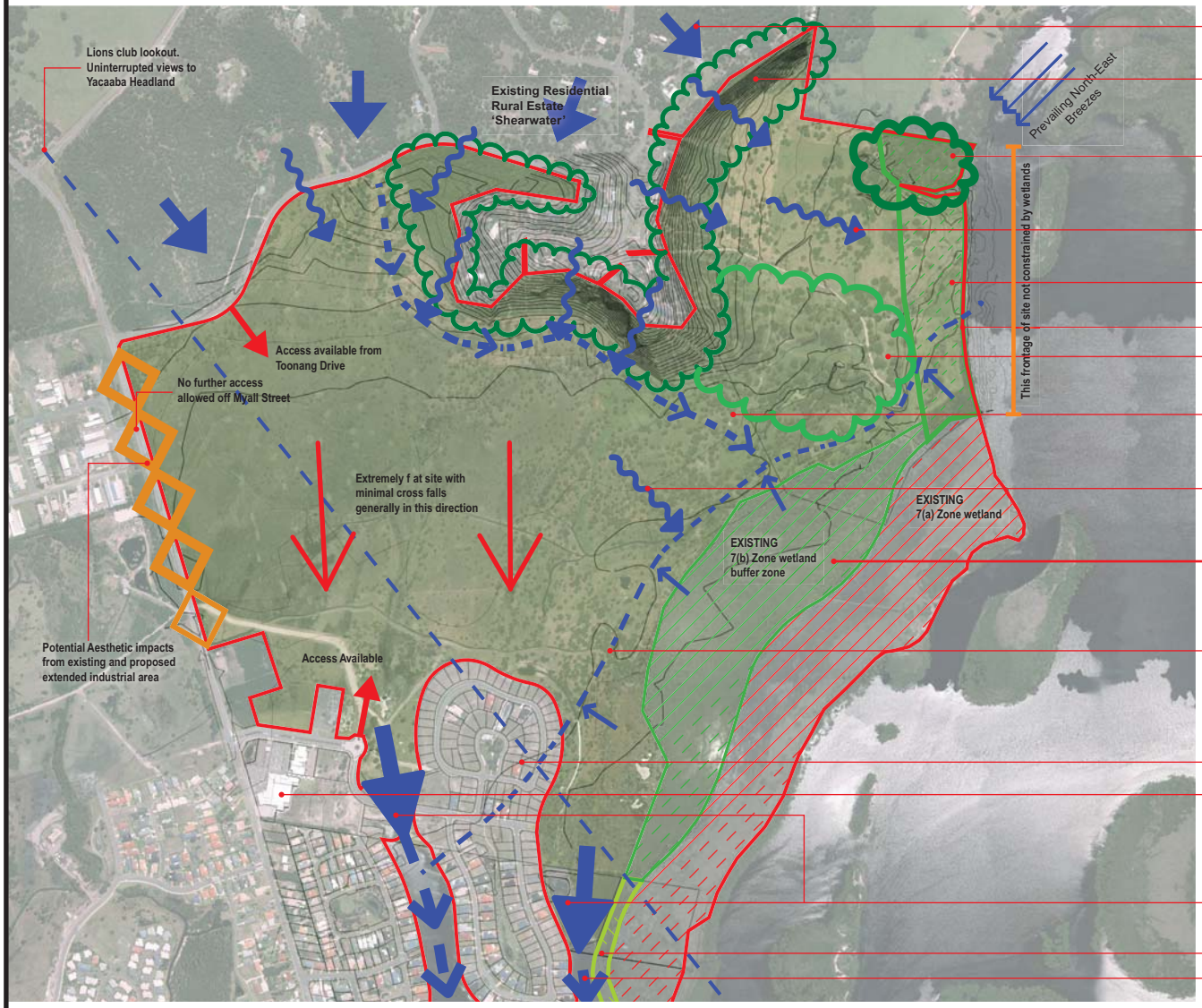
Tea Gardens is distinctive in terms of its high amenity and small scale development, reminiscent of a holiday town.

The site is flat and vacant. Most of the site was previously used for a pine plantation and has been substantially cleared of native vegetation. Some scattered isolated occurrences of both pines and native trees currently exist on the site. It has a long frontage (over one kilometre) to Myall Street, which is the main entrance to the township of Tea Gardens.

When approaching Tea Gardens from the north there is a spectacular view from the top of the ridgeline along Myall Street towards Yacaaba Head. The site comprises the middle-ground view from the public lookout at Elourera Park and when driving over the ridgeline (refer to *Figure 2.2*). Motorists have passing views of the site as it is adjacent to the Myall Street.

The land rises sharply to the north of the site. This land accommodates the North Shearwater Estate, which is characterised by low density residential properties that are occupied by dwellings in a bushland setting. West of this Estate is Elourera Park.

Land opposite the site on the west side of Myall Street is either vacant or occupied by industrial development. This land is also flat and was originally



Legend

Riverside at Tea Gardens Site Boundary

Figure 2.2

Site Analysis Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_07		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties - Plan R.C - 02		
Scale:	Refer to Scale Bar		

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part of a pine plantation so there are some surviving pine trees and a few natives.

The site also has a two kilometre frontage to the Myall River. The majority of this is along the SEPP 14 Wetland. The views from the Myall River to the site are largely of the vegetated wetland and adjacent conservation area. The concept plan provides for the establishment of a mixed tourist / residential development in the north east of the site, adjacent to the Myall River.

Following inspections of the site and surrounds a number of locations were identified as potentially sensitive viewer locations, namely the public lookout at Elourera Park and Myall Street and the Myall River adjacent to the tourist / residential precinct.

Photomontages of the Riverside development have been prepared for the following viewpoints:

- from a view point at the lookout overlooking the site which is on the main transport route for traffic from the Pacific Highway into Tea Gardens; and

- from a view point on the Myall River overlooking the proposed tourist / residential precinct in the north east of the site.

The photomontages are provided in *Figure 2.3.* The Riverside development will be visible to motorists from the eastward approach as is the rest of the existing Tea Gardens township, with the view largely being dwelling roofs interspersed by vegetation canopies and open space corridors from this elevated viewpoint.

The views of the site from the dwellings on the south side of Toonang Drive are obscured by vegetation. The views from the dwellings on the north side of Toonang Drive, immediately opposite the site do not have a direct view of the site as they are either orientated away from the site or obscured by dense vegetation.

The view of the site from the residences along Toonang Drive north of the site is limited and will be obscured by the distance created by the extension of the existing water body and future landscaping as well as existing dense vegetation (refer to *Figure 2.2*).

Whilst the dwellings along Windward Circuit have existing views over the development site, this will not be the case in the future as dwellings will be built on the opposite side of that road (refer to *Figure 2.2.).*

Land opposite the site on the west side of Myall Street is either vacant or occupied by industrial development. These are not considered sensitive receptors.

The proposed tourist / residential precinct in the north east of the site will be visible from the Myall River. However these views are obscured by existing vegetation.



Photograph 1

Photomontage at the look out overlooking the site.



Photograph 2

Before photo of proposed tourist/residential precinct in north east section of the site from the Myall River.



Photograph 3

Photomontage of proposed tourist/residential precinct.

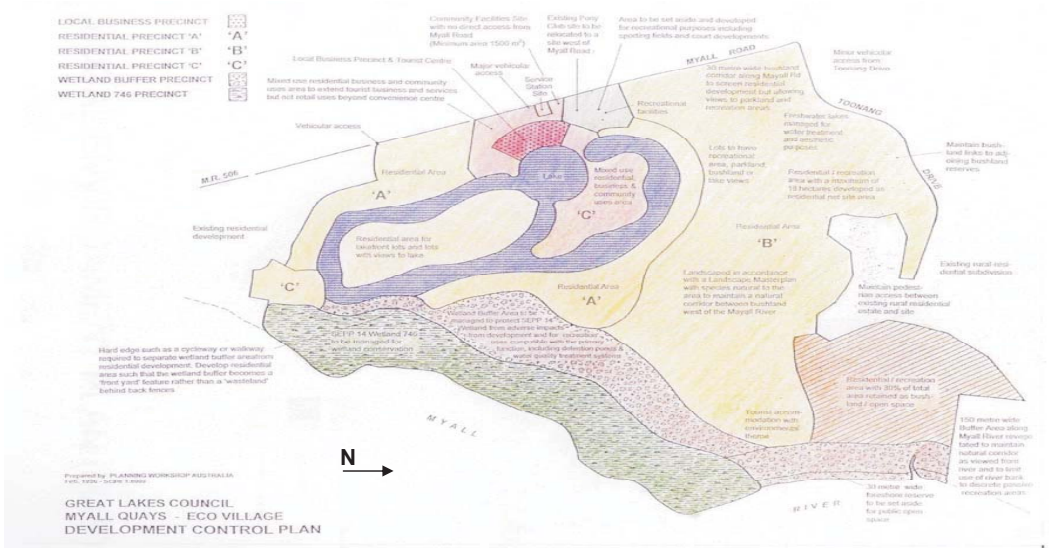
Figure 2.3

Photomontages of Riverside Site

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_nov_08		
Date:	10/11/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	-		
Scale:	-		

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Development Control Plan

The DCP gazetted in 2000 identifies the following precincts:

Local Business Precinct

Local business precinct and tourist centre.

Residential Precinct A

Residential Area

Residential Precinct B

30m wide bushland corridor along Myall Road to screen residential development but allowing views to parkland and recreation areas.
Freshwater lakes managed for water treatment and aesthetic purposes.
Lots to have recreational area, parkland, bushland or lake views.
Residential / recreation area with a maximum of 18ha developed as residential net site area.
Landscaped in accordance with a landscape masterplan with endemic species to maintain a natural corridor between bushland west of the Myall River.
To provide a 100 m wide east / west wildlife movement corridor.

Residential Precinct C

Mixed residential, business and community uses area to extend tourist business and services but not retail uses beyond convenience centre.
Community facilities site with no direct access from Myall Road (minimum area 1,500 m^2).
Major vehicular access.
Service station site.
Existing pony club to be relocated to a site west of Myall Road, with this area to be set aside and developed for recreational purposes including sporting fields and court development.
Minor vehicular access from Toonang Drive.
Maintain bushland links to adjoining bushland reserves.
Maintain pedestrian access between existing rural residential estate and project site.
Tourist accomodation with environmental theme.

Wetland Buffer Precinct

Wetland buffer area managed to protect the SEPP 14 wetland from adverse impacts from development and for recreation uses compatible with the primary function, including detention ponds and water quality treatment systems.
30m wide foreshore reserve to be set aside for public open space.
Cycleway or walkway to separate buffer from residential area.

Wetland 746 Precinct

SEPP 14 wetland 746 to be managed for wetland conservation.

The two DCP maps opposite depict the project location and a comparison of the lastest and original can be made.

Figure 2.4

Great Lakes Council-Myall Quays Eco Village Development Control Plan Precinct and Alternative Residential and Golf Course Development

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_09		
Date:	26/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties		
Scale:			

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The Concept Plan has been designed in response to unique features, both internal and external to the site, so that it is linked to the landscape. Open space corridors have been created along view lines from the public lookout to the headlands. Tree planting and a network of water bodies along the open space corridors will enhance the view lines. The internal north-south streets have been aligned the view lines to create a layered view comprising parks, dwellings and the volcanic peaks which form the headlands to Port Stephens.

The design and layout of the estate has been further enhanced by the selection of native vegetation and designated setbacks from Myall Street.

The site will also be visible from the surrounding waterways. Riverside has been designed to reduce the visual impact from the waterway by providing appropriate buffer zones which will be generously landscaped. Further, the Landscape Design Report has recommended a variety of edge treatments to reduce the visual impact of the proposal.

2.3 CONSIDERED ALTERNATIVES

In 2002 Crighton Properties began the process of seeking approval to develop a substantial portion of this site for residential purposes and for a nine hole golf course and tourist facilities. This proposal which differs from the current proposal was developed in accordance with the Great Lakes Council Myall Quays - Eco Village Development Control Plan. *Figure 2.4* identifies the DCP vision and the other development alternatives.

The above proposal involved the extension of the Myall Quays development including additional housing, commercial, sporting and tourist facilities on the remaining 179 ha of the site. The strategy included additional stormwater detention basins and state of the art rainwater harvesting strategies to support water reuse on approximately 600 new residential lots as well as a nine hole golf course.

The Tea Gardens and Hawks Nest urban areas at the time of the Myall Quays L.E.S. (1991) had the capacity to accommodate about 600 and 1,300 new residential lots respectively. It was determined that the proposed project site could accommodate about 1,000 dwellings together with tourist developments, which would represent a significant development element in the local context. The identification of additional urban development potential saw the proposal redesigned in 2003 to better represent the local context, changing trends and state of the art residential land use needs of the Tea Gardens/ Hawks Nest area. Three (3) major factors were identified which lead to the original proposal being modified to its current form:

Existing Infrastructure

Hawks Nest currently has an 18 hole golf course and there is a nine hole golf course proposed in North Hawks Nest. Therefore there was likely to be little or no demand for a nine hole golf course at Riverside, Tea Gardens.

Planning Context

The Department of Planning (DoP) identified that the local context of the Tea Gardens/ Hawks Nest area had changed significantly since the initial proposal and residential land was identified as being in short supply. The proposed use of residential land for a nine hole golf course within 100 metres of a proposed district shopping centre was seen as an inefficient use of residential land. The resultant low density residential development was not considered in the local community's best interests.

Whilst this redesign process was being undertaken, Great Lakes Council released a housing strategy which identified a new housing density requirement in order to address the demand for housing within the area. A residential density of 13 dwellings per hectare for new residential areas would be required in all future developments. Given that approximately 300 lots had already been developed from the site, the residual (600) residential dwellings and a golf course would not have met the residential density requirement stipulated by Council. The proposal was amended and currently achieves the required residential densities.

Environmental Constraints

The proposed golf course would have been a heavy user of water resources. This significant use of water was not seen as the most appropriate use of local resources nor was it seen as presenting an environmentally appropriate design for the local area. The golf course would have also required the use of chemicals and pesticides to maintain the course. The location of a golf course in such close proximity to Myall River, the adjoining SEPP 14 Wetlands, and the existing artificial lake (within the Myall Quay's precinct on the site) would have increased the risk of chemicals and pesticides used on the golf course entering the water treatment system. It was therefore determined that an alternative design was required which provided a more appropriate response to the environmental context of the local area.

2.4 DESIGN PRINCIPLES AND VISION

The design approach is based on the outcomes of design forum and principles of traditional neighbourhood design. The overarching principles that emerged from the design forum serve as aims of the concept plan. The principles are to:

- preserve the character of this (Tea Gardens) iconic town;
- reinforce the unique community spirit town of self helpers; and
- protect and enhance natural assets.

The principles of traditional neighbourhood development (TND) incorporate:

- walkable neighbourhoods, in which the neighbourhood is limited in size so that the majority of the population is within a five minutes walk of its centre;
- connected networks whereby thoroughfares are designed so that there are alternate routes to most destinations, thereby promoting greater permeability;
- a mix of buildings and uses to integrate a range of housing types and work places;
- quality open space in the form of specialised plazas, squares, playgrounds and parks; and
- community buildings such as recreation facilities, meeting rooms and the like, that are located within open spaces or at the termination of important views to serve as important land marks.

The incorporation of these principles into the concept plan is described further in the next sections.

2.5 BUILT ENVIRONMENT

Riverside will be a combination of traditional housing lots and smaller lots, with at least ten percent of the lots less than 450 square metres in area, in accordance with Council's adopted Housing Strategy. The development will achieve a net density of at least 13 dwellings per hectare across the site, in accordance with Council's adopted Housing Strategy. The different lot sizes and house types provided for in the Riverside development are detailed within Drawings R.C. -11 to R.C. – 14 and R.C. -43 to R.C-48 within the Concept and Project Application Plans provided in *Volume 2*.

In line with Council's Housing Strategy, all proposed buildings will be low density, detached or semi detached and restricted to a maximum height of 9 metres. These building controls combined with streetscape planting will create a low impact, natural coastal living environment.

The concept plan includes tourism facilities and residential development in the north east portion of the site. This precinct includes larger lots able to retain existing trees amongst the lodges and dwellings.

The development of Riverside provides a unique opportunity to formulate architectural and landscape design guidelines that will assist property owners to construct homes which are both distinctive and innovative and will provide the occupiers with enhanced privacy and comfort.

The primary reasons for wanting to effect more control over building activities in Riverside are:

(a) to encourage the care of the environment within the estate and to foster ecologically sustainable design to alleviate escalating Local Government costs, and to reduce the cost of energy;

(b) to preserve the design integrity and architectural quality of homes in the estate to add value to all property in the precinct;

(c) to preserve and enhance the existing landscape and the quality of the streetscape to provide the residents in the community with an environment they can enjoy and take pride in;

(d) to maintain the highest possible aesthetic standards to assist in establishing Myall Quays as the most attractive and desirable place to live on the Mid-North Coast; and

(e) to prevent any owner building a home in the estate which, because of its inappropriate design relative to the block on which it is proposed to be built, devalues the surrounding properties, causing financial damage to the neighbours (Crighton Properties, 1996).

The Design Guidelines link to the Community Association By-Laws and Management Statement. The Community Title arrangements are discussed in detail within *Section 2.12*.

In order to ensure that new developments adhere to the design guidelines a Review Committee has been established. The Review Committee, consisting of two design consultants nominated by Crighton Properties and a Director of Crighton Properties, has been established as a sub Committee to the Executive Committee of the Community Association.

The Review Committee's role is to ensure that the development preserves and protects the estate in a natural environment and maintains the concept, image and aesthetic quality of the development.

To that end no building, dwelling, accessory building, fence or other structure shall be erected, placed, demolished or altered on any lot within the community parcel until the proposed design and documentation including site plan, floor plans, elevations, together with details, specifications, external finishes and a construction programme has been approved in writing by the Review Committee (Crighton Properties, 1996).

An architectural guideline information brochure has been prepared which outlines the theme of the estate, the residential built form guidelines including

roofing, siting and massing of the residential built form, fencing heights, styles and wall colours and finishes. The brochure details the pre-lodgement requirements for the preparation of plans to be submitted to the Review Committee prior to submission with Great Lakes Local Council.

The architectural assessment has acknowledged that the extension of the existing detention basin will create a visual connection between the existing residential subdivision of Admirals Point Tea Gardens and Riverside. An Architectural Guideline has therefore been produced for Admirals Point to provide a more cohesive residential design which is consistent with Riverside. The guideline identifies the appropriated location of dwellings and their presentation to the foreshore and identifies the preferred landscape treatment of the foreshore which is to be provided and maintained by the Community Association.

The Architectural and Landscape Design Guidelines prepared by Crighton Properties also details design considerations for energy efficiency, water conservation, lighting and open space design. The details of the design requirements are within *Annex D* of *Volume 1.*

2.6 STREETSCAPE

Street Type and Streetscape

The design approach is based on the outcomes of consultation with the community and principles of traditional neighbourhood design. The street type and layout design incorporates a street hierarchy to provide streets that fulfil their designated functions and create a legible, safe and attractive environment (refer to Concept and Project Application Plans R.C. -36 to R.C. -42 within *Volume 2*).

The new entry street from Myall Street is a four lane divided road, which will feature an attractive tree lined avenue as an entrance to the development. The street types have sufficient reservation widths to accommodate public utility services, landscaping and footpaths where appropriate.

The street network supports the provision of a public transport route with the main street having sufficient pavement width to cater for buses and the layout allowing buses to service the site, via a loop route, without having to double back on themselves.

The internal arrangement provides for six separate new connections to the existing road network with two to Toonang Drive, one to Myall Street, two to Shoreline Drive and one to Myall Quays Boulevard.

A comprehensive street planting scheme has been developed to add colour and softness to the built form. The following figures include proposed planting to be incorporated within each street type.

Pedestrian and Cycle Circulation

Walkability and cycle access is a key feature of the development of the site, with a cycle / pedestrian network through the residential subdivision and integrated with the commercial centre and the wider area. The street network is designed as an environment that is equitable for the pedestrian, cyclist and motorist. The proposal includes a range of inter-connected on street and dedicated off street cycle ways and pedestrian access ways.

2.7 *MIXED TOURIST/RESIDENTIAL PRECINCT*

The Concept Plan incorporates a mixed tourist / residential precinct within the north east portion of the site. The precinct will incorporate a tourist / residential development consisting of buildings scattered within a bushland setting, supplementing the adjacent wildlife corridor and increasing fauna movement across the site. The precinct will include 50 tourist lodges (including 10 permanent residential dwellings and 40 tourist / permanent dwelling) and 15 units. Whilst subject to future design, the form of the buildings will generally be two storeys in height in keeping with Council's revised draft Housing Strategy. The layout of the tourist/residential precinct is detailed in Drawing R.C – 14 within the Concept and Project Application Plans of *Volume 2*.

2.8 *COMMUNITY FACILITIES*

Each of the residential precincts within the overall development of Riverside will have their own unique focal point and facilities. Concept approval is sought for four club houses and recreational facilities (refer to *Figure 1.3*). The club houses are proposed to provide entertainment, recreation, health and small business support amenities. Project approval is sought for one of the club houses, located within Precinct 1, as detailed within Drawings R.C. -32 to R.C. -35 within *Volume 2*. Separate applications will be lodged for the remaining three club houses in conjunction with the development of those stages.

2.9 *RECREATION FACILITIES*

A Recreation Study has been prepared (ERM, 2008d) to assess the existing provision of, and future demand for active recreational facilities within the Tea Gardens/Hawks Nest area (refer to *Volume 3* of the EA). Both Tea Gardens and Hawks Nest have extensive areas of existing public open space and have local and/or district level facilities (Great Lakes Council, 2003a and ERM 2008d). The location of the existing recreational facilities in the Tea Gardens /Hawks Nest area is illustrated in *Figure 2.5*.



Legend

1. Library/Community Centre
2. Golf Course
3. Pool
4. Myall Sports Reserve
5. Memorial Park Public Reserve
6. Pony Club Site

Figure 2.5

Existing Recreational Facilities in the Tea Gardens/Hawks Nest Area

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_10		
Date:	20/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	1:25,000 Topo Series, Port Stephens Sheet		
Scale:	Refer to Scale Bar		

N

0 500m

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ERM

The structured facilities in Tea Gardens / Hawks Nest consist of courts and fields and include the Memorial Park Public Reserve (Lot 6) in Tea Gardens and the Myall Sports Reserve (R86322) at Hawks Nest. The Tea Gardens reserve is classed as a large district field comprising four small multi-use fields, toilets and storage facilities, and is 1.2 hectares in area. The reserve in Hawks Nest is classified as large district courts and field, which is comprised of a large multi-use field, two tennis courts, one croquet court, swings, toilet facilities and a park, and is four (4) hectares in area (Great Lakes Council, 2003a).

Open space in the area has typically been provided in the following ratios:

- small parks at about 25%;
- large parks without structured facilities at about 30%;
- courts at about 15%; and
- playing fields at about 30%.

Council has provided three community facilities in the Tea Gardens/Hawks Nest area, which are:

- the Hawks Nest/Tea Gardens Community Centre in Hawks Nest;
- the Hawks Nest/Tea Gardens Preschool in Hawks Nest; and
- the Hawks Nest/Tea Gardens Branch Library.

The Hawks Nest Community Centre at 71 Booner Street (site area 1012 square metres) has a capacity to accommodate 200 people sitting and 300 people standing and provides bathroom and parking facilities (Great Lakes Council, 2003b). However, Council considers that it is inadequate to provide an acceptable level of community service (Great Lakes Council, 2003a). It is Council's strategy to construct a new consolidated community facility in Tea Gardens and adapt the existing centre for undetermined uses.

There is currently an 18-hole golf course Hawks Nest, while a community swimming pool and parking area is located in Tea Gardens adjacent to the Singing Bridge.

In addition to the above, the Tea Gardens Grange Retirement Village provides a range of community facilities built to accommodate the needs of its 285 estimated (self care) residents. These facilities include a swimming pool, a library, a croquet lawn, a billiard table, a large lounge and covered deck plus a meeting hall/and dance floor/indoor bowling area.

The proposed Hermitage Retirement Village is expected to be completed by 2011 and will include a range of facilities including: indoor swimming pool, bowling green and tennis courts. While these facilities will mainly cater for

the demands of the residents, they will also potentially reduce demand by the wider community for similar recreational facilities.

2.9.1 Tea Gardens and Hawks Nest Section 94 Contributions Plan

The Tea Gardens and Hawks Nest Section 94 Contributions Plan (Great Lakes Council, 2003a) levies residential development for six types of public facilities that provide community benefit in the area, including open space, such as parks, playing fields and courts and community facilities such as libraries and community centres.

Great Lakes Council (Council) considers that there is currently sufficient space in the large parks, courts and fields to expand facilities and that additional land would not need to be acquired until the future population reached 4123 (expected in 2011). As a consequence, Council has resolved that it will acquire land only for the provision of small parks within Myall Quays, Myall River Downs and Banksia Garden Estate, at a rate of 7.1 square metres per person (25% of Council's open space provision of 28.3 square metres per person).

The Section 94 Plan states that Council will not levy contributions to acquire land for new large parks, playing fields and courts, including those proposed in future stages of Myall Quays, because:

- existing large parks can be augmented to provide additional fields and courts for the public as the need arises;
- Council does not wish to increase its recurrent costs to maintain separate, dispersed facilities; and
- there is little reason to acquire and maintain additional land given the current high provision of open space and opportunities to use it more efficiently.

2.9.2 Additional Recreational Facilities

Council acknowledged that to accommodate the expected population growth in Tea Gardens and Hawks Nest of the magnitude predicted over the next 25 years, existing public services and facilities will need to be extended and other facilities may need to be provided (Great Lakes Council, 2003c). Council has estimated that by 2011, all community facilities (such as community halls, centres and libraries) are expected to be used to capacity (Great Lakes Council, 2003a).

Structured Open Space

Council's Section 94 Contributions Plan requires the provision of approximately 14.4 hectares of structured open space (15% courts and 30%

playing fields) (refer to the *Recreation Study* (ERM 2008d) provided in *Volume 3* of the EA).

Current development plans show 15.9 hectares of recreational land. This represents a current surplus of approximately 1.5 hectares which is carried forward if all future developments provide their full complement of open space.

The structured open space requirement for Riverside at Tea Gardens and Myall River Downs is 6.4 hectares which, in accordance with the Voluntary Planning Agreement between Crighton Properties and Great Lakes Council (refer to *Annex E* of *Volume 1* of the EA), is being provided within the Myall River Downs site (refer to *Figure 2.6*). As detailed within Table 4.2 of the Recreation Study (ERM, 2008d) (refer to *Volume 3* of the EA), an additional 4.3 hectares of structured open space is required in addition to that required for Riverside at Tea Gardens (which is required to provide 2.5 hectares) and Myall River Downs to meet the future needs for both Tea Gardens and Hawks Nest and would be recovered in section 94 contributions from North Shearwater, infill development within Tea Gardens and development within Hawks Nest. The full compliment of structured open space attributable to Riverside at Tea Gardens is to be provided at the Myall River Downs site as provided for in the Voluntary Planning Agreement (see *Annex E*).

2.10 OPEN SPACE AND LANDSCAPE DESIGN

A variety of open space typologies are provided including plazas, pocket parks and corridors. Open space corridors have been located and designed in response to the steep topography to the north of the site, overland flow paths and the high water table. The corridors are linked to create a connected system for future residents and fauna. A variety of swales, ponds and will manage water runoff.

Each of the open space area has lots that are orientated towards them providing opportunities for passive surveillance in the future. This layout will also provide an address to the open spaces, creating attractive and comfortable open spaces.

Open Space Corridors

The open space corridors have been designed as multi-function corridors that address drainage water treatment, pedestrian/cycle access, recreation and amenity (refer to Drawing R.C. -15 within *Volume 2*). The corridors have been designed in accordance with the following principles:

- maximise accessibility through the use of "soft engineering" principles, the use of batters and ramps in lieu of retaining walls to provide logical pedestrian connections. In addition, a series of small bridges will be provided where crossing of drainage lines is required;



Figure 2.6

Myall River Downs Sporting Complex Sketch

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_11		
Date:	26/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties		
Scale:			

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ERM

- maximise passive surveillance through selective planting of shrubs and a focus on the use of groundcovers and clean trunked canopy trees. In addition to sensitive landscaping the use of pedestrian lighting will be incorporated where appropriate.

- provide for drainage requirements during high flow events through the inclusion of a defined channel which will be planted with species that tolerate periodic inundation; and

- provide for separation of the private recreation and club facilities through subtle landscape solutions that integrate with the public domain landscaping (Andrews Neil, 2007).

Tenure

All parks and open space will remain under the ownership of the Community Association. The Community Association will raise funds and undertake management in accordance with the various management plans prepared for the site.

Maintenance

The landscape contractor will be responsible for the maintenance of all the landscaped areas for twelve months after practical completion has been awarded. When the twelve month maintenance period is completed the ongoing maintenance will be the responsibility of the Community Association (Andrews Neil, 2007).

2.11 STAGING

An indicative staging program is shown on Drawing R.C. -08 within *Volume 2* of the EA. A summary is provided in *Table 2.1.*

Table 2.1 Staging Program

Stage Number	Number of Lots
1	48
2	23
3	44
4	37
5	28
6	53
7	62
8	45
9	41
10	166
11	293
12	65
13	140
Total	**1,045**

2.12 COMMUNITY TITLE

The Community Title is divided into 5 precincts as shown in Drawing R.C. -09 within *Volume 2*.

The Community Management Statement is already in operation for the Riverside development and identifies the terms binding the Community Association, the Executive Committee and any future landowners with respect to the Community Scheme. The commercial precinct (Myall Quays Town Centre) will be managed under separate Community Title to the residential development. The Community Management Statements for Myall Quays and the Myall Quays Town Centre are provided in *Annex F*, within *Volume 1* of the EA.

All footpaths, cycleways, open space areas, parks and water treatment facilities outside of road reserves will be owned by the Community Association, as detailed within Drawing R.C. -09. Public access to these areas (excluding the clubhouses) will be provided and encouraged. Roads will be dedicated to Great Lakes Council.

The by-laws detailed within the Community Management Statement relate to the control and preservation of the essence or theme of the Community Scheme and therefore can only be revoked or amended by a unanimous resolution of the Community Association. The Management Statement includes the following requirements for development within the Riverside site:

- the architectural and landscape standards which outline the standards/ requirements for the design of residential development and community property;
- approvals process for the construction and/or modification of buildings or landscaping;
- outlines the responsibilities of the Community Association and Executive Committee in the control, management and maintenance of community property;
- provides regulation of fence heights, collection of garbage, car parking, the keeping of animals, TV Aerials, etc; and
- identifies the need for the Community Association to ensure that the appropriate insurances are obtained and managed for all community property.

The Community Management Statement for Myall Quays does and will continue to apply to the community land within Riverside at Tea Gardens. Alterations to the Community Management Statement are unable to be made without unanimous resolution of the Community Association, however, additional controls at the precinct level (via Precinct Management Statements)

are proposed to be implemented to restrict development within the community lands of jetties and pontoons, to overcome By Law 4.17 of the Community Management Statement, a stance which the Architectural Review Panel has maintained since its inception. The draft précis of the Precinct Management Statements for Precinct 1 is provided within Annex F of *Volume 2*. To date, the Community Association has adopted a policy of not permitting any jetty / pontoon structures to be erected on community land.

2.13 CONTRIBUTIONS

Section 94 Contributions

Section 94 of the EP&A Act enables consent authorities to levy contributions on developers towards the cost of providing local public infrastructure and facilities required as a result of development. Contributions can only be sought by councils where there is an adopted contributions plan in place.

Section 94 contributions are based on two key concepts:

- reasonableness in terms of nexus (the connection between development and demand created) and apportionment (the share borne by future development); and
- accountability both public and financial.

A Section 94 contribution can be satisfied by a dedication of land, a monetary contribution, material public benefit or a combination of all three (Connell Wagner, 2007).

The Minister, when determining an application under Part 3A of the EP&A Act, must have regard to any contributions plan that is in place pursuant to section 94D. The Minister may also have regard to any planning agreement that is being negotiated. Section 94 is the exclusive source of power for a Council to impose a condition requiring land dedication or monetary contributions, and this power must be specifically authorised by a duly adopted section 94 contributions plan ("CP"). This is an important consideration since a Council wishing to impose such conditions outside section 94 is acting out of power unless these are done under the auspices of a planning agreement (Connell Wagner, 2007).

The Connell Wagner (2007) Report identifies that the Great Lakes Council has in place an "LGA wide" section 94 Contributions Plan (Great Lakes Wide Section 94 Contributions Plan) and a specific Contribution Plan for the Tea Gardens/Hawks Nest area (Tea Gardens & Hawks Nest Section 94 Contributions Plan). These provide details of the various facilities that the Council intends to provide to cater for population growth.

The LGA wide Contributions Plan has an effective life to 2009/2010 and includes provision for the following public facilities:

- library facilities;
- rural fire fighting facilities; and
- administrative building (Connell Wagner, 2007).

The Tea Gardens/Hawks Nest Plan has an effective life to 2010/2011 and includes provision for the following:

- open space, such as parks, playing fields and courts;
- cycleways;
- community facilities such as libraries and community centres;
- surf life saving facilities; and
- upgrading the road network to accommodate increases in traffic (Connell Wagner, 2007).

Voluntary Planning Agreement

Recent planning reforms have widened the gambit of the contributions system to include new provisions under Section 93 and Section 94A of the EP&A Act, which provide greater flexibility as to the means of levying a contribution. The amendments provide for the following methods of funding local infrastructure by a consent authority through:

- Section 94 contributions;
- Section 94A levy; and
- Planning Agreements (Connell Wagner, 2007).

Provisions for planning agreements have been codified under section 93 of the EP&A Act. Planning agreements are intended to be voluntary and can be entered into as part of the rezoning or development approval process. Planning agreements may be directed towards achieving the following:

- meeting the demands created by development for new public infrastructure, amenities and services;
- securing off-site planning benefits for the wider community;
- compensating for loss of or damage to a public amenity, service, resource or asset by development through replacement, substitution, repair or regeneration; and

- meeting the recurrent costs of facilities and services (Connell Wagner, 2007).

A planning agreement may provide for a monetary contribution, land dedication, or material public benefit towards a public purpose (which is widely defined). A planning agreement may also wholly or partly exclude the application of Section 94 or Section 94A of the EP&A Act.

The planning reforms provide Crighton Properties with the opportunity to facilitate their contributions for future demands through a Voluntary Planning Agreement. The development of Crighton Properties holdings including Riverside and Myall River Downs is expected to occur over a 20 year period which is not adequately facilitated by the Great Lakes Council Contribution Plans. A Voluntary Planning Agreement (VPA) has therefore been prepared to provide appropriate contributions to the public and satisfy future development needs generated through the development of Crighton Properties holdings.

A Voluntary Planning Agreement (VPA) has been prepared jointly by Crighton Properties and Great Lakes Council (see *Annex E*) to facilitate development contributions towards a range of public facilities in the Tea Gardens locality, which is subject to approval by the Minister for Planning under Part 3A of the EP&A Act 1979. The Agreement becomes operational from the date it is signed by both parties and relates to the Part 3A application which will enable the development of 381 home sites, in addition to four super lots within the commercial precinct, as well as a range of water management devices and infrastructure provisions including a private clubhouse as part of the Project Application, and a further 599 residential home sites, 65 tourist home sites as well as a range of water management devices and infrastructure provisions including three further private clubhouse sites as part of the Concept Plan. The VPA will span the life of the project and provides flexibility in the future should the development concepts change or demands for specific public infrastructure or services fluctuate.

The specific development contributions are provided either through monetary contribution, land dedication, upgrading of street networks and/or other works in kind. The specific details of the contributions and the obligations of the signatory parties are outlined within the *Voluntary Planning Agreement* (refer to *Annex E*).

3 STATUTORY REQUIREMENTS

This chapter sets out the relevant Commonwealth, State, regional and local statutory requirements that relate to the proposal.

3.1 COMMONWEALTH LEGISLATION

3.1.1 Environmental Protection and Biodiversity Conservation Act, 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) requires the approval of the Commonwealth Minister for the Environment for actions that may have a significant impact on matters of national environmental significance. The EPBC Act also requires Commonwealth approval for certain actions on Commonwealth land. Matters of national environmental significance under the Act include the following:

- World Heritage Areas;
- national heritage places;
- Ramsar wetlands of international importance;
- threatened species or ecological communities listed in the EPBC Act;
- migratory species listed in the EPBC Act;
- Commonwealth marine environment; and
- nuclear actions.

From an assessment of the Riverside at Tea Gardens site it was concluded that the proposal would not have any impact on matters of national environmental significance. The site is not in a world heritage area; is not a national heritage place; does not contain Ramsar wetlands of international importance nor a Commonwealth marine environment; and the proposal is not a nuclear action nor does it have a significant impact on migratory species listed in the EPBC Act or threatened species or ecological communities listed in the EPBC Act (refer to ecological assessment in *Volume 3*). Therefore, referral to the Commonwealth Minister for the Environment is not required.

3.2 PROVISIONS OF RELEVANT STATE ACTS

3.2.1 Environmental Planning and Assessment Act 1979

The relevant state planning legislation for NSW is the *Environmental Planning and Assessment Act 1979* (EP&A Act). The EP&A Act institutes a system of environmental planning and assessment in NSW and is administered by the Department of Planning (DoP).

The EP&A Act contains three regimes which impose requirements for planning approval:

- Part 3A provides for the assessment of development that is defined as a 'major project'; or
- Part 4 of the EP&A Act provides for the control of 'development', which requires development consent or is prohibited under an environmental planning instrument; or
- Part 5 of the EP&A Act is used where a proposal does not require development consent and its environmental impacts must be assessed as an 'activity'.

This development is declared a major project under State Environmental Planning Policy (Major Projects). The Minister for Planning is the consent authority for the project.

This Environmental Assessment report considers the likely impact of the project on the environment and has been prepared in accordance with Clause 75(F) of the EP&A Act.

Under Clause 75(R) of the EP&A Act, environmental planning instruments (EPIs) (other than State Environmental Planning Policies) do not apply to a 'Major Project'. A discussion of the applicable State Environmental Planning Policies (SEPPs) to the proposed development follows. Pursuant to clauses 75J (3) and 75O (3), the Minister may still take into account the provisions of any environmental planning instruments that may apply to the site.

Pursuant to Clause 75U of the EP&A Act, authorisation for a Part 3A approved project is not required under Part 4, section 139 or Division 8 of Part 6 of the *Heritage Act 1977*, section 87 or a consent under section 90 of the *National Parks and Wildlife Act 1974*, section 12 of the *Native Vegetation Act 2003*, Part 3A of the *Rivers and Foreshores Improvement Act 1948*, section 100B of the *Rural Fires Act 1997* and section 89, section 90 or section 91 of the *Water Management Act 2000*.

The consistency of the project to the objects of the EP&A Act is detailed in *Table 3.1*.

Table 3.1 Compliance with the relevant objects of the NSW Environmental Planning and Assessment Act 1979

Object	Proposal/Comment
To encourage:	
the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;	The design and layout of the proposed development was determined through an overlaying process of mapping various opportunities and constraints to determine the overall building envelope and the character of the open space network. The constraints mapping identified conservation areas, specifically the Habitat Conservation Area, the SEPP 14 Wetland and the wildlife corridor which contain significant ecological communities. These areas will be largely preserved as part of this project. Community title will apply to the site, ensuring appropriate management of the public areas and facilities for the welfare of the community.
the promotion and coordination of the orderly and economic use and development of land	The proposed subdivision will be constructed and released in stages to meet residential growth demands. The design of the subdivision has maximised the use of the land in consideration of the environmental constraints of the site. The provision of residential and commercial developments within the subdivision will ensure residents have access to key services and employment.
the protection, provision and coordination of communication and utility services	Services for the subdivision will be extended off nearby existing services. The subdivision provides a variety of dwelling types (including multiple dwellings and various lot sizes), an extension of an existing adjacent commercial precinct and facilities such as community parks, open space and a clubhouse. Both passive and active recreational facilities are catered for throughout the open space and clubhouse facilities.
the provision of land for public purposes	The open space corridors and community parks proposed throughout the development provide for public use of the land. The open space areas are linked by walkways / cycleways, facilitating movement and access within and between precincts of the Riverside development and also with adjoining areas for both residents and visitors. This will provide movement paths between and within residential areas, the commercial area and other natural areas throughout the site The open space areas and the proposed clubhouse facility provide for both active and passive recreational opportunities.

Object	Proposal/Comment
the provision and coordination of community services and facilities	Riverside is well served by education and medical facilities and has access to public transport and employment areas. The development will enhance existing services and community facilities in Tea Gardens through extensions of the existing public bus route, pedestrian and cycle paths, commercial centre and the provision for home businesses. In addition to this the development will contribute to the provision of a multipurpose community function / meeting facility.
the protection of the environment, including the protection and conservation of native animal and plants, including threatened species, populations and ecological communities, and their habitats; and	The Project has identified conservation areas, specifically the Habitat Conservation Area and the SEPP 14 Wetland which contain significant ecological communities. These areas will be largely preserved as part of this project with the asset protection zone (APZs) to provide separation between the wetlands and the proposed subdivision. The wildlife corridor identified within the north portion of the site will also be managed to conserve the existing biodiversity and provide a link between the natural environments found on site. The wildlife corridor is identified on the site analysis plan submitted within Volume 2 of the EA (refer to Drawing R.C. -02).
ecologically sustainable development: • the precautionary principle; • intergenerational equity; • conservation of biological diversity and ecological integrity; and • improved valuation, pricing and incentive mechanisms.	The design and layout of the proposed development was determined through an evaluation process including the overlaying process of mapping various opportunities and constraints which identified conservation areas, specifically the Habitat Conservation Area, the SEPP 14 Wetland and the wildlife corridor which contain significant ecological communities. The layout and design of the subdivision will ensure these areas are protected, thereby minimising potential impact on these environments and conserving the values of these environments for the benefit of future generations. The proposal promotes the use of ecologically sustainable development principles by: • incorporating energy efficient subdivision design and lot size / orientation to maximise solar access; • urban design principles incorporating walkable neighbourhoods and linkages between communities; • the adoption of a total water cycle management design philosophy; • the Habitat Conservation Area and SEPP 14 wetland which will preserve significant ecological communities and provide for ecological corridors; • using engineering, architectural and other best practices to reduce development impacts; • protecting Aboriginal archaeological sites of high archaeological significance;

Object	Proposal/Comment
	• utilising existing service infrastructure; • creating opportunities for public transport usage thereby improving the efficiency of local and regional services; and • providing additional residential land to meet increasing demand.
The provision and maintenance of affordable housing	At Riverside six approaches will be implemented to encourage the provision of affordable housing, namely: • the inclusion of at least ten percent of lots less than 450 square metres, to provide housing options (substantially through the provision of duplexes); • encouraging shared use dwellings incorporating home office facilities to create affordable lifestyle opportunities; • to allow for alternative dwelling types, such as 'dual key' dwellings where areas of a dwelling can be rented out as self contained units; • allowing for an adequate supply of housing in the concept plan; • providing a subdivision design that maximises opportunities for an affordable lifestyle through the use of non motorised transport modes, accessibility of services and facilities and energy and water efficiency; and • encouraging a rental market.

3.2.2 Native Vegetation Act 2003

The *Native Vegetation Act 2003* (NV Act) commenced on 1 December 2005 and repealed the *Native Vegetation Conservation Act 1997* which previously governed the management of native vegetation in NSW.

The NV Act aims to provide flexibility and incentives for farmers to manage native vegetation, end broad scale clearing (unless it improves or maintains environmental outcomes) and encourage healthy and productive landscapes. An assessment of the proposal against the objectives of the NV Act is detailed within the Ecological Site Assessment prepared by Conacher Environmental Group (2008b), provided in *Volume 3* of the EA.

Clause 12 of the NV Act states:

"(1) Native vegetation must not be cleared except in accordance with:

(a) a development consent granted in accordance with this Act, or

(b) a property vegetation plan."

However, the NV Act does not apply to some land. Clause 5 of the NV Act states:

"(1) This Act does not apply to the following land:

(a) the land described or referred to in Part 1 of Schedule 1 (National park estate and other conservation areas),

(b) the land described or referred to in Part 2 of Schedule 1 (State forestry land),

(c) the land described or referred to in Part 3 of Schedule 1 (Urban areas)."

Urban land as defined in Part 3, Schedule 1 of the NV Act includes:

'land within a zone designated "residential" (but not "rural-residential"), "village", "township", "industrial" or "business" under an environmental planning instrument or, having regard to the purpose of the zone, having the substantial character of a zone so designated, not being land to which a property vegetation plan applies'.

Whilst the provisions of the NV Act do not apply to clearing within that part of the Riverside at Tea Gardens site zoned 2(f) – Mixed Residential-Commercial, the NV Act does apply to proposed clearing activities within the 7(a) Wetlands and Littoral Forests zone, within which a small amount of clearing is proposed in the 7(a) area to facilitate the extension of an existing drainage channel. However, section 75U(1) of the EP&A Act specifies that an authorisation referred to in section 12 of the NV Act to clear native vegetation is not required for an approved project under Part 3A of the EP&A Act.

3.2.3 Rural Fires Act 1979

The main objectives of the *Rural Fires Act 1997* are to:

- prevent, mitigate and suppress bush and other fires in NSW;
- co-ordinate bush fire fighting and bushfire prevention throughout the State;
- protect people from injury or death and property from damage as a result of bush fires; and
- protect the environment.

In accordance with section 100B(1) of the *Rural Fires Act 1997*, authorisation from the Commissioner of the NSW Rural Fire Service (RFS) is required for "*subdivision of bushfire land that could lawfully be used for residential or rural residential purposes*". This is known as a bush fire safety authority. Section 100B(2) of the Act specifies that in determining whether to provide this authorisation, the Commissioner will take into consideration the subdivision's compliance with standards regarding setbacks, provision of water supply and other matters considered by the Commissioner to be necessary to protect persons, property or the environment from danger that may arise from a bush fire.

A bush fire hazard assessment has been undertaken by Conacher Environmental Group for the Riverside at Tea Gardens site in accordance with *Planning for Bush Fire Protection* (RFS, 2006) However, it should be noted that, in accordance with section 75U of the EP&A Act, a bush fire safety authority under Section 100B of the *Rural Fires Act 1997* is not required for an approved project under Part 3A of the EP&A Act. Nevertheless, the subdivision has been designed to incorporate the recommendations of the bush fire hazard assessment in relation to asset protection zones, road design and layout, location of water supply and selection of landscaping species. The bush fire hazard assessment report has also made a number of recommendations which have been included in the statement of commitments. The bush fire hazard assessment is provided in *Volume 3*.

3.2.4 Marine Parks Act 1997

The *Marine Parks Act 1997* (MPA 1997) makes provision for the declaration of marine parks. The objects of the MPA Act are:

'*(a) to conserve marine biological diversity and marine habitats by declaring and providing for the management of a comprehensive system of marine parks,*

(b) to maintain ecological processes in marine parks,

(c) where consistent with the preceding objects:

(i) to provide for ecologically sustainable use of fish (including commercial and recreational fishing) and marine vegetation in marine parks, and

(ii) to provide opportunities for public appreciation, understanding and enjoyment of marine parks'.

The Port Stephens – Great Lakes Marine Park was declared effective from 1 December 2005. The Port Stephens – Great Lakes Marine Park (PSGLMP) covers an area of approximately 98, 000 hectares and includes offshore waters to the 3 nautical mile limit of state waters between Cape Hawk Surf Life Saving Club and Birubi Beach Surf Life Saving Club and all estuarine waters of Port Stephens and the Karuah River, the Myall River, Myall and Smiths Lakes and all of their creeks and tributaries to the line of tidal influence. Four types of zones are used within marine parks with various uses permitted within each zone. The four zones are: sanctuary zones, habitat protection zones, general use zones and special purpose zones. The Myall River adjoining the site is within the general use zone. This zone permits the widest range of commercial and recreational fishing activities. To the south of the site, in the vicinity of Wallis Island, a habitat protection zone has been identified. To the north of the site a sanctuary zone has been nominated for part of the Myall River. Most commercial and recreational fishing activities are prohibited in the sanctuary zone and limited activity is permitted in the habitat protection zone.

While the MPA 1997 does not contain specific requirements in relation to land based development the objects relate to conserving marine biological diversity and habitats. In this regard, the development of the site should not result in adverse impacts on the marine environment (this is also a requirement under SEPP 71). The key issue with respect to the proposed development and potential impact on the marine park relates to the management of stormwater drainage. Stormwater management and water quality control has been the subject of exhaustive studies to ensure negligible impacts on the marine environment. The Marine Park Authority has been consulted and advised that they had no interest in development above the Mean High Water Mark and that the existing man made water quality lake does not form part of the gazetted Port Stephens Marine Park. Stormwater management strategies are detailed in *Volume 3*.

3.2.5 Threatened Species Conservation Act, 1995

Schedules 1, 1A and 2 of the *Threatened Species Conservation Act 1995* (TSC Act) list species, populations or ecological communities of native flora and fauna considered to be threatened in New South Wales. The status of threatened species, populations or ecological communities listed in Schedules 1, 1A and 2 have been determined by a Scientific Committee as either:

- Endangered (Schedule 1);

- Critically Endangered (Schedule 1A); or
- Vulnerable (Schedule 2).

Section 5A of the EP&A Act specifies that for the purposes of the Act, and in particular the administration of sections 78A, 79B, 79C, 111 and 112 of the Act, in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats, seven factors must be taken into account along with any assessment guidelines. This assessment is referred to as the 'assessment of significance'.

Where a proposal is likely to significantly affect critical habitat of a threatened species, population or ecological community, or is in critical habitat, as defined by Part 3 of the TSC Act, a species impact statement must be prepared to accompany the development application.

Section 5A of the EP&A Act does not apply to projects assessed under Part 3A of the EP&A Act. However, an assessment of the impact of Riverside at Tea Gardens on threatened species, populations and ecological communities has been undertaken and is provided in *Volume 3*. The assessment concluded that the proposed development would not have a significant adverse impact on any threatened species, populations or ecological communities.

3.2.6 Fisheries Management Act, 1994

The *Fisheries Management Act 1994* includes provisions to declare and list threatened species of fish and marine vegetation, endangered populations and ecological communities, and key threatening processes. These provisions are similar to those in the TSC Act and must be considered when referring to section 5A of the EP&A Act. An assessment of the potential impact of the development of the Riverside at Tea Gardens on threatened aquatic fauna and their habitat has been undertaken. The assessment concluded that the proposed development would not have a significant adverse impact on any threatened species, population or ecological communities. The full report is provided in *Volume 3*.

3.2.7 Protection of the Environment Operations Act 1997

Section 55 of the *Protection of the Environment Operations Act 1997* (POEO Act) provides for the licensing of scheduled activities. Schedule 1 of the POEO Act identifies the thresholds for scheduled activities. Clause 19 of Schedule 1 identifies extractive activities as a scheduled activity if it meets the following criteria:

'Land based extractive activity	*involves the extraction, processing or storage of more than 30,000 tonnes per year of extractive materials*
Water based extractive activity	*involves the extraction of more than 30,000 cubic metres per year of extractive materials'*

Clause 19 of Schedule 1 identifies two types of extractive activities, being:

*'**land based extractive activity**, meaning the extraction, processing or storage of extractive materials, either for sale or re-use, by means of excavation, blasting, tunnelling, quarrying or other such land based methods.*

***water based extractive activity**, meaning the extraction of extractive materials, either for sale or re-use, by means of dredging or other such water-based methods.'*

Extractive materials under the POEO Act are defined as:

'clay, sand , soil, stone, gravel, rock, sandstone or similar substances that are not minerals within the meaning of the Mining Act 1992'.

The proposed extraction of material for the construction of the water detention lake, basins and ponds and the extension of an existing channel is consistent with the definition of an extractive activity under the POEO Act. However, the issuing of an Environment Protection Licence is not considered to be required nor justified in this instance based on the following:

- extracted material will not be sold for economic gain. The majority of the extracted material will be subject to reuse throughout the site for filling and shaping in areas where fill material is required, for the construction of the east / west drainage branch, diversion bank, earth mounds for noise mitigation, and shaping of landscaped areas;

- a small quantity of excess topsoil generated, approximately 38,000m^3 (after on site filling and shaping) will be stockpiled for future use by Great Lakes Council on the site of the future sporting complex located on the western side of Myall Street subject to availability. The future sporting complex site will be dedicated to Great Lakes Council and developed into a valuable community asset to meet the needs of the future population of Tea Gardens. The dedication of the sporting complex to Great Lakes Council (Council) is a condition of the draft Voluntary Planning Agreement between Crighton Properties and Council which will ensure the provision of appropriate recreational facilities. The topsoil referred to above has been offered to Great Lakes Council for its use on the recreational field site free of charge, subject to availability; and

- construction works associated with the water detention lake, basins and ponds and the extension of an existing channel will be limited to Stage 1 of the Riverside at Tea Gardens development and will not be an ongoing activity. The timeframe for construction of these water management devices and is estimated to be between four and 26 weeks.

Given the short term nature of the proposed extractive activities, the end use of the material being for disposal / dispersal for works associated with the Riverside at Tea Gardens development and in light of the material not being sold, extractive activities associated with the construction of the water detention lake, basins and ponds and the extension of an existing channel are not considered to be activities for which an Environment Protection Licence

should be required. The potential environmental impacts associated with the construction activities will be managed in accordance with the Construction Environmental Management Plan for the Riverside at Tea Gardens development as detailed in *Volume 3* of the EA (ERM, 2009).

3.3 STATE PLANNING POLICIES, LEGISLATION AND GUIDELINES

3.3.1 State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 (SEPP (Major Projects)) is the principal instrument for nominating projects to be determined by the Minister for Planning under Part 3A of the EP&A Act. Clause 6 of SEPP (Major Projects) identifies Part 3A projects, which includes a project:

"*(a) that is described in Schedule 1 or 2…"*

Schedule 2 Clause 1(i) includes *"subdivision of land in a residential zone into more than 25 lots …"*in the coastal area. The concept plan for the proposed development provides for more than 900 lots and the project plan creates 348 lots in the coastal area, and therefore Part 3A of the EP&A Act applies. In accordance with section 75D of the EP&A Act approval from the Minister for Planning is required for a development which has been declared to be a project under Part 3A of the EP&A Act.

The Minister has confirmed that the development of the Riverside at Tea Gardens site is considered to be a major project under Part 3A of the EP&A Act as specified in the Major Projects SEPP.

3.3.2 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy No 11 – Traffic Generating Development (SEPP 11) was repealed on the 1st January 2008. The planning provisions previously within SEPP 11 have been updated and incorporated into *State Environmental Planning Policy (Infrastructure) 2007*, which came into effect on the 1st January 2008. Schedule 3 of the Infrastructure SEPP outlines the planning requirements for traffic generating development and identifies the following requirements for the subdivision of land based on size and / or capacity:

- site with access to any road: *200 or more allotments where the subdivision includes the opening of a public road*; or
- site with access to a classified road or to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road): *50 or more allotments.*

The Riverside at Tea Gardens development will result in the creation of greater than 200 allotments and will include the construction and dedication of public roads to service the development. The provisions of the Infrastructure SEPP therefore apply to the development and in accordance with Clause 104 of the Infrastructure SEPP, the application is required to be referred to the NSW Roads and Traffic Authority. A Traffic Impact Assessment has been undertaken for the development and is located within *Volume 3*.

3.3.3 State Environmental Planning Policy No 14 – Coastal Wetlands (SEPP 14)

State Environmental Planning Policy No 14 (SEPP 14) – Coastal Wetland No. 746 adjoins the Myall River within the eastern portion of the Riverside at Tea Gardens site. The aim of SEPP 14 is to :

'*ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.*'

SEPP 14 Wetland No 746 will be preserved and protected as a result of the proposed Riverside at Tea Gardens development. The significant ecological communities and value of the SEPP 14 wetlands, including facilitating wildlife movement will not be impacted.

Clause 7(1) of SEPP 14 states that:

"*(1) In respect of land to which this policy applies, a person shall not:*

(a) clear that land,

(b) construct a levee on that land,

(c) drain that land, or

(d) fill that land,

except with the consent of the council and the concurrence of the Director."

Clearing includes tree removal, lopping and lower storey native vegetation removal (i.e. underscrubbing). Development consent is required for such works under SEPP 14, with the exception of Part 3A applications.

Limited works associated with the extension of an existing drainage connected to the Myall River are proposed. These works are largely within land zoned 2(f), with a small section within land zoned 7(a). These works are permissible with development consent within these zones. No development is proposed within the SEPP 14 Wetland.

Clause 7(2) of SEPP 14 states that:

"*(2) In considering whether to grant concurrence under subclause (1), the Director shall take into consideration:*

(a) the environmental effects of the proposed development, including the effect of the proposed development on:

(i) the growth of native plant communities,

(ii) the survival of native wildlife populations,

(iii) the provision and quality of habitats for both indigenous and migratory species,

(iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including salinity and water quality,

(b) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,

(c) whether carrying out the development would be consistent with the aim of this policy,

(d) the objectives and major goals of the "National Conservation Strategy for Australia" (as set forth in the second edition of a paper prepared by the Commonwealth Department of Home Affairs and Environment for comment at the National Conference on Conservation held in June, 1983, and published in 1984 by the Australian Government Publishing Service) in so far as they relate to wetlands and the conservation of "living resources" generally, copies of which are deposited in the office of the Department,

(e) whether consideration has been given to establish whether any feasible alternatives exist to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development,

(f) any representations made by the Director of National Parks and Wildlife in relation to the development application, and

(g) any wetlands surrounding the land to which the development application relates and appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands."

An assessment of the impacts of the proposed channel extension works on the adjacent SEPP 14 Wetland and surrounding environment has been undertaken by Winning (2009) and is detailed within the Ecological Site Assessment (Conacher Environmental Group, 2008b) (refer to *Volume 3* of the EA) and summarised in *Sections 4.5* and *4.12* respectively.

No development is proposed within the 7(a) Wetland and Littoral Rainforest or 7(b) Conservation zones with the exception of a small area of clearing within the 7(a) zone for the channel extension. These works are outside of the SEPP 14 Wetland. 13 residential lots and a community facility including a clubhouse and surrounding active and passive recreational areas forming part

of Precinct 1 are located immediately adjacent to the 7(b) Conservation zone. The proposed development therefore is located within a sensitive coastal location and the environmental impacts to the SEPP 14 Wetland have been addressed within this EA.

The value of wetlands was assessed as part of the *Coastal Wetlands of NSW: A Survey and Report Prepared for the Coastal Council of NSW* (1985). This report identified a number of attributes and values of wetlands within NSW, including:

- functional attributes, including:
  - productivity;
  - nutrient recycling;
  - hydrological and geomorphological functions;
- provision of habitat;
- genetic diversity;
- recreational value;
- educational value;
- scientific value; and
- aesthetic value.

SEPP 14 wetlands allow for the continued growth of native plant communities and the provision of habitat for native species and populations within the intertidal estuarine environment. The SEPP 14 wetland adjacent to the Riverside at Tea Gardens development contains the attributes and values as identified in the *Coastal Wetlands of NSW* study (Coastal Council of NSW), including significant ecological communities, facilitation of habitats and corridor linkages. The SEPP 14 Wetland will be fully preserved as a result of the proposed Riverside at Tea Gardens development.

3.3.4 State Environmental Planning Policy No 44 - Koala Habitat Protection (SEPP 44)

SEPP 44 encourages the proper conservation and management of areas of vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Core koala habitat is defined as *"…an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population."* If a site is identified

as a core koala habitat a Koala Plan of Management must be prepared for the site before development consent may be granted. The SEPP does not specify that a Koala Plan of Management would be required for Part 3A Projects.

Specialist surveys for the Koala have been undertaken as part of the environmental assessment of the site (see *Volume 3*). The study found that the proposal was unlikely to impact on koalas in the Hawks Nest/Tea Gardens locality.

3.3.5 State Environmental Planning Policy No 50 – Canal Estate Development (SEPP 50)

SEPP 50 prohibits canal estate development as defined in the Policy. Clause 3 defines canal estate development as development that:

"*(a) incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and*

(b) includes the construction of dwellings (which may include tourist accommodation) of a kind other than, or in addition to:

(i) dwellings that are permitted on rural land, and

(ii) dwellings that are used for caretaker or staff purposes, and

(c) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land."

Canal estate development does not include drainage works that are *'limited to the minimal reasonable size and capacity to meet a demonstrated need for the works'*.

Several different water management options have been explored for the site and a preferred scheme involving the extension of the existing detention lake and the creation of three separated freshwater basins, in addition to a number of separate smaller water quality control ponds and basins, has been adopted as essential elements in the water treatment train.

Crighton Properties has obtained a legal opinion from Malcolm G. Craig, Q.C. regarding the applicability of SEPP 50 to the original proposed water management system. Mr Craig's opinion is that the proposed extension of the existing detention lake would not represent a canal estate development within the meaning of clause 3 of SEPP 50 and therefore would not be classified as a

prohibited development. This legal opinion is provided at *Annex G* of *Volume 1* of the EA.

Subsequent to the legal opinion obtained from Malcolm G. Craig, Q.C. the proposed water management system was revised from a singular integrated 6.0 hectare extension of the existing lake to present an extension of the existing detention lake by 2.0 ha and inclusion of three (3) separate freshwater detention ponds to cater for water quality management. The revised design of the water treatment system has been sized to the minimal reasonable size and capacity to meet drainage needs. The inclusion of the separate freshwater detention ponds has further addressed the requirements of SEPP 50 by no longer proposing drainage to flow directly to a natural waterway or natural water body. The proposed water management strategy is detailed in *Volume 3*.

3.3.6 State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)

State Environmental Planning Policy 71 – Coastal Protection (SEPP 71) aims to ensure that development in the NSW Coastal Zone is appropriate and suitably located and that there is a consistent and strategic approach to coastal planning and management. It provides a clear development assessment framework for the coastal zone.

The Riverside at Tea Gardens site is within the coastal zone. The parts of the site that are within 100 metres of the Myall River, the Port Stephens-Great Lakes Marine Park and within the SEPP 14 Wetland are defined as 'sensitive coastal locations' under SEPP 71. Part of this development occurs within Precinct 1 which proposes 13 residential allotments and associated community facilities within a sensitive coastal location, as well as the proposed channel extension works. The channel extension works are located mostly within land zoned 2(f) Mixed Residential - Commercial and partly within land zoned 7(a) Wetlands and Littoral Rainforest. The works are within 100m of the Myall River, Great Lakes Marine Park and the SEPP 14 Wetland. The proposed drainage works are permissible with consent within both the Residential 2(f) and 7(a) Wetland zones.

Part 2, clause 7(a) of SEPP 71 specifies the matters that should be taken into consideration by a council when it prepares a draft local environmental plan and when a consent authority determines a development application to carry out development on land to which the SEPP applies. *Table 3.2* identifies the aims and matters for consideration under SEPP 71 and are considered with respect to the Riverside at Tea Gardens development. Part 3 of SEPP 71 relating to significant coastal development applies to the development as the proposal involves development within 100 metres below mean high water mark of the Myall River and development is proposed within land to which SEPP 14 applies.

Part 4 relates to development control on land to which the SEPP applies and contains the following provisions:

- Flexible zone provisions of an environmental planning instrument are not to apply to development within the coastal zone.

  The proposed development is not relying on flexible zone provisions and is permissible with consent within the existing 2(f), 7(a) and 7(b) zones.

- Public access is not to be impeded or diminished to or along the coastal foreshore.

  The proposed development will not affect public access to the foreshore. There is no existing right of access over the site.

- Effluent is not to be disposed of by a non-reticulated system if it is likely to have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.

  Effluent is to be disposed of by way of a reticulated system.

- Untreated stormwater is not to be discharged into the sea or other coastal waterbody or onto a rock platform.

  Untreated stormwater will not be discharged to the Myall River. *Sections 4.3* and *4.4* detail the proposed management of stormwater associated with the development.

Part 5 relates to master plans. Clause 18 specifies that a consent authority must not grant consent for certain forms of subdivision within the coastal zone unless the Minister for Planning has adopted a master plan for the land. The proposed subdivision of the site would normally require the preparation of a master plan. However, Section 75M(4) of the EP&A Act provides that where an environmental planning instrument requires the preparation of a development control plan before a specified development may be carried out on the land, then that obligation may be satisfied by the submission and approval of a concept plan. Advice from the Department of Planning is that 'master plans' are now considered 'development control plans' so that an approved concept plan for the site will satisfy the provisions of SEPP 71 in this regard.

Table 3.2 SEPP 71 Aims and Matters for Consideration

Consideration	Comments
Part 1 Clause 2 – Aims of SEPP 71	
a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.	The development of the site for urban purposes would enhance the cultural and economic attributes of the Tea Gardens / Hawks Nest area through the appropriate provision of housing and commercial facilities. Substantial areas of the 2(f) zoned land are proposed to be protected and enhanced as open space / wildlife movement corridors, over and above those already protected within the 7(a) and 7(b) zones.
b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.	The development of the site for residential and commercial purposes would not have an impact on public access to and along the foreshore as there is no existing legal access over the property. The land adjoining the Myall River is zoned for environmental protection and is not proposed for development. The future residential subdivision and tourist development may assist in improving access to the Myall River.
c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.	Refer to above comments.
d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.	An archaeological assessment of the site was undertaken in 1991. The assessment identified two archaeological sites. A Consent to Destroy permit was issued by the National Parks & Wildlife Service for one site. The second site is located within the SEPP 14 wetlands and will not be disturbed by the proposed development.
e) to ensure that the visual amenity of the coast is protected.	The expected visual impacts associated with the use of the site for urban purposes on the amenity of the coast are expected to be negligible. Refer to *Section 3.9* for the visual impact assessment.

Consideration	Comments
f) to protect and preserve beach environments and beach amenity.	The development site is not in proximity to a beach.
g) to protect and preserve native coastal vegetation.	The impacts of the development of the site on coastal vegetation are documented in *Volume 3*. Native coastal vegetation will be protected and preserved where practicable.
h) to protect and preserve the marine environment of New South Wales.	Appropriate stormwater management measures are proposed to minimise impacts on receiving environments.
i) to protect and preserve rock platforms.	No rock platforms are located within the vicinity of the site.
j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the *Protection of the Environment Administration Act 1991*). The principles of ecological sustainable development are: i) precautionary principle; ii) intergenerational equity; iii) conservation of biological diversity and ecological integrity; and iv) improved valuation, pricing and incentive mechanisms	The proposed development seeks to maximise the site's potential whilst at the same time protecting its environmentally sensitive areas. The proposal promotes the use of ecologically sustainable development principles by: • incorporating energy efficient subdivision design and lot sizing and orientation to maximise solar access; • urban design principles incorporating walkable neighbourhoods and linkages between communities; • the adoption of a total water cycle management design philosophy; • the Habitat Conservation Area and SEPP 14 wetland which will preserve significant ecological communities and provide for ecological corridors to ensure that the ecological values of the site are conserved for the future; • using engineering, architectural and other best practices to reduce development impacts; • protecting Aboriginal archaeological sites of high archaeological significance; • utilising existing service infrastructure; • creating opportunities for public transport usage thereby improving the efficiency of local and regional services; and • providing additional residential land to meet increasing demand within the constraints of the site, as detailed in *Section 2.1*..

Consideration	Comments
k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.	Architectural guidelines have been prepared to ensure that the natural and scenic quality of the area is protected. The proponent has conducted design forums with the community as part of the preparation of the guidelines.
l) to encourage a strategic approach to coastal management.	The site is identified in Council's Conservation and Development Strategy as suitable for residential development.
Part 2 Clause 8 – Matters for Consideration	
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	There is no existing public access to the foreshore for pedestrians or persons with a disability. Access could be provided to the proposed conference/clubhouse facility and boat berthing basin at the north east corner of the site.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Opportunities to provide public access to the foreshore for pedestrians would be problematic given the wetlands in this area, however the project proposes the construction of footpaths adjacent to the wetland buffer land and the Foreshore Park within the northern portion of the site to facilitate access to the foreshore areas, whilst ensuring appropriate protection of areas of ecological value.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area.	A number of environmental assessments have been carried out over the site that have identified the site's opportunities and constraints as detailed within *Section 2.1*. The proposed development is an extension of the existing Riverside Estate and will complement existing development in the area.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The development of the site for residential and commercial purposes is a sufficient distance from the Myall River and of a low scale such that it would not affect the amenity of the coastal foreshore.

Consideration	Comments
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The expected visual impacts associated with the use of the site for residential and commercial purposes have been assessed and are considered to be minor.
(g) measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats.	The impacts of the proposed development on flora and fauna are addressed in *Section 4.12*. The Ecological Impact Assessment (including threatened species assessment) is provided in *Volume 3* of the EA.
(h) measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats.	The proposed development will not impact on fish and marine vegetation. Refer to the ecological assessment and stormwater management assessment contained in *Volume 3*.
(i) existing wildlife corridors and the impact of development on these corridors.	Refer to the ecological assessment in *Volume 3*. The proposal will not impact on identified wildlife corridors and incorporates corridors to link into the existing system.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The site is not affected by coastal processes or hazards.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal would not result in any conflict between land-based and water-based coastal activities as the proposed development is located a sufficient distance from the coastal foreshore.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The proposal will not impact on any known cultural places, values, customs, beliefs or traditional knowledge of Aboriginal people.
(m) likely impacts of development on the water quality of coastal waterbodies.	The likely impacts associated with the proposed use of the site for residential and commercial purposes on the quality of ground and surface water has been assessed and considered to be acceptable. Refer to *Sections 3.2* and *3.6*.

Consideration	Comments
(n) the conservation and preservation of items of heritage, archaeological or historic significance.	No items of archaeological or historic significance will be impacted by the proposed development. Refer to cultural heritage assessment in *Volume 3*.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable to this site.
(p) only in cases in which a development application in relation to proposed development is determined:	
(i) the cumulative impacts of the proposed development on the environment.	The cumulative impact of the concept plan and project application of the proposal on the environment is set out in Chapter 4. The assessment has concluded that the proposal will have acceptable impacts on the environment.
(ii) measures to ensure that water and energy usage by the proposed development is efficient.	Residential development on the site will comply with BASIX requirements.

3.3.7 New South Wales Coastal Policy 1997

The *NSW Coastal Policy 1997* is a guide for land use decision making in the designated coastal zone. It recognises that the coast is the focus of intense pressures from human activity and that there is a large range of competing interests for its resources. A decision making approach based on ecologically sustainable development seeks to reconcile these competing interests. The *NSW Coastal Policy 1997* aims to:

- protect, rehabilitate and improve the natural environment;
- protect and conserve cultural heritage;
- provide for public access and use;
- recognise and accommodate natural processes;
- provide for ecologically sustainable development and use of resources;
- provide information to enable effective management;
- protect and enhance aesthetic qualities;
- provide for ecologically sustainable human settlement; and
- integrate planning and management.

The *NSW Coastal Policy 1997* discourages the development of land with high conservation value or other constraints where development would not be consistent with the aims of the policy. The aims of the Policy are similar to those of SEPP 71. The proposal is consistent with the aims, principles and goals of the *NSW Coastal Policy 1997*, as detailed in *Table 1* within *Annex H* of *Volume 1*.

3.3.8 Coastal Design Guidelines for NSW

The *Coastal Design Guidelines for NSW* was produced in 2003 by the NSW Coastal Council. The document is designed to provide a framework for discussion and decision making involving coastal planning, design and development proposals between all stakeholders in the context of caring for the natural beauty and amenity of coastal beaches, headlands, waterways and ecologies upstream.

Part 1 of the Guidelines defines seven coastal settlement types which can be used to analyse and understand urban development along the NSW coast. Part 2 of the Guidelines identifies five principles for coastal settlement structure. These principles and their elements are presented as best practice outcomes and form the basis for understanding, debating and designing the

present and future form of coastal settlements in NSW. The five principles for coastal settlement structure are:

- defining the footprint and boundary of the settlement;
- connecting open space;
- protecting natural edges;
- reinforcing the street pattern; and
- appropriate buildings in a coastal context.

The concept plan incorporates these principles into its design. The design guidelines are discussed in relation to the Project Application in the urban design and site analysis section in *Chapter 2*. The proposed development's consistency to the *Coastal Design Guidelines for NSW* is detailed in *Table 2* within *Annex H* of *Volume 1*.

3.4 REGIONAL PLANNING INSTRUMENTS, STRATEGIES AND STUDIES

3.4.1 Hunter Regional Environmental Plan 1989

The *Hunter Regional Environmental Plan 1989* (HREP) is the principal regional planning instrument applying to the Hunter region, including the Great Lakes Local Government Area. The main aims of the HREP are to promote the balanced development of the Hunter region, to encourage orderly and economic development and to bring about optimum use of land and other resources consistent with the needs and aspirations of the local community. Clauses relevant to the Riverside at Tea Gardens site are summarised below.

Housing

Clause 8 of the HREP relates to housing. The plan states that a variety of housing types and tenures that are affordable should be provided throughout the region and the design and siting of housing should meet community needs and minimise impacts on the environment. Clause 9 of the HREP also states that adequate and affordable health, education and community facilities should be provided to support residential areas.

Commercial or Retail Uses

Clause 18 of the HREP relates to commercial development, it states:

"The objectives of this plan in relation to planning strategies concerning commercial development are:

(a) to ensure that commercial service centres are developed to suit the convenience of consumers and to optimise public and private investment, and

(b) to promote the distribution of employment in the tertiary sector in a manner compatible with the distribution of population."

Tourism

Clause 21 of the HREP outlines the objectives of the policy in relation to tourism. The plan states that incentives and flexibility should be provided to encourage tourism and plans prepared by Tourism NSW be considered in relation to tourism development in the region.

Urban Land

Clause 29 of the HREP relates to urban land. It states that sufficient amounts of urban land should be provided to meet anticipated growth in an orderly and efficient manner. Natural constraints, urban capability, supply and demand for urban land, availability and costs of public services, access to employment, commercial and community facilities and the provision in choice of housing and location should all be taken into consideration when planning new urban areas.

Soil, Water and Forest Resources

Clause 42 outlines the objectives of the HREP in relation to soil, water and forest resources and states:

"The objective of this plan in relation to planning strategies concerning soil, water and forest resources is to manage the resources of the region in a co-ordinated manner so as to sustain their productivity and condition, and so as to meet community needs while ensuring that adverse impacts on the environment and the population likely to be affected are minimised."

Pollution Control

Clause 45 relates to pollution control and states:

"The objective of this plan in relation to planning strategies concerning pollution control is to control development so as to minimise air, noise and water pollution."

Environmental Hazards

Part 7, Division 3 of the HREP relates to environmental hazards and it identifies that erosion, landslip, flooding, coastal erosion, storm damage and bushfire should be taken into account when identifying areas for development.

Natural Areas

Part 8, Division 1 of the HREP relates to natural areas and their conservation, management and protection. It states that wetlands, forests, water catchment areas, scenic and historic landscapes, foreshores and wildlife habitats should be included in rural environmental protection zones.

Recreation

Part 8, Division 2 of the HREP refers to recreation and states that a wide range of recreation and leisure opportunities should be provided. It also implies that compatible recreation and nature conservation activities should be encouraged and that public access to natural areas should be improved.

Comment

The Concept Plan for Riverside at Tea Gardens shows the site ultimately being developed for a range of uses including residential, commercial and tourist development. The project is consistent with the aims, objectives and relevant clauses of the HREP. The potential environmental impacts of the proposal will be minimised, particularly with respect to implementing strategies concerning water quality and soil erosion management. This is discussed in greater detail in *Chapter 4*.

3.4.2 Draft Mid North Coast Regional Strategy

The *Draft Mid North Coast Regional Strategy* (MNCRS) was placed on exhibition by the Department of Planning on 19 January 2007. Once finalised, it will guide local planning in the eight local government areas of Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Kempsey, Port Macquarie–Hastings, Greater Taree and Great Lakes.

Tea Gardens / Hawks Nest is at the southern end of the area included in the MNCRS and are identified as 'towns' that serve a limited catchment and have a small to medium scale concentration of retail, health and other services with lower density residential. They were recognised as relying on major regional centres and major towns for high order services, retailing and employment.

The waters adjacent to Tea Gardens / Hawks Nest are identified as 'Marine Park / Protection' in the MNCRS. The Concept Plan and project Application include water management measures to ensure that quality of surface and ground water is not reduced. The Concept Plan and Project Application also include a buffer to the wetland, to protect its function and value.

The Mid North Coast is recognised as one of the fastest and most consistent growth areas of NSW. It recognised the growing pressure for urban development in the Great Lakes and greater Taree areas, with recent road upgrades and development activity suggesting that "…*these areas will experience revitalised in-migration and population growth*" (DoP, 2007).

The 'strategy at a glance' aims to, amongst other objectives:

- *"cater for a housing demand of up to 58,400 new dwellings by 2031 to accommodate the forecast population increase of 91, 000 and any anticipated growth beyond this figure arising from increased development pressures in the southern part of the Region"*; and

- *"ensure that new housing meets the needs of smaller households and an ageing population by encouraging a shift in dwelling mix and type so that 60 percent of new housing will be in Greenfield location and 40 percent in existing urban areas"* (DoP, 2007).

It states that the demand to live near the coast will continue to result in the majority of the anticipated growth being accommodated in existing identified growth areas, including Tea Gardens – Hawks Nest.

The MNCRS sets out neighbourhood planning principles that include:

- *"A range of land uses to provide the right mix of housing, jobs, open space, recreational space and green space;*

- *Easy access to major centres with a full range of shops, recreational facilities and services along with smaller village centres and neighbourhood shops;*

- *Jobs available locally and regionally, reducing travel times and the demand for transport services;*

- *Street and suburbs planned so that residents can walk to shops for their daily needs;*

- *A wide range of housing choices to provide for different needs and incomes. Traditional houses on their own block will be available along with smaller lower maintenance homes, units and terraces for older people and young single or couples; and*

- *Conservation land in and around development sites to help protect biodiversity and provide open space for recreation"* (DoP, 2007).

The concept plan and project application meets the aims of the MNCRS and the adopts the planning principles through its creation of a greenfield development with a range of lot sizes to accommodate different housing types that are linked by an open space network that retains wildlife corridors and buffers to the wetlands. The residential lots also provide for home based business which allows people to work at home, thereby reducing the need to travel and providing employment diversity in the Tea Gardens - Hawks Nest area.

The residential lots are close to a range of commercial, community and retail services in the new town centre at the corner of Myall Street and Shoreline Drive. The town centre can be accessed from the residential area within Riverside, by the internal streets or by pedestrian and cycle paths located in the open space network.

The *draft Mid North Coast Regional Strategy* includes Sustainability Criteria against which new proposals are to be assessed against. An assessment of the Riverside at Tea Gardens development against the Sustainability Criteria has been undertaken and is detailed in *Annex H* of *Volume 1*.

3.5 LOCAL PLANNING INSTRUMENTS, POLICIES, STRATEGIES AND STUDIES

3.5.1 Great Lakes Local Environmental Plan 1996

Great Lakes Local Environmental Plan 1996 (Great Lakes LEP) is the principal local environmental planning instrument governing land use within the Great Lakes local government area (LGA).

Zones

The majority of the Riverside at Tea Gardens site is zoned Residential 2(f) – Mixed Residential-Commercial. However part of it is also zoned Environmental Protection 7(a) Wetlands and Littoral Rainforest and 7(b) Conservation. *Figure 3.1* details the zoning of the site.

2(f) – Mixed Residential-Commercial Zone

The objectives of the Residential 2(f) – Mixed Residential-Commercial zone are as follows:

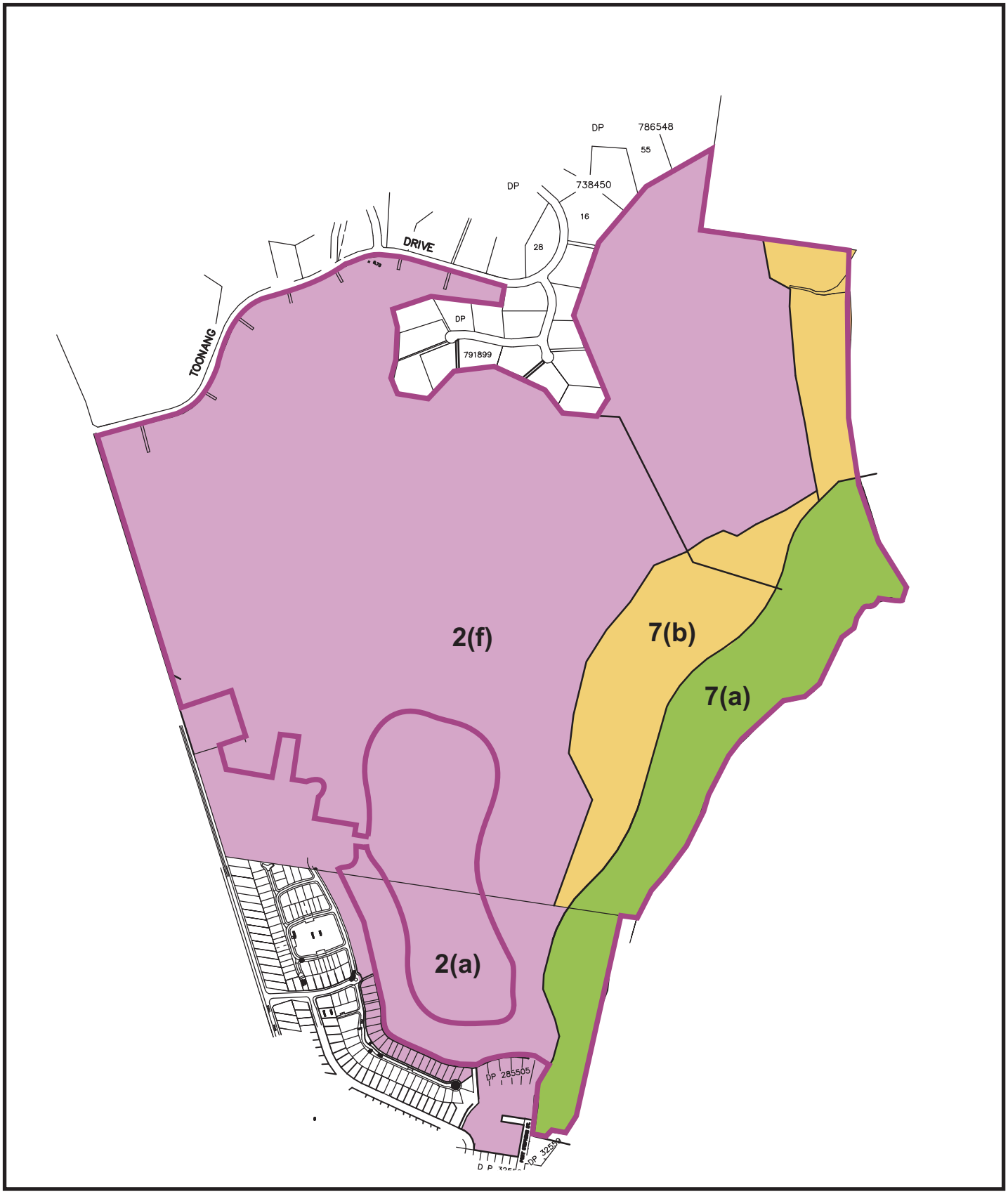
"(a) to enable mixed development comprised of accommodation for tourists and permanent residents generally not exceeding two storeys in height, and

(b) to provide for recreational, retail and commercial uses and a limited range of other uses which:

(i) are complementary with a residential environment, and

(ii) are unlikely to place demands on services beyond the level reasonably required for residential uses."

Exempt development in the 2(f) – Mixed Residential-Commercial zone includes hazard reduction measures; dwelling-houses; family day care homes and home occupations. Prohibited development within the zone includes abattoirs; aerodromes; animal establishments; bulky goods salesrooms or showrooms; extractive industries; hazardous storage establishments; heliports; industries; institutions; intensive agriculture; materials recycling



Legend

Riverside at Tea Gardens Site Boundary

Great Lakes Draft Amendment No.44 LEP 1996

- 2(a) Low Density Residential
- 2(f) Mixed Residential/Commercial
- 7(a) Wetlands Zone
- 7(b) Conservation Zone

Figure 3.1

Existing Zoning Plan Riverside at Tea Gardens

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_river_aug_12		
Date:	20/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Great Lakes Draft Amendment No.44 LEP 1996		
Scale:	Refer to Scale Bar		

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Environmental Resources Management Australia Pty Ltd
53 Bonville Avenue, Thornton, NSW 2322
Telephone +61 2 4964 2150

ERM

yards; offensive storage establishments; plant hire; sawmills; shops; stock and sale yards; transport depots; transport terminals; vehicle body repair workshops; vehicle repair stations and warehouses. All other development is permitted with consent.

Comment

The Riverside at Tea Gardens development provides a mix of tourist and residential development supported by retail / commercial and recreational facilities. Low density tourist accommodation is proposed north of Precinct 2 within the north-eastern portion of the site. The permanent residential component generally includes two storey dwellings which complements the low density coastal community profile of the Tea Gardens and Hawks Nest area.

The proposed development provides both passive and active recreational areas. Active recreational facilities are proposed within the Myall River Downs site as part of the required Section 94 Contributions for Riverside, with agreed contributions toward the embellishment of facilities. The community clubhouse proposed within Precinct 1, as shown in the architectural drawings R.C.-32 to R.C. – 35 (refer to *Volume 2*) identify a swimming pool, gymnasium, tennis court and outdoor children's play area.

The open space networks which link the precincts provides for passive recreation with pedestrian pathways and grassed open areas. The recreation areas provided have been designed to complement the predicted future residential and tourist population which has been assessed by Duo Consulting (2008) within their social impact assessment detailed within *Sections 5.4.5*. and *5.4.6* provided within *Volume 3* of the EA. The open space areas will be managed within a community title scheme. The recreation area proposed within the Myall River Downs site will be dedicated to Council as a community facility as agreed within the Voluntary Planning Agreement (VPA) (refer to *Section 2.13*).

As the proposed development does not incorporate a golf course as originally identified within DCP 22, the residential component has been increased to better align with the density requirements envisaged within Council's revised draft Housing Strategy (PB, 2006). This increase in residential development has required an increase in retail and commercial development within the commercial hub proposed in Precinct 1. The retail and commercial development can no longer seek to meet the daily convenience needs of the residents but needs to provide for employment and business development to support future residents. The Riverside at Tea Gardens development aims to contribute to the provision of services including upgrades to the existing road networks and the development of water, sewerage, electricity and telecommunication services in consultation with the relevant service providers.

It is estimated that:

- residential consumption activities will directly contribute an estimated $17.9 million per annum to the local economy base, which will support an estimated 107 equivalent full time jobs in the local area when complete; and

- jobs associated with the day to day operation of the site and ongoing capital maintenance will be created. For Riverside this is estimated to equate to $2,115,000 to $4,230,000, which represents ten additional full-time direct jobs and 53 jobs overall (direct and indirect) (PB, 2007).

In response to growth anticipated in the local economy base, the retail and commercial centre has been increased. Furthermore the geographical location of surrounding retail centres has also been considered.

Section 5.5 identifies that Hawks Nest and Tea Gardens are geographically isolated with respect to access to existing retail and commercial development. Raymond Terrace is the closest retail centre (52km from Riverside) followed by Newcastle. The social assessment indicates that 52km is a significant distance to travel to a retail centre especially when Riverside at Tea Gardens is attempting to create a community character with home-based businesses, employment and the inclusion of local primary, secondary and tertiary facilities. Therefore the development of the retail and commercial centre has been designed to provide for the Riverside residential community and support the projected future populations of the Tea Gardens and Hawks Nest area envisaged within Council's revised draft Housing Strategy.

The proposal also includes extension of an existing drainage channel which is linked to the Myall River. The proposed channel works are located largely within the 2(f) – Mixed Residential – Commercial zone. This is permissible with consent within the 2(f) zone. The works will facilitate integrated water management across the Riverside site, thereby ensuring tidal flushing of the water management lake.

Development proposed within the 2(f) – Mixed Residential-Commercial zone is consistent with the objectives of the zone

7(a) Wetlands and Littoral Rainforest Zone

The objective of the Environmental Protection 7(a) Wetlands and Littoral Rainforest zone is:

"...to restrict the type and scale of development to that which is compatible with the special ecological or scientific values of coastal wetlands and littoral rainforests and which is unlikely to:

(a) have a significant detrimental effect on the growth of native plant communities, or

(b) adversely affect the survival of native wildlife populations, or

(c) adversely affect the provision and quality of habitats for either indigenous or migratory species."

No development is permitted without consent in the 7(a) Wetlands and Littoral Rainforest zone. Development for the purpose of agriculture; aquaculture, bushfire hazard reduction; dwelling-houses; recreation areas; roads; utility installations and works for drainage purposes are permitted with consent. All other development is prohibited.

Comment

Development proposed within the 7(a) Wetlands and Littoral Rainforest zone, is limited to a small area associated with the extension of the existing channel which is connected to the Myall River. The extension of the channel is required in order to facilitate tidal flushing and drainage of the existing detention lake. The removal of vegetation to facilitate the drainage works is assessed by Winning (2009) (refer to *Volume 3*).

No other development is proposed within the 7(a) Wetland zone, thereby ensuring that the SEPP 14 Wetland is preserved, and thus allowing for the continued growth of native plant communities and the provision of habitat for native species and populations.

The Riverside site is largely disturbed due to its previous use as agricultural grazing lands. A site analysis was undertaken which identified remnant vegetation along the northern boundary of the site adjoining the 7(a) and 7(b) wetland zones. The Riverside at Tea Gardens development has been designed to include a wildlife corridor linking the wetland zone to the existing significant vegetation located along the northern boundary of the site. This link will allow native wildlife to migrate between the two habitat zones with minimal interaction with surrounding development.

Development proposed adjacent to the SEPP 14 Wetland involves the extension of an existing drainage channel to facilitate water management at the site. The SEPP 14 Wetland will not be directly impacted by the proposed development. Potential indirect impacts to the SEPP 14 Wetland will be mitigated in accordance with the Integrated Water Management Strategy (refer to *Section 4.4.1*). *Section 4.5* also details wetland management measures, including the retention of a buffer proposed to protect the wetland areas and provide greater separation between development and the SEPP 14 Wetland.

7(b) Conservation Zone

The objective of the 7(b) Conservation zone is:

"…to enable a limited range of development (including tourist facilities) on land possessing special aesthetic or conservation values where:

(a) it can be demonstrated that the development can be carried out in a manner that minimises risks from natural hazards; and

(b) the development functions efficiently; and

(c) the development does not prejudice other economic development; and

(d) the development does not significantly detract from the scenic quality of the land within the zone; and

(e) the development is unlikely to have a significant detrimental effect on the growth of native plant communities; and

(f) the development is unlikely to affect the survival of native wildlife populations; and

(g) the development is unlikely to adversely affect the provision or quality of habitats for either indigenous or migratory species.

No development is permitted without consent in the 7(b) Conservation zone. Development for the purpose of advertisements; agriculture; bushfire hazard reduction; communication facilities; community facilities; dwelling-houses; motels; recreation areas; roads; tourist facilities and utility installations are permitted with consent. All other development is prohibited.

Comment

The 7(b) Conservation zone provides a designated buffer to the adjacent 7(a) Wetlands and Littoral Rainforest zone (SEPP 14 wetland) located between the buffer and the Myall River, as illustrated in *Figure 3.1* It also provides a buffer between the Myall River and the 2(f) - Mixed Residential-Commercial zone in the north east portion of the site.

Development proposed within the 7(b) Conservation zone is limited to the establishment of a foreshore park adjacent to the Myall River within the north east section of the site. The foreshore park is permissible with consent. No development is proposed within the portion of the 7(b) Conservation zone adjacent to the SEPP 14 wetland.

The foreshore park will provide the community with physical and social opportunities and will involve a landscaped open space area for passive recreation, controlled pedestrian access through the construction of walkways and the provision of community facilities such as BBQ areas and children's play equipment. The park will provide a linkage with other open space areas, thereby facilitating a connected system for future residents and facilitating fauna movement to the Myall River.

The proposal excludes development within the 7(b) Conservation zone adjacent to the SEPP 14 wetland. A pathway to be constructed adjacent to, but not within the 7(b) Conservation zone will provide for controlled public access to the foreshore area outside the conservation area, thereby minimising informal public access throughout the 7(b) buffer lands and SEPP 14 wetland. An asset protection zone to be constructed within the 2(f) zone, adjacent to the

7(b) buffer lands, will provide additional separation to the conservation area, minimising edge effects.

Development within the 7(b) Conservation zone, being limited to the creation of the foreshore park, will ensure the scenic quality of the zone is maintained. The conservation of the zone will allow for the continued growth of native plant communities and provide habitat for native species and populations and provides an important link to the Myall River.

As the project is permissible in the zones the Minister is able to give approval under clauses 75 (J) and 75 (O) of the EP&A Act.

3.5.2 Special Provisions

Development at Myall Quays (Riverside at Tea Gardens)

Clause 33A relates to development at Myall Quays, which is referred to in this report as "Riverside at Tea Gardens." The objective of Clause 33A is to:

"…..ensure that development on certain land at Myall Quays, being Lots 1, 8, Pt 9, 10 and 11 DP 270100 Myall Street, Admiralty Avenue, Budgeree Street and Toonang Drive, Lots 1–23, DP 285341 and Lots 1–15 DP 285432 Admiralty Avenue and Boston Street, Lots 413 and 487, DP 32559 Port Stephens Street and Tamworth Esplanade and Lot 80, DP 702022 Myall Street is controlled so that:

(a) commercial and retail facilities on the land are structured to serve the convenience needs of the residents and day and overnight visitors,

(b) any development on the land is sensitive to the natural environment, and

(c) any water body is maintained under the provisions of a community or neighbourhood scheme."

This clause applies to the land within the site notwithstanding that subdivision since the 1990s, when this clause was introduced into LEP 1996, has changed the property description of the site. In the 1990s it was thought that major commercial and retail facilities would eventually be developed in the North Hawks Nest future urban release area and therefore commercial and retail facilities should be restricted in the Tea Gardens area. However, severe ecological and servicing constraints have been identified in this future urban release area and it has since been decided that the North Hawks Nest future urban release area should be scaled back to a much more modest size.

As a result, the *Tea Gardens and Hawks Nest Conservation and Development Strategy* (Great Lakes Council and Acacia Environmental Planning Pty Ltd, 2003) adopted by Council no longer envisages major growth (including retail and commercial development) in the Hawks Nest area. The Strategy acknowledged that considerable growth would take place on the Riverside site and identified the Myall River Downs Site as a potential major growth

area of the future. Location of the major retail and commercial centre in this future growth precinct of the Hawks Nest and Tea Gardens area is a logical way to proceed.

The Project Application and Concept Plan simply propose to provide a street pattern and the necessary infrastructure (water, sewer, stormwater, telecommunications, electricity, etc) to facilitate future development of this Commercial Precinct. No buildings or any form of land use is proposed at this stage.

Subclause 33A(1)

Subclause 33A(1), which relates to constructing a shopping centre at Myall Quays, states that:

"…a person may, …carry out development for the purposes of a local shopping centre on land within Zone No 2 (f) that is generally bounded by Toonang Drive, Myall Street, Budgeree Street and the Myall River where the gross floor area (excluding pedestrian arcades, public mall areas and colonnades) of any building or buildings at the centre used for retail, office and business purposes does not exceed 3,000 square metres. However, the Council must not grant consent for the development of more than one local shopping centre on any such land."

Subclause 33A(1) specifies a local shopping centre may be constructed on the 2(f) zoned land at Myall Quays (bounded by Toonang Drive, Myall Street, Budgeree Street and the Myall River) and that the gross floor area of any building/s within the centre used for retail, office and businesses purposes must not exceed 3000 square metres. The intention of this clause was to ensure that major commercial activity did not take place on the Riverside site.

As explained above this restriction was introduced because in the 1990s when this clause was drafted, other areas were being considered for this type of development. However, given the significantly reduced size of the North Hawks Nest urban release area resulting from the adoption of the *Tea Gardens and Hawks Nest Conservation and Development Strategy* which identifies the Riverside and Myall River Downs sites as the major future growth precinct in the area, this restriction is no longer considered relevant. The fact that objections pursuant to State Environmental Planning Policy No 1 Development Standards have been supported by Council and approved by the Department of Planning to allow floor space to exceed this 3,000 square metre restriction is evidence that the standard is outdated and no longer aligns with the current growth strategy for the Hawks Nest and Tea Gardens area.

A far greater floor space is likely to be required in the future based on Council's adopted long term population projections. This is acknowledged in the revised draft *Tea Gardens Hawks Nest Housing Strategy* (PB, 2006). It envisages the Myall Quays shopping centre will remain and grow to be the main retail centre of the area and that an area adjacent to the shopping centre

should be identified for use by future commercial/mixed use development. The Housing Strategy is discussed at *Section 3.5.5.*

Likely demand for commercial and retail floor space is discussed in *Section 5.5*. The Concept Plan and Project Application designate the Riverside commercial precinct as having an approximate area of 40,000m^2 (excluding proposed roads). If a floor to site ratio (FSR) of 0.25 : 1 (typical of a single storey development) is adopted it would mean that a gross leasable area of 10,000m^2 could be developed in future. Alternatively if the same area were allowed to be developed at a higher FSR of 0.4 : 1 (typical of a 2-3 storey mix) then the gross leasable area would increase to around 16,000m^2.

While this is far in excess of the 3,000m^2 commercial / retail floor area limit established in Clause 33A(1), the proposal to create a subdivision pattern with the potential to accommodate the 10,000m^2 to 16,000m^2 of retail/ commercial floor space which is likely to be required in future is considered justified for the following reasons:

- **objective/ purpose of the standard** - the provisions of Clause 33A(1) were introduced to ensure appropriate and orderly expansion of commercial areas within Tea Gardens and Hawks Nest in order to meet the needs of the existing and future population as well as visitors. As explained above the planning intent behind this clause has changed with the passing of time and it is no longer considered relevant.

  As previously discussed the future growth of the Tea Gardens and Hawks Nest is documented in the revised draft *Tea Gardens Hawks Nest Housing Strategy* (PB, 2006). An overall principle of the strategy is to '*reinforce and consolidate existing commercial centres'*. The proposed Riverside commercial precinct provides the opportunity for the expansion of commercial / retail development adjacent to the existing Myall Quays commercial area, thereby consolidating the commercial centres to serve the existing and future population of Tea Gardens and Hawks Nest.

  The strategy identifies that '*the movement of the major retail centre to Myall Quays will better serve the future population patterns in the area'*. As detailed in *Table 5.1*, future population growth associated with the development of Riverside at Tea Gardens, Myall River Downs, Hermitage, North Hawks Nest, North Shearwater and other development (including infill) will result in a predicted population of 12,558, which is significantly greater than the 2006 census population of 3,155 (Duo, 2008).

  It is well accepted that with population growth comes increasing demand for retail and commercial services. Previous retail studies, including the *IBECON Tea Gardens Retail Study 2000* (IBECON 2000) and the *Wakefield Planning Tea Gardens Retail Study – Update of IBECON's 2000 Study (*Wakefield 2007) have documented the case for increased land to be made available for retail and commercial development on the Riverside site. The Wakefield report identified a high demand for the proposed commercial/retail development on the Riverside site, and noted that it

would be able to provide for the Tea Gardens and Hawk Nest area well beyond the year 2016.

Tea Gardens/Hawks Nest is a relatively isolated area, with Raymond Terrace providing the closest level of hierarchy in terms of shopping. Raymond Terrace is 52 km by road from Tea Gardens. It is therefore appropriate to provide retail capacity in Tea Gardens/Hawks Nest to meet the locally generated demand for commercial and retail services.

The proposed Riverside commercial precinct will have the capacity to accommodate far in excess of 3000m² of retail and commercial floor space and will facilitate the consolidation of commercial / retail development to serve the current and future population of Tea Gardens and Hawks Nest. This is consistent with the objectives of Clause 33A.

- **consistency with Section 5(a) (i) and (ii) of the EP&A Act 1979 –** The objects of the EP&A Act are detailed in Section 5(a) of the Act. The objects stated in Sections 5(a) (i) and (ii) are:

  (a) to encourage:

  (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

  (ii) the promotion and co-ordination of the orderly and economic use and development of land,

  The proposed Riverside commercial / retail development is consistent with the objects of Section 5(a) (i) and (ii) of the EP&A Act, as:

  - the site is not prime agricultural land and will not impact in prime agricultural land;

  - the site of the commercial / retail area is not located within or adjacent to an area of significant ecological value. The SEPP 14 wetland and adjacent wetland buffer located within the Riverside at Tea Gardens site will not be affected by the proposed commercial / retail precinct;

  - the Riverside at Tea Gardens development incorporates an integrated water management plan, including the extension of the existing detention lake at Tea Gardens and the inclusion of several new freshwater detention basins and ponds to provide water quality management for the development, including the commercial / retail precinct. The development will also be connected to MidCoast Water's sewage system. The commercial / retail development will therefore not be likely to adversely impact on the area's water resources;

- the commercial precinct will provide an essential connection between existing commercial and retail development and the existing and proposed residential development at Riverside and the future residential developments within Tea Gardens and Hawks Nest, including Myall River Downs, Hermitage, North Hawks Nest, North Shearwater and other development (including infill); and

- as identified above, the consolidation of commercial / retail development at Myall Quays is identified in the revised draft *Tea Gardens Hawks Nest Housing Strategy* (PB, 2006). The proposed commercial / retail development will facilitate the orderly economic development of the site consistent with the draft strategy.

- **Reasonableness –** In order to facilitate the orderly economic development of the site and ensure the commercial and retail needs of the future population of Tea Gardens and Hawks Nest are met the proposed Riverside commercial precinct offers the opportunity to develop a consolidated and structured commercial area. The proposed commercial precinct will be likely to have minimal environmental impacts given the safeguards proposed to protect the local water resources as set out in the integrated water management strategy. It is therefore considered a reasonable proposal which serves the public interest.

The extension of the existing commercial / retail precinct forms part of the project application and will be undertaken during Stage 1 of the project, as detailed in *Section 2.11*.

Summation

The additional commercial / retail floor space proposed as part of the Riverside at Tea Gardens Project Application, whilst exceeding the 3,000 square metre requirement of Clause 33A(1), will facilitate the provision of adequate commercial and retail services to meet the future needs of the population of Riverside at Tea Gardens and existing residences (such as Myall Quays) and is consistent with the intent of the draft *Tea Gardens Hawks Nest Housing Strategy* (PB, 2006).

Subclause 33A(2)

Subclause 33A(2) states:

(a) This subclause applies to development on land within Zone No 2 (f) for the purpose of a lake or other waterbody.

(b) (Repealed)

(c) In determining an application for development to which this clause applies, the Council must take into consideration:

(i) the extent to which the proposed development is likely to affect the environmental qualities on the adjoining wetlands within Zone No 7 (a) or wet heath areas within Zone 7 (b), and

(ii) the likely cumulative impact (in conjunction with existing waterbodies) on the Myall River.

Subclause 33A(2) relates to the impact on adjoining conservation areas and the Myall River of the development of a lake or other water body at Myall Quays. It states that Council must have the concurrence of the Department of Urban Affairs and Planning (now the Department of Planning) before granting consent to such a development, and that the Department must take into consideration the environmental impacts of such a development on the surrounding wetlands, wet heath areas and the Myall River.

On 24 February 2004, the Minister for Planning made a declaration under Section 76A(7)(b) of the EP&A Act that made any water body proposed on parts of the Riverside site 'State Significant Development'. It is noted that Section 76A(7) has been repealed and a reference in any Act or instrument to State Significant Development within the meaning of the Act is taken to be a reference to a project to which Part 3A of this Act applies. The Project Application is seeking approval for the partial extension of the existing detention and water quality management lake in addition to a number of separate fresh water bodies to cater for drainage from the proposed development. An assessment of the impact of the detention / water quality management lake on the adjacent 7(a) and 7(b) zones and Myall River is provided in *Volume 3*.

The intent of clause 33A(2) is being realised as this application under Part 3A of the EP&A Act will be determined by the Minister for Planning who will take advice from the Department of Planning prior to determining this application.

3.5.3 Development Control Plans

Development Control Plan 22 – Myall Quays Estate

Development Control Plan 22 – Myall Quays Estate (DCP 22) applies to land referred to in this report as 'Riverside at Tea Gardens'. DCP 22 provides management principles and actions that proposed development should follow. The management principles and actions relate to:

- conservation of wetland and native species associations;
- earthworks, hydraulic assessment and waterbodies;
- water quality;
- infrastructure;
- open space and conservation areas;

- community and recreation facilities;
- archaeology;
- bushfire protection;
- building guidelines;
- tourist uses; and
- development below the mean high water mark (MHWM).

DCP 22 is outdated as it was prepared prior to recent environmental studies and investigations into the capabilities and suitability of the site. While many of the management principles and actions outlined in the DCP remain relevant, some of the specific controls are no longer appropriate as they are based on a previous master plan that has little resemblance to the current (and proposed) development of the site, nor in any event, can this master plan be realised, given the current planning legislation. It is also noted that the *revised draft Tea Gardens / Hawks Nest Housing Strategy* (Parsons Brinkerhoff, 2006) recommends several amendments to this DCP to ensure that it is in accordance with the new release area principles of the Strategy. It is anticipated that the DCP will be repealed and replaced by a concept plan for the Riverside at Tea Gardens Estate.

Compliance with DCP 22 is detailed within *Table 3* of *Annex H* of *Volume 1*.

Development Control Plan 30 Residential Urban Areas

Development Control Plan 30 – Residential-Urban Areas (DCP 30) provides design guidelines for high quality urban housing. DCP 30 provides performance criteria that should be considered in the design of residential developments. Design elements covered in DCP 30 include:

- site planning;
- site analysis;
- site layout;
- building design;
- building appearance;
- landscape design;
- security; and
- services and site facilities.

The subdivision layout for Stage 1 will allow for dwellings to be erected that comply with the provisions of DCP 30. The *revised draft Housing Strategy* has recommended that DCP 30 be amended to incorporate more detailed urban

design and streetscape guidelines based on the character of the area. It also recommends that to ensure a range of house sizes is provided in new release areas, an FSR of 0.4:1 be applied to small lot housing together with a requirement that 40% of the site be used for soft landscaping. Small lot housing is to be dispersed throughout new release areas.

Development Control Plan 31 - Subdivision

Development Control Plan 31 – Subdivision (DCP 31) outlines the subdivision requirements in residential, commercial/industrial and rural and environmental zones. Section 2 outlines the general requirements for subdivision in all zones regarding site considerations, site hazards, road design and construction, landscaping and site design, services, drainage, existing development and heritage and environmental protection.

Section 3 of DCP 31 relates to residential subdivision. Performance criteria are provided in DCP 31 which are intended as a guide to developers. Generally lots less than 450m^2 will not be permitted in a residential zone, and lots over 450m^2 should be capable of containing a building envelope measuring 8m x 20m or 10m x 16m and have private open space areas of 40m^2 with a minimum dimension of 4m. However, the *revised draft Tea Gardens / Hawks Nest Housing Strategy* recommends that this DCP be amended to make provision for small lot housing (i.e. between 300m^2 and 450m^2).

The project generally complies with the provisions of DCP 31 as detailed within Table 4 of *Annex H*, *Volume 1*.

Stormwater Quality Development Control Plan

The Great Lakes *Stormwater Quality Development Control Plan* (Stormwater DCP) encourages good design and technology to improve the water quality of the Great Lakes area. It specifies that development will need to reduce the volume of stormwater runoff and pollutants in stormwater that is directly connected to Council's stormwater drainage network. The Stormwater DCP applies to land zoned 1(c) and all 2, 3, 4, 5 and 6 zones under the Great Lakes LEP 1996. Therefore, the Stormwater DCP currently applies to the land zoned 2(f) at the 'Riverside at Tea Gardens' site.

Subdivision

Under the Stormwater DCP, subdivisions must either meet stormwater management requirements outlined in the relevant catchment strategy or DCP, or where there are no specific Council strategies or DCPs, meet the requirements in Section 2.4 of the *Stormwater Quality Development Control Plan.* Section 2.4 states that applicants for subdivision will need to model post-development pollutant loads for the proposed land use and that the applicant must use acceptable modelling software to produce these results. This information must be submitted with a development application.

Development

Under Section 3.3 of the Stormwater DCP, residential development (a detached house on one lot or dual occupancy development) complies with the DCP if it prevents runoff from all driveways being direct-connected to a stormwater drainage network draining to the street (i.e. by ensuring that stormwater drains across the site or to on-site landscaped or infiltration areas provided suitable soils are present).

Section 3.4 of the Stormwater DCP relates to tourist, commercial, retail and industrial developments. A development complies with the DCP if it captures and stores the first flush of 2mm from all impermeable site areas. The required storage volume (V) is:

V (litres) = total impermeable site area (m^2) x 2

Overflows from the storage tank/s must be directed to an on-site landscaped area/s for infiltration.

Stormwater management for the site has been the subject of exhaustive studies and a best practice stormwater strategy has been prepared. Details are provided in *Volume 3*.

3.5.4 Car Parking Policy

Great Lakes Council *Car Parking Policy* outlines the amount of car parking required for various types of development. *Table 3.2* outlines the requirements for development permissible in the Residential 2(f) Mixed Residential-Commercial zone.

Table 3.3 Car Parking Requirements

Land Use	Type of Development	Car Spaces Required
Residential*	Dwelling Houses	1 covered space
	Dual Occupancy (Granny Flat)	2 spaces
	Residential Flat Buildings	1space/1 bedroom unit, plus 1.2 spaces/2 bedroom unit, plus 1.5 spaces/3 or more bedroom unit, plus 0.2 visitor spaces/unit, plus 1 trailer space/8 units (0.125/unit)
Casual Accommodation	Bed & Breakfast	1 space/bedroom plus proprietor space
	Motels	1 space/unit, plus 1 space/2 employees, plus 1 space/20m^2 floor area, plus 1 space/20 seats of a function room, plus 1 space/8m^2 of bar space
	Hotels	1 space/5m2 bar area, plus 1 space/6m2 lounge area, plus 1 space/room, plus

Land Use	Type of Development	Car Spaces Required
		1 space/3 employees, plus 1 space/20 seats of a public dining room, plus 1 space/20 seats of a function room
Commercial	Offices	1 space/20m2 of gross leasable floor area (ground floor) 1 space/30m2 of gross leasable floor area (1st floor and above)
	Professional Offices/Consulting Rooms	4 spaces/surgery
	Service Stations	5 spaces/service bay, plus 1 space/20m2 of retail sales area
	Shops	1 space every 20m2 of gross leasable floor area (ground floor) 1 space every 30m2 of gross leasable floor area (first floor level and above)
Recreational	Squash & Tennis Courts	3 spaces/court
	Bowling Alleys	3 spaces/bowling alley
	Bowling Greens	20 spaces/bowling green
	Gymnasiums	1 space/25m^2 of gross floor area
	Caravan Parks	1 space/van site, plus 1 visitor space/20 van sites
	Restaurants within Commercial Area or Complex	1 space/20m^2 dining area of restaurant at ground floor level 1 space/30m^2 of dining area for restaurant above the ground floor
	Restaurants not part of a Commercial Area or Complex	1 space/10m^2 of dining area
Recreational	Licensed Clubs	1 space/5m2 bar area, plus 1 space/6m2 of lounge area, plus 1 space/3 employees, plus 1 space/20m2 of gross floor area of a public restaurant, plus 1 space/20 seats in an auditorium
	Theatres/Churches and other places of Assembly	1 space/10 seats, or 1 space/10m2 of seating area, whichever is greater

* Homes for the aged, hostels & nursing/convalescent homes have different car parking requirements.

The above car parking requirements are considered excessive for the site as a 'walkable community' has been identified as an appropriate aim for any proposed development. Nevertheless, lots are of sufficient size to accommodate a dwelling and on site car parking space.

3.5.5 Local Planning Strategies and Studies

Tea Gardens Hawks Nest Conservation and Development Strategy

The *Tea Gardens / Hawks Nest Conservation and Development Strategy* (Great Lakes Council and Acacia Environmental Planning Pty Ltd, 2003) was produced in response to the increasing demand for development in the area. The strategy identifies areas that are suitable for development and areas that should be conserved for ecological purposes. The objectives of the strategy are to:

1. *Create a conservation framework that identifies and conserves important habitats and linkages.*

2. *Identify land that is suitable for future living.*

3. *Give the providers of public facilities and services information to help them plan new infrastructure.*

4. *Promote orderly and efficient growth that is consistent with the principles of ecologically sustainable development (ESD) and the objects of the Environmental Planning and Assessment Act 1979*

5. *Indicate preferred land uses in development and investigation precincts.*

6. *Identify guiding principles for future development.*

7. *Provide greater certainty in the rezoning process to all stakeholders.*

The strategy has been publicly exhibited and has been adopted by Council. The Department of Planning (DoP) required that the *Tea Gardens/Hawks Nest Housing Strategy* (see following section) be prepared prior to endorsement of the Conservation and Development Strategy. The *Draft Tea Gardens/Hawks Nest Housing Strategy* has been publicly exhibited and has also been adopted by Council. The DoP has endorsed the priority one release areas identified with in the *Tea Gardens/Hawks Nest Conservation and Development Strategy* (which includes Myall River Downs).

The Riverside at Tea Gardens site is not identified in the strategy as a potential future residential area, due to the fact that the site is already zoned 2(f) and can be developed for urban purposes. The strategy does identify the Myall Quays (Riverside at Tea Gardens) site on its precinct map and provides brief comments including that the site was rezoned in 2000, and is suitable for low and medium density residential development, tourism, shopping, community and recreational facilities.

Draft Tea Gardens/Hawks Nest Housing Strategy

The draft *Tea Gardens Hawks Nest Conservation and Development Strategy* (PB, 2006) (as discussed in the previous section) was prepared to ensure that future housing demands could be met. As issues specifically associated with dwelling types, dwelling densities and lot yields were not addressed in the *Tea Gardens Hawks Nest Conservation and Development Strategy*, the was prepared and released in 2005.

Submissions received as a result of the public exhibition of the draft *Tea Gardens / Hawks Nest Housing Strategy* have been reviewed by Council and as a result a second draft of the Housing Strategy was prepared and publicly exhibited from 1 June to 30 June 2006. Council adopted the second draft on the 28 November 2006. The density recommendations of the second draft Housing Strategy support an average of 13 dwellings per hectare net for greenfield sites. The proposed concept plan for the development of the site is based on dwelling densities in the order of 13 dwellings per hectare net. The stage 1 project application also achieves an average density of 13 dwellings per hectare.

The draft Housing Strategy makes several other recommendations with respect to LEP amendments, DCP amendments and affordable housing. Generally the draft Strategy supports mixed density neighbourhoods (rather than segregated areas of lower and higher density) and recommends that Great Lakes LEP be amended to permit small lot housing in all residential zones. It also encourages the development of affordable housing options in appropriate locations, such as shoptop housing, long term caravan sites, boarding houses and the like.

The project application is proposing a mixed density residential subdivision and is consistent with the principles of the Housing Strategy.

Recovery Plan for the Hawks Nest and Tea Gardens Endangered Koala (Phascolarctos Cinereus) Population

The Hawks Nest and Tea Gardens koala population was listed as endangered in 1999 under the *Threatened Species Conservation Act 1995,* and as a result the Director-General of the National Parks and Wildlife Service (now Department of Environment and Climate Change or 'DECC') was required to prepare a Recovery Plan for the population.

The Recovery Plan outlines measures that Council, as the land use planning and development control authority, should follow when assessing development applications. The Recovery Plan encourages the conservation of koala habitat and for identified areas of koala habitat to be incorporated into local planning instruments. The implications of the Recovery Plan for the development of the site are discussed in the ecological assessment in *Volume 3*.

4 ENVIRONMENTAL ASSESSMENT

This Chapter provides an assessment of key environmental issues arising from the proposed development and sets out mitigation and management to measures aimed at avoiding, minimising mitigation and manage any deleterious impacts.

4.1 INTRODUCTION

Key environmental issues identified in the Director General's requirements are coastal protection, water cycle and aquaculture management, wetland management, canal estate development, land / water interface, dredging and reclamation, fishing and aquaculture, soils and contamination, Aboriginal cultural heritage, bush fire, flora and fauna and ameliorative measures, infrastructure capacity, traffic and access, environmental risk assessment, cumulative impacts and urban design issues including density, amenity, site permeability, scale and staging. These key issues are addressed in the following pages.

4.2 COASTAL PROTECTION

The issues associated with coastal protection have been discussed in *Section 3.3.6*. The site is within the coastal zone and those parts of the site that are within 100 metres of the Myall River, the Port Stephens-Great Lakes Marine Park and within the SEPP 14 Wetlands are defined as 'sensitive coastal locations'.

Part 2, clause 7(a) of SEPP 71 specifies the matters that should be taken into consideration when a consent authority determines a development application to carry out development on land within the coastal zone and where certain development applications propose to carry out development in 'sensitive coastal locations'. The matters for consideration are listed in *Clause 8* of SEPP 71, and are reproduced in *Table 3.2.*

4.3 WATER CYCLE MANAGEMENT

4.3.1 Groundwater

Groundwater Conditions

Previous groundwater investigations (in 2004) identified shallow water tables present over the site ranging from 0.5 metres to 1.7 metres below ground level. The groundwater level tended to be shallower in proximity to Myall River and

deeper further from the river. Currently groundwater is used only for minor home irrigation (Coffey, 2007a).

Shallow rock levels to the north of the site provide a barrier to groundwater inflow from that direction. A sandy aquifer is expected to extend to the south and west of the site and be in hydraulic contact with the waters of the Myall River to the south, Wobbegong Bay and Pindimar Bay (Port Stephens) to the south west and Kore Kore Creek to the west. The aquifer is in contact with saline water in the Myall River and also with the brackish water in the lake to the south (Coffey, 2007a).

During periods of low rainfall, losses from the groundwater system are likely to occur due to seepage to the Myall River and evapotranspiration from areas of shallow water table (Coffey, 2007a).

Groundwater Levels and Flow Direction

Recent modelling results indicated that the extension of the lake would cause localised drawdown on the north western most extremity of the extended lake by up to one metre. This groundwater level on the north – western tip of the lake extension would fall slightly below levels interpreted to have acid soil producing potential. The affected area however, is considered to be limited and the exceedance of criteria of ASSMAC for the predicted resulting groundwater levels. Therefore, the proposed extension of the lake would not be likely to adversely affect site groundwater outside the proposed lake extension (Coffey, 2007a).

Groundwater modelling also showed that groundwater contours have altered in proximity to the lake extension. This would induce groundwater flows towards the lake which will act to prevent the intrusion of saline water into the aquifer from the Myall River and the brackish water from the lake.

The results from groundwater modelling demonstrated that there would be negligible impacts to the SEPP 14 wetlands, with only a marginal decrease in groundwater levels (less than 0.1 m drawdown) on the western edge of the wetland (Coffey, 2007a).

Groundwater Quality

Testing completed as part of current investigations has indicated that groundwater quality has not changed significantly since 2004. The results are generally below the key criteria for protection of species in marine water presented in the ANZECC guidelines, with the exception of some metal concentrations. The groundwater from the bores closer to the Myall River tends to be characterised by higher EC and a similar anion and cation ratio as seawater. This suggests that seawater is being diluted as a result of rainfall recharge from the catchment (Coffey, 2007a).

Groundwater modelling indicated that the saltwater interface would not be significantly affected by the development.

When compared to the Australian Drinking Water Guidelines, the groundwater is not potable due to concentrations of a range of analytes exceeding the drinking water guidelines. Groundwater in all bores on site and the surface water in the lake are acidic to slightly acidic and outside the lower criterion for drinking water of pH 6.5. Elevated ammonia concentration found in some bores also renders groundwater unsuitable for drinking as it exceeds ANZECC guidelines (Coffey, 2007a).

Reuse of Reclaimed Water

Crighton Properties have been liaising with Midcoast Water for an extended period to provide reclaimed water supply to the site. Whilst both Crighton Properties and Midcoast Water are supportive of the use of reclaimed water throughout the Riverside site, Midcoast Water is not in a position to embark upon required upgrades to treatment facilities (to allow for the delivery of this supply) until such time as a level of security of future use of the resource is provided (through the approval of residential development) and a more detailed analysis is completed.

Therefore water supply and drainage modelling undertaken for the Riverside at Tea Gardens Environmental Assessment has been carried out to accord with the use of rainwater tanks to achieve BASIX compliance. However, information as to the likely future use of reclaimed water via a third pipe reticulation system is provided as detailed below and within *Section 4.21.3*.

Recent groundwater results suggest that the reclaimed water from the nearby sewerage treatment facility may be suitable for irrigation of open spaces and gardens within the development area subject to a small reduction in total nitrogen concentrations. This reduction could be achieved through a combination of treatment and dilution of the reclaimed water with water of a higher quality (Coffey, 2007a).

Calculations of the time it takes for groundwater to flow from the development site to lake or river indicated that it moves at a rate of approximately 10 m/year. Leaching tests indicated that nitrate will move at a similar rate to the groundwater and that phosphorous would move at a significantly slower rate. Therefore, the irrigation impacts are unlikely to adversely impact groundwater or the water in the lake, if one of the treatment options set out in the *Groundwater Assessment* report by Coffey Geotechnics Pty Ltd, (2007a) is pursued.

Appropriate monitoring of all irrigated areas will ensure key indicators remain within the relevant guidelines. Monitoring would include:

- the irrigation water and groundwater quality;

- the application rates and timing of irrigation water; and
- soil testing.

Further detail is provided in *Section 4.21.3* and in the *Groundwater Assessment* report prepared by Coffey Geotechnics Pty Ltd (2007a). This report is annexed within *Volume 3.*

4.3.2 Water Quality Management

Catchment Conditions

The catchment is located on the eastern side of Myall Street and extends from Myall River northwards to high ground near Viney Creek Road. The total area of the catchment is approximately 272 ha.

Surface water drains partly toward the existing lake and partly toward the SEPP 14 wetlands on the eastern boundary of the site. The site is subject to both local and river flooding. Local flooding has been observed by the land owners and Council staff. This local flooding reflects the flat ground slopes and absence of natural drainage channels.

The impact of the existing development on flood flows was mitigated by constructing a detention lake to temporarily store floodwaters and to release it at a rate similar to predevelopment conditions. A number of small retarding basins have also been built within the existing development to meet retardation requirements (Cardno Willing, 2004).

Management of Water Quality

A water quality management program was established in 1996. The primary aim for the existing management of water quality is to protect the SEPP 14 wetland by directing the runoff from the catchment to a tidally flushed lake. This is also supported by a number of smaller ponds and wetlands located within the residential areas.

Water quality impacts on the lake at Myall Quays are due to event-driven loads from runoff, decay of in-lake algae and releases from sediments. Tidal inflows can also impact on water quality. The stormwater runoff impacts can be expected to increase with urban development in the northern part of the project site unless remedial measures are provided and/or the lake is increased in size.

The Water Quality Objectives include:

- the lake and ponds meet microbiological standards for bacterial content and pathogens;

- the lake and ponds be free of nuisance organisms such as algal scums and odours, midges and aquatic worms;
- visual clarity and colour, physical appearance of lake / pond and discharged water to be clear and colourless;
- pH within range 5.0-9.0;
- toxic chemicals meet standard for untreated drinking water;
- surface films such as oil and petrochemicals should not be visually noticeable nor detected by odour;
- sustain a healthy ecosystem;
- free of trash and debris;
- free of mosquito related health risks and irritants; and
- free of nuisance macro aquatic plants.

Existing Water Quality

The sampling indicates that the lake water is brackish, consisting of a mean salinity of 12 g/L, which is approximately one third of the salinity of seawater. There is variability in the salinity concentration due to both catchment (freshwater) runoff as well as the influence of tides and varying salinity in the Myall.

The mean Dissolved Oxygen level within the lake for the sampling period is 6.6 mg/L, with a 10th percentile level of 4.9 mg/L. The 4.9 mg/L level is just below the recommended ANZECC trigger value of 5.0 mg/L for freshwater fish.

The dissolved oxygen levels measured within the Myall Quays Lake and the Myall River have been compared and the data shows the ANZECC high quality guidelines for DO are not currently met at all times, in either the lake or river (Copeland Ave Wharf). This data shows the DO levels in the existing lake are often better that in the Myall River.

The adopted ANZECC 2000 trigger value for Phosphorus (P) is 0.03 mg/L for estuarine systems. Most of the samples have been below the recommended value, with a mean of 0.02 mg/L. Higher P levels occurred soon after the lake was constructed, possibly due residual P released from exposed soil.

The ANZECC 2000 trigger value for Nitrogen (N) is 0.3 mg/L for estuarine systems. The samples measured have generally been low, contributing to the overall good water quality in the existing lake.

Most chemical indicators are below the ANZECC 2000 trigger values. There is 90% of the catchment that is undeveloped, with the existing treatment measures in the southern part of the catchment seemingly assisting with maintenance of good water quality with the existing lake.

4.4 WATER MANAGEMENT SCHEMES

4.4.1 Integrated Water Management Plan

An integrated water management plan has been prepared by Cardno Willing (NSW) Pty Ltd (Cardno, 2008a). The management plan considers flooding and drainage, water quality and maintenance activities, monitoring and management. An assessment of the impact of climate change has also been undertaken (Cardno, 2008b) (attached as Appendix I to the Integrated Water Management Plan within *Volume 3*)

The design incorporates drainage and water quality measures within the open space network as described below.

Flooding and Drainage

Four main drainage lines have been identified within the development footprint. Runoff from up to the 100 year ARI event from the upper catchment areas is to be directed east along one of the drainage lines, which is incorporated into the proposed open space and wildlife movement corridor along the north boundary. Runoff will then be directed south east to a swale located on the eastern boundary of the site. In turn this swale will distribute runoff along the western boundary of the 7(b) Conservation (wetland buffer) zone to reduce the concentration of runoff into the 7(b) Conservation (wetland buffer) zone and the SEPP 14 wetland. The proposed development south of the open space and wildlife movement corridor will drain southwards towards the proposed extended detention lake. A major retarding basin is proposed within this open space corridor as well as a local basin to reduce 100 yr ARI peak flows from the development to the Myall River and the wetland.

The extension of the existing lake to a water body with a 9.5 hectares water surface will also create additional storage to further mitigate increases in peak runoff up to the 100 yr ARI event from the development.

Probable Maximum Flood

Riverside at Tea Gardens is subject to flooding from both the Myall River and from runoff from the local catchment. An assessment of the Probably Maximum Flood (PMF) levels, involving modelling under river and local flooding (without climate change) has been undertaken (refer to *Volume 3* of the EA (Cardno, 2008c)).

The estimated PMF levels in the Myall River in the vicinity of Riverside are summarised in *Table 4.1* as follows:

Table 4.1 Probable Maximum Flood Levels

Event	Description	Estimated Flood Level (mAHD)
PMF	The PMF level under existing conditions with a 100 yr ARI downstream boundary level in the lower reach of the Myall River of RL 1.89 m.	2.82 – 2.89 m
PMF	The PMF level under existing conditions with an extreme downstream boundary level in the lower reach of the Myall River of RL 2.0 m	2.86 – 2.93 m

The Riverside proposal has an additional freeboard of 0.3m over and above Council's adopted minimum floor level of 2.6m AHD in areas subject to inundation from the Myall River to avoid over floor flooding in a 100 yr ARI event under all climate change scenarios. The adopted minimum floor level of 2.9 m is comparable to the estimated PMF level in the Myall River.

The estimated local PMF levels are summarised in Table 2 of the Cardno Probable Maximum Flood report (refer to *Volume 3* of the EA).

It was noted that in almost all locations the 1 hour PMP storm gave the highest flood level except for the upper reach of the West Branch where the 30 minute PMP storm gave the highest estimated flood levels. In most locations it was estimated that the PMF level is between 0.9 m to 1.45 m higher than the local 100 yr ARI level.

It should be noted that the local PMF levels are based on floodwaters confined to the drainage corridors and as such these are conservative estimates. During a PMF event local runoff would spill from the drainage corridors into the residential areas which would result in lower PMF levels than summarised in Table 2 (Cardno, 2008c).

Consideration of Climate Change

The Department of Environment and Climate Change (DECC) have advised that the Floodplain Risk Management Guideline titled *Practical Consideration of Climate Change* (DECC, 2007) should be considered for all developments where there are potential impacts as a result of climate change. This relates to impacts associated with sea level rise and increase in rainfall intensity.

The Intergovernmental Panel on Climate Change (IPCC) has recommended that for the east coast of New South Wales the sea level rise is expected to be 0.18 to 0.91 metres by between 2090 and 2100. Additionally, climate change impacts on flood producing rainfall events to 2070 show a trend for larger

scale storms which will potentially impact on current design ARI due to increases in rainfall.

The planned development is subject to flooding from both the Myall River and from runoff from the local catchment. Sensitivity assessments of climate change have been undertaken by Cardno Willing (2008b) for the scenarios identified in the Floodplain Risk Management Guideline (DECC, 2007). These scenarios include +0.18m, +0.55m and +0.91m rises in sea level as well as 10%, 20% and 30% increase in rainfall intensities. The results of the analysis are provided as *Appendix I* within the Integrated Water Management Plan within *Volume 3* of the EA.

The following conclusions were drawn from the sensitivity runs for the Myall River:

- the current adopted 100 yr ARI level of 2.1m AHD could accommodate up to a 30% increase in rainfall under conditions where there is no increase in sea level;
- a 30% increase in rainfall increases 100 yr ARI levels in the Myall River by:
  - 0.06 m to 0.07m under a sea level rise of 0.18 m;
  - 0.04 m to 0.06m under a sea level rise of 0.55 m; and
  - 0.03 m to 0.04m under a sea level rise of 0.91 m.
- depending on the adopted increase in rainfall intensity, the freeboard in Council's adopted minimum Flood Planning Level of 2.6 m AHD is:
  - around 0.43 to 0.25m under the +0.18m sea level rise scenario;
  - around 0.02 to 0.07m under the +0.55m sea level rise scenario; and
  - exceeded by 0.26m to 0.3m under the +0.91 m sea level rise scenario (Cardno Willing 2008b).

The results of the river flooding inundation plots identified that:

- river flooding under either a low or a medium climate change scenario would not inundate any unimproved lots;
- river flooding under a high climate change scenario would partially inundate around 180 - 220 unimproved lots (but not over floors) to a maximum depth of 0.3m;
- under a low climate change scenario there would be minimal inundation of planned roads;
- under a medium climate change scenario there would be inundation of a number of planned roads by up to 0.5m (which would be Low Hazard due

to the expected very low velocity on the fringes of the river flooding through the development); and

- under a high climate change scenario there would be increased inundation of a number of planned roads by up to 0.8m (which would be still Low Hazard due to the expected very low velocity of flow on the fringes of the river flooding through the development) but would comply with the requirements for safe wading.

The results of the sensitivity runs for the local catchment concluded that:

- the 1.5 hour storm burst gives higher local 100 yr ARI flood levels than the 9 hour storm burst in areas where the estimated 100 yr ARI flood level is greater than 2.1m AHD;

- the East Branch and North Branch Flood Planning Levels are controlled by the Myall River under a +0.18m or greater sea level rise;

- the Flood Planning Levels adjacent to the West Branch are controlled progressively by the Myall River as the sea level rise increases;

- the Flood Planning Levels adjacent to the lower reaches of the East West Branch are controlled progressively by the Myall River as the sea level rise increases; and

- the greatest increase in the 100 yr ARI flood level in the East West Branch in the reach unaffected by sea level rise is 0.28m (Cardno, 2008b).

The planned development has adopted an additional freeboard of 0.3m for minimum floor levels over and above Council's adopted minimum floor level of 2.6m AHD in areas subject to inundation from the Myall River to mitigate the impacts of climate change and to avoid over floor flooding in a 100 yr ARI event under all climate change scenarios. The adoption of a minimum floor level of 2.9m AHD will provide all homes in the development with a far greater level of protection against climate change than a large number of existing properties in Tea Gardens.

Elsewhere in the planned development the adoption of a minimum floor level of 0.5m above the local 100yr ARI flood level (under no climate change) would provide a minimum 0.22m freeboard above the local 100 yr ARI flood level under a high climate change scenario.

While under a high climate change scenario, there would be increased inundation of a number of planned roads by up to 0.8m (which would still be Low Hazard due to the expected very low velocity of flow on the fringes of the river flooding through the development) however this would comply with the requirements for safe wading. Even under a high climate change scenario, planned roads would provide flood free egress via a number of roads for residents evacuating from threatened properties to higher ground on the

northern and north western boundaries of the development (Cardno, 2008b) (refer to *Volume 3*).

Water Quality

The primary aim for the management of water quality is to protect the SEPP 14 wetland by directing runoff from the catchment to a tidally flushed lake. The treatment train includes a number of smaller ponds and artificial wetlands located within the residential areas. Water quality impacts on the lake at Myall Quays are the result of event-driven loads from runoff, decay of in-lake algae and releases from sediments. Tidal inflows can also impact on water quality. The stormwater runoff impacts can be expected to increase with urban development in the northern portion of the site unless remedial measures are provided and / or the lake is increased in size.

The Water Quality Objectives include:

- the lake and ponds meet microbiological standards for bacterial content and pathogens;
- the lake and ponds be free of nuisance organisms such as algal scums and odours, midges and aquatic worms;
- visual clarity and colour, physical appearance of lake / pond and discharged;
- water to be clear and colourless;
- pH within range 5.0-9.0;
- toxic chemicals meet standard for untreated drinking water;
- surface films such as oil and petrochemicals should not be visually noticeable nor detected by odour;
- sustain a healthy ecosystem;
- free of trash and debris;
- free of mosquito related health risks and irritants; and
- free of nuisance macro aquatic plants.

To achieve these objectives a combination of measures will be implemented, including:

- the installation of rainwater tanks on all new residential lots;
- extending the existing detention lake;

- constructing a number of ancillary water quality control ponds to create a 'treatment train' for runoff prior to discharge into the lake;

- constructing local wetlands to create a 'treatment train' for runoff prior to discharge to the Myall River and the existing wetland; and

- constructing a 770 metre long swale along the eastern edge of the development to distribute flow to the buffer area and existing wetland.

The maintenance of the pond and wetland will be based on practices already implemented for the existing ponds and wetlands located within developed areas of Riverside. Anticipated maintenance activities include:

- routine inspections of inlet and outlet points and removal of accumulated litter and debris;

- periodic draining and desilting of the ponds (every five to 10 years);

- inspection and removal of noxious and invasive weeds from within the macrophyte zone (every one to three months during establishment phase);

- replacement of plants that have died (as needed); and

- 'resetting' the macrophyte zone every 20 to 50 years, depending on the pollutant loading rate on the system.

The maintenance of the extended lake will be based on practices already implemented for the existing detention lake and generally include:

- inspection and removal of accumulated debris and litter from inlet and outlet structure;

- inspection and removal of noxious weeds from within the water body;

- inspection and removal of any vegetation that my invade the outlet channel to maintain the outlet capacity; and

- inspection and removal of accumulated sediment from inlet zones as needed.

Management of aquatic weeds in the constructed pond and wetland systems and extended detention lake will be implemented to ensure that weeds do not compete with species planted for specific design requirements. Management will be based on practices already implemented for the existing detention lake, ponds and wetlands.

During the early stages of wetland establishment waterbirds can cause a nuisance by pulling out plants. To mitigate this impact an interlocking planting system may be used as water birds find it difficult to lift interlocking plants.

Gross pollutant traps (GPTs) are not proposed to be constructed.

Monitoring

Monitoring programs are proposed to occur for the SEPP 14 Wetlands, the extended detention lake, the constructed freshwater lakes, ponds and wetlands. These programs are to be designed and implemented by various stakeholders including the landowner, contactor/builder, Myall Quays Community Association (residents), Great Lakes Council and DECC. Stakeholders are proposed to meet and review the outcomes of the monitoring after three (3) years and agree to the scope of ongoing monitoring programs, the timing and any subsequent review. The details of the technical methods for the monitoring programs are outlined within the Integrated Water Management Report prepared by Cardno Willing (2008a) annexed within *Volume 3.*

Management actions have been proposed to rectify any potential failures as a mitigation measure to meet the water quality objectives. These proposed actions would trigger immediate sampling of the waterbodies. The frequency of sampling will be increased at this time until it is certain that any effect of the event has been prevented from reaching the water body or has passed through the waterbody. These management measures should ensure that water discharged from the development does not impact upon the primary contact recreational condition of the Myall River. Details of the proposed management actions are outlined within the Integrated Water Management report prepared by Cardno Willing (2008a) annexed within *Volume 3.*

Existing Water Quality

A water quality monitoring program for the existing detention lake was established in 1996. Samples are collected and analysed at five locations approximately every three months.

Sampling indicates that the lake water is brackish, consisting of a mean salinity of 12 g/L, which is approximately one third of the salinity of seawater. There is variability in the salinity concentration due to both catchment (freshwater) runoff as well as the influence of tides and varying salinity in the Myall.

The mean Dissolved Oxygen (DO) level within the lake for the sampling period is just below the recommended ANZECC trigger value of 5.0 mg/L for freshwater fish. The dissolved oxygen levels measured within the detention lake and the Myall River have been compared and the data shows the ANZECC high quality guidelines for dissolved oxygen are not currently met at all times, in either the lake or river (Copeland Ave Wharf). This data shows the dissolved oxygen levels in the existing lake are often better that in the Myall River.

The adopted ANZECC 2000 trigger value for Phosphorus (P) is 0.03 mg/L for estuarine systems. Most of the samples have been below the recommended value, with a mean of 0.02 mg/L. The ANZECC 2000 trigger value for Nitrogen (N) is 0.3 mg/L for estuarine systems. The samples measured have generally been low, contributing to the overall good water quality in the existing lake.

Most chemical indicators are below the ANZECC 2000 trigger values. The catchment is 90% undeveloped, with the existing treatment measures in the southern part of the catchment seemingly assisting with maintenance of good water quality with the existing lake. The technical data produced during the sampling period are detailed within the Assessment of Water Management Options dated September, 2004 prepared by Cardno Willing annexed within *Volume 3*.

Water Management Schemes

Seven water management schemes have been identified and assessed with respect to their strengths and weaknesses and impacts on the existing water quality of the Myall River catchment and are detailed in *Volume 3* (Cardno, 2008a). A combination of schemes 3 and 4 have been adopted (resulting in Scheme 5) which include extending the brackish water lake and including a series of freshwater lakes to provide the preferred water quality management system for the proposed development. The schemes are outlined below with technical data detailing the water modelling being correlated within the Assessment of Water Management Options dated September, 2004 prepared by Cardno Willing, annexed within *Volume 3*.

- *Scheme 1* - This scheme represents the implementation of the proposed development without any additional work to manage stormwater quantity or quality except the installation of measures to meet the requirements of BASIX for all new residential properties. This is the "Do Nothing" scheme. All stormwater flows to be piped into existing lake or discharged directly to wetland;

- *Scheme 2* - This scheme attempts to mitigate the adverse impacts of scheme 1 by increasing tidal flushing to combat water quality impacts and the provision of dry basins to help address detention and nutrient control;

- *Scheme 3* - This involves the extension (by 7.5 ha) of the existing lake to give a tidally flushed lake with water quality comparable to existing conditions. The extended lake would also partially meet the requirements for additional active detention storage;

- *Scheme 4* - Under this scheme a separate freshwater lake (12 ha) and / or equivalent area of water bodies would be constructed to treat stormwater from the new development prior to its discharge into the existing detention lake. This lake would be a window lake with an expected average water level slightly higher than the existing tidally flushed lake. The additional

lake / pond(s) would also include active storage to partially meet the retardation requirements;

- *Scheme 5* - This scheme is a combination of schemes 3 and 4. It would comprise the extension of the western arm of the existing tidally flushed lake as well as the construction of an additional freshwater lake or chain of ponds (total extension);

- *Scheme 6* - This is also a variation on Scheme 4. Instead of an additional shallow lake / pond(s) additional shallow lined wetlands would be constructed; and

- *Scheme 7* - This scheme is effectively scheme 2 with the benefit of swales. This scheme attempts to mitigate the adverse impacts of scheme 1 by increasing tidal flushing to combat water quality impacts and the provision of dry basins to help address detention and nutrient control (Cardno, 2004).

4.4.2 Myall Quays Detention Lake Sediment Sampling and Analysis

Lake sediments were investigated within the Myall Quays Detention Lake to look for the existence of a build up of nutrients and persistent chemical pollutants.

Coffey Geotechnics (Coffey) undertook fieldwork on the 5 October, 2007. The sediment sampling was assessed for contamination levels against the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000).* Twenty-one (21) sediment samples were collected at locations within the lake. The sediment samples analysed from the lake show low heavy metal (Cr, Cu, Pb, Hg, Ni and Zn) concentrations which are below the adopted warning levels and may possibly be at background levels (Coffey, 2007b).

Organochlorine pesticides (OCP) and polychlorinated biphenyls (PCB) were not detected above the laboratory reporting limits. Polynuclear aromatic hydrocarbons (PAH) were detected at concentrations below the warning levels for this investigation. Nutrient concentrations (total nitrogen and total phosphorous) indicate they have not accumulated to levels typical of urban ponds and lakes (Coffey, 2007b).

Based on the sampling and analysis it appears that the lake is not acting as a "pollutant sink", showing little or no evidence of build up of pollutants within the lake bed. The Lake Sediment Sampling and Analysis report prepared by Coffey dated October, 2007 has established baseline comparison data for future development and monitoring of the sediments of the lake (Coffey, 007b).

4.5 WETLAND MANAGEMENT

The Wetlands Report prepared by Hunter Wetland Research (Winning, 2009) complements the ecological assessment undertaken by Conacher Environmental Group, (2008b) both of which are annexed within *Volume 3*.

The proposed 'Riverside' development covers an area of 229ha, approximately 101.3ha of which would be developed as residential, commercial and tourism facilities. The remaining 127.7 ha would be retained as open space parks, wildlife corridors and reserves. The reserved land includes approximately 49ha of wetland / wetland buffer, the vast majority of which would be retained and protected in recognition of their local and State significance. More than half of the wetland reserve is covered by *State Environmental Planning Policy 14 - Coastal Wetlands* (SEPP 14), and virtually all of the wetland area supports ecological communities that are listed as endangered under the *Threatened Species Conservation Act 1995* (TSC Act) (Winning, 2009).

4.5.1 *Wetland Environment*

The wetlands on the site form part of the floodplain of the lower Myall River, with strong estuarine tidal influences due to the close proximity to Port Stephens. The intertidal areas support characteristic estuarine wetland vegetation (mangroves and saltmarsh). The vegetation of areas dominated by freshwater inputs is influenced by the chemistry of the sandy soils, and is dominated by plant species that are characteristic of sandplains of the lower north coast of New South Wales (Winning, 2009).

4.5.2 *Development Impacts*

The *Great Lakes Local Environmental Plan 1996* (LEP) provides for the protection of wetlands on the site. The wetland covered by SEPP 14 is zoned '7(a) - Wetlands and Littoral Rainforest' and a broad band of freshwater wetland vegetation adjacent to the SEPP 14 Wetland is zoned '7(b) - Conservation', which is a less restrictive zone than the 7(a) zone (Winning, 2009). The proposed Riverside development is outside the SEPP 14 wetland.

Direct Impacts

The extension of the existing channel connected to the Myall River would result in the direct loss of approximately 150m^2 of wetland vegetation comprising *Juncus kraussii* and *Melaleuca ericifolia* scrub (Winning, 2009) (refer to *Volume 3* of the EA). *Section 4.7.2* provides additional information relating to the channel extension works and associated impacts.

Indirect Impacts

Developments adjacent to wetlands also have the potential to indirectly affect the wetland communities in a number of ways:

- changes in quantity and quality of surface and groundwater flows into the wetlands,
- human pedestrian and vehicular intrusion; and
- general 'edge effects', including:
  - predation of native fauna by domestic cats and dogs;
  - 'light spill' of street lights which can affect the behaviour of native animals;
  - dumping of rubbish and garden refuse;
  - 'weed creep' from lawn grasses, etc.; and
  - mowing of wetland margins (Winning, 2009).

4.5.3 Influences on Surface and Groundwater Quantity

Urban developments have more 'hard' impermeable surfaces than the natural communities, typically creating a greater quantity of stormwater flowing from developed areas. If these flows are directed into adjoining wetlands, the increased wetness can alter vegetation and habitats by giving a greater competitive advantage to plants that tolerate wetter conditions. Conversely, retaining the stormwater in some manner (e.g. in rainwater tanks) can lead to drier conditions in the adjoining wetland, again potentially altering the vegetation and habitats (Winning, 2009).

This issue is compounded on sites with highly permeable soils (e.g. sandy soils) such as the Riverside site. On these soils, infiltration of rainwater into the soil forms a groundwater table, the height of which at any time is determined by the quantity of infiltrated rainwater. Thus, measures to manage surface water flows by, for example, detention ponds can affect the groundwater by influencing the quantity of infiltration (Winning, 2009).

Changes in the quantity of catchment flows can affect the salinity of water and soils in the estuarine wetlands. An increase in catchment flows can lead to the lowering of salinity and a decrease in catchment flows can lead to an increase in salinity. Such changes in salinity can result in changes to the distribution of the various wetland communities. Surface water flows and groundwater levels are both naturally highly variable, and it is the 'average' influence that must be considered. In this context, relatively minor changes in groundwater levels are likely to be inconsequential with respect to the overall variability. However, persistent changes, even minor ones, such as a permanent decrease in average groundwater level, can lead to changes in vegetation (Winning, 2009).

4.5.4 Potential Groundwater Impacts

The groundwater chemistry at Riverside at Tea Gardens has been described by Coffey Geosciences (Coffey, 2004) and Coffey Geotechnics (Coffey, 2007a). Key findings of these reports are:

- salinity is related to proximity to the Myall River, with sites close to the river having a higher salinity;
- groundwater is slightly acidic - pH 5 to 6 (one site approximately pH 4); and
- levels of macronutrients (nitrogen and phosphorus) are generally low.

The most likely potential changes in water quality resulting from urban development is a reduction in groundwater acidity (i.e. an increase in pH), and an increase in macronutrients. Urban stormwater runoff tends to be circum-neutral (ca. pH 7), and discharge of such water into a naturally acidic system can dilute the acids and lead to an increase in pH. If this dilution is sufficient to raise the pH of the groundwater to around neutral, these conditions would give a competitive edge to plant species (and some animal species) that are presently out competed by acidophilic plant species. This would result in changes to the wetland communities (Winning, 2009).

The extension of the existing constructed lake would result in a substantial drawdown of average groundwater levels over much of the site, but the wetlands are essentially unaffected by this drawdown. The drawdown across the site may result in the area becoming drier on average, thereby encouraging the migration of saline groundwater further inland. The noticeable effect of these changes is likely to be a displacement of plant species that are competitive in the existing fresh and wetter conditions, such as *Melaleuca quinquenervia*, by species that are more competitive in drier and more saline conditions, such as *Casuarina glauca*. There is unlikely to be an overall loss in wetland vegetation but, rather changes in the distribution of different vegetation types. These changes are likely to be slow and occur over many years or even decades (Winning, 2009).

4.5.5 Potential Surface Water Impacts

Detailed modelling of the existing surface water conditions has been undertaken by Cardno Willing (2008a). Cardno Willing (2008a) found that the past construction of east-west drains has diverted historical north to south surface water flows across the site in an easterly direction into the wetlands. This historical change was quantified as an increase to an annual average of approximately 704 ML/yr from an annual average of approximately 148 ML/yr. It is important to note that these are average values and that the actual runoff into the wetlands would vary from year to year, and would be sporadic during any year (Winning, 2009).

Under the proposed post-development conditions the average annual runoff into the wetlands would be approximately 480ML/yr. This represents a reduction from existing flows. However, this is unlikely to have a noticeable impact on the wetland vegetation, as this vegetation is predominantly determined by groundwater levels, which are predicted not to change substantially on all but a small part of the wetlands (Coffey 2008a).

Both the estuarine and freshwater wetlands on the site are subject to surface flooding (tidal and flood inundation from the river, and stormwater flows from the catchment). However, the dominant chemical influence on the wetlands is the quality of the groundwater, largely because any surface water flooding quickly infiltrates through the sandy soil, and the groundwater is always present (Winning, 2009).

Levels of macronutrients in stormwater runoff from urban areas are characteristically high relative to undeveloped conditions. These elevated nutrient levels derive from a number of potential sources, including:

- fertilisers used on lawns and gardens;
- top soil and other introduced soils with a high clay or silt content;
- organic particulates, such as from leaf mulch;
- dumped organic matter, including lawn clippings, and bread and grain fed to waterbirds;
- faeces of domestic dogs and cats; and
- detergents from car washing, etc.

As with changes in pH, an increase in macronutrients levels can give a competitive advantage to plant species that are presently not abundant or are absent. In extreme cases, very high levels of macronutrients can lead to eutrophication of surface waters - copious growth of algae and macrophytes, the decomposition of dead litter from which can lead to depleted oxygen levels and death of aquatic fauna (Winning, 2009).

4.5.6 Modelled Impact on Groundwater and Surface Water Quality

Both the surface water modelling (Cardno, 2008a) and the groundwater modelling (Coffey, 2007a) predict a reduction in pollutant loads (suspended solids, total nitrogen, total phosphorus) in water flowing into the wetlands. This is the result of the integrated water management scheme proposed (Cardno Willing, 2008a) which includes measures to intercept and treat potentially polluted surface water runoff. Accordingly, there should be no impact on the wetlands resulting from the modelled pollutants.

The reduction of surface flows into the wetland, and the consequent increase in influence of lower pH groundwater flows, should obviate any potential

reduction in acidity that may affect vegetation and 'Wallum' fauna species (Winning, 2009).

4.5.7 Human Interaction with Wetland Areas

Uncontrolled access into wetlands has the potential to impact the wetlands through trampling of vegetation, dumping of rubbish, etc. However, it is considered important to encourage controlled access into the wetlands to increase public appreciation of wetlands and their ecological values, as well as to discourage undesirable activities through increased public visibility of natural areas. Accordingly, a Wetland Management Plan to better manage the human interaction with the Wetland environments should be prepared to indicate whether appropriate access points, tracks, boardwalks, interpretation facilities, etc. should be permitted and specify measures to limit access into other areas (Winning, 2009).

4.5.8 Integrated Water Management

To address the potential impacts to the SEPP 14 Wetland and adjacent wetland buffer, an Integrated Water Management Strategy has been developed (Cardno Willing, 2008a) (refer to *Volume 3* of EA) to manage the groundwater and surface water flows. The management of the groundwater and surface water flows should mitigate any impacts on the wetlands resulting from the potential pollutants identified.

4.5.9 Management of the Wetland

An Ecological Site Management Strategy has been prepared which details management strategies to protect the long term environmental and ecological values of land within Riverside, including the management of the wetland area (refer to *Section 4.12.8*). In addition, the Wetland Assessment completed by Winning (2009), recommends the preparation of a Wetland Management Plan specifically to manage the potential environmental impacts associated with channel extension works, rehabilitation of the channel following works and ongoing monitoring. The Wetland Management Plan should include, as a minimum, the following:

- a detailed description of how the works would be undertaken;
- a description of measures to be adopted to mitigate compaction or other damage to the substrate, that may affect restoration,;
- a description of measures to be adopted to avoid collateral impacts, such as lateral movement of sediment and inadvertent intrusion by plant into the saltmarsh outside of the construction strip;

- a description of measures to be adopted to rehabilitate the disturbed areas, including confirmation of levels, planting &/or propagule placement, etc.; and

- details of an ecological monitoring program to be implemented to assess and report of the progress and success of the rehabilitation.

4.6 CANAL ESTATE DEVELOPMENT

As set out in *Section 3.3.5*, a legal opinion has been obtained (refer to *Annex G* of *Volume 1*) which confirms that the proposed extension of the existing detention lake would not represent a canal estate development within the meaning of clause 3 of SEPP 50.

The existing residential development at Myall Quays incorporates an artificial waterbody which was created to provide an appropriate stormwater detention system to control the rate of runoff into the Myall River from the residential development. The proposed extension of this water body is required to cater for drainage from the development of Riverside. Several different water management options have been investigated for the site and the preferred scheme, involving the extension of the existing detention lake by 2.0ha and the inclusion of three (3) separate freshwater detention ponds, is considered to be consistent with the intent of SEPP 50 to permit appropriate water management structures.

4.7 LAND/WATER INTERFACE

4.7.1 Land/Water Interface (Residential)

The concept plan and project application maintains the wetland and buffer to the wetland adjacent to the residential areas. A total of approximately 28 hectares of wetlands (zoned 7(a) Wetlands and Littoral Rainforest) will be retained. A 21 hectare buffer (zoned 7(b) Conservation) will separate the residential area from the wetlands. Land within the buffer will not be developed for residential purposes.

Public Access

A foreshore park within the north east section of the 7(b) Conservation lands will be created for the purposes of providing community facilities and public access to the Myall River foreshore. The park and associated pathways establishes a buffer between the Myall River and residential development.

Controlled public access will also be provided in proximity to the Myall River and SEPP 14 Wetland through the construction of pathways adjacent to, but

not within the 7(b) Conservation zone. The location of the pathways will facilitate public access, whilst protecting the SEPP 14 Wetland and wetland buffer (conservation land) from informal public access. An asset protection zone to be constructed within the 2(f) zone, adjacent to the 7(b) conservation lands will provide additional separation to the conservation area, thereby minimising edge effects.

Bank Erosion

Development on the banks of the Myall River is limited to the extension of the existing drainage channel connected to the Myall River to the water detention lake and thus the potential for bank erosion is limited to this area. However, there is potential for sedimentation of the Myall River associated with the development of the site. As detailed in Section 4.3, water management at the site, including the extension of the existing detention lake and the construction of a number of ancillary water quality control basins and ponds to create a 'treatment train' for runoff prior to discharge, together with erosion and sediment control measures, will minimise the potential impact of sedimentation.

4.7.2 Land / Water Interface (Extension of Existing Drainage Channel).

Channel Extension Methods

The existing drainage channel connecting the lake to the Myall River is proposed to be retained and another connection is proposed to be constructed. No works are proposed within SEPP 14 Wetlands. The use of dredge is proposed during construction of the proposed new channel as it provides the least environmental impact of all the construction methods considered.

The proposed construction method is discussed below:

- construction works will be short term, occurring over a period of two days;
- approximately 60m^3 of material, including 150m^2 of vegetation removal will occur as a result of the creation of the new drainage channel; and
- the proposed construction method involves the use of a small dredge which will be floated out to the site on a barge. The existing temporary water treatment pond constructed for Stage 5 could be utilised to contain and treat the dredge water.

Erosion and sediment control measures for these proposed works are detailed within the Construction Environmental Management Plan (ERM, 2009) (refer to *Volume 3*). These works will include sediment fencing on each side of the excavation, a straw bale sediment trap across the front of the existing channel and a sediment curtain around the excavation area and along the length of the lake edge to the spoil area.

Acid Sulphate Soils

Prior to the commencement of channel extension works, the pH level of the soil will be tested to determine whether acid sulphate soils are present. Should they be present, the mitigation measures detailed in the Acid Sulphate Soil Management Plan (refer to *Volume 3*) will be implemented.

Ecological Impacts

As detailed within *Section 4.5.2*, the extension of the existing channel would result in the direct loss of approximately 150m² of wetland vegetation comprising *Juncus kraussii* and *Melaleuca ericifolia* scrub (Winning, 2009) (refer to *Volume 3* of the EA).

Mitigation Measures

In order to minimise potential impacts associated with the channel extension works, a Wetland Management Plan will be developed and implemented as detailed within *Section 4.5.9*.

4.8 FISHING AND AQUACULTURE

4.8.1 Fish Community

A number of studies have been undertaken to gauge the health and diversity of the fish community of the existing artificial lake. These studies include a survey which was undertaken in April 2007 and form part of a series of biological studies to record the aquatic ecological development of the lake (Harris Research, 2007). Survey results from 2007 indicate that the number of fish species and individual fish have increased from previous studies. In comparison, the distribution patterns and occurrence of aquatic plants in the lake were similar to those recorded in 2002.

The 2007 report found evidence of increasing biological diversity and abundance of fish activity which indicates that the lake is continuing to develop towards a sustainable aquatic system. The report indicated that habitat conditions, water quality and the food web are continuing to develop, indicating that the lake is supporting higher numbers of fish stock and is exhibiting increasing productivity.

The report recommended that the previous recommendations contained within the Harris Report (2002), should be adopted. Previous recommendations include increasing the amount and quality of aquatic habitats with respect to increasing the extent, complexity and quality of near-shore habitats for fish, invertebrates and birds. These recommendations for

optimising the quality of aquatic habitats, which are incorporated in current proposals to extend the lake area, include:

- influencing the water-quality regime to increase habitat diversity and stability;
- continuing effective management of the series of runoff-treatment ponds;
- increasing variability of depth profiles by introducing physical structures such as submerged logs, rockwork or other artificial reefs;
- experimentally introducing indigenous submerged and emergent aquatic plants and planting littoral trees, shrubs and grasses; and
- introducing shoreline complexity in newly created waterway areas.

The proposed development at Riverside will ensure that a high standard of water quality is maintained, thereby ensuring the attractiveness of the lake as a fish breeding area.

The planned circular enlargement of the lake and incorporation of the above recommendations would increase tidal ventilation and reduce water-quality variability as well as improving the availability of habitats and food for aquatic and water-associated plants and animals.

These initiatives will ensure the Riverside lake system will continue to contribute to environmental assets of the Tea Gardens area.

4.8.2 Oyster Leases

The Department of Primary Industries' (DPI) Oyster Industry Sustainable Aquaculture Strategy (OISAS) (DPI, 2006) identifies current active oyster leases in close proximity to the Riverside development that need to be protected. Water discharge from the Riverside development needs to be managed in order to minimise potential impacts on the oyster leases. Active oyster leases in proximity to the Riverside site are due to be phased out by 2018, being the end of the current lease period. The leases may be active at any point in time between now and the end of the lease period and therefore the potential impact of the Riverside development on the oyster leases due to water discharge from the site needs to be assessed and mitigated. The Riverside at Tea Gardens development incorporates a water treatment train, including the use of ponds and artificial wetlands to minimise water quality impacts from the proposed development. *Section 4.4* identifies water quality objectives, as well as mitigation and monitoring measures to be implemented to manage stormwater at the site. Given these water management initiatives it is not anticipated that there will be any water quality impacts within the Myall River and therefore the oyster leases will not be negatively impacted in any way.

4.9 SOILS AND CONTAMINATION

4.9.1 Acid Sulphate Soils

A geotechnical assessment which investigated the potential for acid sulphate soils on site was carried out by Coffey Geotechnics Pty Ltd (2008). The investigations relate specifically to the land that is the subject of the project application. It is expected that the subsurface conditions in the south and eastern parts of the site will be similar to those encountered during the geotechnical assessment. The land to the north and north west will be subject to further detailed geotechnical investigations as part of project application for future stage.

According to the Acid Sulphate Soils Risk Map for Port Stephens the site is located in an area where there is a low probability of acid sulphate soil materials occurring between one metre and three metres below the ground surface. The map indicates that acid sulphate soil (ASS) materials, if present, are irregular and may be buried by alluvium or windblown sediments (Coffey, 2008).

Screening testing indicated the following.

- pH values in 1:5 soil to distilled water mix ranged from 4.09 to 7.68. A pH of <4 can indicate the presence of actual ASS;
- pH values of soil in 30 percent H_2O_2 were between 1.43 to 5.77. A pH of <3 can indicate the presence of potential ASS;
- a maximum pH change of 4.99 after oxidation with H_2O_2 was recorded. Significant pH changes (>2) after oxidation with H_2O_2 can indicate potential ASS. pH changes >2 were recorded in 19 of the 105 samples screened for ASS;
- slight to moderate effervescence was observed in 29 of the 105 samples tested. Vigorous effervescent reactions with oxidation in 30 percent H_2O_2 can indicate potential ASS;
- an odour was released upon oxidation with H_2O_2 in 18 of the 105 samples tested. A sulphurous odour is often associated with oxidising potential ASS; and
- temperatures of 19.5 to 33 degrees were recorded in all H_2O_2 oxidation screening tests. Generally the oxidation of significant quantities of pyrite in this test will generate temperatures to >60 degrees Celsius.

Results from laboratory testing for SPOCAS / SCR Suite analysis indicated that 19 of the 28 samples tested exceeded the Acid Sulphate Soil Management Advisory Committee action criteria. Therefore, an Acid Sulphate Soils Management Plan has been prepared as part of the Coffey report (2008), and relates to future earth works at Riverside. The plan provides a reference to all

lot purchasers and contractors required to work on the site (Coffey, 2008). As detailed within Engineering Drawing Sheet 69 within *Volume 2*, with the exception of the construction of the water detention lake basins and ponds, the majority of the Riverside site will be subject to filling in order to obtain required grades. Therefore, there is limited potential for the exposure of acid sulphate soils in these areas.

4.9.2 Contamination

A Phase 1 Environmental Site Assessment (ESA) has been undertaken (ERM, 2008a) to identify potentially contaminating activities that have previously, or may currently be occurring on the Riverside at Tea Gardens site. Key findings of the assessment are summarised below. The full assessment report is presented in *Volume 3* of this EAR.

The following was noted during the assessment:

- the title search review undertaken as part of the assessment did not identify potentially contaminating activities on the site; and
- a limited risk might exist as parts of the site were previously used as a commercial pine plantation. Therefore, impact due to fertilizer and/or pesticides cannot be excluded or that minor oil and/or fuel spills from machinery might exist on the site.

Pesticide use in pine plantations is usually confined to the first two years of a plantation crop cycle. Furthermore all chemical pesticides used in commercial pine plantations in Australia are also used in general agriculture (Forest and Wood Products Research and Development Corporation, 2006). Therefore the potential impact to the site from the use of pesticides associated with the former pine plantation is considered to be minor.

The assessment identified that the greatest potential for potential transport mechanisms and pollution linkages on the site is via the shallow groundwater aquifer. The shallow aquifer is unconfined and is considered to have significant potential to act as transport mechanism for the offsite migration of contaminants. A secondary transport mechanism is considered to be the potential for airborne migration of contaminated soil due to wind erosion. The secondary transport mechanism is considered to have minor potential only, as the site surface is well vegetated and the potential for wind erosion is therefore low.

The assessment considered the risks of potential contamination on identified 'receptors', including persons (residents, future residents, patrons, workers and off site persons), water supply and wells, and the Myall River that are or may be adversely affected by the chemicals of concern.

The assessment identified the following:

- the site was assessed as being free of potential contaminants or past and present contaminating activities likely to have a significant adverse impact on human health or the environment;

- the site, although disturbed in parts by former use as a commercial pine plantation, is currently free from development;

- no evidence of former development was noted; and

- as the site is largely uncontrolled it cannot be discounted that illegal dumping of potentially contaminating materials has occurred, however based on the information reviewed it is considered that the potential for such dumping is low.

Potential for existing site contamination therefore is considered to be low and if encountered, contamination is likely to be limited in extent to localised zones within the site. Therefore the site is considered to have low potential to adversely affect human health or the environment either on surrounding properties or local receiving waters. The Phase 1 ESA undertaken for the Riverside at Tea Gardens site did not identify any significant potential for site contamination. The site is therefore considered suitable for the proposed development.

4.9.3 Excess Soil

Construction Excess Soil

The development of Riverside at Tea Gardens will generate excess topsoil associated with the construction of the water storage lake, basins and ponds and the extension of the existing drainage channel which is connected to the Myall River. The total amount of spoil to result from the construction of Riverside at Tea Gardens project application area is approximately 460,200m^3 as detailed in the Bulk Earthworks Plan (refer to Sheet 11, Engineering Plans within *Volume 2* of the EA).

Earthmoving operations consisting of excavators and trucks will remove the soil during construction and will transport the material within the Riverside at Tea Gardens site for reuse on site. Excess topsoil is proposed to be stockpiled for reuse on the site of the sporting complex proposed on the adjacent Myall River Downs site.

Soil Reuse

Approximately 422,200m^3 of the excavated soil is able to be contained through utilisation on site as detailed within the Bulk Earthworks Plan (Sheet 11, *Volume 2*). The soil will be utilised on site for the following purposes:

- filling and shaping in areas of the site where fill material is required, including roads, east / west drainage basin, commercial site regrading, allotments, level spreader and diversion bank construction;

- the creation of earth mounds proposed to be constructed between the Riverside at Tea Gardens construction site and existing residences within the adjacent Myall Quays residential area. The earth mounds will be created at the commencement of construction of the water detention lake as a noise mitigation measure and following construction the mounds will be reshaped to remove the mound and provide a landscaped area adjacent to the water storage lake; and

- shaping of landscaped and open space areas throughout the Riverside at Tea Gardens site.

There will be approximately 38,000m^3 of excess topsoil. This excess topsoil is proposed to be stockpiled for reuse at the proposed sporting complex on the western side of the Myall Way. All haulage of excess topsoil to the sporting complex site will be in accordance with the Traffic Control Plan and haulage route detailed in Sheet 67 of the Project Application Engineering Drawings provided in *Volume 2* of the EA.

Planning provisions that apply to the reuse of the excess topsoil on the site of the proposed sporting complex on the western side of the Myall Way are detailed in *Section 3.2.7.*

4.10 ABORIGINAL CULTURAL HERITAGE VALUES

An Aboriginal Heritage Assessment (the Assessment) was undertaken by ERM (2008b) (refer to *Volume 3* of the EA), which addressed the DECC Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation. The Assessment identified that the majority of the site was cleared in 1932 for a pine plantation which was burned in 1979 and not maintained (ERM, 2008b).

A desktop analysis of the Aboriginal Heritage Information Management System (AHIMS) Aboriginal Site Database located 31 significant sites within the search area which included the Riverside site and surrounding areas. One midden site (NPWS 38-5-148) was identified within the Riverside site area and two (2) middens sites were identified 300 metres to the south of the site. The remaining significant sites were located more than 1.5 km from the Riverside site scattered throughout the Port Stephens catchment. A strip of wetland area along the Myall River and a small area in the north eastern corner of the site were also identified as potential archaeological sites.

Archaeological surveys carried out by Dallas (1982) and Brayshaw McDonald Pty Ltd (1987) identified an archaeological site, which incorporated four occurrences of shell midden within a 220 metre by 40 metre strip along the bank of the Myall River (Gardner Brown Planning Consultants et al, 1991).

This was recorded as NPWS 38-5-148 in the Kinhill 1994 report and is shown in *Figure 2.1* of the *Aboriginal Heritage Assessment*, (ERM, 2008b) attached to *Volume 3.* It was previously assessed by Brayshaw (1988) as having high archaeological significance and recommended for protection (Kinhill, 1994).

This archaeological site will not be impacted by the proposal as it is located within the SEPP 14 Wetlands, which will not be subject to development. As this site is not to be disturbed no further assessment was completed as part of this EA.

Two other sites (NPWS Site No 38 – 5- 76 and NPWS Site No 38-5-147) were previously identified and investigated as part of the 'Myall Quays' development, immediately south of the subject land (Kinhill, 1994). These sites are located in the Myall Quays development and outside the concept plan area.

DECC released an Interim Community Consultation Requirements Guideline (2004) for Aboriginal consultation in relation to any study area that might eventually be used to support an application under *Part 6* of the *National Parks and Wildlife Act 1974*. (ERM, 2008b) In accordance with the Interim Guideline ERM invited Aboriginal groups to register as a party to the consultation process.

A letter requesting advice from Aboriginal groups regarding any known heritage issues was sent on the 4 May, 2007 to the DECC, Registrar of Aboriginal Land Rights Act 1983 (NSW), Great Lakes Council and Karauh Local Aboriginal Land Council (KLALC). DECC and the Registrar identified additional groups which were included in the consultation process.

A local press advertisement was placed in the Myall Coast Nota newspaper on the 10 May, 2007 inviting any Aboriginal groups to be involved in the consultation process. One response to the advertisement was received and included in the consultation process.

A search of the Native Title Tribunal website on the 4 May, 2007 failed to reveal any active claimant applications in the study area.

A total of three responses were received from KLALC, Jan Webb and the Interim Board of Management for Worimi Conservation Lands. Maaiangal Cultural & Heritage identified the study area as being outside their area of interest.

The three parties that registered an interest were provided with a proposed desktop assessment methodology in June 2007 and a survey methodology in March 2008. Verbal responses to these methodologies were received from KLALC and Jan Webb, each indicating their agreement. Field survey was undertaken in accordance with the agreed methodology on Monday 21 April 2008 with two representatives of the KLALC.

The consultation process is detailed in Annex A of the Aboriginal Heritage Assessment (refer to *Volume 3* of EA). A copy of the Aboriginal Heritage Assessment was sent to the registered Aboriginal parties for comment on the content and recommendations. This review process is appended to the Aboriginal Heritage Assessment Report.

The field investigations undertaken on 21 April 2008 recorded one new midden site located on a sand dune in close proximity to the SEPP 14 wetland and wetland buffer within the proposed tourist precinct (refer to *Figure 6.1* of the Aboriginal Heritage Assessment Report (ERM, 2008b) in *Volume 3*). The midden is located within a paddock and shows signs of disturbance (broken shells on the surface). Given the level of disturbance, this midden is considered to have moderate significance only. Further investigations would be required to confirm the extent, depth and contents of this site should development be proposed within 10 metres of its current extent.

Given the potential depth of deposit and the range of shell species represented (cockle, oyster, whelk and pipi) within the midden site previously identified by Brayshaw McDonald (1988) (site 38-05-0148), the site is recognised as having high archaeological significance. Given its location within a protected SEPP 14 wetland it is likely to continue to survive with only minimal disturbance, which further emphasises its significance within the region (Brayshaw McDonald, 1988).

Neither the newly identified midden nor that previously recorded by Brayshaw McDonald (1988) will be directly impacted by the proposed development, however ancillary or indirect impacts may occur. Alterations to drainage patterns could accelerate erosion of the deposits and greater visitation (on foot and vehicular) may cause damage or erosion. To ensure that indirect impacts do not damage the middens (in particular the recently identified midden located within the proposed tourist precinct, ('Riverside_01'), the following recommendations will be implemented on site:

- Riverside_01 should be protected on all sides by a minimum 10 metre buffer. No construction/excavation works, including the storage of machinery should impinge on this buffer zone;

- a management plan should be developed in consultation with the local Aboriginal community to ensure the long-term protection of the middens. This management plan should consider the use of fencing, designated walkways and interpretive signage at Riverside_01 as an educational resource. No development or excavation works should be undertaken within the tourist precinct until this management plan has been finalised and approved by the Karuah LALC and DECC;

- based on the location of site 38-05-0148 within the protected SEPP 14 Wetland and associated buffer zones, no further protection measures are required;

- based on the predictive modelling and confirmed by field survey it is likely that a consistent low-density scatter of midden material is likely to occur within the eastern portion of the study area. This area will be protected within the SEPP 14 Wetland and associated buffer zones and no specific management measures or monitoring is recommended;

- the remainder of the study area has limited potential for additional sites to be recorded and no specific management measures or monitoring is recommended from an archaeological perspective. Following consultation with the local Aboriginal community, monitoring of clearing and initial excavation works has been recommended by the Karuah LALC. This would not be undertaken as an archaeological activity; and

- a suitable area should be set aside for the possible containment of any cultural heritage material that is uncovered during the construction works. This dedicated 'keeping place' would only be required in the event that material is uncovered and would be under the care and control of the local Aboriginal community.

4.11 BUSH FIRE

Part of the site is mapped as bush fire prone land in the Great Lakes Council bush fire prone land mapping. It is categorised as having a Forest Fire Danger Index (FDI) of 80 and therefore Table A3.4 of *Planning for Bush Fire Protection, 2006* was used to determine appropriate asset protection zones.

The potential bush fire threat was identified from Dry Sclerophyll Forest vegetation to the north of the site. A reduced risk is present to the east of the site comprising the Forested Wetlands and Saline Wetlands. A greatly reduced risk is present from the west and south west as a result of cleared grass land, scattered trees, industrial land use and existing residential development (Conacher Environmental Group, 2008a) (refer to *Volume 3*).

The proposal incorporates a range of bush fire mitigation measures, including Asset Protection Zones (APZs), which were determined in accordance with NSW Rural Fire Service (2006) guidelines, building construction standards, hazard management, evacuation routes, availability to fire fighting services, water supply and communication.

4.11.1 Asset Protection Zones

The required APZs for residential development and development identified as special fire protection purposes (which includes tourist development)are outlined in *Tables 4.2* and *4.3* and are as detailed within the *Planning for Bush Fire Protection Guidelines* (RFS, 2006).

Table 4.2 Asset Protection Zone Requirements for Residential Development

Table 1 Bushfire Attack and APZ requirements for Residential Development						
Direction	Vegetation within 140m	Effective Slope Gradient	Minimum APZ (m)	Bushfire Attack APZ Range (m) Construction Standard		
				Level 3 (High)	Level 2 (Medium)	Level 1 (Low)
North west	Pasture Managed Grassland	0-5 U	No requirement	-	-	-
North to North west	Dry Sclerophyll Forest	0-5 U	20	-	25-35	35-100
East	Forested Wetlands	0-5 D	20	17-24	24-34	34-100
South-South east	Saline Wetlands	0-5 D	No requirement	-	-	-
South	Residential	0-5 D	No requirement	-	-	-
West	Pasture Industrial	0-5 D	No requirement	-	-	-

*Construction Standard AS 3959
U = Upslope
D = Downslope

Source: RFS, 2006

Table 4.3 Asset Protection Zone Requirements for Special Fire Protection Purposes

Table 2 Bushfire Attack Assessment Tourist Units (Special Fire Protection Purposes)			
Direction	Vegetation within 140m of Development	Effective Slope Gradient	APZ (m)required
North to North east	Managed Lands/ Residential development	0-5 U	Nil
East	Saline Wetlands	0-5 D	Nil
South	Forested Wetlands	0-5 D	60 metres*
South west	Forest	0-5 U	60 metres*
West	Forest	0-5 U	60 metres*

The APZs will be measured from the building line of the development. Fuel management within the APZs will be regularly maintained in accordance with a site specific fuel management plan as generally described in *Planning for Bush Fire Protection, 2006*.

4.11.2 Construction

Construction standards set out in the Australian Standard AS3959 *Construction of Buildings in Bush Fire Prone Areas* will apply to the future development.

Exposed areas of the future residential development will be constructed to a Level 1 or 2 construction standard to protect against bush fire attack depending on the width of the chosen APZ (Conacher Environmental Group, 2008a).

4.11.3 Hazard Management

The managers/owners of the lot/s will have an ongoing liability to ensure the management of the APZs within the property to prevent the build up of combustible fuel.

Section 63(2) of the Rural Fires Act states that '*it is the duty of the owner or occupier (including Councils) of land to take the notified steps (if any) and any other practicable steps to prevent the occurrence of fires on, and to minimise the danger of the spread of fires on or from that land*'. A site specific fuel management plan should be developed in accordance with the *Planning for Bush Fire Protection, 2006* to properly manage regular maintenance.

There is no physical reason that should constrain hazard management in any potential asset protection zone from being successfully carried out by normal means e.g. landscaping /mowing / slashing following initial clearing works (Conacher Environmental Group, 2008a).

4.11.4 Evacuation Safety

The proposal provides evacuation routes from the proposed development during a bush fire. The proposal includes two access points to Myall Street, including the existing access point at Shoreline Drive. From Myall Street safe egress is available to the north and south, to areas that provide adequate separation from the surrounding bush fire threats. The concept plan also provides two separate access points to Toonang Drive, which has direct access to Myall Street.

4.11.5 Availability and Access to Fire Fighting Service

The site is in close proximity to two rural fire services. The closest Rural Fire Brigade is located in Tea Gardens, approximately three kilometres to the site. This fire brigade would have a response time of 10 – 15 minutes if they were not assisting elsewhere. There is also a Rural Fire Service located at Bulahdelah to the north. They would have a response time of 30-45 minutes if they were not assisting elsewhere.

All access requirements are to be compliant with the provisions of the *Planning for Bush Fire Protection, 2006.* The proposed internal road layout and connection to existing road provides adequate access / egress for emergency services.

4.11.6 Water Supply and Communication

Reticulated water is available to the site therefore additional supplementary water supply for fire fighting purposes will not be required. Hydrants will be installed in accordance with Australian Standard AS2419-1 (1964). Access points for reticulated water supply are to incorporate a ring main system for all internal roads.

Telephone communication is also available to the site, which will assist in communications during a bushfire.

4.11.7 Bush Fire Evacuation Plan

A Bush Fire Evacuation Plan should be prepared and incorporated into the Community Management Statement.

4.12 FLORA AND FAUNA

An ecological impact assessment of the proposal, in accordance with Part 3A of the *EP&A Act,* was undertaken by Conacher Environmental Group (2008b). The assessment was undertaken to determine the extent of potential impacts to threatened species and endangered ecological communities listed under State and Commonwealth legislation and to ensure appropriate safeguards and strategies are put in place to avoid, mitigate and/or ameliorate potential impacts on ecological resources. Methodology employed and key findings of the assessment are summarised below. The full assessment report is presented in *Volume 3* of this Environmental Assessment Report.

Preliminary background literature reviews and database searches were undertaken, including database searches for threatened species listed under the TSC Act previously recorded within a 10 km radius of the site (the 'locality') and review of existing vegetation mapping. Aerial photographs were also reviewed and a number of ecological and environmental reports previously completed for the site were also reviewed. Field investigations were also carried out at the site by Conacher Environmental Group (2008b).

4.12.1 Existing Environment

Vegetation

Vegetation at the site is described as a mosaic of disturbed pasture with scattered trees and a number of woodland/open forest communities.

A large remnant of naturally vegetated swamp forests, heaths and estuarine vegetation communities, associated with the Myall River occur within the eastern portion of the site. These wetland communities have been mapped in detail by Winning (2009) (refer to *Volume 3* of this EA) and include a variety of estuarine, brackish and freshwater communities. Wetland communities identified in the eastern portion of the site include:

- disturbed estuarine edge communities (Strand wrack and weedy dredge spoil and *Casuarina* flat);
- intertidal estuarine communities (*Sarcocornia – Juncus* saltmarsh, *Juncus* saltmarsh and mangroves);
- brackish communities (*Baumea* rushland); and
- freshwater communities (*Melaleuca quinquinervia* forest, *Eucalyptus robusta* open woodland and *E. robusta* forest).

Vegetation communities within the site are generally disturbed as a result of previous agricultural activity including grazing, underscrubbing and selective logging. A full description of each community including vegetation mapping showing the location of each community at the site is provided in the Ecological Site Assessment (Conacher Environmental Group, 2008b) within *Volume 3* of this EA.

Threatened Flora and Endangered Ecological Communities (EECs).

A total of 25 threatened flora species have previously been recorded within the locality. Nine species were considered to have the potential to occur at the site based on the presence of suitable habitat. No threatened flora species were identified within the subject site during field investigations (Conacher Environmental Group, 2008b).

No endangered flora populations as listed in the Threatened Species Conservation Act have been recorded at the site or in the locality.

Consideration was given to the presence of EECs at the site that are known to occur or have the potential to occur within the Great Lakes LGA. Three EECs, being Coastal Saltmarsh, Swamp Sclerophyll Forest on Coastal Floodplains and Swamp Oak Floodplain Forest were identified within the subject site.

Large areas of the EEC Coastal Saltmarsh were observed within the eastern section of the site associated with supratidal and tidal flats along the western boundary of the Myall River. Two vegetation communities identified within the study area are considered to be representative of the endangered ecological community, Coastal Saltmarsh. These were Rushland (*Baumea juncea*) and Saltmarsh (*Juncus kraussii*) which have been mapped as occupying approximately 24.9 hectares within the Riverside site. These communities will be largely conserved within the site's conservation and wetland zones however, approximately 0.015 hectares of the Saltmarsh (*Juncus kraussii*) and *Melaleuca ericifolia* vegetation communities will be impacted by the proposed extension of the existing drainage channel linking the detention lake to the Myall River within the 7(a) zone.

The EEC Swamp Sclerophyll Forest on Coastal Floodplains was identified as occurring predominantly within the eastern portion of the site adjacent to the Coastal Saltmarsh EEC and also within small areas occurring in localised depressions within the central and northern parts of the site. Three vegetation communities identified within the study area are considered to be representative of this EEC. These were Woodland / Open Forest (*Eucalyptus robusta*), Scrub (*Melaleuca ericifolia*) and Paperbark Forest (*Melaleuca quinquenervia*). Approximately 27.4 hectares of this ECC will be retained, restored and protected, however approximately 21 hectares will be modified and / or removed by the proposal.

The EEC Swamp Oak Floodplain Forest was identified in the eastern part of the site within the 7(a) wetland zone and the mapped vegetation community Casuarina Forest (*Casuarina glauca*) is a highly disturbed regrowth variant of the EEC. The EEC occupies appropriately 1.2 hectare within the Riverside site and will be completely retained and restored as part of site specific vegetation management and offset strategies.

4.12.2 Fauna Habitat

The site supports a diverse assemblage of native mammal, reptile, bird and frog fauna. A total of nine mammal species, 78 bird species, five reptile species, eight bat species, 13 frog species and two aquatic species were recorded on the site during the 2007/2008 surveys Seven threatened fauna species, the Wallum Froglet, Osprey, Barking Owl, Grey-headed Flying-fox, Squirrel Glider, Little Bentwing-bat, and Eastern Freetail-bat , as listed within the TSC Act, were observed within the Riverside at Tea Gardens site, with a number of other fauna species recently recorded within the Tea Gardens area as part of other studies, including Powerful Owl, Masked Owl, Koala, Eastern Chestnut Mouse and Eastern Pygmy-possum. The following threatened fauna species were observed within the site during previous surveys, however these have not been recorded within the last five years despite extensive fauna surveys: Greater Broad-nosed Bat, Large-footed Myotis, Eastern Bentwing-bat, Common Blossom-bat and Koala.

A range of fauna habitats are present within the site reflecting the diversity in the vegetation communities present. However, past disturbance including removal of ground cover and shrub layer vegetation through grazing and slashing has decreased the value of much of the area as habitat for native fauna.

Areas of the site are prone to ponding after rain providing suitable habitat for a range of amphibian species. The drainage depressions associated with tracks and tree removal holes contain suitable foraging and breeding habitat for these locally occurring amphibian species.

The denser, less disturbed vegetation types associated with the Myall River wetlands provide higher quality habitat due to the increased density and diversity of the various structural layers. These less disturbed habitats provide increased foraging, refuge and breeding opportunities for mammal, bird, reptile and amphibian species. This is reflected in the species richness of these vegetation types in comparison to the majority of the site containing the disturbed vegetation communities. These higher quality vegetation and habitat types will be retained as part of the proposed development.

Connectivity and Local Distribution of Fauna Habitats

Areas of the site have been mapped within the Department of Environment and Climate Change's (previously Department of Environment and Conservation) Key Habitats and Corridor Mapping as Key Habitat. An area of the site has also been mapped as a regional corridor. This Regional Corridor extends to the north to State Forest and areas within Myall Lakes National Park and to the west to link with other Regional Corridors.

The habitats at the site are isolated to the south by Shearwater Estate and the Tea Gardens township and to the east by the Myall River. The highest degree of connectivity extends to the north of the site. The area to the north of the site consists of bushland of higher habitat quality due to decreased levels of disturbance. The site also shows some connectivity to similar, larger areas of vegetation and habitat to the west, including lands within Myall River Downs.

Threatened Fauna

Seven threatened fauna species were recorded at the site during the current study. Two endangered populations of native fauna have been previously recorded in the local area. These include the Emu Population in the NSW North Coast Bioregion and Port Stephens local Government Area and the Hawks Nest Tea Gardens Endangered Koala Population.

The Emu has not previously been recorded on the site or in adjacent areas of the site and it was not observed during the field investigations of the current study.

Targeted surveys for koalas and an assessment of koala habitat on the site were conducted during the current assessment. The details of these are provided in Conacher Environmental Group (2008c), (provided as Appendix 3 of the Ecological Site Assessment within *Volume 3* of this EA). The site was found to support koala habitat including four species of koala feed trees as listed on Schedule 2 of SEPP 44 – Koala Habitat Protection. However, no koalas, or evidence of koalas such as scats or scratches on trees were observed during the targeted surveys.

4.12.3 SEPP 44 – Koala Habitat Protection

The site is located within the Great Lakes LGA which is listed on Schedule 1 of SEPP 44 Koala Habitat Protection.

Despite the fact that koalas were not observed at the site, a Koala Habitat Management Plan was formulated in recognition of the conservation significance of the koala population occurring in the locality, the presence of koala habitat at the site and the potential for this species to occur at the site.

The Koala Habitat Management Plan (Conacher Environmental Group, 2008c) is provided as Appendix 3 of the Ecological Site Assessment in *Volume 3* of this EA. While there are no recent records for the Koala within the area to be developed and no evidence of recent use of the site has been detected, the planning, developmental and occupational phases of the proposed development need to consider the occurrence of the Koala within the local area. The presence of the Hawks Nest and Tea Gardens Endangered Koala Population within the area increases the importance of the management of the Koala in future planning decisions within the local area.

The works and measures detailed within the report in relation to Koala Habitat Management are designed to be carried out in conjunction with strategies developed for the ecological site management and bushfire protection.

Objectives of the Koala Habitat Management Plan have been developed to be consistent with the objectives and management actions of the Department of Environment and Climate Change (previously Department of Environment and Conservation) and Great Lakes Council as part of the Recovery Plan for the Hawks Nest and Tea Gardens Endangered Koala Population.

Key koala habitat management strategies at the site include:

- habitat protection - including the retention of areas providing potential foraging and refuge resources and movement corridors areas through the post development landscape. The location of these reserve areas are shown in the Concept Plan. Measures to be implemented to minimise impact on Koala habitat include temporary fencing to protect these areas during construction and signage to notify residents of restrictions to access and occurrence of potential Koala habitat;

- habitat restoration – including the retention and restoration of corridor and reserve areas and the retention and restoration of some higher quality, less disturbed vegetation types in the north and east of the site. Rehabilitation and vegetation protection strategies for the retained bushland areas are detailed in the site specific Ecological Site Management Strategy (Conacher Environmental Group, 2008d) provided as Appendix 4 of the Ecological Site Assessment in *Volume 3* of the EA;
- traffic management – including speed restrictions, warning signs and the regular maintenance of roadside vegetation to increase visibility of koalas potentially occurring at roadsides;
- dog management– including restriction of dogs to fenced yards and requirement for dogs to be restrained on-leash outside of yards;
- bushfire management – slashing of understorey vegetation in APZs in a manner that will not harm existing trees or seedlings;
- koala welfare and public education – including the distribution of information pamphlets to residents and the erection of signage indicating koala habitat in the area; and
- monitoring and reporting – including bi-annual monitoring of the koala population for ten years and assessments of habitat restoration and tree regeneration within regeneration areas.

All costs of the implementation of the management strategies detailed within this plan will be met by the applicant, future landowners or the Community Association. Where reserved lands are handed back to public ownership the relevant statutory authority will assume responsibility for any ongoing works.

4.12.4 SEPP 14 – Coastal Wetlands

The site contains an area of wetland mapped under State Environmental Planning Policy No. 14 Coastal Wetlands and known as Wetland No. 746. This area will be fully preserved as part of the proposed development. The SEPP 14 Wetland will be buffered from the development by the retention of vegetation communities between the wetland boundary and the development edge. This wetland buffer area is zoned 7(b) Conservation and will be retained as part of the Riverside development. Development within this zone is limited to a Foreshore Park within the north eastern portion of this zone outside of the wetland buffer area. Measures to protect and manage the wetlands are detailed in the Ecological Site Management Plan (Conacher Environmental Group, 2008d) provided in Appendix 4 of the Ecological Site Assessment in *Volume 3* of the EA.

4.12.5 EPBC Act listed Matters of NES

Matters of National Environmental Significance (NES) identified as potentially occurring in the locality include a wetland of International Significance

(Ramsar Site) (Myall Lakes) threatened flora and fauna species and migratory fauna species.

Myall Lakes is a wetland of international significance and is located within the locality. The site is situated approximately two kilometres downstream Myall Lakes National Park, near the lower reaches of the Myall River. The site is located on the western bank of the Myall River which is tidal. Incoming tidal flows pass the shores of the site on the way into the lake system.

Eighteen threatened bird species, two threatened frog species, four threatened terrestrial mammal species and six threatened plant species have the potential to occur within 10km of the site. Species that were wholly marine were not assessed as there is no suitable habitat within the site and the proposed development is not expected to impact upon them.

4.12.6 Impact Assessment

The proposed development will require approximately 126 hectares of vegetation to be removed or modified, however much of this consists of disturbed/cleared land. The concept plan proposes the retention, protection and management of approximately 78 hectares of vegetation including areas of the endangered ecological community Coastal Saltmarsh and areas within SEPP 14 wetlands (Conacher Environmental Group, 2008b, *Volume 3* of this EAR).

An assessment of potential impacts of the proposal on threatened species recorded or considered likely to occur on the site was conducted. The assessment concluded that there would be no significant impacts to any of the threatened species recorded or considered likely to occur.

The less disturbed vegetation communities within the site associated with the Myall River will be largely retained as part of the concept development proposal. The retention of these communities will provide an approximately 150m to 500m buffer between the development edge and the banks of the Myall River. The retention of these areas as buffers will provide for the protection of the Myall River from potential offsite and downstream impacts of adjacent development. This also includes the protection of areas of endangered ecological community Coastal Saltmarsh. Development within this vegetation community is limited to the extension of the existing drainage channel.

Proposed wildlife movement corridors include a north-south running corridor in the east of the site and an east-west running corridor at the northern boundary of the site. These areas will allow movement of fauna through the site to greater areas of habitat to the north.

Drainage corridors are also proposed as part of the development concept layout for water/drainage management. These areas will serve a function in

providing landscape linkage and providing habitat for semi-aquatic species within the site.

No species listed within the *Fisheries Management Act* (1994) are considered likely to occur in the Myall River. Also, wetlands and associated riverine and estuarine areas at the site will be protected and managed within the current proposal, with development limited to the extension of the existing drainage channel. It is considered that there will be no significant impacts to the wetland or aquatic environments at or adjacent to the site.

In addition, an Ecological Site Management Strategy (ESMS) (Conacher Environmental Group, 2008d) has been developed for the site (refer to Appendix 4 of the Ecological Site Assessment, *Volume 3* of the EA). The ESMS details strategies to control and minimise the ecological impacts of the proposed development to avoid significant impacts on threatened species, endangered ecological communities or endangered populations.

EPBC Act listed Matters of NES

The proposed development has incorporated large areas of native foreshore and swamp vegetation to be retained along the riverbank. These areas of retained native vegetation are expected to act as a natural buffer between the proposed development and the river. Therefore it is considered that the proposed action is not likely to have any detrimental impact on the Myall Lakes Wetlands of International Significance located upstream of the site.

There is suitable habitat at the site for the majority of the threatened species potentially occurring. However, the proposed development is not considered to have a significant impact on these species as it is expected that these species will use the wider locality for foraging and not the site exclusively.

4.12.7 Improve or Maintain Assessment

Improve or maintain assessments have been completed by Conacher Environmental Group (refer to Appendix 6 of the Ecological Site Assessment within *Volume 3*) for each of the threatened species identified as occurring on the site due to the presence of suitable habitat an know local occurrence of that species. The proposal will require the removal of vegetation and habitats for the construction of residential and commercial facilities and related infrastructure. Based on the concept plan, the development will require the removal or modification of approximately 126 ha of vegetation, however approximately 98 ha of vegetation will be retained, protected and restored as part of the site offset and ecological management strategies and open space corridors.

4.12.8 Ecological Site Management Strategy

A comprehensive Ecological Site Management Strategy (ESMS) (Conacher Environmental Group, 2008b) has been prepared which provides a range of management strategies to protect the long term environmental and ecological values of land within the proposed development site. The ESMS is provided in Appendix 4 of the Ecological Site Assessment in *Volume 3* of this EA.

The ESMS addresses 12 issues regarding ecological management at the site. These include:

- vegetation and bushland management;
- bush fire management;
- fauna and habitat management;
- provision and establishment of environmental corridors;
- provision of environmental buffers;
- erosion and sediment control;
- stormwater quality and management;
- cultural values and management;
- community education, vigilance and reporting;
- access, signage and fencing;
- prohibited use identification and management;
- feral pest species management; and
- monitoring and reporting regime.

The ESMS details management objectives and actions relevant to each of the above management issues and their applicability to various different areas of the site. These areas have been identified to ensure that only those actions relevant to certain areas are applied to the relevant area. These management areas have been separated as per the following:

- Management Area A – SEPP 14 Wetlands;
- Management Area B – Conservation Zoned Lands;
- Management Area C – Asset Protection Zones and Environmental Buffers;
- Management Area D – Wildlife Corridors;
- Management Area E – Drainage Corridors; and

- Management Area F – Developable Area.

Implementation of Management Strategy

It is proposed that the actions detailed within the ESMS will be implemented over a minimum ten year period following signoff of the plan by the Department of Planning. The long term timing, implementation and responsibility of the actions will ultimately depend upon the development of the various stages of the development and the title on the land.

A summary of the key management issues and actions including indicative timing and personnel/organisations responsible and are provided in the ESMS.

4.13 NOISE

A construction noise assessment in accordance with the NSW Industrial Noise Policy (INP, 2000) and the Environmental Noise Control Manual (ENCM) was undertaken by ERM (2008c). The assessment was undertaken to determine the extent of noise impacts associated with bulk earthworks, particularly in relation to the construction of the fresh stormwater quality management and detention ponds, which is expected to occur for a period of between 4 weeks and 26 weeks duration. Methodology employed and key findings of the assessment are summarised below. The full assessment report is presented in *Volume 3* of the EA.

Attended noise monitoring was conducted to ascertain dominant ambient noise sources and to quantify existing noise contributions. Construction noise impacts were assessed from two distances representing the near and far distances of construction positions of the stormwater quality / detention ponds from residences within Leeward Circuit, Tea Gardens. Results for both distances are represented as highest (at 40 metres) and lowest (at 280 metres). Additionally, plant was assessed at the existing ground surface at the same level as nearby residences and when at lower levels when in the base of the proposed ponds (up to 3.5 metres below current ground surface levels).

The results of the assessment of both scenarios are detailed in *Table 4.4*.

Table 4.4 Calculated Construction Noise Emissions

Receptor	Highest L10 Noise Impact dB(A)	Lowest L10 Noise Impact dB(A)	Construction Noise Criteria L10 dB(A)
Leeward Circuit, Tea Gardens.	76	45	48

Calculations of noise emissions associated with the construction of the stormwater quality / detention ponds identify that the construction noise criteria would be exceeded when plant items are stripping the surface soils, although would reduce significantly when they are at lower depths within the lower areas of the proposed ponds.

To minimise the potential acoustic impacts of construction activities on nearby residences, it is recommended that the following management and mitigation activities by implemented as part of the construction process:

- where practical, pushing topsoil or fill to form earth mounds between the construction site and residences during initial stripping. Barrier calculations identify that noise levels may be reduced by up to 15 dBA if a 3.5 metre earth mound is established between the sources and residences;

- where possible negotiated agreements between developers and residences should be established;

- where possible barriers should be placed nearest to plant and equipment to maximise barrier attenuation;

- maximise the offset distance between noisy plant items and nearby noise sensitive receivers;

- avoiding any coincidence of noisy plant working together in close proximity simultaneously near to sensitive receivers;

- minimising the occurrence of consecutive days works in the same locality;

- orienting noisy plant or equipment away from sensitive areas;

- carrying out loading and unloading away from noise sensitive areas, if loading near sensitive receivers acoustic enclosures or barriers of a suitable height should be constructed to minimise the noise impacts;

- where noise complaints arise, monitor construction noise levels to quantify potential impact at most sensitive residences; and

- the contractor must take reasonable steps to manage and control noise from all plant and equipment. Examples of appropriate noise management and control may include installation of acoustic silencers, low noise mufflers and alternatives to reversing alarms.

The noise impact assessment concluded that noise levels associated with construction are likely to be above construction noise criteria during initial stages, although when operations are at lower levels within the proposed ponds, noise level would reduce significantly. The implementation of the recommended management and mitigation strategies will significantly reduce impacts on nearby residences,

4.14 INFRASTRUCTURE

In preparing a strategy for servicing the development, investigations of the capacity of existing infrastructure to accommodate the proposal were completed by Tattersall Surveyors. The relevant service providers were consulted including Mid Coast Water, Country Energy and Telstra during the preparation of the service strategy. *Annex I* of *Volume 1* of the EA provides a copy of previous correspondence with Midcoast Water in relation to the provision of water and sewer services to the site. The Servicing Strategy for the Riverside development is provided in *Volume 3* of the EA.

There is no reticulated gas infrastructure in Tea Gardens.

Water

Reticulated water supplies are available to the existing development area, south of the site as detailed in the Servicing Strategy prepared by Tattersall Surveyors (refer to *Volume 3* of the EA). Existing water mains extend along Myall Street adjacent to the site, along Shoreline Drive and along the north side of Toonang Drive. These services will, in part, be utilised to service the proposed development.

Mid Coast Water has completed the upgrade and augmentation of potable water storages at the Viney Creek Road Reservoirs. In addition an 8.1ML reservoir has recently been commissioned and will provide sufficient capacity to meet the potable water needs of various potential developments in the area in the immediate future (Tattersall Surveyors, 2008). Mid Coast Water also has a secure coastal bore water supply that has a known water supply capacity which exceeds the requirements of the current potential developments at Riverside, Myall River Downs Estate, North Shearwater and Hawks Nest North (Tattersall Surveyors, 2008).

The proposed water supply service strategy is illustrated in the Tattersall Surveyors, 2008 report. It includes a reorganisation of major water supply services from existing dual supplies in Myall Street to a triple supply via North Shearwater. This third supply will also be potentially extended to Hawks Nest North via a connection at the northern part of the Riverside development. This design has the potential to reduce the trunk main sizing and future demands on potable water supply from the bore fields to the north of Tea Gardens (Tattersall Surveyors, 2008).

Investigations are being conducted by Tattersall Surveyors in consultation with Mid Coast Water, concerning the potential for the reticulation of treated effluent via a third pipe to all new residences within Riverside and areas to the north and west. BASIX compliance will be achieved through the installation of rainwater tanks. However, as detailed within *Section 4.3.1*, an assessment of the use and potential impacts of reclaimed water has been undertaken in light of the potential use of this water resource in future subject to a feasibility study being undertaken by MidCoast Water.

Sewer

Areas to the south of the site are already serviced by a reticulated gravity sewer system. Mid Coast Water has recently constructed a 'state of the art' vacuum sewer pumping station, which is sited adjacent to the Myall River Downs Estate, west of Myall Street (Tattersall Surveyors, 2008). It has been specifically sized to suit and be available to provide services for the Riverside development.

The vacuum sewer system includes ten vacuum lines, four of which are to be directed towards Riverside, the Tea Gardens Industrial Park (in the design phase) and North Shearwater, which is immediately north of the site. This system provides substantial environmental advantages over the gravity service including:

- less pumping stations, which means less potential for environmental discharge and less facilities requiring long term maintenance;
- significantly less long term groundwater infiltration as the system uses welded plastic PE pipes;
- significantly less access chamber infiltration from stormwater as the system uses less access chambers; and
- shallower pipe depths to avoid intercepting the groundwater table where practical.

The proposed development would have required the provision of at least eight conventional pumping or lifting stations. This service has been replaced by one coordinated system.

Electrical and Communication Services

Country Energy is proposing to relocate and upgrade its electrical supply network, including the relocation of their main supply substation further west along Viney Creek Road and is proposing a major upgrade of the facility as well as the incorporation of an adjoining maintenance service depot (Tattersall Surveyors, 2008).

Existing communication infrastructure, which incorporates fibre optic technology, is available along Myall Street and Toonang Drive. Telstra has already upgraded its services to Tea Gardens, which includes a 'fibre to the node' for The Hermitage and has offered via its Smart Communities program, the provision of services to Riverside.

The proposed electrical and communication services will extend from existing services. Crighton Properties has provided Country Energy with proposed subdivision layout so that they can commence designing for major new links from the existing overhead supplies.

The location of existing electrical and communication infrastructure and the proposed servicing strategy is illustrated in the Tattersall Surveyors, 2008 report.

Staging

Three stages have been identified for the provision of infrastructure. These three stages are to be implemented in co-operation with Service Supply Authorities, including MidCoast Water, to ensure that the connection and extension of infrastructure will not impact on the functioning or capacity of existing infrastructure. The stages are:

- stage one will include the servicing of Precincts 1, 2 and 3;
- stage two will occur in the north and north-western portion of Riverside within the area currently identified within the proposal as a concept stage; and
- stage three will involve the servicing of tourist facilities (for which concept approval is being sought).

The *Servicing Strategy* prepared by Tattersall Surveyors (2008) outlines in further detail the individual servicing strategy of water, sewerage, communications and electricity within the three stages. The Servicing Strategy has been annexed within *Volume 3*.

4.15 DENSITY

Riverside will have a net density of 13 dwellings per hectares. It is intended to create an authentic character that reflects the lifestyle choice desired by Riverside residents which is consistent with the Tea Gardens Hawks Nest Housing Strategy.

Within the existing settlement there is a gradation of density from urban adjoining the waterways and beaches of Hawks Nest and Tea Gardens to rural near Monkey Jacket. This has occurred in response to the amenity of Jimmy's Beach, Bennett's Beach and Myall River, which has been a driver for infill development (Duo, 2007). Development inland from these settlements has largely been driven by an older population, which has resulted in less dense development with this population preferring single storey dwellings over higher density dwelling types that have stairs or are expensive to construct if they include a lift.

The concept plan and project application incorporates a range of lot sizes throughout, to create a mixed development.

The Social and Economic Impact Assessment detailed in *Chapter 5* demonstrates the proposed developments compliance with the *revised draft Tea Gardens Housing Strategy*(PB, 2006).

4.16 AMENITY AND SCALE

The character and amenity of the Tea Gardens/Hawks Nest area was identified as an outcome from the Design Forum held in February 2006. The forum identified the architectural elements which made the residential developments within Tea Gardens a unique coastal village atmosphere which should be retained by future developments. This architectural style was:

- simple, straightforward volumes with front wings and verandahs added to make more complex shapes;
- deep, usable posted front verandahs with regular arrangement of columns and openings;
- simple eave lines accommodate gabled roof forms;
- single driveway to a garage set far back on the lot;
- buildings raised off ground on a plinth; and
- limited use of materials with lighter materials above heavier and joined horizontally.

(Roberts Day, 2007).

This architectural style was incorporated into the Architectural Design Guidelines within the Community Management Statement (*Annex F*) to guide future residential development in a manner which preserves and highlights the existing architectural styles.

The Coastal Design Guidelines of NSW (2003) outlines guidelines to stimulate debate on:

- *'how to protect and plan for the diversity of settlement types along the coast;*
- *how to avoid continuous strip-type urban development along the coast;*
- *where to encourage new settlements or large residential and rural residential subdivisions, particularly in relation to existing settlements;*
- *which places are able to grow larger sustainably;*
- *which types of settlement are to be protected from major developments;*
- *how to protect publicly and privately owned non-urban lands; and*
- *along the coast that have high scenic or ecological values' (*DoP, 2003*).*

The design forum allowed the guidelines to be addressed and influence the overall design of the Riverside site. Elements including residential density, the need for recreational facilities and improvements in civic spaces lead to the specific design of open spaces and civic streets which provide a sense of community within the Riverside site complementing the existing character of the Tea Gardens/Hawks Nest area.

The proposed open spaces and civic streets illustrate the logic and continuity of the open space system. Green corridors between neighbourhoods create a connected system for humans and animals, and to manage water run-off. This system connects to the nature reserve around the perimeter of the site (Roberts Day, 2007). The open space networks also provide both passive and active community facilities in the form of clubhouses, tennis courts and playing fields. The inclusion of various forms of community facilities allows for community interaction within the various precincts to create a village atmosphere.

The desired future character under the NSW Coastal Design Guidelines (2003) includes interconnectedness of residential areas, an ability to provide total water cycle management, a design that provides wildlife corridors and avoids areas of ecological significance and preserved and protects waterways as significant coastal locations. The desired future character is achieved within the Riverside development through the extension of the existing detention lake and the inclusion of three (3) separate freshwater detention ponds to provide total water cycle management and an attractive visual landscape within the open space networks which also function as wildlife corridors. The site adjoins SEPP14 Wetlands which are to be preserved as part of this development proposal.

The Urban Design Report prepared by Roberts Day dated October, 2007 (*Volume 3*) and provides additional detail regarding the urban design of the Riverside development.

4.17 URBAN DESIGN

A three day design forum was conducted by Roberts Day on behalf of Crighton Properties in February 2006 to undertake a workshop with local residents and officers of the Great Lakes Council to identify the urban design concepts for the Myall River Downs and Riverside sites.

The urban design concept proposes 'three compact, walkable mixed-use neighbourhoods' surrounded by a comprehensive open space system of parklands and water bodies' (Roberts Day, 2007). The plan allocates environmentally sensitive land into a permanent nature preserve. A network of carefully laid trails and boardwalks provides the entire community with the opportunity to engage meaningfully with these conservation zones (Roberts Day, 2007).

The steep topography to the north of the site, overland water flows and high water table has resulted in the creation of extensive green corridors. A variety of separate detention ponds/lakes will environmentally manage water run-off. Functioning as "greenbelts" for each village precinct are clearly defined and development cannot sprawl out into the countryside. Pedestrian and cycle trails weave throughout this system connecting each village precinct (Roberts Day, 2007).

Great Lakes Council's Housing Strategy identifies the need for higher residential densities in order to address the growing demand for residential development within the Tea Gardens/ Hawks Nest area. This resulted in the revision of the original golf course design to the current design being walkable precincts with associated community facilities connected via land bridges between the separate bodies of water.

The major urban design principles include walkable neighbourhoods, connected communities, a mix of building types and uses, design of quality open space, and the use of civic buildings as local point and destinations. These urban design principles have been achieved in the following ways:

- a reduction in the size of neighbourhood to smaller communities to allow walkability to community facilities and public transport nodes;

- design of road networks to provide alternative routes to destination which include connected pedestrian pathways and separation between vehicles and pedestrian movement to encourage walkability;

- provide a mix of uses within a community to provide for passive surveillance within a community to increase safety and security whist moving through the neighbourhood;

- by providing a full range of housing types and work places, age and economic classes are integrated and the bonds of an authentic community are formed;

- open space is provided in the form of specialised plazas, squares, greens, playgrounds, parks and greenways. Each type is defined by its size; the landscaping used, if any; and the way the space is surrounded; and

- civic buildings, such as community facilities, churches, community halls are located within open spaces or at the termination of important vistas. Such structures promote democratic initiatives and the balanced evolution of society is facilitated (Roberts Day, 2007).

Further detail regarding the urban design process and principles are detailed within the *Urban Design Report* prepared by Roberts Day, 2007 (*Volume 3*).

4.18 SOLAR ACCESS

The design of Riverside at Tea Gardens subdivision is based on an analysis of the constraints and opportunities of the site, particularly relating to its physical attributes, potential hazards and the appropriate range of housing stock to cater for diverse household types. The planning layout (street grid) of the Riverside site responds to many informers of urban design, including;

- ecological constraints;
- water movement patterns / slope of land;
- view sheds;
- transport and pedestrian movement patterns;
- access to open space;
- privacy;
- hierarchy of density;
- passive surveillance; and
- permeability.

Many of these concepts are explained in more detail within the Riverside Design Manual prepared by Roberts Day (2007). In addition to these design considerations, particular attention has been paid to passive thermal efficiency of the Riverside site, through the consideration of solar access and orientation. Design consideration has primarily occurred at three levels namely:

- street pattern and orientation;
- range of lots sizes; and
- house design criteria.

Each of these will be designed to work in unison with each other to ensure a balanced thermally efficient outcome.

4.18.1 Street Pattern, Orientation and Lot Size.

The design proposal for Riverside is, by urban design standards, a low density village with lots averaging around 600sqm in size at a nett density of 13 dwellings /hectare. By virtue of this density, more freedom is afforded in solar orientation to allow for adequate solar access to predominantly single and two storey residences (height levels are restricted under the Residential 2(f) zone). The low density nature of the proposed development is demonstrated in *Figure 4.1*.

The general layout of the road pattern seeks to minimise large areas of a continuous/ repetitious grid pattern in favour of a series of more compact pockets of development where split streets, open spaces and perimeter roads maximise the edges through which solar access, as well as outward looking to open space, can occur. The typical road pattern layout and connectivity to the open space network is demonstrated in *Figure 4.1.*

Generally the road pattern is aligned diagonally to true north. This allows for greater freedom of house design in a low density setting to capitalise on solar access to individual lots. Where density is increased (for example along the main road at the second roundabout approach) and shop / business top dwellings are encouraged, orientation is configured north / south and rear lane access is provided to assist solar orientation and maximisation of frontage to the active street (refer to *Figure 4.1*).

4.18.2 Range in Lot Sizes and House Planning

Within the established street network a large range of lot types (proportions) and sizes are proposed in order to cater for a number of household budgets, household sizes and the needs of each household's occupants. Each lot lends itself to a favoured orientation, which is shown within the project documentation sheets R.C. 43 – R.C. 48, (refer to Concept Plans and Project Application Plans within *Volume 2*) which illustrates suitable house forms to capitalise upon the preferred orientation for that lot – these are replicated within the Riverside layout. Additional information relating to lot sizes and orientation is provided in *Annex J.*

4.18.3 House Design Criteria

In addition to overall street layout, range of lot sizes and proportions available, design criteria for dwellings will be implemented by the Community Association by way of Architectural Standards which seek to maximise opportunities for solar access to each individual residence. These standards include:

- insetting of the structure at the first floor level by 3.0 metres from side boundaries to allow for solar access and minimise overshadowing; and
- breaking up of roof forms to allow for attenuation and further opportunity for sunlight ingress.

Figure 4.2 provides a concept for house design to maximise solar access.



Proposed low density nature of Riverside at Tea Gardens.



Road pattern layout and connectivity to open space network.



North / South street orientation with higher density lots.

Figure 4.1

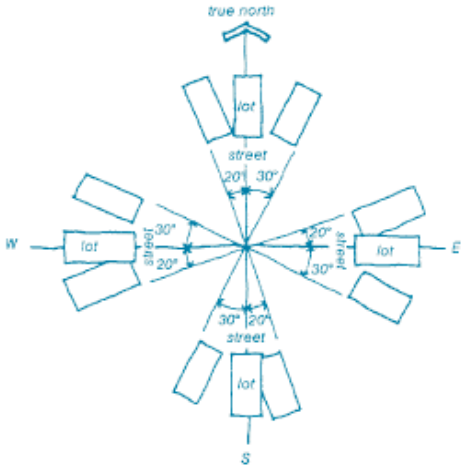
Solar Access - Street Patterns, Orientation and Lot Sizes

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_river_aug_13		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties Pty Ltd		
Scale:	Refer to Scale Bar		

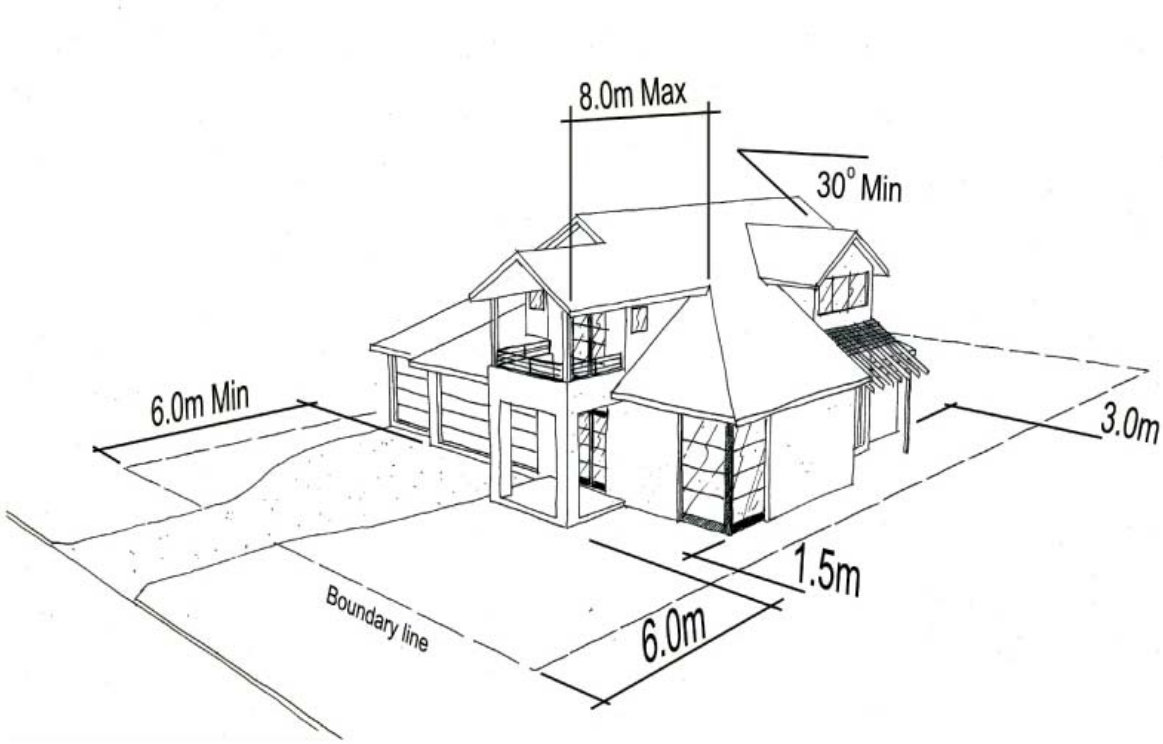
N

Environmental Resources Management Australia Pty Ltd
53 Bonville Avenue, Thornton, NSW 2322
Telephone +61 2 4964 2150

ERM



Orientation of Lots within Energy Efficient Subdivision (Source: AMCORD, 1995)



House Design Concept to Maximise Solar Access (Crighton, 2008)

Figure 4.2

Orientation of Lots and House Design Criteria

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_river_aug_14		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Crighton Properties Pty Ltd		
Scale:	Refer to Scale Bar		

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ERM

4.19 SITE PERMEABILITY

The Myall River Downs and Riverside site is split down the middle by Myall Street which is the major entry to the township of Tea Gardens. In its current state it does not provide a memorable arrival experience. The proposed Master Plan for Riverside and Myall River Downs seeks to address this issue. The plan is structured on three main elements: Nature Preserve, Neighbourhoods and Corridors, (Roberts Day, 2007). The context of the Tea Gardens area requires an assessment of the access and servicing over both the Riverside and Myall River Downs site as both sites will need to demonstrate links between the employment, industrial and retail areas which will be development on both sites to service the area.

The Corridors are the linear open space systems which weave between the villages and precincts and interconnect the Nature Reserves. Throughout Riverside and Myall River Downs these corridors have been sculptured into beautiful linear parks with detention ponds and water bodies to effectively manage water. A comprehensive system of pedestrian, cycle paths and trails will weave throughout these three main elements (Roberts Day, 2007).

The entry to Tea Gardens via Myall Street is dysfunctional and dangerous for pedestrians. To provide a more appropriate access point to Tea Gardens it is proposed to change Myall Street into Myall Boulevard. The Master Plan will allow pedestrians to cross safely, and traffic to move more slowly than it does today. The proposal offers a traffic calming solution that is beautiful, distinctive and effective. At the same time it preserves the thoroughfare's traffic capacity (Roberts Day, 2007).

The reconfiguration proposes one-way parallel service roads to be built on both sides allowing local traffic to access Riverside and Myall River Downs and minimise interference with through traffic. A central median will also be added. Closely spaced canopy trees will line the median, service roads and pedestrian /cycle paths. The trees combined with distinctive butteries at the northern edge of the township, will herald arrival and further calm traffic. The reconfiguration will dramatically improve the pedestrian and cycle paths into the township, and provide a safe crossing environment (Roberts Day, 2007).

The design of the Riverside site has included transport networks and public transport corridors to provide a connection between the Myall River Downs site and the adjoining Tea Gardens, Shearwater Estate and Hawks Nest areas. The Urban Design Report prepared by Roberts Day (*Volume 3*) identifies the movement of traffic through the site and its connection with the existing area.

4.20 TRAFFIC AND ACCESS

4.20.1 Vehicle Movement and Intersection Capability

Vehicle access for the project application will be from Shoreline Drive via the existing intersection at Myall Street. In the concept plan access will also be provided from a new access point along Myall Street and two access points from Toonang Drive as part of the future development of Riverside.

A traffic impact assessment which investigated traffic flow and intersection capacity was completed by Mark Waugh Pty Ltd (2008) for the development of the concept plan and project application. The traffic assessment also considered the relationship of the project application to the concept plan and surrounding development.

Traffic Generation and Movement

Existing traffic flows at the intersection of Myall Street and Shoreline Drive are low. A traffic survey indicated that during the morning peak period the two way traffic flow along Myall Street (west of Shoreline Drive) was in the order of 362 vehicles, with vehicles predominantly going to the west (193 vehicles). The results from the afternoon survey show a peak flow of 421 vehicles with movement predominantly to the east (250 vehicles).

The traffic flows along Shoreline Drive are significantly less with 135 vehicle recorded during the morning survey and 256 vehicles recorded in the afternoon. This reflects the demands associated with the shopping centre. As a significant proportion of existing residents in the Tea Gardens – Hawks Nest area, are retired, school or work related trips are reduced.

Based on the *RTA Guide to Traffic Generating Developments* Myall Street has the capacity to accommodate 1,400 vehicles per hour in one direction. When comparing this capacity with the existing traffic flows it is evident that Myall Street has capacity to absorb additional traffic.

Using the *RTA Guide to Traffic Generating Development* rate of 0.85 trips per dwelling during peak and 9 trips per dwelling per day the traffic generated by the project application is estimated to be 324 vehicle movements per hour and 3429 vehicle movements per day. This is considered an upper limit, as there are a number of factors that contribute to lower traffic movement, as listed below:

- a significant proportion of current residents are retired and therefore do not have school or work related trips. Assuming a similar demographic for the project application and concept plan, the traffic flows would be lower;
- a significant proportion of traffic will be localised. The *RTA Guide to Traffic Generating Development* indicates that typically some 25 percent of traffic is contained within the area of a development. Therefore there is reduced use of the external road network;

- the layout of the site encourages pedestrian and cycle movement for short trips, rather than vehicle use; and

- the home business opportunities will allow for a portion of future residents to work from home, reducing the need for daily commuting to major centres.

In light of the above factors, the *RTA Guide to Traffic Generating Development* rates has been reduced by around 35 percent giving an external trip generation rate of 0.55 trips per dwelling during peak periods. The daily rate has also been reduced. Based on these rates the project application would generate approximately 209 vehicles per hour two-way. The concept plan (that is full development) would generate 575 vehicle movements per hour.

Intersection Operations

The Myall Street and Shoreline Drive intersection provides a give way control with a central right turn lane, so that west bound traffic is not impeded by traffic turning right, and provides a deceleration lane for traffic turning left from Myall Street.

An assessment of the operation of this intersection using the Sidra computer program indicated that, assuming the 2007 intersection layout and traffic flows plus traffic from the project application, the existing intersection control is adequate to cater for the flows associated with the project application. The Level of Service ('LoS') of the existing intersection at Myall Street and Shoreline Drive will be A, A and B for through traffic and right turn into and out of Shoreline Drive, respectively. Assuming 2017 conditions, the LoS will be A, A and C for through traffic and right turn into and out of Shoreline Drive, respectively. Therefore the existing priority controlled intersection will continue to provide a high level of control for all road users over a ten year design period for the project application. The approach capacity on Myall Street is also satisfactory as a two lane configuration, and does not required upgrading to cater for the project application development.

With the development of Myall River Downs on the west side of Myall Street, the existing intersection will need to be upgraded to a roundabout control to allow for a four way intersection. It is assumed that the Myall River Downs development would accommodate some 1500 lots. A Sidra analysis of a proposed four way roundabout indicated that it would be adequate to accommodate the Riverside and Myall River Downs developments.

This intersection is in a safe and appropriate location. With the future upgrade of this intersection to a roundabout control, when Myall River Downs is developed opposite the site, the safety will be further increased.

A second intersection will be constructed to the north of the existing intersection, as part of the concept plan. It will be a priority controlled intersection similar to the intersection of Shoreline Drive and Myall Street.

An assessment of the operation of this new intersection using the Sidra computer program indicated that, assuming the 2012 traffic flows plus traffic from the full development, it will provide an A and B Level of Service ('LoS') for right turn into and out of the access road, respectively. The additional connections to the north via Toonang Drive will also be available and may result in a better LoS for the existing and proposed intersections to the development from Myall Street.

A further assessment of this intersection was completed to investigate the impact of the additional traffic from Myall River Downs on its operation. Through analysis it was determined that 500 lots could be developed in Myall River Downs without providing unacceptable delays at the intersection. Beyond that the second access would need to be upgraded to avoid unacceptable delays for traffic turning into and out of Riverside.

Another consideration impacting on the second roundabout is the major proposed industrial development, on the west side of Myall Street. This will create a four way roundabout. An assessment of the operation of a four way roundabout at the second intersection using the Sidra computer program indicates that it will be adequate to cater with the predicted traffic flows at full development.

The timing of the roundabout control at the second intersection is determined by the rate of development, in particular the industrial development.

The intersection is located in a safe and appropriate location and provides good visibility.

Traffic Management Measures

Based on the above analysis the following management measures are to be included in the statement of commitments:

- the second access to Myall Street (as a priority controlled junction) will be provided prior to the development of 500 lots within the concept plan;
- access to Toonang Dive will be provided by the release of the 700th lot in the concept plan; and
- the accesses onto Myall Street must be upgraded at / before the requirement for a four way intersection, which is triggered by the development of Myall River Downs or the industrial land west of Myall Street.

4.20.2 Road Dedication

All roads within the Riverside at Tea Gardens development will be dedicated to Great Lakes Council. Correspondence received from Council in relation to the road network of Riverside is provided in *Annex I* of *Volume 1* of the EA.

4.20.3 Road Adjoining Pony Club Site

As detailed in Drawing R.C -13 (refer to *Volume 2*), a road is proposed to be constructed partially within the existing Pony Club site. The road will be located partially on the eastern and northern portion of the site. The Pony Club site is currently owned by Great Lakes Council and Council's consent to the proposal is provided in *Annex I* of *Volume 1* of the EA.

4.20.4 Urban Design

The Riverside development incorporates a number of transport objectives that relate to pedestrian, vehicle and cycle movement, public transport and parking. The key objectives are outlined below.

Pedestrian Movement

- to promote 'walkability' through the site by: providing direct links within the site and to neighbouring attractions; giving pedestrians priority over vehicles within the site; creating pedestrian links through open spaces; and providing a high standard of pedestrian accessibility / mobility through good quality signposting, lighting and use of materials.

Vehicle Access and Movement

- to promote pedestrian priority for the site, vehicle crossing points of footpaths areas;
- to enhance pedestrian safety, traffic calming methods will be implemented within the local road system; and
- to promote high pedestrian activity, low vehicle usage and high residential amenity, roads widths will be reduced to a level that still allows for essential vehicle access and movement.

Public Transport

- to provide high quality bus facilities at Myall Street and Shoreline Drive; and
- to promote access to public transport from the site by using local shops as a focal point for access to bus services.

Cycling

- to promote cycling and protect the pedestrian environment by providing well located cycle routes.

Parking

- to provide sufficient parking to meet the needs of future residents and other users of the site.

4.20.5 Public Transport

Riverside is currently served by buses along Myall Street. The proposed Riverside development will increase the population of Tea Gardens contributing to greater potential patronage levels to sustain a viable bus service.

There are two bus routes that serve Tea Gardens. Both routes are operated by Busways and provide a service to Raymond Terrace and Newcastle three times daily during weekdays and daily on the weekend (Duo, 2008). There are also buses to Hawks Nest, Bulahdelah, Forster Tuncurry and Taree that operate at different times during the week and weekends. School bus routes link Tea Gardens, indirectly or directly, with 23 schools in the area.

The concept plan incorporates a street hierarchy that aims to provide potential bus routes within 400 metres of all dwellings.

Pedestrian and Cycle Access

The topography of Tea Gardens is relatively flat, which is conducive to walking and cycling. In 2004 Great Lakes Council received a grant of $70,000 from the state government for the establishment of a cycle path linking Tea Gardens and Hawks Nest (Duo, 2008).

Walkability and cycle access is integrated in the development of the site, with a shared cycle / pedestrian network through the residential subdivision and integrated with the existing commercial centre and the wider area. It will link with the new, state government funded cycle path.

Crighton Properties is committed to providing numerous sections of cycleway and pedestrian access ways as stipulated in the draft planning agreement. These cycleway and pedestrian access ways will be provided in accordance with the timing stipulated in the planning agreement.

4.21 *ENVIRONMENTAL RISK ASSESSMENT*

The Director General's Requirements (DGRs) state that the proposal is to provide a risk assessment for effluent disposal including the potential impacts and relevant mitigation measures in the event that a failure of the effluent disposal system occurs through flooding or other events.

Crighton Properties have been liaising with Midcoast Water for an extended period to provide reclaimed water supply to the site. Whilst both Crighton Properties and Midcoast Water are supportive of the use of reclaimed water throughout the Riverside site, Midcoast Water is not in a position to embark upon required upgrades to treatment facilities (to allow for the delivery of this supply) until such time as a level of security of future use of the resource is provided (through the approval of residential development) and a more detailed analysis is completed (refer to *Annex I* of the EA for correspondence from Midcoast Water).

Water supply and drainage modelling undertaken for the Riverside at Tea Gardens Environmental Assessment has been carried out to accord with the use of rainwater tanks to achieve BASIX compliance. However, information as to the likely future use and management of reclaimed water via a third pipe reticulation system is provided below.

4.21.1 *Reuse of Wastewater*

Coffey Geotechnics Groundwater Assessment Report (2007a) has identified the reuse of effluent as wastewater for irrigation purposes. The NSW Department of Environment and Climate Change (DECC) formerly the Department of Environment and Conservation (DEC) released *Environmental Guidelines: Use of Effluent by Irrigation* in 2004 which state that 'when using reclaimed water to irrigate open spaces, the quality of the underlying groundwater must not be downgraded to the extent that the resource is not able to support its most sensitive beneficial use' (NSW DEC, 2004). Where supporting technical advice has not been obtained, effluent should not be applied to land where the depth to groundwater table is considered to be less than 10 metres or where the irrigation area is located less than 1000 metres from a town water supply bore. Water quality objectives for the groundwater (i.e. water quality needed to protect beneficial uses of groundwater) should also be considered (NSW DEC, 2004).

The Groundwater Assessment has identified that groundwater was shallower than 10m across the site during the previous and current monitoring undertaken. *Table 4.5* shows an indicative concentration of the reclaimed water that may be used for irrigation purposes compared to the ANZECC Guidelines for irrigation and the protection of marine ecosystems.

Table 4.5 Water Quality of Reclaimed Water

Parameter	Indicative Concentration (mg/L)	ANZECC Guidelines for Irrigation (long term use) (mg/L)	ANZECC Guidelines for marine ecosystems (90% protection) (mg/L)
pH	6.8	4.5-9.0	-
Total Phosphorus	2.2	0.05*	-
Nitrogen (Ammonia)	1	-	1,200
Nitrogen (Nitrate)	5	-	0.7^
Total Nitrogen	6.4	5	-

* for bio-clogging of irrigation equipment only
^ low reliability trigger value
- no guidelines available

(Coffey , 2007a)

The groundwater results suggest that the reclaimed water may be suitable for irrigation of open spaces and gardens within the development area subject to a small reduction in total nitrogen concentrations. This reduction may be achieved through a combination of treatment and dilution of reclaimed water with water of higher quality.

The concentration of pathogens is also an important effluent quality consideration in terms of public health, which affects the way effluent should be reused and managed on-site. Treatment would need to occur as required to meet relevant health standards (Coffey, 2007a).

4.21.2 Groundwater Modelling

The Riverside development lies in an area with a shallow groundwater table that has the potential to be impacted by the proposed changes to the development. A groundwater model was established using MODFLOW, a finite difference groundwater simulation program, during the 2004 monitoring period, based on the level of understanding of the hydrogeological conditions in the vicinity of the site at that time (Coffey, 2007a).

Groundwater quality results are generally below the key criteria for protection of species in marine water (90% protection) presented in the ANZECC (2000) guidelines, with the exception of some metal concentrations.

Groundwater quality modelling indicates that the salt water interface would not be significantly affected by the development and groundwater level modelling indicates that there will be little impact within the wetland area. Groundwater level changes resulting from the proposed development are assessed to be below 0.1 m within the wetland area. Changes to this magnitude would be within the existing groundwater level variability and are therefore considered unlikely to adversely affect adjacent ecosystems (Coffey, 2007a).

The detailed modelling and technical study is provided within the Groundwater Assessment prepared by Coffey Geotechnics, (Coffey 2007a) which is annexed within *Volume 3.*

4.21.3 Reuse of Reclaimed Water

A laboratory water sample was developed with similar concentrations of nitrate, phosphorus and pH to the reclaimed water data supplied by Mid Coast Water. This water was used as a leaching agent for three soil samples collected from the site.

The concentration of nitrate in the leachate water was similar or greater than the concentration of nitrate in the lab-produced reclaimed water. This indicates that the potential for nitrate adsorption on the soil is low and the travel time of nitrate through the soil is likely to be similar to the rate of water through the soil (Coffey, 2007a).

The concentration of phosphorus in the leachate water was consistently significantly below the concentration of phosphorus in the lab-produced reclaimed water. These results indicate the soil at the site has the capacity to adsorb the phosphorus present in the reclaimed water and that the travel time of phosphorus through the soil is very slow.

These initial results show that with respect to phosphorus, the reclaimed water may be used for irrigation purposes. However, Coffey recommend further testing when a sample of reclaimed water from Mid-Coast Water is available (Coffey, 2007a).

4.21.4 Recommendations

The groundwater results from the current monitoring suggest that the reclaimed water may be suitable for irrigation of open spaces and gardens within the development area subject to a small reduction in total nitrogen concentrations. This reduction may be achieved through a combination of treatment and dilution of the reclaimed water with water of higher quality.

Based on the results three re-use options are presented as possible scenarios for the use of re-used water for the purposes of irrigation:

1. treatment of the reclaimed water to meet health standards including pathogens. The reclaimed water may be used for irrigation if 10% of the reclaimed water is mixed with 90% of fresh water;

2. treatment of the reclaimed water to limit NO3 to an average concentration of 0.7mg/L. If this level of treatment is obtained on an average basis, 100% of the reclaimed water may be used for irrigation purposes, assuming partial uptake of nutrients by vegetation; and

3. treatment of the reclaimed water to limit NO3 to an average concentration of 1.4mg/L. If this level of treatment is obtained on an average basis, a mixture of 50% of reclaimed water and 50% of fresh water may be used for irrigation (Coffey, 2007a).

With respect to the use of reclaimed water for irrigation purposes, it is considered that irrigation of parks and open spaces within the development is unlikely to adversely impact groundwater or the water in the lake if one of the above treatment options is employed. Appropriate monitoring of irrigated areas should however be employed to ensure key indicators remain within relevant guidelines.

Monitoring of the groundwater system is recommended to confirm the findings of this report following development and initiation of any proposed water re-use program. Coffey recommend that a monitoring plan be developed to check performance of the groundwater system. This would include:

- monitoring of irrigation water and groundwater quality;
- irrigation water application rates and timing; and
- soil testing (Coffey, 2007a).

4.22 CUMULATIVE IMPACTS

4.22.1 Traffic

There are two key potential developments in proximity to Riverside, namely:

- Myall River Downs which incorporates approximately 1500 lots; and
- industrial development on the west side of Myall Street.

It must be noted that there is no approval for these developments at this stage, however they have been considered to ensure a robust assessment.

As outlined in *Section 4.20*, an assessment of Myall Street and Shoreline Drive intersection was completed to investigate the impact of the additional traffic from Myall River Downs on its operation. Through analysis it was determined that 500 lots could be developed in Myall River Downs without providing unacceptable delays at the intersection. Beyond that the second access would need to be upgraded to ensure acceptable delays for traffic turning into and out of Riverside.

As also outlined in *Section 4.20*, the industrial development on the west side of Myall Street on the second access along Myall Street will create a four way roundabout. An assessment of the operation of a four way roundabout at the

second intersection using the Sidra computer program indicates that it will be adequate to cater with the predicted traffic flows at full development.

The timing of the roundabout control at the second intersection is determined by the rate of development, in particular the industrial development.

An assessment of the capacity of Myall Street to accommodate traffic from Riverside, the industrial development and Myall River Downs demonstrates that the existing two lane configuration of Myall Street is adequate.

4.22.2 Infrastructure Development

As outlined in *Section 4.14*, investigations of the capacity of existing infrastructure to accommodate the proposal were completed as part of the preparation of a strategy for servicing the development.

In summary the investigations indicated that the proposal will not overburden existing and planned infrastructure servicing the area as set out below.

- reticulated water supplies are available to the existing development area and Mid Coast Water has completed the upgrade and augmentation of potable water storages at the Viney Creek Road Reservoirs and an additional 8.1ML reservoir has recently been commissioned and will provide sufficient capacity to meet the potable water needs of various potential developments in the area in the immediate future (Tattersall Surveyors, 2008). Mid Coast Water also has a secure coastal bore water supply that has a known water supply capacity which exceeds the requirements of the current potential developments at Riverside, Myall River Downs Estate, North Shearwater and Hawks Nest North;

- a reticulated gravity sewer system services the area to the south of the site and Mid Coast Water has recently constructed a vacuum sewer pumping station, adjacent to the Myall River Downs Estate, which has been specifically sized to suit and be available to provide services for the Riverside development. The vacuum sewer system includes ten vacuum lines, four of which are to be directed towards Riverside, the Tea Gardens Industrial Park (in the design phase) and North Shearwater;

- Country Energy is proposing a major upgrade of the main supply substation facility that services the area, as well as incorporating of an adjoining maintenance service depot (Tattersall Surveyors, 2008). Country Energy has been provided with the proposal so that they can commence designing for major new links from the existing overhead supplies; and

- Telstra has already upgraded its services to Tea Gardens, which includes a 'fibre to the node' for The Hermitage and has offered via its Smart Communities program, the provision of services to Riverside.

4.22.3 Social Infrastructure Development

Chapter 5 examines the capacity of services and facilities in the Tea Gardens area to accommodate the anticipated growth in population generated by the development. It investigated housing, health, recreation and education facilities.

In relation to housing it was evident that there is sufficient aged care and retirement living services to accommodate the anticipated population growth in Tea Gardens. In addition, it was identified that there was affordable housing already available in the area and the development would further contribute to this positive situation.

The John Hunter Hospital and Mater Hospital provide acute medical facilities and specialist services in Newcastle and have over 800 beds. In terms of health facilities, the Department of Health and Ageing advised that the national average for hospital beds is 2.43 persons per 1000 population. Based on this average, the future population at Riverside will generate the requirement for an additional five hospital beds, assuming that the population does not already reside in the Hunter New England Health Service catchment (Duo, 2008). However, this needs to be seen in the context of the Lower Hunter Regional Strategy (DoP, 2006), which assumes population growth of 160,000 people over the next 25 years, and the Draft Mid North Coast Regional Strategy (DoP, 2007) which sees growth of 90,000 people over the same time period. Hunter New England Health will plan their service provision to accommodate this growth of which Riverside is a part. The impact of the Riverside at Tea Gardens development on hospital beds is considered negligible as the full development of Riverside is anticipated to occur over a 15 year period and additional hospital beds required to support the future Riverside population will be incorporated into service provision for the anticipated regional growth of the Lower Hunter and Mid North Coast.

Riverside can be served by the Myall Quays Medical Centre at Riverside which provides a range of services. In relation to general practitioners, the optimum ratio is generally one doctor per 1500 persons. The Myall Quays Medical Centre includes three general practitioners and room for a fourth. This can serve future residents at Riverside and Myall River Downs at Tea Gardens. The town's current population together with the anticipated increase in population generated by Riverside is estimated to be 5,286 persons, which would generate the requirement for about 4 general practitioners (Duo, 2008). Additional services would be required when the Myall River Downs, North Hawks Nest and North Shearwater developments are completed, as these three developments are anticipated to generate an additional population of 3,800, which generates the requirement for another 2 ½ doctors.

There are 23 schools that can be accessed by bus from Tea Gardens, of which there are four high schools and five primary schools that have direct bus routes from Tea Gardens. Based on ratios provided by the Department of Education and Training (DET) for the provision of education facilities the

demand generated by future residents of Riverside can be accommodated in the existing education facilities. This is further discussed in Section *5.4.4*.

In terms of community (library, pre-school and community halls) Council acknowledged that to accommodate an expected population growth in the area over the next 25 years, existing public services and facilities would need to be extended and other facilities may need to be provided (Great Lakes Council, 2003c). Council estimated that by 2011, all community facilities would likely be used to capacity (Great Lakes Council, 2003d).

The implications and proposed contribution to recreation facilities is outline in section 2.7 of this report. In short, Crighton Properties plan to provide 6.4 hectares of land for structured open space at the proposed Myall River Downs Sporting Complex site as it would consolidate recreational facilities and serve the needs of a significant proportion of the future population. It is however, considered inappropriate for North Shearwater, Tea Gardens Infill and Hawks Nest to provide further allocation of courts and playing fields on those sites as this would result in an over supply of recreation facilities that would be more costly and inefficient to use and maintain.

5 SOCIAL AND ECONOMIC IMPACT ASSESSMENT

This chapter provides a discussion of the social and economic issues arising from the proposed development. The proposal identifies the future Riverside estate demographics which will contribute to the existing community profile of the Tea Gardens/ Hawks Nest area. The requirement for community facilities, education and health services are outlined as well as the creation of new employment opportunities within the Riverside estate.

5.1 METHODOLOGY

A Social Impact Assessment (SIA) of the Riverside at Tea Gardens development was completed by Duo Consulting (Duo, 2008). It examined the capacity of services and facilities in the vicinity of Tea Gardens to accommodate the growth in population anticipated as a result of the proposed development. The assessment examined the current profile of the population of Tea Gardens, existing access to key services, the likely impact of Riverside on those services and recommendations for enhancement of services where required to service the future Riverside population.

The SIA was based on statistical profiling and community consultation. The statistical data was mostly derived from the Australian Bureau of Statistics (ABS) 2006 Census, with supplementary data from local government and private developers. Information obtained from the Design Forum conducted in February 2006 and other community consultation programs were incorporated into the assessment to provide perspective and value to the analysis.

An assessment of housing issues relating to Riverside was also investigated by Duo (2007). It examined issues relating to housing choice, density and demand and supply in Tea Gardens to inform lot size and housing options for the Riverside development.

The following sections set out the key findings of the SIA and housing issues report.

5.2 EXISTING COMMUNITY PROFILE

5.2.1 Tea Gardens

Population and Population Growth

At the time of the 2006 Census the total population of Tea Gardens was 2,094 people. Between 1991 and the 2001 Census the population of Tea Gardens doubled from 684 people to 1,372, an average growth of 7.5 percent annually.

Between 2001 and 2006 the population of Tea Gardens grew from 1,372 to 2,094, an average annual growth rate of around eight percent, which was approximately seven times the NSW average growth rate. Between 1991 and 2006, the Tea Gardens population grew by 206 percent.

Data relating to the last place of residence in the 2001 Census indicated that Tea Gardens experienced rapid population growth preceding the 2001 Census. More than 10 percent of the population lived at a different address one year preceding the census and 30 percent lived at a different address five years preceding the census. The data does not suggest a transient population, but rather demonstrates a growing community. This suggests that there are many newcomers and measures to assist them to integrate into the community will have a high value (Duo, 2008).

Numerous population projections for the future growth of the Tea Garden – Hawks Nest area have resulted in various projections. Although the projections vary they all show the population of the Tea Gardens - Hawks Nest area more than doubling over the next 25 years.

Age Distribution

The population of Tea Gardens is significantly older than the NSW or Great Lakes average.

At the 2006 Census, 55 percent of the population of Tea Gardens was aged over 55 years, which is more than double the NSW average of 25 percent. This trend appears to have continued since the Census with recent house sales data from Crighton Properties indicating that only eight percent of the purchasers since 2001 were under 40 years, whilst 43 percent were over 55 years. This is a strong indication that Tea Gardens continues to attract retirees (Duo, 2008).

At the time of the 2006 Census Tea Gardens had fewer people in the over 70 years age bracket than the Great Lakes average however it was still significantly more than the NSW average. The difference in average to the Great Lakes can be explained by a lack of acute age care facilities within Tea Gardens and the rapid expansion of the community (Duo, 2008).

The 2006 Census data indicates that there was a low number people in Tea Gardens aged between 20 and 30 years, and this was to be expected given the nature of the community, its isolation from tertiary education opportunities, the limited diversity of employment opportunities and the limited housing opportunities.

Recent upgrades to traffic infrastructure are improving access to employment opportunities and this may contribute to offsetting the ageing trend. According to the principal of the Tea Gardens Public School, enrolments in recent years have increased, which suggests that infrastructure changes may already be having some effect (Duo, 2008).

Household Type and Size

The population of Tea Gardens is likely to be or have been married and is more likely than the NSW average to have been widowed or divorced (Duo, 2008). Household sizes are predominantly one and two person households.

Tea Gardens has more than twice as many couple family households with no children (274) than couple family households with children (111). The number of lone person households (201) is also greater than the number of couple family households with children (Duo, 2008).

This profile can be expected, given the age profile of the community, which is largely characterised by people over 55 years.

Employment and Education

At the time of the 2006 Census labour force participation in Tea Gardens was 35 percent of the population which is lower than the NSW average of 58 percent. The low participation rate can be attributed to the age profile of the population. (Duo, 2008).

The 2006 Census data indicates that in the 2006 Census, 6.4 percent of the population attended primary school, four percent secondary school and two percent attended a tertiary institution or technical college. This data relates directly to the age profile of the population (Duo, 2008).

Ethnic Diversity, Religion and Language

The population Tea Gardens is dominated by people with European and Australian heritage. There is limited ethnic diversity. At the time of the 2006 Census only 286 people (13 percent) in Tea Gardens were not born in Australia and there were only 47 Indigenous persons, representing 2.2 percent of the population. The population of Tea Gardens has a slightly higher than NSW average proportion of people of indigenous and Torres Straight Islander background (Duo, 2008).

More than 90 percent of the Tea Gardens population is either non religious or Christian (Duo, 2008). More than 90 percent of the Tea Gardens population also speaks English, which is reflective of the lack of ethnic diversity of the population.

5.2.2 Tea Gardens – Hawks Nest District

The total population of Tea Gardens / Hawks Nest at the 2006 Census was 3,155. The population of Hawks Nest experienced a recent decline of nine percent between 2001 and 2006 (from 1163 in 2001 to 1061 in 2006). In the context of the population growth of eight percent in Tea Gardens during the

same period, it is evident that population growth in the area is predominantly in Tea Gardens (Duo, 2008).

Assuming that the supply of housing is a key determinant of population growth in Tea Gardens, the estimated future population of Tea Gardens / Hawks Nest is 12,558 (Duo, 2008). This is based on the anticipated future dwelling supply of four major greenfield developments identified in the Hawks Nest Tea Gardens Housing Strategy, as well as growth from infill opportunities and the Shearwater development (refer to *Table 5. 1*).

Table 5.1 Projected Population of Tea Gardens and Hawks Nest Based on Future Dwelling Supply

Site	Dwellings	Estimated Population
2006 Population		3,155 (actual)
Riverside	980	2,077
Myall River Downs	1,500	3,300
Hermitage	281	506
North Hawks Nest	750	1,650**
North Shearwater	350	770
Estimated Other*	500	1,100
Total	4,361	12,558

* Other dwellings based on combined infill dwellings based on the Hawks Nest Tea Gardens Housing Strategy.

** Assumes a considerable higher permanent occupancy rate than is currently the case in Hawks Nest as a highest case scenario.

Source Duo, 2008.

5.3 FUTURE ESTATE RESIDENTS

As indicated in *Table 5.1*, Riverside at Tea Gardens was expected to provide approximately 980 dwellings, adding around 2,077 people to the population of Tea Gardens. This is a generous projection as it assumes: occupancy rates of 1.3 persons for medium density houses and 2.2 for standard residences and duplexes; and that all houses will be occupied full time.

5.4 SOCIO – ECONOMIC IMPACTS

5.4.1 Demographic Change

Riverside will provide a mix of dwelling types which is anticipated to accommodate some 2,077 people. The anticipated age distribution of these residents, is set out in the Duo 2008 report which indicates that the greatest changes is likely to occur for the 25 to 54 years old and 65+ years age groups.

5.4.2 Housing

Housing Type

The 2006 Census data indicates that housing in Tea Gardens is dominated by separate houses (92 percent). Semi detached, row or terrace houses, townhouses comprised only five percent of the total housing stock and apartments and units comprised only two percent (Duo, 2008).

Since 2001 there has been a housing boom, which has seen an increase in townhouse and unit development. Detached dwelling developments have also continued to grow. Approval data provided by Great Lakes Council in the Tea Gardens – Hawks Nest Housing Strategy indicates that from 2000 to 2004, 315 dwelling approvals were granted, of which 65 (or 20 percent) were for units, duplexes or townhouses in Tea Gardens (PB, 2006).

The existing development at Riverside has commenced with 261 lots either on the market or sold with a substantial number of dwellings having been constructed. In total, 357 residential lots have been approved with 25 lots with Council for approval (Duo, 2007).

Retirement Living and Aged Care

Tea Gardens currently has 190 self care units and approval for a 80 bed hostel at Tea Gardens Grange (although only 30 beds currently have Government funding). There is a further 281 self care unit approved for the Hermitage site on the west side of Myall Street, adjacent to Myall River Downs. Another ten low care retirement units are located at Myall Lodge Aged Care facility in Hawks Nest with plans for an additional 20 units (Duo, 2008).

Commonwealth benchmarks suggest the need for one aged care bed for each ten residents aged over 70 years. At the time of the 2006 Census, Tea Gardens had 429 residents aged over 70 years, generating a requirement of 43 beds. Much of this demand will be provided for by the 30 beds available or to be constructed ay Myall Lodge Aged Care facility. Riverside is estimated to result in a demand of approximately 30 additional aged care places once fully developed. These beds can be accommodated at Tea Gardens Grange (Duo, 2008). A licence for a future 30 beds at Tea Gardens Grange has been granted.

Myall River Downs will subsequently require a further 50 beds when fully developed. These can be provided by the Tea Gardens Grange Facility. Ultimately, it is estimated that Tea Gardens and Hawks Nest will grow to 12,558 residents with (assuming 2006 census age distributions) 8% of population aged over 70 or 1005 people. This will mean demand for 101 aged care beds, 80 of which will be provided with the funding of the additional beds at the Tea Gardens Grange facility and a further 30 beds will be available at Myall Lodge. These will be enough to service growth anticipated in the Tea Gardens Hawks Nest area.

There is sufficient aged care and retirement living services to accommodate the anticipated population growth in Tea Gardens.

In addition, the Riverside development includes a number of elements that suit an older population, outside of the purpose built aged care and retirement living developments. These include:

- small and duplex lots providing for future housing with smaller yards, and therefore less maintenance;
- community infrastructure including precinct based facilities;
- flat topography, facilitating easy non vehicular access through the site;
- proximity to commercial facilities, including a medical centre;
- a design layout that promotes passive surveillance of the street; and
- emphasis on home business allowing for economic activity and partial retirement.

Home Ownership

Three bedroom houses in Tea Gardens are available from around $300,000 with some smaller dwellings available for less.

Many of the people moving to the area are retirees. A standard assessment of affordability based on comparing income and mortgage payments is not relevant for retirees, as they tend to have low incomes but have equity in their houses. Retirees seeking to move to Tea Gardens will do so if they can afford it (Duo, 2007).

For younger people / families the standard assessment is applicable. The Westpac mortgage calculator shows that with an annual income of $55,000, which is reflective of professions such as teachers and police people, a single income household with no children can borrow $300,000. This is enough to enter the housing market in Tea Gardens. A similar calculation for dual income families also indicated that they can afford to enter the market at Tea Gardens. The exception is single income families, which would have difficulty entering the housing market in any coastal area (Duo, 2007).

Rental Market

The rental market in Tea Gardens / Hawks Nest is very competitive and relatively cheap by almost any other comparison, with an average rent of $195 per week. Crighton Properties are exploring house design solutions to provide for affordable rental housing.

Housing Stress and the Potential to Enhance Affordability

Housing stress is typically defined in terms of more than 30 percent of gross income being spent on housing. For a $300,000 dwelling with a 20 percent deposit at an interest rate of 7.5 percent, a household income of $67,000 would be required to not be considered to be experiencing housing stress (Duo, 2007).

Average rental properties in Tea Gardens are accessible without stress to any household with combined incomes of $34,000 or more.

Based on the above, housing is available in Tea Gardens to a range of income groups without resulting in household stress.

At Riverside, six approaches will be implemented to encourage the provision of affordable housing, namely:

- the inclusion of at least ten percent of lots less than 450 square metres, to provide housing options;
- encouraging shared use dwellings incorporating home office facilities to create affordable lifestyle opportunities;
- to allow for alternative dwelling types, such as 'dual key' dwellings where areas of a dwelling can be rented out as self contained units;
- allowing for an adequate supply of housing in the concept plan and project application;
- through a subdivision design that maximises opportunities for an affordable lifestyle by encouraging the use of non motorised transport modes, accessibility of services and facilities and energy and water efficiency; and
- encouraging a rental market.

5.4.3 Health

The medical centre at Riverside provides a range of services, including three general practitioners, two dentists, pathology, radiology, pharmacy services and a number of visiting specialists. There are also two more doctors in Tea Gardens and Hawks Nest. Tea Gardens also has its own ambulance station.

The Hawks Nest – Tea Gardens Community Health Centre in Hawks Nest also offers a range of community based health services, and more acute medical facilities are provided in Newcastle.

The Department of Health and Ageing advised that the national average for hospital beds is 2.43 persons per 1000 population. Based on this average, the future population at Riverside will generate the requirement for an additional

five hospital beds, assuming that the population does not already reside in the Hunter New England Health Service catchment (Duo, 2008). However, this needs to be seen in the context of the Lower Hunter Regional Strategy (DoP, 2006), which assumes population growth of 160,000 people over the next 25 years, and the Draft Mid North Coast Regional Strategy (DoP, 2007) which sees growth of 90,000 people over the same time period. Hunter New England Health will plan their service provision to accommodate this growth of which Riverside is a part. The impact of the Riverside at Tea Gardens development is considered negligible as the full development of Riverside is anticipated to occur over a 15 year period.

In relation to general practitioners, the optimum ratio is generally one doctor per 1500 persons. The Myall Quays Medical Centre includes three general practitioners and room for a fourth, which can cater for the future population at Riverside and Myall River Downs at Tea Gardens. The Myall River Downs population together with the anticipated increase in population generated by Riverside is estimated to be 5,286 persons, which would generate the requirement for about 4 general practitioners (Duo, 2008). Additional services would be required when the Myall River Downs, North Hawks Nest and North Shearwater developments are completed, as these three developments are anticipated to generate an additional population of 3,800, which generates the requirement for another 2 ½ doctors.

5.4.4 Education

General Targets

There are 23 schools that can be accessed by bus from Tea Gardens, of which there are four high schools and five primary schools that have direct bus routes from Tea Gardens.

The Department of Education and Training (DET) has general guidelines for the provision of education facilities, which is based on the following ratios:

- primary school: one for each 2000 to 2500 dwellings;
- secondary school: one for every 6000 to 7500 dwellings;
- TAFE: one for every 100,000 dwellings; and
- special needs schools: one for every 20,000 dwellings (Duo, 2008).

Based on these ratios the proposed development on its own will not require additional schools in Tea Gardens because it will potentially create only 1045 new dwellings. The ability for the existing school facilities to accommodate the anticipated demand generated from the Riverside development is set out below.

Primary Schools

Based on the demographic profile detailed in *Section 5.4.1* and the 2006 educational attendance rates, the Riverside development will generate a demand for 120 primary school places over the next 14 years, with half arriving in the first six years (Duo, 2008). There is capacity within the existing school facilities to accommodate this growth as follows:

- Tea Gardens Public School is approximately 1.6 kilometres from Riverside and currently has around 218 students, with the capacity to continue to grow through the provision of additional demountable facilities at the school;
- Irrawang Public School is in Raymond Terrace and currently has 305 students with the ability to accommodate an additional 130 students;
- Bulahdelah Central School currently has 155 primary school places and could accommodate 50 more;
- St Brigids Catholic School is in Raymond Terrace which has 420 students with the capacity for an additional 25 students;
- Medowie Christian School has 302 students with plans in place to expand to be able to accommodate 800 students; and
- St Josephs Public School is in Bulahdelah and has 38 students with the capacity for up to 90 students (Duo, 2007a).

To assist with facility planning, Crighton Properties will communicate directly with the Principal of the Tea Gardens Public School regarding the progress of the Riverside development.

Secondary Education

Based on the demographic profile set out in *Section 5.4.1,* the Riverside development will generate a demand for an additional 98 secondary school places over the next 14 years, with half arriving in the first six years (Duo, 2008). There is capacity within the existing school facilities to accommodate this growth, indicated below:

- Bulahdelah Central School currently has 360 secondary school places and could accommodate 60 to 70 more without the need for more buildings;
- Medowie Christian School has 302 students with plans in place to expand to be able to accommodate 800 students; and
- Hunter River High School is located in Heatherbrae and has approximately 730 students and has the capacity to accommodate 100 more students.

Irrawang High School is located in Raymond Terrace and has around 1000 students. It does not have the capacity for further growth without the addition of more demountable units (Duo, 2008). Bulahdelah Central School however, has recently benefited by a $14 million upgrade and is one of the most modern schools in the NSW. It is also the only school listed above that

does not have other major growth areas in its catchment. Therefore it is likely to gain a significant proportion of students from Tea Gardens. To assist in the continued planning of the facilities of the school, Crighton Properties will advise the Principal of the school about the progress of the Riverside development.

Tertiary and Adult Education

The University of Newcastle is an hour by road from Tea Gardens and offers a range of undergraduate and postgraduate studies. There is also a TAFE at Tighes Hill in Newcastle and the University of the Third Age offers courses in Tea Gardens.

The community and telecommunication facilities provided in the proposed home business precincts offer residents the opportunity for distance education. Crighton Properties will have discussions with TAFE and the University of Newcastle about the potential for accommodating facilities that would facilitate community learning. These could be located in the multi use community facility or the business precinct hub near the Riverside commercial centre.

5.4.5 Recreation Facilities

Council acknowledged that to accommodate an expected population growth of the magnitude it predicted over the next 25 years, existing public services and facilities would need to be extended and other facilities may need to be provided (Great Lakes Council, 2003c). Council estimated that by 2011, all community facilities (such as community halls, centres and libraries) would likely be used to capacity (Great Lakes Council, 2003a). Existing recreational facilities are described in *Section 2.9* of this report.

Table 4.1 of the Riverside at Tea Gardens Recreation Study *(*ERM, 2008d*) (*refer to *Volume 3)* provides a summary of the projected population figures for the Tea Gardens / Hawks Nest area. The area of structured open space required to be provided by future development within Tea Gardens and Hawks Nest is detailed within Table 4.2 of the study.

The total area of structured open space required to support the existing and future population of Tea Gardens and Hawks Nest is 14.4 hectares. As identified in *Section 2.9.2*, there is a current oversupply of 1.5 hectares of structured open space.

All the structured open space required to be provided as a consequence of the development of the Riverside at Tea Gardens site (2.5 hecatres) is proposed to be provided at the Myall River Downs site in accordance with the Voluntary Planning Agreement which Council and Crighton Properties have jointly prepared.

5.4.6 Community Facilities

There are a number of community facilities existing in the Tea Gardens - Hawks Nest.

Community Halls

The main community hall is the Hawks Nest Community Hall. It can seat approximately 200 people. The Department of Community Services guidelines recommend one community centre per 7,000 – 10,000 population. The Riverside development will not reach this threshold, however a community centre is proposed within the commercial centre at Riverside. This facility is included in the draft planning agreement and will be provided in accordance with the timing indicated in the planning agreement. A brief will be prepared in consultation with Council to ensure that the facility provides the level of amenity the community requires.

It will be accessible from the residential areas in Riverside by cycle and pedestrian paths and will have a designated car park.

Library

Council has established a consolidated community facility and library at Tea Gardens. Council's s94 Report requires a branch library for 5000 persons. Given the other existing and future developments in the area, such as North Shearwater, Myall River Downs and North Hawks Nest, the SIA recommended that Crighton Properties consider a contribution to the upgrade of the library facilities.

Preschool

Hawks Nest / Tea Gardens Pre School is located in Hawks Nest and accommodates 20 children on each of the three days it is open. The Tea Gardens Childcare Centre offer long day care and preschool, five days a week. Council's s94 Report states that the current pre-school facilities are sufficient to accommodate anticipated growth in the area. In addition the approved child care facility at the Riverside commercial centre, once constructed, will supplement this service.

Other

Other community facilities include the Rural Fire Service facility in the industrial area of Tea Gardens, four churches and a post office located within Tea Gardens – Hawks Nest.

5.4.7 Employment

Riverside will contribute to attracting more jobs and working people to Tea Gardens, through the provision of home business lots. The project application includes 95 home business lots, which provides the opportunity for 95 small businesses to be established in Tea Gardens. The incorporation of these lots offer strong social benefit in terms of allowing people the opportunity to avoid the need to commute long distances, reduce demand on child care and prevent the social dislocation that is associated with long distance commuting (Duo, 2008).

In addition, the development of Riverside will have the following effects on employment and the economy:

- the estimated aggregate total output benefit of the construction phase of the project is $243 million, which will flow directly to the local community over the 15 year life of the project. This is expected to support 1,479 equivalent full time jobs;

- the construction phase of the retail / commercial component will support approximately 645 jobs, which equates to an estimated $21.7 million in wages and salaries;

- residential consumption activities will directly contribute an estimated $17.9 million per annum to the local economy base, which will support an estimated 107 equivalent full time jobs in the local area when complete; and

- jobs associated with the day to day operation of the site and ongoing capital maintenance will be created. For Riverside this it is estimated to equate to $2,115,000 to $4,230,000, which represents ten additional full-time direct jobs and 53 jobs overall (direct and indirect) (PB, 2007).

5.5 RETAIL AND COMMERCIAL

Assessing retail demand is largely dependent upon population projections. The coastal environment provides some constraints and restrictions on urban development and as the process of long-term strategic planning continues, efforts continue to refine population projections. This issue was identified in the previous *IBECON Tea Gardens Retail Study 2000* (IBECON 2000), which was written so that retail demand could be updated as population figures were updated.

The *Wakefield Planning Tea Gardens Retail Study – Update of IBECON's 2000 Study (*Wakefield 2007) provided an update using population projection figures produced by the Planning Workshop Australia in 2005, the most recent census information and various Council studies and reports.

According to the report, there is a high demand for the proposed Commercial/Retail development of the Riverside site, and it would be able to provide for the Tea Gardens and Hawk Nest area well beyond the year 2016.

Retail Hierarchy

Tea Gardens/Hawks Nest is a relatively isolated area. Raymond Terrace is the next logical level of hierarchy in terms of shopping, followed by numerous opportunities in the Newcastle region.

Based on floorspace and associated changes, Raymond Terrace is the only relevant shopping centre in relation to Tea Gardens/Hawks Nest. Raymond Terrace is 52 km by road from Tea Gardens, which is a considerable distance to travel for "weekly shopping needs". It is therefore appropriate to provide retail capacity in Tea Gardens/Hawks Nest at a higher level than might otherwise be expected, given its population. It will be important to have an appropriate balance between supermarket floorspace, specialty shops, restaurants and other retail outlets, such as medical services.

Forward Estimates

Forward projections can be determined by examining floor space per capita and then project this forward against future population figures. The relationship between floor space and population is shown in the *Figure 5.1*.

Projections extend until 2016 as floorspace/population ratios are only available to this date. Refer to the Planning Workshop Report 2005 for population projections to 2016.

Summary and Conclusions

Based on the area proposed for commercial / retail development, Riverside at Tea Gardens would be able to provide for, not only the foreseeable retail /commercial expansion of the Tea Gardens / Hawks Nest area up to 2016, but well beyond it. An indication of the growth which could be accommodated is provided below:

- the proposed Riverside commercial / retail development of approximately 40,000m^2, with a floor to site ratio (FSR) of 0.25 : 1 (typical of a single storey development) would likely yield a Gross Leasable Area of 10,000m^2; and
- if the same area were allowed to be developed at a higher FSR of 0.4 : 1 (typical of a 2-3 storey mix) then the Gross Leasable Area would increase to around 16,000m^2.

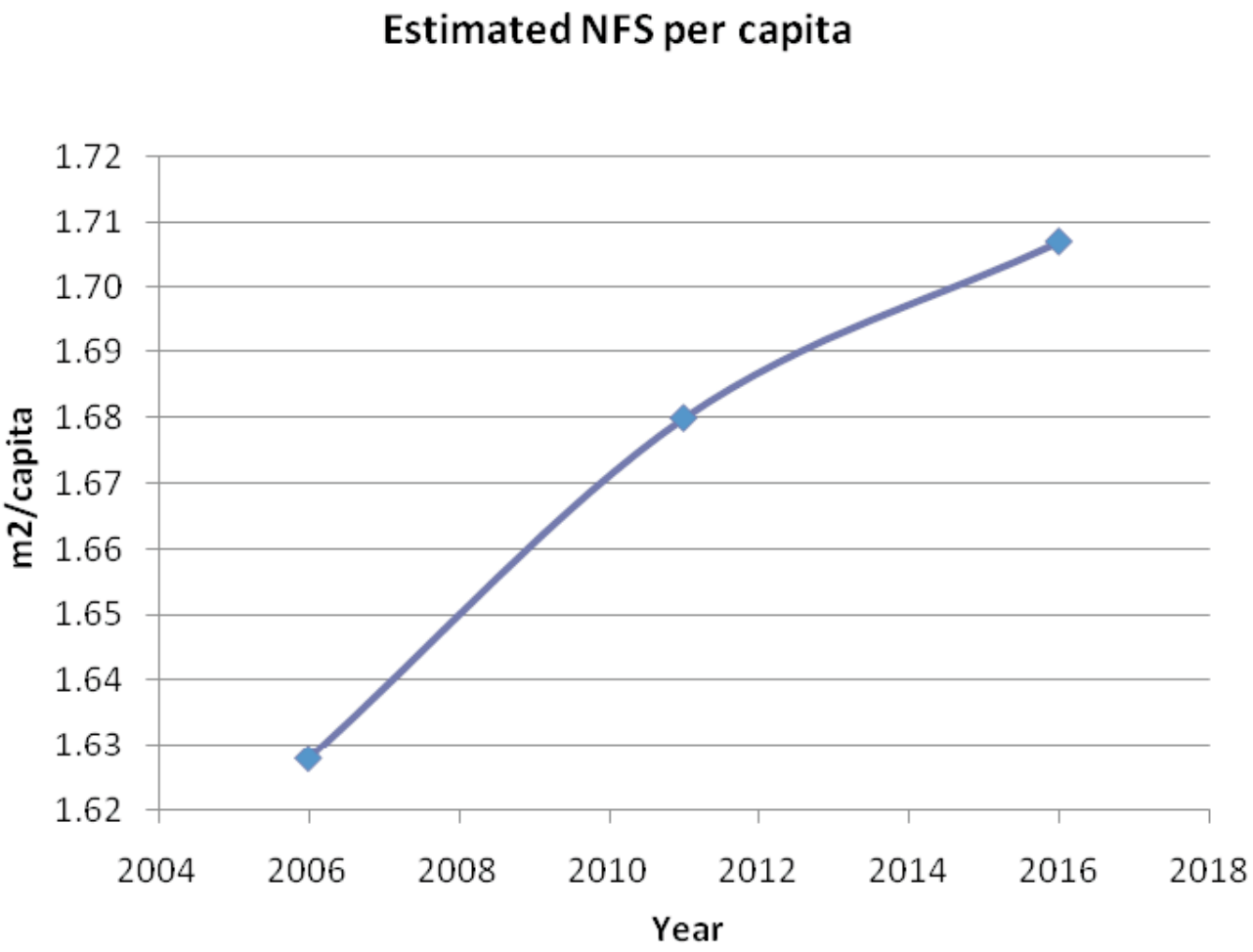


Figure 5.1

Floor Space versus Population Ratio

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_river_aug_15		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	Wakefield Planning Tea Gardens Retail Study, 2007		
Scale:			

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ERM

5.6 *CONCLUSIONS AND RECOMMENDATIONS*

Riverside at Tea Gardens is well served by education and medical facilities and has access to public transport and employment areas. The development offers the opportunity to significantly enhance the services and community facilities in Tea Gardens, which will build on the enhancement of services already delivered by the existing Riverside commercial centre.

To ensure that the community benefits from the development Crighton Properties commits to the recommendations of the SIA, namely:

- internal roads in Riverside will be sufficient to accommodate a bus route within walking distance of each dwelling (that is 400 metres);
- the development includes a comprehensive cycle network that connects all community facilities, the commercial centre and directly to Council planned cycle path network;
- contributing to the provision of a multipurpose community function / meeting facility, which will be delivered via a draft planning agreement with Council;
- keeping the Principals of both Tea Gardens Public School and Bulahdelah Central School informed of the growth of the school age population in Riverside. Crighton Properties will also discuss opportunities for courses run by TAFE and University of Newcastle to be conducted in the community facilities proposed as part of Riverside;
- provide a community building and telecommunications as part of the home business precincts;
- providing additional sporting and recreational facilities that will be consolidated on one site, as part of the Myall River Downs development. This will be a significant upgrade of current facilities and delivered via the draft planning agreement with Council;
- the existing commercial centre will be extended to provide the opportunity for a greater range of services and products to be provided to the Tea Gardens and Hawks Nest community; and
- Crighton Properties will provide the approved concept plan to the Population Health Unit of the Hunter New England Health Service, to assist them in the planning for preventative health.

6 CONSULTATION

This Chapter provides details of consultation that was undertaken with government authorities and the local community during the EA process.

6.1 INTRODUCTION

The stakeholder consultation approach adopted throughout the EA process was structured to provide open and transparent communication with the local community and key stakeholders. It provided a mechanism for dissemination of information about the project to these groups. Early stakeholder engagement enabled concerns raised by the community and government agencies to be identified early and addressed as part of the EA process.

6.2 AGENCIES AND OTHER AUTHORITIES

Relevant government authorities consulted during the preparation of the EA were:

- Great Lakes Council;
- Department of Planning (Sydney and Regional offices);
- NSW Department of Environment and Climate Change (DECC);
- NSW Department of Energy and Water ;
- Mid Coast Water;
- NSW Department of Primary Industries (NSW Fisheries);
- NSW Catchment Management Authority (Hunter and Central Rivers);
- NSW Department of Lands;
- NSW Maritime;
- Rural Fire Service;
- Karuah Aboriginal Land Councils (KALC); and
- NSW Marine Parks Authority.

Ongoing consultation and information sharing was undertaken with all the government authorities listed above during the EA process and preparation of the technical reports.

As outlined in *Section 1.1*, Crighton Properties began the process of seeking approval to develop a substantial portion of this site for residential purposes and for a nine hole golf course and tourist facilities in 2002. A summary of key consultation activities with the Department of Planning (previously the Department of Infrastructure, Planning and Natural Resources) is set out below in chronological order. It clearly illustrates that Crighton Properties has consulted with the Department of Planning (DoP) over many years with regard to the project and the planning framework / process that relates to the project. Consultation undertaken includes:

- Crighton Properties met with DoP Officers (regional office) to discuss the initial project in 2002;

- a presentation of the initial project was made to the Coastal Council and DoP on 28 July 2003. Following this a revised submission to the DoP was lodged for separate EIS requirements and masterplan requirements, which was required to be prepared under SEPP 71;

- DoP provided Crighton Properties with draft SEPP 71 Masterplan requirements on 29 July 2003;

- a Planning Focus Meeting (PFM) was held on site on 28 December 2003 to discuss the master plan and various development proposals. The PFM was attended by DoP, DEC, Great Lakes Council and other agencies;

- the Director-General's requirements for the EIS were subsequently issued by the DIPNR on 5 January, 2004 for the artificial water detention body and the residential/tourist/recreational components. The Department also provided requirements for the preparation of a master plan for the development under SEPP 71;

- on 24 February 2004 the proposed waterbody was gazetted as being of State Significance. Following this, DoP notified Crighton Properties of the gazettal on 16 March 2004;

- on 5 March 2004 Crighton Properties provided DoP with the legal opinion of Malcolm Craig QC, confirming that the proposed development, including the water body, was not a 'canal estate';

- Crighton Properties met with DoP (Sydney) on 10 June 2004. At this meeting DoP informed Crighton Properties that the DoP considered the proposed development a canal estate and requested that 'other options' be investigated;

- Crighton Properties presented an options paper to DoP on 29 September 2004;

- Planning Focus meeting held in Tea Gardens on 28 November, 2004;

- on 1 December 2004, Crighton Properties met with DoP to discuss the revised proposal which no longer contained a golf course;
- on 31 December 2004 DoP advised Crighton Properties that the masterplan must reflect the outcomes of the Housing Strategy (have been incorporated in the outcomes of the Housing Strategy into the current proposal);
- in August 2005 Part 3A of the EP&A Act introduced;
- Draft Housing Strategy exhibited form October 2005 to January 2006;
- meeting with DoP (Hunter) to discuss transition of Riverside Project to Part 3A on 3 January 2006;
- Design Forum held at Tea Gardens from 1-3 February 2006;
- in a letter dated 1 March 2006 the DoP confirmed that the proposal was a project to which Part 3A of the EP&A Act applies;
- on 9 March 2006 Crighton Properties met with Great Lakes council to explain the current proposal;
- on 14 March 2006 Crighton Properties met with DoP (Newcastle) to explain the current proposal;
- on 26 April 2006 a community presentation held in Tea Gardens;
- in a letter dated 17 May 2006 the DoP (Sydney) acknowledge receipt of the Part 3A application, which includes a preliminary assessment report;
- on 23 and 24 May 2006 Crighton Properties forwarded a copy of the preliminary assessment report to Great Lakes Council and DoP (Newcastle), respectively;
- on 16 June 2006, Crighton Properties met with Great Lakes Council to discuss the Riverside concept plan and project application;
- on 22 June 2006, Crighton Properties met with DoP to discuss changes to the way in which the DoP wanted to deal with the Part 3A application;
- in a letter dated 28 June 2006 DoP advised that the project application was considered to be a combined Concept Plan and Project Plan;
- Housing Strategy adopted by Council in November 2006;
- a letter dated 28 December 2006 reported the revised D.G. requirements reflecting a performance based approach to impact upon the ground water aquifer;

- on 23 February, ERM met with DoP to discuss the progress of the Part 3A application;

- a letter dated 6 March 2007 reported the revised D.G. requirements that reflected the impacts on the oyster catchment area and cumulative impacts;

- a letter to GLC dated 10 April 2007 confirmed Crighton's offer to enter into a Voluntary Planning Agreement to cover developer contributions for the development of dwellings at Riverside;

- a letter to DoP dated 10 May 2007 outlined the background to the MQ development and included a chronology of negotiations with NSW Planning;

- a copy of the Options Paper that was presented to DoP in September 2004 was emailed to DoP on 21 May 2007;

- an email from DoP on 22 May 2007 confirmed that they already held the Options Paper and requested current engineering reports and supporting documents;

- an email was sent to DoP on 22 May 2007 asking for clarification of density targets arising from Housing Strategy;

- a letter dated 24 May 2007 sent to DoP provided an overview and discussed issues raised at meeting with Director-General Sam Haddad on 23 May 2007;

- a copy of the latest draft of the "Integrated Water Cycle Management Report" for Riverside was emailed to DoP on 30 May 2007;

- a progress update was sent to Chris Wilson of DoP on 13 June 2007, and copied to Sam Haddad and Richard Pearson on 14 June 2007;

- correspondence and attachments previously sent to Chris Wilson were forwarded in a letter to Sam Haddard on 14 June 2007;

- an email sent to DoP on 31 July 2007 requested a copy of their brief to Ecological Engineering and also requested meeting to discuss finalisation of the application;

- an email from DoP on 31 July 2007 advised that Ecological's report would be forwarded to ERM once it had been received by the Dept. and a meeting would be scheduled to discuss issues raised in the report;

- a meeting with DoP was held on 22 August 2007 to present our considered response to Ecological's report;

- a letter was sent to DoP on 10 September 2007 urging the Dept. to consider the "brackish water" solution for the lake;
- a meeting was held with DoP on 11 September 2007 to present the brackish/freshwater open space option;
- a letter sent to DoP on 13 September confirmed the resolve to pursue the brackish/freshwater open space option and not the saltwater option;
- an email sent to DoP on 14 September confirmed the resolve to revise the stormwater management solution for the site as per the concept plan presented at the meeting of the 11/09/07;
- a letter dated 20 September 2007 to DoP requested a meeting to discuss the proposed marine/tourist centre;
- a letter dated 10 October from the DoP confirmed the meeting of 16/10 to present final plans for the Part 3A Masterplan;
- at the meeting on 16 October 2007, Geoff Cox presented the final brackish water/open space proposal. Also discussed were the marine centre conditions and plans for landscaped screening between existing residential development and proposed new open space network. DoP requested formal lodgement;
- a meeting was held on 12 March 2008 with DoP to discuss adequacy review comments;
- a meeting was held on 2 September 2008 with DoP to outline how the comments arising from the adequacy review had been addressed: and
- a meeting was held on 20 January 2009 with DoP to outline how the comments arising from the second adequacy review had been addressed

6.3 COMMUNITY

A community consultation approach was adopted which was aimed to ensure that the community was engaged in a shared vision for the development of the site.

A Design Forum was held over three days from 1 to 3 February 2006. The Design Forum related to the Myall Rivers Downs and Riverside sites at Tea Gardens and provided opportunities for the community and various government agencies to express their views on the future development of the Tea Gardens area.

A total of 143 people attended all or part of the forum, which included ten representatives from Great Lakes Council and over 100 community members.

The Design Forum included a site and context tour, presentations on relevant issues and constraints, community workshop and a design studio session. This led to a presentation to the community of the early basis for the concept plan. The community was able to submit feedback forms after the final presentation and a follow up newsletter was sent to attendees. *Volume 3* of the Environment Assessment report provides the Design Forum presentation and additional information relating to the design consultations undertaken.

It was evident at the design forum that the community was passionate about maintaining the character of the village. The term character encapsulates density, walkability, tree lined streets, buildings setback from the street, natural beauty and accessible open space. Key community feedback from the design forum included the following comments.

- *"Tea Gardens – Hawks Nest is unique to NSW and Australia's coast;*
- *we want focal points – the encourage people to meet;*
- *businesses and restaurants can provide an interaction between communities;*
- *we must strive for inclusiveness rather than divisiveness;'*
- *we need certainty for the town – a long term plan;*
- *we want an attractive place for people to live in and enjoy a healthy life;*
- *we need at quality streetscape to encourage walking;*
- *let us provide a model to guide growth areas in the future;*
- *let us develop a sens of informality, openness and flexibility to re-in force community spirit;*
- *we can create a town for all seasons with community and recreation facilities available all year round;*
- *we could enhance diversity of our culture by a series of small parks – within close proximity of all residents;*
- *we need meeting rooms and other places for us to meet and interact;*
- *let's plan for fabulous outdoor eating spots;*
- *remember 'Capability Brown', who insisted on getting it right – he designed a streetscape that would look fantastic in 400 years time;*
- *let us strive for true coastal design to avoid brick and tile sterility;*
- *heritage isn't brick and tile – let's strive to improve housing design; and*
- *we want a connected community"* (Design Forum Review 0306).

The shared vision delivered by this approach is set out in *Section 2.4* and formed the basis for the concept plan.

A further community meeting was held on 26 April 2006 to discuss the concept plan. Once again, feedback was sought and the overall response was very positive.

6.4 PUBLIC EXHIBITION

Pursuant to section 75H of the EP&A Act the EA will be placed on exhibition for no less than 30 days. During this time any person (including a public authority) may make a written submission to the Director-General concerning the concept plan and project application.

The issues raised in any submission received will be provided to Crighton Properties and the Director General may require Crighton Properties to submit a response to the issues and a preferred project report that outlines any proposed changes to the project to minimise its environmental impact and any revised statement of commitments.

If the changes to the nature of the project are considered significant the Director-General may require the proponent to make the preferred project report available to the public.

7 STATEMENT OF COMMITMENTS

This Chapter includes Crighton Properties environmental management, mitigation and monitoring commitments which will be adhered to as the development proceeds.

7.1 INTRODUCTION

The commitments detailed in this section have been compiled based on the environmental assessments undertaken during preparation of this EA. They constitute a commitment from Crighton Properties, inclusive of allocation of responsibilities and timing, to implement measures to minimise all potential environmental impacts that have been identified through this EA and ensure that the project is environmentally, socially and economically sustainable.

7.2 DRAFT STATEMENT OF COMMITMENTS

Crighton Properties is committed to minimising the potential for environmental impacts from the proposed development. *Table 7.1* outlines the measures which will be implemented to manage, mitigate and/or monitor any deleterious environmental, social and economic impacts likely to be associated with the proposal.

Table 7.1 Draft Statement of Commitments

Item Number	Item	Commitment	Responsibility	Timing
1	Scope of Development	The development of the subdivision will be carried out as outlined in the documentation and subdivision plans listed below, except where amended by other items of this Statement of Commitments. • Environmental Assessment Report (EAR), prepared by ERM, January 2009 and supporting reports; • Drawings R.C – 01, to R.C. – 50 prepared by Crighton Properties..	Crighton Properties	Ongoing
2	Statutory Requirements	The following licences, permits and approvals will be obtained and maintained for the subdivision and construction of infrastructure: • Construction Certificates for engineering works (including earthworks, soil and water management, clearing, roadworks, drainage, landscape, water supply, and sewerage) for each stage of the subdivision; • Compliance and Subdivision Certificates for each stage; • Road Opening Permit; • Section 138 Consent for roadworks (Roads Act 1993); • Country Energy Design Certification; • Country Energy Notification of Arrangement; • Telstra Compliance Certificate; • Department of Land and Property Information registration of the subdivision; • Section 73 Compliance Certificate from MidCoast Water. Notice of Commencement of Building or Subdivision Work and Appointment of a Principal Certifying Authority is to be submitted to Council two days prior to commencing work.	Crighton Properties	For the duration of subdivision

Item Number	Item	Commitment	Responsibility	Timing
3	Conveyancing	A final community title and community management plan will be prepared for each stage of the development.	Crighton Properties	Prior to the release of the Subdivisions Certificate for each stage.
4		Easements will be provided for utility services that encroach onto private land or common space.	Crighton Properties	Prior to the release of the Subdivisions Certificate for each stage.
5		Crighton Properties will prepare work as executed plans for construction work in each stage and provide such plans to the relevant authority for each stage.	Crighton Properties and the relevant authority	Prior to the release of the Subdivision Certificate for each stage.
6	Construction	Construction of the subdivision will be generally in accordance with the Staging Plan R.C. - 08) prepared by Crighton Properties or as otherwise approved in Construction Certificate plans approved by an accredited certifier.	Crighton Properties	Ongoing
7		Construction work shall be carried out only between 7.00 am and 6.00 pm, Monday to Friday and 7.00 am to 5.00 pm Saturdays, excluding public holidays.	Crighton Properties	For the duration of the construction of the subdivision.

Item Number	Item	Commitment	Responsibility	Timing
8		Construction of the subdivision will be generally in accordance with the Environmental Construction Management Plan, prepared by ERM, (2009), which includes: • waste management controls; • flora and fauna management; • noise and vibration control; • air and dust management; • stormwater and sediment control.	Crighton Properties	For the duration of the construction of the subdivision.
9		Inspections will be carried out by an accredited certifier and following each inspection compliance certificates will be forwarded to The Principal Certifying Authority.	Crighton Properties	For the duration of the construction of the subdivision.
10	Acid Sulphate Soils	All earthworks will be completed in accordance with the Acid Sulphate Management Plan included as Annex C in the *Proposed Subdivision – Riverside Estate Stage Project Application and Master Plan Area* prepared by Coffey Geotechnics (2008), and provided in *Volume 3* of the EAR.	Crighton Properties and contractors	For the duration of the construction of the subdivision for each stage.
11	Ecology	Implement the Koala Habitat Management Plan, prepared by Conacher Environmental Group (2008c), (provided in Appendix 3 of the Ecological Site Assessment in *Volume 3* of the EAR).	Crighton Properties and Community Association	During construction of precinct 3.
12		Implement the Ecological Site Management Strategy prepared by Conacher Environmental Group (2008b) (provided in Appendix 4 of the Ecological Site Assessment in *Volume 3* of the EAR) and preparation and implementation of a Wetland Management Plan (see the report by Winning 2009).	Crighton Properties	Prior to the release of the construction certificate for any stage of the development.
13	Bushfire Management	Asset protection zones will be established in accordance with Schedule 1 of the *Bushfire Protection Assessment – Riverside, Tea Gardens* report prepared by Conacher	Crighton Properties	Prior to the release of the Construction Certificate for

Item Number	Item	Commitment	Responsibility	Timing
		Environmental Group, 2008a.		the respective stage of construction.
14		A site specific fuel management plan will be prepared that outlines fuel management within the Asset Protection Zones.	Crighton Properties	Prior to the release of the Construction Certificate for the respective stage of construction.
15		A covenant will be placed on each applicable title requiring development to be constructed in accordance with the Australian Standard AS3959 'Construction of Buildings in Bush Fire Prone Areas'.	Crighton Properties	Prior to the release of the Construction Certificate for the respective stage of construction.
16		A fire hydrant supply will be installed in accordance with Australian Standard S2419-1 (1994).	Crighton Properties	Prior to the release of the Construction Certificate for the respective stage of construction.
17		A Bushfire Evacuation Plan should be prepared and incorporated into the Community Management Statement.	Crighton Properties	Prior to the release of the Subdivision Certificate for the respective stage of construction.
18	Aboriginal Heritage	The midden site 'NPWS 38-5-148' identified as significant located within the SEPP 14 wetland and the midden site 'Riverside_01' located within the tourist precinct will be protected from all development activities.	Crighton Properties	For the duration of the construction of the subdivision.
19		Any cultural material exposed within the development area, during ground surface disturbance works should immediately cease and a representative of the Department of Environment and Climate Change and Karuah LALC will be	Crighton Properties	For the duration of the construction of the subdivision.

Item Number	Item	Commitment	Responsibility	Timing
		contacted regarding further assessment of any cultural materials.		
20	Water Cycle Management	Design and install water quality control measures and monitoring program substantially in accordance with the *Integrated Water Management Strategy* dated 2008, prepared by Cardno Willing (refer to *Volume 3* of the EA) and Sheets 25 to 77 of the Project Application Engineering Drawings prepared by Tattersall Surveyors (provided in *Volume 2* of the EA).	Crighton Properties	Prior to the release of the subdivision certificate for each stage.
21	Water Quality	Prepare a water quality monitoring program for the Myall River to establish an understanding of background water quality.	Crighton Properties in consultation with relevant authorities.	Ongoing
22	Community Facilities	Four clubhouses and recreational facilities will be provided in the development. Separate applications will be lodged at a later date for the three clubhouses and recreational facilities for which concept approval only is currently sought. The timing for the submission of applications and subsequent construction of the clubhouses will be consistent with the construction of stages as per the Staging Plan for the development, ensuring that the facilities are available when the relevant stages are released.	Crighton Properties	Prior to the release of the Construction Certificate for the respective stage of construction.
23	Social	The Principals of both Tea Gardens Public School and Bulahdelah Central School will be informed of the growth of the school age population in Riverside.	Crighton Properties	Ongoing throughout the development of the project.
24		The approved Concept Plan will be forwarded to the Population Health Unit of the Hunter New England Health Service, to assist them in the planning for preventative health.	Crighton Properties	Following Concept Plan approval

Item Number	Item	Commitment	Responsibility	Timing
25	Reticulated Services	Each residential lot will be provided with reticulated water supply, sewerage and underground electricity.	Crighton Properties	Prior to the release of the Subdivision Certificate for each stage.
26		Infrastructure services will be provided generally in accordance with the drawings prepared by Tattersall Surveyors (refer to Servicing Strategy, *Volume 3*, EAR), namely Drawing Numbers: • 20600198, Water Servicing Strategy; • 20600220, Vacuum Sewer Servicing Strategy (sheets 1 and 2); • 20700087, Electrical Servicing Strategy; • 20700088, Communications Servicing Strategy.	Crighton Properties	Prior to the release of the Subdivision Certificate by an accredited certifier for the affected stage.
27	Roads and Drainage	All roads will be constructed in accordance with Sheets 5 to 24 (inclusive) of the Project Application Plans prepared by Tattersall Surveyors and provided in *Volume 2* of the Environmental Assessment Report.	Crighton Properties	Prior to the release of the Subdivision Certificate by an accredited certifier for each stage.
28		Drainage will be constructed in accordance with Sheets 5 to 9 and 25 to 63 (inclusive) of the Project Application Plans prepared by Tattersall Surveyors and provided in *Volume 2* of the Environmental Assessment Report.	Crighton Properties	Prior to the release of the Subdivision Certificate by an accredited certifier for each stage.

Item Number	Item	Commitment	Responsibility	Timing
29	Developer Contributions	Contributions will be made in accordance with Schedule 1 – Contributions Schedule in the *Voluntary Planning Agreement* between Crighton Properties Pty Ltd and Great Lakes (provided in *Annex E* of *Volume 1*, Environmental Assessment Report) and Sheets 2 and 3 of the Riverside Project Application Plans prepared by Tattersall Surveyors, (refer to *Volume 2*, Environmental Assessment Report) and includes: • contributions that relate to: open space, arterial roads, Marine Drive embellishments and other miscellaneous items; and • material public benefits in the form of land dedication of open space, works, upgrading of Myall Road, and entry statements at the highway and Myall Street / Toonang Drive intersections.	Crighton Properties with the Great Lakes Council	As detailed in Schedule 1 of the VPA.
30	Precinct Management	Precinct Management Statements will be prepared for each precinct in accordance with the précis provided in the Annex F and in accordance with any conditions of approval.	Crighton Properties	Prior to the release of the Subdivision Certificate by an accredited certifier for each stage.

8 CONCLUSION

This chapter provides justification for the project in terms of the suitability of site and public interest, and a conclusion to the EA.

8.1 JUSTIFICATION

8.1.1 Suitability of the Site

Location

The Mid North Coast is recognised in the draft Mid North Coast Regional Strategy (MNCRS) as one of the fastest and most consistent growth areas of NSW, with the demand to live near the coast resulting in the majority of the anticipated growth being accommodated in existing identified growth areas, including Tea Gardens – Hawks Nest. In addition, the MNCRS also identified that recent road upgrades and development activity suggests that Great Lakes and Greater Taree areas, "*…will experience revitalised in-migration and population growth*" (DoP, 2007). The site provides an opportunity for the orderly provision of residential land in the recognised growth area. It was rezoned in 2000, and is suitable for low and medium density residential development, tourism, shopping, community and recreational facilities.

The site is well located to access, enhance and extend existing infrastructure and services. It is easily accessible from the existing road network, well served by education and medical facilities and infrastructure and has access to public transport and employment areas. Thus, the site is well located to accommodate an extension of the existing residential area.

Environmental Considerations

The comprehensive planning which has been undertaken has created an attractive environment for future residents. An assessment of the natural constraints of the site, urban capability, availability of public services, access to employment, commercial and community facilities and the provision in choice of housing and location were all taken into consideration when planning Riverside. The final layout has been based on technical investigations as set out in the preceding chapters.

Part of the site is zoned 7(a) Wetlands and Littoral Rainforest and 7(b) Conservation. Land in these zones will not be developed for residential purposes. The ecological value of the coastal wetland will be largely retained and 98 hectares of vegetation on site will be improved or maintained. The previously identified Aboriginal site within these wetland areas will not be affected by the development. The newly identified Aboriginal site will be protected by a buffer and a management plan will be prepared in consultation with the local Aboriginal community to ensure its values are respected.

The subdivision has been designed to incorporate a range of bushfire mitigation management measures that include asset protection zones, appropriate road design and layout, access to water and the appropriate selection of landscaping species.

Investigations of traffic flows at the intersection of Myall Street and Shoreline Drive indicated that the existing road network as augmented by the proposed development will be able to accommodate traffic generated by the development.

An assessment of the operation of the existing intersection along Myall Street is adequate to cater for the flows associated with the development of the site for both the current 2007 and 2017 design years. The proposed intersection along Myall Street will also be adequate, as it will be constructed to the same standard.

Investigations of the capacity of existing infrastructure to accommodate the proposal indicated that reticulated water supplies, a reticulated sewer, a 'state of the art' vacuum sewer pumping station and electrical and communication services are all available to the site and can be extended to serve the development.

Stormwater management for the site has been the subject of exhaustive studies and a best practice stormwater strategy has been incorporated into the integrated water management strategy or the estate.

8.1.2 Public Interest

The development of Riverside is in the public interest because of the environmental, social and economic benefits resulting from the development of this residentially zoned land. Importantly, the community has informed the design of Riverside, with more than 100 community members participating in a Design Forum to create a vision for the development.

Social

Riverside will provide additional housing in Tea Gardens, which will contribute to housing choice and opportunities in the area. Demographic figures for household type by age indicate the predominance of couples without children ('empty nesters') and lone person households, which is indicative of an aging population. The proposal provides allotments that can accommodate a variety of dwelling types, which would appeal to a range of household types. The proposal will therefore contribute to a more diverse housing pattern within Tea Gardens.

The concept plan and project application incorporate a range of community facilities, which will build on the enhancement of services already delivered by the existing Riverside commercial centre. This includes the provision of a new community building, ability for internal roads to accommodate a bus

route, a cycle and pedestrian network that connects all community facilities, the expanded Riverside commercial centre and a commitment to consolidate sporting and recreational facilities on one adjacent site as part of the Myall River Downs development.

Environmental

Riverside provides an orderly extension to the existing residential area, in a manner that responds to the sensitive coastal environment. The Project Application and Concept Plan incorporate an open space network that provides for an integrated water management system and establishes a wildlife corridor in a manner that also provides for the recreational needs of the community.

Economic

The economic benefits of the construction phase are significant totalling approximately $640 million in output and supporting 3,893 equivalent full-time jobs. Of these, around 1,374 jobs will be directly associated with the construction of the facilities.

The local community will also benefit significantly from the proposed development during the construction phase as 40 percent of the aggregate total output benefit, or $256 million, will flow directly to the local community. This translates to a local benefit of $256 million supporting 1,557 local jobs across all sectors, spread across the anticipated 10 year life of the project (Parsons Brinkerhoff, 2007).

The retail / commercial component of the proposed development, via the construction of 15,500 square metres of commercial and retail space, will support 645 jobs and generate an estimated $21.7 million in associated wages and salaries. The spend benefits associated with this level of activity are estimated at $8.7 million per annum for the local economy with a median multiplied output effect of $15.2 million (Parsons Brinkerhoff, 2007).

Residential consumption activities will directly contribute $19.0 million per annum to the local economy based on the increase in population of 2,612 residents. Normal consumer spending patterns would indicate that this level of spending will consequently support 113 jobs in the district upon completion of the project (Parsons Brinkerhoff, 2007).

Other activities associated with the development including the management and maintenance of the infrastructure developed as part of the proposal will create jobs associated with the day-to-day operation of the site and on-going capital maintenance. The industry estimate of these annual outgoings is in the range of 1-2% of the capital value of the development. For Riverside at Tea Gardens this would be $2,115,000 to $4,230,000. This would represent an additional 10 full-time jobs (Parsons Brinkerhoff, 2007).

The economic benefits to the Tea Gardens/ Hawks Nest area created by the Riverside proposal will facilitate the growth anticipated by the draft Mid North Coast Regional Strategy (MNCRS) as one of the fastest and most consistent growth areas of NSW. The regional and local jobs created by the Riverside proposal will support dynamic population growth within the area by offering a range of employment opportunities.

8.2 CONCLUSION

The preparation of the project application and concept plan for Riverside has involved input from a range of disciplines including engineering, heritage, water, planning, traffic, ecology, bushfire and socio-economics. It has evolved in response to consideration of the suitability of the site and technical investigations to ensure that the proposal responds to the built form, character and environmental features of the site. The input provided by the local community and the strategic direction for Tea Gardens formulated and adopted by the relevant local and State authorities has also been a major factor influencing the Riverside proposal.

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Volume 1:

Master Plan

Previous Development Consents

DGR's

Architectural Design

Draft VPA

Community Management Statement

Legal Opinion SEPP 50

Compliance with Relevant Policies

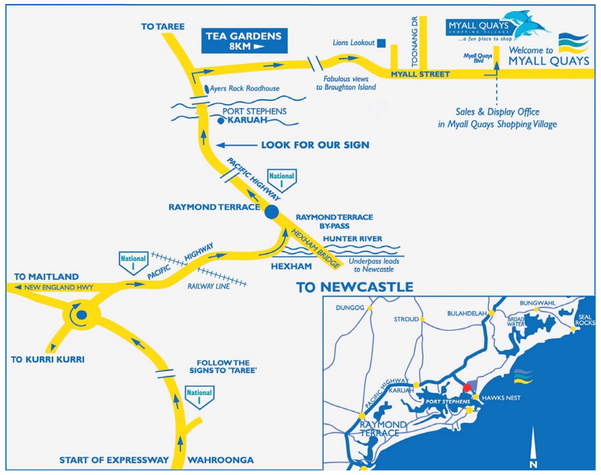
Correspondence

Solar Access

Cost Estimates

Volume 1:

Annex A: Master Plan



TO PACIFIC HIGHWAY

WATER MANAGEMENT & OPEN SPACE CORRIDORS.

RESIDENTIAL LOT DEVELOPMENT. (APPROX 750 LOTS) OVER 3 PRECINCTS. TO BE DEVELOPED UNDER COMMUNITY TITLE.

WILDLIFE MOVEMENT & WATER MANAGEMENT CORRIDOR

EXISTING RESIDENTIAL RURAL ESTATE 'SHEARWATER'

EXTENT OF SITE HOLDING. RIVERSIDE AT TEA GARDENS

WILDLIFE MOVEMENT CORRIDOR

EXISTING COUNCIL RESERVE

MYALL RIVER

RESIDENTIAL LOT DEVELOPMENT. (APPROX 140 LOTS)

EXISTING LIGHT INDUSTRIAL SUBDIVISION

TOONANG DRIVE

PROPOSED 50 BERTH BOAT BERTHING BASIN WITH DIRECT ACCESS TO MYALL RIVER

DETENTION & WATER QUALITY MANAGEMENT PONDS

SITE AREA CURRENTLY OWNED BY GREAT LAKES COUNCIL (NOT PART OF CONCEPT PLAN APPLICATION)

EXTENSION TO INDUSTRIAL SUBDIVISION

CONFERENCE & CLUBHOUSE FACILITIES. ASSOCIATED LOW RISE TOWN HOUSE ACCOMODATION. (APPROX 15)

RECREATION FIELDS & COURTS

EXISTING WASTE DEPOT

EXISTING SEWER PUMP STATION

10 DP 270100

LOW DENSITY 'LODGE HOUSES' ASSOCIATED WITH CONFERENCE / CLUB FACILITIES. (APPROX 40)

DRAINAGE MANAGEMENT & WILDLIFE MOVEMENT CORRIDOR

WILDLIFE MOVEMENT CORRIDOR

MYALL ROAD

54 DP 103982

EXISTING SAND QUARRY TO BE USED FOR WATER MANAGEMENT PURPOSES

COMMUNITY PARK. INCORPORATING GAZEBOS, WALKING TRAILS ETC.

KORE KORE CREEK

EXISTING 7(a) ZONE WETLAND

EXISTING 7(b) WETLAND BUFFER ZONE

PROPOSED HOME BASED BUSINESS PRECINCT. (APPROX 50 HOUSES) BUSINESS SUPPORT CLUBHOUSE

TOURIST / CONFERENCE FACILITIES COMBINED WITH TOURIST ACCOMODATION (APPROX 75 UNITS)

PUBLIC RESERVE / WALKING TRAILS

MYALL RIVER

RESIDENTIAL LOT DEVELOPMENT (UNDER TORRENS TITLE) APPROX 1400 LOTS TOTAL

EXISTING DETENTION & WATER QUALITY LAKE

LOW DENSITY TRANSITION DEVELOPMENT. COMMUNITY TITLE. PERMANENT / TOURIST ACCOMODATION. (APPROX 100 HOUSES)

EXISTING DRAIN TO MYALL RIVER

AVENUE

1 DP 1082250

EXISTING RESIDENTIAL DEVELOPMENT

405 DP 1093720

SPINEFEX

EXTENDED LAKE AREA FOR WATER DETENTION & WATER QUALITY MANAGEMENT

PUBLIC RESERVE AREAS TO LAKE FRONTAGE

42 DP 1032128

EXTENSION OF EXISTING COMMERCIAL PRECINCT

EXTENT OF SITE HOLDING, MYALL RIVER DOWNS

404 DP 1093720

550 DP 1051765

EXISTING COMMERCIAL PRECINCT INCLUDING SHOPPING CENTRE, MEDICAL CENTRE & TOWN SQUARE.

MYALL RIVER

EXISTING RESIDENTIAL DEVELOPMENT

EXTENT OF 7(a1) ZONE CONSERVATION AREA

AGED CARE FACILITY SITE

DRAINAGE MANAGEMENT & WILDLIFE MOVEMENT CORRIDOR

EXISTING 'TEA GARDENS GRANGE' RETIREMENT VILLAGE. 190 HOMES (NEARING COMPLETION)

APPROVED 'HERMITAGE' RETIREMENT VILLAGE. 281 HOMES (UNDER CONSTRUCTION)

HISTORICAL PAPER SUBDIVISION

PROPOSED 8 LOT RURAL RESIDENTIAL SUBDIVISION - APPLICATION BEFORE COUNCIL (NOT PART OF 3A APPLICATION)

SCALE 1:7000 0 100 200 300 400 500

CONCEPT MASTERPLAN - MAY 2006

Issue	Description	Date	Chk	Ver

PROJECT
PROPOSED CONCEPT PLAN

LOCATION
TEA GARDENS

CLIENT
CRIGHTON PROPERTIES PTY. LTD.

DRAWING
CONCEPT MASTER PLAN - MAY 2006

SCALE	DATE	DRAWN
1:7000 @ A1	17/05/2006	DFS

PROJECT NUMBER	DRAWING NUMBER	ISSUE
RIVERSIDE	PDA 01	A

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SPACIAL ALLOCATION TABLE

Use	Area	%	Yield
Total Project Area	97.81 Ha	100	
7(a) Wetlands (Existing)	16.07 Ha	16.4	
7(b) Wetlands Buffer (Existing)	18.57 Ha	19.0	
Open Space / Wildlife Movement Corridors & Water Quality Management	30.75 Ha	31.4	
Home Based Business Lots	4.77 Ha	4.9	50 dwellings
Standard Residential Lots	27.65 Ha	28.3	359 dwellings

NOTE: ALL AREAS & YIELDS ARE APPROXIMATE ONLY

STORMWATER DRAINAGE MANAGEMENT & OPEN SPACE CORIDOR, INCORPERATING WATER QUALITY BASINS, WALKWAY / CYCLEWAYS & PASSIVE RECREATION

POCKET PARK WITH COMMUNITY PAVILLION

CONTINUES TO FUTURE RESIDENTIAL DEVELOPMENT

WILDLIFE MOVEMENT & STORMWATER DRAINAGE MANAGEMENT CORRIDOR & ASSET PROTECTION ZONE

COMMUNITY PAVILLION SUITABLE FOR SPECIAL EVENTS & PASSIVE RECREATION

STORMWATER DRAINAGE MANAGEMENT & OPEN SPACE CORIDOR, INCORPERATING WATER QUALITY BASINS, WALKWAY / CYCLEWAYS & PASSIVE RECREATION

TO PACIFIC HIGHWAY

WATER QUALITY MANAGEMENT BASIN WITH OVERFLOW TO LAKE

10 DP 270100

RESIDENTIAL LOT DEVELOPMENT TO ACHIEVE AN AVERAGE DENSITY OF 13 DWELLINGS / HA APPROXIMATELY 359 DWELLINGS

EXPANSION OF EXISTING COMMERCIAL / RETAIL AREAS , INCLUDING FASTFOOD , RESTAURANTS, OFFICES, SHOPS & MEDIUM DENSITY HOUSING APPROXIMATELY 10,000 SQM COMMERCIAL / RETAIL

EXTENT OF 2 (f) ZONE MIXED COMMERCIAL / RESIDENTIAL

SITE AREA CURRENTLY OWNED BY GREAT LAKES COUNCIL 'PONY CLUB' NOT PART OF THIS APPLICATION

POCKET PARK WITH COMMUNITY PAVILLION

NEW ROUNDABOUT & INTERSECTION AT APPROPRIATE STAGE

COMMUNITY CLUBHOUSE, INCLUDING GYM, BBQ FACILITIES, SWIMMING POOL, SITTING AREA ETC.

LANDSCAPED BUFFER TO MYALL ROAD

DETENTION & WATER QUALITY MANAGEMENT PONDS

COMMUNITY RESERVE TO FULL LAKEFRONT FRONTAGE, INCLUDING WALKWAYS, CYCLEWAYS & PASSIVE RECREATION

MYALL ROAD

EXISTING 7(a) ZONE WETLAND, INCLUDING SEPP 14 WETLAND

WIDENING OF MYALL ROAD & EMBELLISHMENT WITH PLANTED MEDIAN

EXISTING 7(b) WETLAND BUFFER ZONE

POCKET PARK

APPROVED CHILD CARE CENTRE SITE (DA FOR BUILDING CURRENTLY BEFORE COUNCIL)

EXTENDED DETENTION & WATER QUALITY MANAGEMENT LAKE WITH LANDSCAPED EDGE TREATMENTS & ADJACENT CYCLEWAYS / WALKWAYS. (NO PRIVATE OWNERSHIP OF LAKES EDGE)

APPROVED SERVICE STATION

HOME BASED BUSINESS PRECINCT, INCORPERATING APPROXIMATELY 50 HOME BASED BUSINESS RESIDENCES, BUSINESS SUPPORT CLUBHOUSE, INCLUDING MEETING / BOARD ROOMS, TYPING / CLERICAL FACILITIES, COFFEE SHOP ETC.

APPROVED COMMERCIAL OFFICE BUILDING

EXISTING MEDICAL CENTRE, INCLUDING GENERAL PRACTITIONERS, DENTIST, PATHOLOGY & SPECIALIST PRACTITIONERS.

PUBLIC FORESHORE PARK, INCLUDING CYCLE / WALKWAY. EDGE OF LAKE TO BE TREATED AS NATURAL WATERS EDGE INCLUDING ROCKWORK & LANDSCAPING. NO REVETMENT WALLS. NO PRIVATE OWNERSHIP OF LAKE FRONT

MYALL RIVER

EXISTING SHOPPING CENTRE, INCORPERATING 2000 SQM SUPERMARKET & 1600 SQM OF SPECIALTY RETAIL

APPROVED RESIDENTIAL CLUSTER DEVELOPMENT INCLUDING 29 HOMES

EXISTING ROUNDABOUT DESIGNED FOR COMMERCIAL TRAFFIC

FORESHORE COMMUNITY PARK INCORPERATING WALKWAYS, CYCLEWAYS, PASSIVE RECREATION & COMMUNITY AMENITIES.

TWO APPROVED MEDIUM DENSITY TOWNHOUSE DEVELOPMENTS (8 TOWNHOUSES EACH)

EXISTING LAKE AREA FOR WATER DETENTION & WATER QUALITY MANAGEMENT

EXISTING POCKET PARK

EXISTING RESIDENTIAL DEVELOPMENT

EXTENT OF PROJECT PLAN APPLICATION

EXISTING LAKE AREA FOR WATER DETENTION & WATER QUALITY MANAGEMENT

TO HAWKS NEST

RIVERSIDE PROJECT PLAN - MAY 2006

SCALE 1:2500

0 100 200 300

LOCATION PLAN

Issue	Description	Date	Chk	Ver

PROJECT
PROPOSED PROJECT PLAN

LOCATION
RIVERSIDE AT TEA GARDENS

CLIENT
CRIGHTON PROPERTIES PTY. LTD.

DRAWING
RIVERSIDE MASTER PLAN - MAY 2006

SCALE	DATE	DRAWN
1:2500 @ A1	23/05/2006	DFS

PROJECT NUMBER	DRAWING NUMBER	ISSUE
	RIVERSIDE PDA 02	A

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Volume 1:

Annex B: Previous Development Consents

Volume 1:

Annex B: Previous Development Consents

1. Development Consent for service station,
car wash and convenience store

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (02) 6591 7222
Fax: (02) 6591 7200

Crighton Properties Pty Ltd
PO Box 344
TERRIGAL NSW 2260

Ref: DA-947/2004
AB:KB

NOTICE OF DETERMINATION (CONSENT)
issued under the Environmental Planning and Assessment Act 1979, Section 81(1)(a)

Your application for	SERVICE STATION, CARWASH & CONVENIENCE STORE (STAGED DEVELOPMENT)
on land described as	PART LOT 34 DP 270100, MYALL BOULEVARDE, MYALL QUAYS (FORMERLY LOT 22 DP 270100A TOONANG DRIVE), TEA GARDENS NSW 2324

was determined on	10 March 2005
by	**GRANTING CONSENT** **Subject to conditions attached hereto**
Consent operates from	10 March 2005
Consent lapses	FIVE YEARS FROM THE DATE OF CONSENT

Right of appeal:

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice. *(Not applicable to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry*

Review of determination:

Under S82A of the Act, an applicant may request the council to review a determination of the applicant's application other than:

* a determination in respect of designated development, or
* a determination in respect of integrated development.

The request for a review must be made within 12 months after the date on which you receive this notice. The prescribed fee must be paid in connection with a request for a review.

Signed on behalf of Consent Authority: G J HANDFORD 16 March 2005

Per:

Contact for further advice: Mr Alan Bawden Phone: (02) 6591 7344

CONSENT FOR SERVICE STATION, CARWASH & CONVENIENCE STORE (STAGED DEVELOPMENT) ON PART LOT 34 DP 270100, MYALL BOULEVARDE, MYALL QUAYS (FORMERLY LOT 22 DP 270100A TOONANG DRIVE), TEA GARDENS NSW 2324

1. The development being carried out in accordance with the details set out in the Development Application and the attached stamped plans except where amended by these conditions of consent.

2. A Certificate of Compliance from Telstra Australia being submitted to verify that satisfactory arrangements have been made and all payments have been finalised for the supply of telephone services to the development.

3. A Certificate of Compliance from Country Energy being submitted to verify that satisfactory arrangements have been made and all payments finalised for the supply of electricity to the development and that all headworks charges have been paid.

4. A Certificate of Compliance being received from MidCoast Water prior to the issue of any Construction Certificate, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

5. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.

6. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

7. Toilet facilities are to be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

   a) Each toilet provided:
      (i) must be a standard flushing toilet; and
      (ii) must be connected:
         (A) to MidCoast Water's sewer (where available); or
         (B) if connection to the sewer is not available, to an on-site sewage management system approved by Council.

   b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

8. A hoarding or fence is to be erected between the building or site of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from or in connection with the work, falling onto the public place is also to be erected.

The work is to be kept lit during the time between sunset and sunrise if the work may be a source of danger to persons using the public place.

A hoarding, fence or awning is to be removed when it is no longer required for the purpose for which it was provided.

9. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- The name, address and telephone number of the principal certifying authority for the work; and
- The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- The sign must state that unauthorised entry to the work site is prohibited.

10. Buildings to be set out by a Registered Surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs / placement of flooring materials.

11. Access for people with disabilities is to be provided to the building by means of a continuous path of travel in accordance with AS1428.1-2001, 'Design for Access and Mobility':

a) from the alignment of the road adjoining the building allotment;
b) from any carpark space on the allotment (whether within or outside the building); and
c) from any other building on the allotment to which access for people with disabilities is required.

12. Sanitary facilities for people with disabilities are to be provided in the building. The construction and layout of facilities is to comply with AS1428.1-2001, 'Design for Access and Mobility'. Details and/or amended plans are to be submitted to Council prior to the issue of any Construction Certificate to demonstrate compliance, if necessary, with AS1428.1-2001, 'Design for Access and Mobility'.

13. Parking facilities for people with disabilities to be provided to comply with the Building Code of Australia. Details are to be submitted to Council prior to the issue of any Construction Certificate.

14. All liquid waste other than domestic wastes are to be considered as liquid trade wastes. In sewered areas, liquid wastes shall be disposed of in accordance with MidCoast Water's liquid trade waste policy. The policy stipulates maximum strengths and quantities of pollutants that may be placed in Council's sewers.

Prior to the issue of a construction certificate which involves the discharge of liquid trade waste, the developer shall obtain written approval from MidCoast Water stating conditions of discharge to sewer. This approval shall state any pretreatment requirements, ongoing requirements and whether a Liquid Trade Waste Agreement needs to be entered into with MidCoast Water.

15. A soil survey being undertaken of the land to verify the presence or absence of actual or potential acid sulphate soils (test procedures can be obtained from the Soil Conservation Division of the Department of Land and Water Conservation). Details of the survey are to be submitted prior to the issue of a construction certificate.

    Where actual or potential acid sulphate soil conditions are identified, a strategy to control and minimise the impacts from disturbance of the soil is to be developed in conjunction with the Department of Land and Water Conservation, Department of Water Resources and Environment Protection Authority and submitted to Council for approval prior to the commencement of any work.

16. To minimise soil erosion, the following measures shall be implemented in the sequence outlined:

    a) Approved run-off and erosion controls shall be installed prior to clearing of site vegetation (other than that associated with the construction of the controls). These shall be as shown on an Erosion and Sediment Control Plan approved by Council.

    b) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

    c) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural or artificial water body, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned.

    d) Uncontaminated runoff shall be intercepted upsite and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.

    e) Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, road base, spoil or other sediment escaping from the site or entering any downstream drainage easements or natural or artificial water bodies.

17. Measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.

18. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times in accordance with Council's Erosion and Sediment Control Policy.

19. Hours of operation of construction works are to be restricted to 7.00am to 8.00pm Monday to Friday and 8.00am to 8.00pm Saturdays, with no work/activities on Sundays or public holidays except with written permission of Council.

20. The garbage storage area is to be provided and incorporated into the landscaping and be readily serviceable and accessible to the garbage contractor. Provision should be made so that the trade waste servicing is wholly contained within the boundaries of the development. The storage area should be suitably screened by brick, masonry or other suitable material with the base paved and be adequately drained. Provision is to be made for the washing of bins in this area.

21. The levels of the land being adjusted to enable free surface runoff and to prevent ponding on the land. Any fill or regrading shall be carried out in accordance with Council's specifications. All filling shall be monitored by a suitably qualified Geotechnical Engineer. A report shall be submitted to Council with the application for a construction certificate classifying the foundation material according to AS2870. A Sec 88B Instrument may be required to notify of the classification depending on the recommendations of the report.

22. Detailed design plans being submitted with an Application for a "Public Engineering Works Permit" (PEWP).

Detailed design plans are to be approved by the Director of Engineering prior to the commencement of any engineering works or approval of the (building) construction certificate. The licensed contractor is to have all engineering works inspected as per Council's holding points. All work is to be at the developer's expense and must comply with Council's Engineering guidelines, specifications and standards.

The work is to be completed and approved prior to the issue of an Occupation Certificate. Included in the engineering works is to be the following:

a) Concrete kerb and gutter, ancillary drainage, pits and pipes, relocation of services, footpath formation, road shoulder pavement construction and shoulder seal for the full frontage of the land in Myall Street and Myall Quays Boulevarde;
b) Submission with the PEWP, of a road pavement design by a suitably qualified geotechnical consultant;
c) Formation of the nature strip and construction of concrete footpaving 1.2m wide in Myall Quays Boulevarde and 2.0m. wide in Myall Street and topdress and grass the remainder of the footway on the frontage to the development as per Council standard drawing No 28 or No 165;
d) A work site traffic control plan in accordance with the RTA Traffic Control at Work Sites Manual is to be submitted by a suitably accredited person prior to a PEWP being issued;
e) A raised centreline median barrier on Myall Street to prevent north bound traffic making a right hand turn out of the site onto Myall Street;
f) Signage indicating left in / left out only onto Myall Street;
g) No u turn sign to be installed on Myall Quays Boulevarde at the Bilo entrance;
h) Provision of scaled drawings for a 19m tanker in accordance with Austroads Turning Path Templates demonstrating provision of adequate space preventing conflict between vehicles exiting the petrol station onto Myall Street and trucks entering the site via Myall Street. Provision of adequate turning space for heavy vehicles exiting the petrol station onto Myall Quays Boulevarde;
i) Provision of treatment details for the tanker over run areas at the entry / exit locations.

23. All carparking and vehicular manoeuvring areas being sealed with concrete or equivalent to Council's satisfaction. Details are to be submitted with the application for a construction certificate.

24. The carparking area being freely available for public use during the trading hours of the development. Notices indicating the location of public carparking are to be displayed within the carpark.

25. The parking and manoeuvring areas being fully line marked prior to the issue of an occupation certificate.

26. Payment of the following fees, charges and/or bonds with the application for a Public Engineering Works Permit:

a) A defects liability bond of 5% of all public engineering works associated with the development, as required by this approval, with a minimum of $2450. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. One (1) year after the acceptance of these works by Council, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

The defects liability bond is reviewed periodically and may change prior to the release of the subdivision. The fees and maintenance period shall be determined from Council's current requirements at the time of acceptance of these works.

b) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.

27. All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.

28. Submission of a Damage Bond Application Form and payment of a bond in the amount of $4500, payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent. The bond shall be paid to Council prior to the issue of any Construction Certificate that may be issued for any component of the development.

Note: The bond will be considered for refund by the Engineering Services Division when an application for occupancy of the development or release of subdivision is lodged.

A fee will be deducted from the bond to cover administration costs as follows:
a) Rate of 0.05% (minimum $200) of the value of developments exceeding $400,000.

29. Surface water and roof water shall be disposed of by a drainage system to Council's drainage network. A drainage design indicating all engineering details relevant to site regrading and the collection and disposal of roof water and stormwater from the site shall be submitted with an application for a construction certificate. Details are to include existing site levels, finished levels, pipeline sizes and gradings. Stormwater shall be conveyed from the site to the nearest piped drainage system unless otherwise specified by Council at the time of issue of the construction certificate. Drainage easements are to be created where necessary.

30. The development proposal must adhere to the Stormwater Drainage Report and the concept Stormwater Plan prepared by MPC Consulting Engineers Pty Ltd Newcastle dated 18 March 2004.

31. Within site landscaping, *Buckinghamiana celissima* shall be replaced by a suitable native species such as Lilly Pilly (*Acmena smithii*) or Blueberry Ash (*Elaeocarpus reticulatus*) such that landscaping utilises essentially native and indigenous flora species.

32. During site preparation works, machinery operators shall inspect the trunk and crown of all trees and tall shrubs to check for the possible presence of Koalas or other native vertebrate fauna. Should any such animals be identified, the clearing works shall not recommence in that location until the animal has moved from the area of its own volition.

33. Any trees and shrubs removed from the study area shall be mulched and used in site landscaping. No felled vegetation shall be burnt.

Date: 16 March 2005

G J HANDFORD
Director Planning & Environmental Services

Per:

Volume 1:

Annex B: Previous Development Consents

2. Development Consents for dwelllings

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (065) 91 6222
Fax: (065) 91 6200

CRIGHTON PROPERTIES PTY LTD
PO BOX 344
TERRIGAL NSW 2260

Ref: BA 451/97

NOTICE OF DETERMINATION (BUILDING APPROVAL)

issued under the Local Government Act 1993, Section 99

Your application for	DWELLING
on land described as	LOT 5 DP 270100, TOONANG DRIVE, TEA GARDENS

was determined on	19 FEBRUARY 1997
by	GRANTING APPROVAL **Subject to conditions attached hereto**
Consent operates from	19 FEBRUARY 1997
Consent lapses	FIVE YEARS FROM THE ABOVE DATE

Right of appeal:

Section 100 of the Act gives you the right, within 28 days of the date of this determination to request Council to review the determination.

Section 176 of the Act gives you the right, within 12 months of the date of this determination to appeal to the Land and Environment Court.

Contact for further advice: BRUCE MOORE 916250

signed on behalf of the consent authority:

G J HANDFORD 19 FEBRUARY 1997

The following condition/s have been applied to ensure that the development complies with the provisions of the Local Government Act, 1993 and the Local Government (Approvals) Regulation 1993 and Policies of Council.

1. Inspections - at least 48 hours notice shall be given to Council to allow for the inspection of:

(ii) The steelwork when in position and before concrete is placed.
(iii) The framework including roof members when completed and prior to the fixing of any internal sheets.
(v) External drainage lines before backfilling of trenches.
(vi) Internal drainage lines.
(vii) The building or structure when completed and before occupation or use is commenced.

The applicant shall satisfy himself/herself that the inspected works have been approved prior to continuing with construction. Please quote Building Application number when notifying Council for inspections.

2. All building work is to be carried out in accordance with the provisions of the Building Code of Australia (BCA).

3. The Council must be informed in writing of the name and contractor licence number of the licensee who has contracted to do or intends to do the work, in accordance with Clause 29 of the Local Government (Approvals) Regulation, 1993.

4. Before construction commences, structural drawings prepared by a suitably qualified and experienced Structural or Professional Engineer being submitted to and approved by the Council, in accordance with Clause 31 of the Local Government (Approvals) Regulation 1993. The plans shall detail:

(a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas);
(f) Structural steel beams/columns.

5. The builder is to provide temporary closet accommodation in accordance with Clause 36 of the Local Government (Approvals) Regulation, 1993.

6. The building is not to be used or occupied until it is completed in accordance with the approved plans and conditions of approval and a satisfactory final inspection has been carried out by a Council officer. A separate application must be made to occupy the building prior to completion.

7. Approval is granted to remove the trees on the site within three (3) metres of the proposed dwelling.

The following condition/s have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

8. Stormwater shall be discharged to:

   (e) on-site so as not to affect any structures or cause a nuisance to the adjoining property.

The following condition/s have been applied to ensure compliance with the Building Code of Australia (BCA) and relevant Standards established by the Local Government Act, 1993 and Regulations:

9. Fireplaces and flues are to be constructed in accordance with Part G2 of the Building Code of Australia and AS 2918 : Domestic Solid-Fuel Appliances - Installation.

10. Where the deck exceeds a height of 1.0m from natural ground, a balustrade shall be provided.

    The proposed balustrade is to be a minimum of 1 metre high and openings within balustrades shall not exceed 125mm so as to prevent a 125mm sphere to pass through it.

11. Safety glazing is to be provided in accordance with the Building Code of Australia, AS 1288 : Glass in Buildings and AS 2208 : Safety Glazing Materials for use in Buildings.

12. All concrete construction, including reinforced and prestressed concrete, shall be carried out in accordance with the provisions of Australian Standard, AS 3600-1994 : Concrete Structures, in accordance with Part B1 of the Building Code of Australia (BCA).

13. Masonry (including masonry-veneer, unreinforced and reinforced masonry) to be erected in accordance with AS3700 : "Masonry in Buildings".

14. Brick veneer and cavity masonry wall ties are to have a corrosion resistance rating complying with Clause 2.9 of AS3700 : SAA Masonry Code (stainless steel or equivalent ties are to be used in coastal locations).

15. The smoke alarms shall be installed in suitable locations on or near the ceiling in any storey:

    (i) containing bedrooms -

(a) between each area containing bedrooms and the remainder of the building, dwelling or sole-occupancy unit;

or

(b) where bedrooms are served by a hallway, in that hallway;

or

(c) in each bedroom and either (A) or (B); and

(ii) not containing bedrooms.

16. The proposed building is to be protected from the infestation of termites in accordance with Part B1.1 of the Building Code of Australia and AS3660.1. Details of the method of protection is to be specified prior to the commencement of work. Upon completion of the building work, a durable notice must be permanently fixed to the building in a prominent location, such as a meter box or the like, indicating:

(a) the method of protection;
(b) the date of installation of the system;
(c) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
(d) the need to maintain and inspect the system on a regular basis.

17. An adequate stored water supply is to be provided on-site and connected to the dwelling prior to occupation.

The following condition/s have been applied to ensure compliance with Council's Erosion and Sediment Control Policy:

18. All erosion and sediment control measures undertaken on the site shall be undertaken to the satisfaction of Council and conform to the specifications and standards contained in Council's guidelines.

19. A two wheel drive, all weather access road is to be provided from a public road to the building site prior to commencement of work.

20. The conditions of Development Consent No.232/97 are to apply and to be read in conjunction with this approval.

NOTE:

The Officer responsible for this application is Bruce Moore who is available as listed below:

Administrative Office, Forster:
Wednesday 8.15 am to 4.30 pm
Friday 8.15 am to 4.30 pm

District Office, Stroud: Phone (049) 945204
Monday 11.30 am to 12.30 pm approximately

District Office, Tea Gardens: Phone (049) 970182
Tuesday 11.30 am to 12.30 pm
Thursday 11.30 am to 12.30 pm

Inspections can be arranged by contacting the Administration Building, Forster, the District Offices or by forwarding the enclosed inspection cards.

Inspections should be arranged for -

Stroud Area	-	Monday
Hawks Nest/Tea Gardens & Nerong Areas	-	Tuesday and Thursday

GJ Handford
DIRECTOR PLANNING SERVICES

Per:

Steve, Refer 7(c).

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (065) 91 6222
Fax: (065) 91 6200

OUT CORRES FOL NO. 200
REPLY TO FOL NO. 100
OR
OUT CORRES. INITIATED BY COUNCIL

CRIGHTON PROPERTIES PTY LTD
1 STRATFORD PARK DRIVE
TERRIGAL NSW 2260

Ref: DA 232/97

NOTICE OF DETERMINATION (CONSENT)

issued under the Environmental Planning and Assessment Act 1979, Section 92

Your application for	DWELLING
on land described as	LOT 5 DP 270100, TOONANG DRIVE, TEA GARDENS

was determined on	10 FEBRUARY 1997
by	**GRANTING CONSENT** **Subject to conditions attached hereto**
Consent operates from	17 FEBRUARY 1997
Consent lapses	FIVE YEARS FROM THE ABOVE DATE

Right of appeal: Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Contact for further advice: MICHELLE OUTHRED 916344

signed on behalf of the consent authority:

COPY

G J HANDFORD 17 FEBRUARY 1997

CONDITIONS OF CONSENT: DA 232//97 Page 1

1. The development being carried out in accordance with the stamped approved plans and in accordance with the details set out in the development application unless otherwise amended by these conditions of consent.

2. Submission of a building application complying in all respects with the provisions of the Local Government Act and the Building Code of Australia. Work on any building shall not commence until approval to the building application has been granted.

3. No part of the dwelling or carport shall be erected within 150 metres of the Myall River.

4. The development being constructed of low reflective materials and is to be of muted earth toned colours.

   Details of all external colours and materials are to be submitted for Council's approval with the building application.

5. To minimise soil erosion and sediment movement during construction, the following measures shall be implemented:

   (a) Removal and/or disturbance of vegetation shall be confined to the basal area of the approved building, the site of permanent accessways, and land extending a maximum of three (3) metres beyond the outermost projection of the approved building.

   (b) Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping.

   (c) Stockpiles of construction and landscaping materials, and of site debris shall be located clear of drainage lines and in such a position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, nature strip or roadway.

   (d) Final site spoil shall be disposed of to the satisfaction of the Council.

   (e) Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75mm above adjoining ground level.

6. Two wheel drive, all weather access being provided to the development. Details are to be submitted with the Building Application for approval.

COPY

7. The following fire protection measures being provided in accordance with Council's Policy for Dwellings in Bushfire Areas:

   (a) Provision of 30 metre fire protection zones around the dwelling. Details to be provided with the Building Application;

   (b) All access gates shall be a minimum width of 3.65 metres; and

   (c) Water storage is to be provided for bushfire fighting on-site. If by way of tank, this must be a minimum of 20,000 litres, with an outlet coupled with a 38mm Storz fitting.

17 FEBRUARY 1997

....

Signature on behalf of consent authority Date

COPY

Volume 1:

Annex B: Previous Development Consents

3. Development Consent for 2 lot subdivision

30 MAR 2007

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (02) 6591 7222
Fax: (02) 6591 7200

TATTERSALL SURVEYORS PTY LTD
PO Box 54
RAYMOND TERRACE NSW 2324.

Ref: DA-337/2007
AB:JAS

NOTICE OF DETERMINATION (CONSENT)
issued under the Environmental Planning and Assessment Act 1979, Section 81(1)(a)

Your application for	2 LOT SUBDIVISION
on land described as	LOT 34 DP 270100 LOT 34 SHORELINE DRIVE, TEA GARDENS NSW 2324

was determined on	25 March 2007
by	**GRANTING CONSENT** **Subject to conditions attached hereto**
Consent operates from	25 March 2007
Consent lapses	FIVE YEARS FROM THE DATE OF CONSENT

Right of appeal:

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice. *(Not applicable to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry*

Review of determination:

Under S82A of the Act, an applicant may request the council to review a determination of the applicant's application other than:

* a determination in respect of designated development, or
* a determination in respect of integrated development.

The request for a review must be made within 12 months after the date on which you receive this notice. The prescribed fee must be paid in connection with a request for a review.

Signed on behalf of Consent Authority: G J HANDFORD 28 March 2007

Per:

Contact for further advice: Mr Alan Bawden Phone: (02) 6591 7344

CONSENT FOR 2 LOT SUBDIVISION
ON LOT 34 DP 270100 ~ LOT 34 SHORELINE DRIVE, TEA GARDENS NSW 2324

1. The development being carried out in accordance with the details set out in the Development Application and the attached stamped plans except where amended by these conditions of consent.

2. A Certificate of Compliance from Telstra Australia being submitted to verify that satisfactory arrangements have been made and all payments have been finalised for the supply of telephone services to the development.

3. A Certificate of Compliance from Country Energy being submitted to verify that satisfactory arrangements have been made and all payments finalised for the supply of electricity to the development and that all headworks charges have been paid.

4. A Certificate of Compliance being received from MidCoast Water prior to the issue of any Construction Certificate, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

5. The levels of the land being adjusted to enable free surface runoff and to prevent ponding on the land Any fill or regrading shall be carried out in accordance with Council's specifications. All filling shall be monitored by a suitably qualified Geotechnical Engineer. A report shall be submitted to Council with the application for a subdivision certificate classifying the foundation material according to AS2870. A Sec 88B Instrument may be required to notify of the classification depending on the recommendations of the report.

6. To minimise soil erosion, the following measures shall be implemented in the sequence outlined:

   a) Approved run-off and erosion controls shall be installed prior to clearing of site vegetation (other than that associated with the construction of the controls). These shall be as shown on an Erosion and Sediment Control Plan approved by Council.

   b) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

   c) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural or artificial water body, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned.

   d) Uncontaminated runoff shall be intercepted upsite and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.

   e) Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, road base, spoil or other sediment escaping from the site or entering any downstream drainage easements or natural or artificial water bodies.

7. Measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.

8. All engineering works being provided to serve all lots with the works complying with Council's Engineering Specifications, Standards, Codes and Policies.

   All work is to be at the developer's expense. No engineering works are to commence on the development until a subdivision construction certificate has been issued. Detailed design plans are to be submitted with the application for a subdivision construction certificate, and approved by the Director of Engineering prior to a subdivision construction certificate being issued. The work is to be completed in accordance with the registered plans prior to the issue of a subdivision certificate. Included in the engineering works is to be the following:

   a) The provision of kerb and gutter, ancillary drainage, relocation of services, footpath levelling and road shoulder construction with shoulder seal for the full frontage of the land in Myall St. and Myall Quays Boulevarde.

   b) Formation of the footpath area, construction of 1.2m. wide concrete footpaving in Myall Quays Boulevarde and 2.0m wide concrete cycleway in Myall Street and topdress and grass the remainder of the footway on the frontages of the subdivision.

   OR

   Alternately, the lodgement of a monetary bond at 150% of the estimated cost of all external civil works for a maximum period of two years from the release of the plan of subdivision. If the works are not completed after the two year period, the works will be constructed by Council utilizing the bond monies. Upon completion of the works by Council, any unexpended monies will be refunded to the developer.

9. A traffic control plan complying with the requirements of the RTA Traffic Control at Work Sites Manual, is to be submitted with the application for the construction certificate. Details are to be submitted by a person accredited with the RTA Traffic Control at Work Sites Manual.

10. Lodgement of a Subdivision Construction Certificate Application Form and payment of the following:

    a) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.

    b) A defects liability bond of 5% of the value of all public engineering works associated with the development, as required by this approval, with a minimum of $2,700. The defects liability bond is to be paid in conjunction with application for release of the subdivision. Please note that subdivision plans will not be released by Council until this bond is paid. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. Two (2) years after the acceptance of these works by Council, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

    The defects liability bond is reviewed periodically and the amount may change prior to the release of the subdivision. The fees and maintenance period shall be determined from Council's current requirements at the time of acceptance of these works.

11. Submission of a Damage Bond Application Form and payment of a bond in the amount of:

    a) $2,004 for subdivision developments up to the value of $400,000
    Note: The value of the subdivision development is to include the value of all public works, including service utilities.

The Damage Bond is payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent and ensuring Council standards and specifications are complied with. The bond shall be paid to Council prior to the issue of any Subdivision Construction Certificate that may be issued for any component of the development.

Note: The bond will be considered for refund by the Engineering Services Division when an application for release of subdivision is lodged.

A fee will be deducted from the bond to cover administration costs as follows:
a) $104 for subdivision developments up to $400,000;

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

12. The provision by the developer of works-as-executed drawings of all engineering works prior to the issue of the subdivision certificate.

13. The provision by the developer of CAD files which include all lot and road boundaries, lot numbers and easements, prior to the issue of the subdivision certificate. The data is to be supplied to the requirements of Council's GIS Officer.

14. The developer, at no cost to Council, making any necessary alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

15. The creation or obtaining of the following easements/reserve by the developer at no cost to Council:

    a) Easements to drain sewerage in favour of MidCoast Water over existing and necessary sewer mains and associated works.

    Details of the above are to be indicated on the final subdivision plan and copies of any respective Sec 88B Instruments are to be submitted with the application for a subdivision certificate.

16. The lodgement, with the application for a subdivision certificate, of proper plans of subdivision and seven copies, prepared by a Registered Surveyor and suitable for registration by the Land Titles Office, including any necessary Section 88B Instruments. Note: Council will not endorse restrictions as to user other than those required under these conditions or as approved in the Development Application. The plans of survey are to show connections to at least two survey control permanent marks where such exist in the vicinity of the subdivision or where practical. Existing and proposed street names are to be shown on the plans.

17. In accordance with Section 94 of the Environmental Planning and Assessment Act 1979, a monetary contribution shall be paid to Council prior to the issue of a Construction Certificate. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	2.2	persons	@	$59.99	=	**$131.98**
GLW-07	Great Lakes Wide	Headquarters Building	2.2	persons	@	$180.34	=	**$396.75**
GLW-05	Great Lakes Wide	s94 Admin	2.2	persons	@	$57.42	=	**$126.32**
TGHN01	Tea Gardens and Hawks Nest (Aug 06)	Library and community centre TGHN	2.2	persons	@	$491.97	=	**$1,082.33**
TGHN02	Tea Gardens and Hawks Nest (Aug 06)	Cycleways TGHN	2.2	persons	@	$156.13	=	**$343.49**
TGHN07	Tea Gardens and Hawks Nest (Aug 06)	Open Space rural areas TGHN	2.2	persons	@	$403.23	=	**$887.11**
TGHN08	Tea Gardens and Hawks Nest (Aug 06)	Arterial Roads TGHN	2.2	persons	@	$595.50	=	**$1,310.10**
TGHN09	Tea Gardens and Hawks Nest (Aug 06)	s94 studies TGHN	2.2	persons	@	$4.40	=	**$9.68**
TGHN10	Tea Gardens and Hawks Nest (Aug 06)	Surf Life Saving TGHN	2.2	persons	@	$42.58	=	**$93.68**
					Total			**$4,381.44**

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

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

Date: 28 March 2007

G J HANDFORD
Director Planning & Environmental Services

Per:

Breese Parade, Forster NSW 2428
Phone: 0265917222
Fax 0265917200

ABN 60 343 393 217

SECTION 94 CONTRIBUTIONS

IF MAKING PAYMENT THIS FINANCIAL YEAR, PLEASE RETURN THIS FORM WITH PAYMENT

28 March 2007

DA-337/2007
AB:JAS

TATTERSALL SURVEYORS PTY LTD
PO Box 54
RAYMOND TERRACE NSW 2324

PROPERTY: **LOT 34 DP 270100**
LOT 34 SHORELINE DRIVE, TEA GARDENS NSW 2324

Description	Amount
GLW - Provision of Library Stock	131.98
GLW - Headquarters Building	396.75
GLW - Section 94 Administration	126.32
T. Gardens/H. Nest - Community Facilities	1,082.33
T. Gardens/H. Nest - Cycleways	343.49
T. Gardens/H. Nest - Rural Res. - Embellishment	887.11
T. Gardens/H. Nest - Arterial Roads	1,310.10
T. Gardens/H. Nest - Section 94 Studies	9.68
T. Gardens/H.Nest - Surf life Saving	93.68
TOTAL PAYABLE	**$4,381.44**

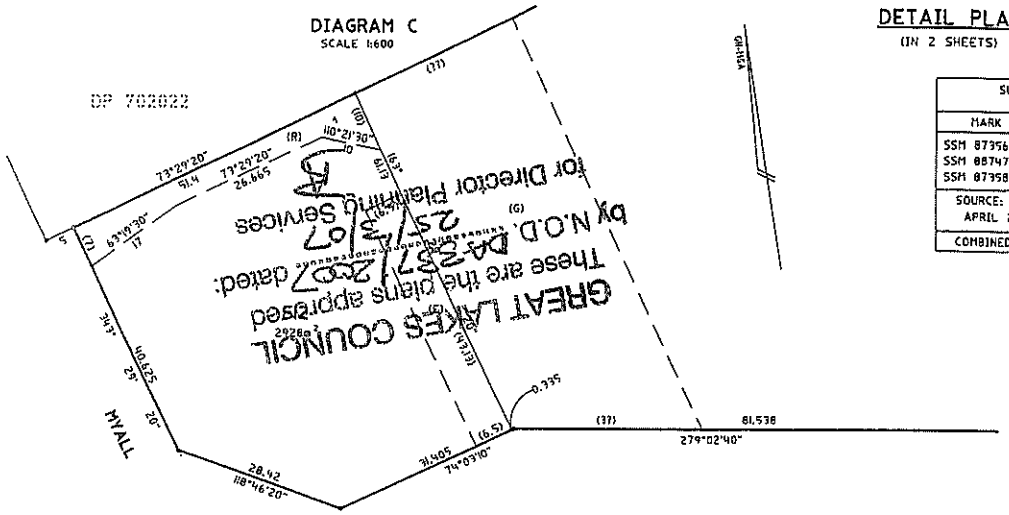
This form is issued for your information.
The above contributions are not due for payment but will be payable prior to the issue of a Construction Certificate. The amounts have been indexed for payment this financial year. Payments made after 30 June next will be subject to further indexation.

PLAN FORM 3 — To be used in conjunction with Plan Form 2 — WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION — * OFFICE USE ONLY

DETAIL PLAN

(IN 2 SHEETS)

DIAGRAM C
SCALE 1:600



QUAYS BOULEVARDE (30 WIDE)

MYALL

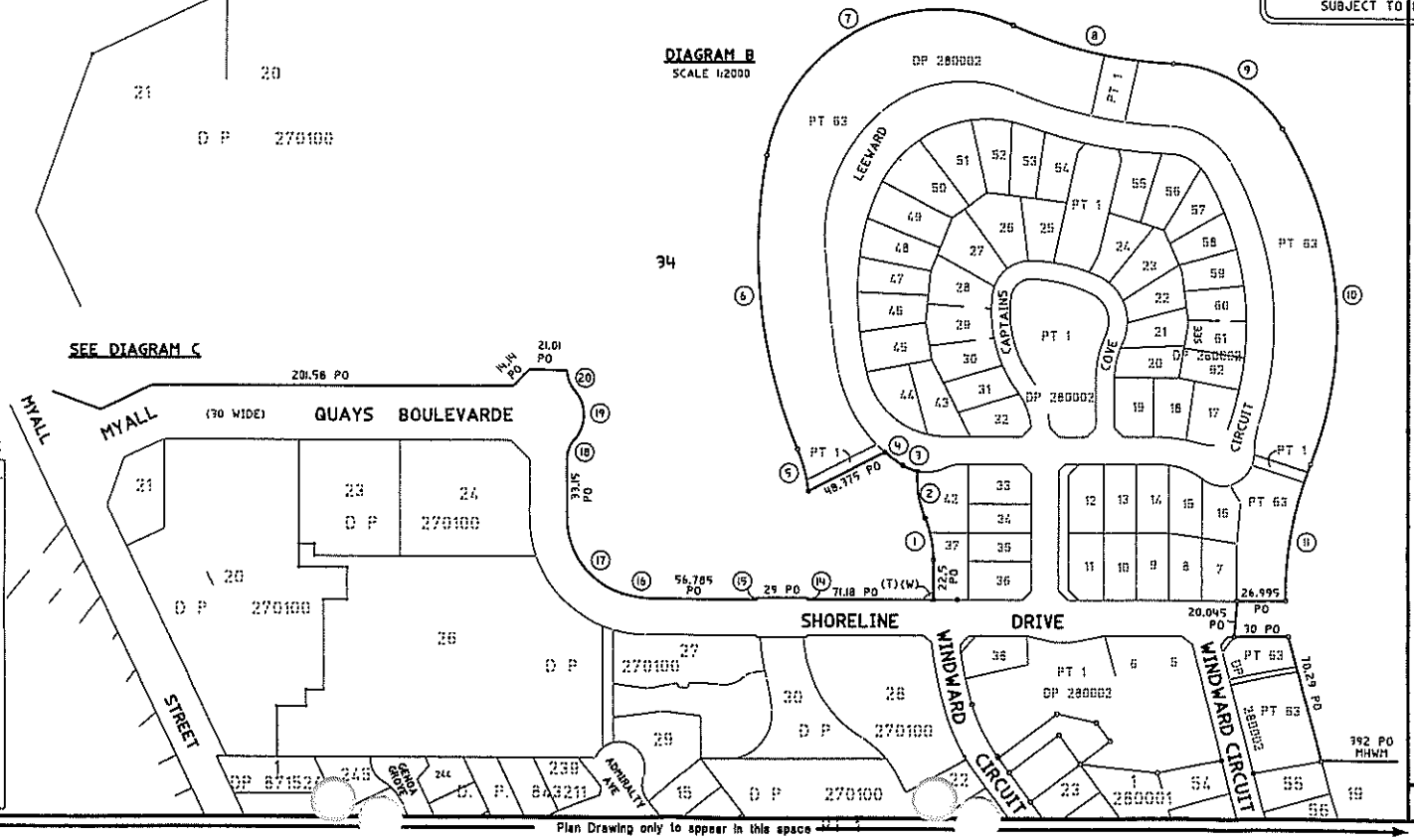
STREET

21 20 D P 270100

34

SEE DIAGRAM C

DIAGRAM B
SCALE 1:2000



SCHEDULE of CURVED BOUNDARIES

No.	BEARING	CHORD	ARC	RADIUS
1			23.95 PO	60
2			26.66 PO	57
3			8.845 PO	25
4			12.435 PO	80
5			24.435 PO	90.35
6			166.895 PO	285
7			179.91 PO	100
8			93.13 PO	250
9			73.95 PO	75
10			194.35 PO	212
11			78.31 PO	200
14		1 PO		
15		1 PO		
16			19.975 PO	66
17			55.83 PO	44
18			11.895 PO	16
19			29.735 PO	20
20			11.099 PO	16

DRAFT PLAN

DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY

SURVEYING REGULATION 2001 CLAUSE 32(2) MGA CO-ORDINATES				
MARK	EASTING	NORTHING	ZONE	CLASS/ORDER
SSM 87956	420 541.714	6386 638.969	56	C/U
SSM 88747	420 563.565	6386 544.524	56	C/U
SSM 87958	420 363.698	6386 765.176	56	C/U
SOURCE: MGA CO-ORDS. ADOPTED FROM L.P.I. NSW : APRIL 23 2004				
COMBINED SEA LEVEL & SCALE FACTOR			0.999677	

REFERENCE MARKS

No.	BEARING	DISTANCE	DESCRIPTION
a	5°27'	4.405	DH&W FD (DP 270100)
	7°12'	15.57	DH&W FD (DP 270100)
b	354°30'	4.625	DH&W
c	356°11'30"	15.37	DH&W FD (DP 270100)
	78°45'	12.94	DH&W FD (DP 270100)
d	80°47'	3.89	DH&W FD (DP 270100)
	81°54'	11.55	DH&W FD (DP 270100)
e	123°57'	7.855	DH&W FD (DP 270100)
	98°32'	13.985	DH&W FD (DP 270100)
f	268°55'	3.945	DH&W FD (DP 280001)
	267°39'	11.495	DH&W FD (DP 280001)

(A) LAND EXCLUDES MINERALS (BK 864 N°856)
(B) LAND EXCLUDES MINERALS (10.19 ha GRANT)
(X) RESTRICTIONS ON USE (DP 738450 & DP 786548)
(C) EASEMENT FOR ACCESS AND SEWER PUMP STATION VARIABLE WIDTH (DP 270100 - DOC 4)
(R) EASEMENT TO DRAIN SEWAGE 3 WIDE & VARIABLE (DP 270100 - DOC 4)
(W) EASEMENT FOR WATER SUPPLY 9, 4 WIDE & VARIABLE (DP 270100 - DOC 4)
(T) EASEMENT FOR TRANSMISSION 1, 4 WIDE & VARIABLE (DP 270100 - DOC 4)
(D) EASEMENT TO DRAIN WATER- 6.5 WIDE
(E) RIGHT OF ACCESS- 6.5 WIDE
(G) BENEFIT TO RIGHT OF ACCESS
(R) RESTRICTION ON USE- VARIABLE WIDTH

COMMUNITY PLAN
D.P.No. 270100

Additional sheet 25

Registered:

This is sheet 2 of my plan in 3 sheets dated 25/08/2006

Surveyor registered under Surveying Act 2002

This is sheet 2 of the plan of 3 sheets covered by Subdivision Certificate No. of

Authorised Person/General Manager/Accredited Certifier

For use where space is insufficient in any panel on Plan Form 2.

LOTS 51-57 INCL. ARE DEVELOPMENT LOTS

THIS IS SHEET 25 OF DP 270100 AND IT REPLACES SHEET 20 AS REGARDS TO LOT 31 AND IS AN ADDITIONAL SHEET

Reduction Ratio: 1: 2000

Plan Drawing only to appear in this space

SURVEYOR'S REFERENCE: 202400

Volume 1:

Annex B: Previous Development Consents

4. Modification to Development Consent for
100 lot community title subdivision

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (02) 6591 7222
Fax: (02) 6591 7200

FILE

Crighton Properties Pty Ltd
DX 7215
GOSFORD NSW 2822

Ref: DA-341/2003

NOTICE OF DETERMINATION (CONSENT)

issued under the Environmental Planning and Assessment Act 1979, Section 92

Your application for	100 LOT COMMUNITY TITLE SUBDIVISION (STAGED): STAGES 7 & 8
Building Code of Australia Classification	Not Applicable
on land described as	PT LOT 22 DP 270100 SHORELINE DRIVE, TEA GARDENS NSW
was determined on	28-Apr-2003
by	**GRANTING DEFERRED COMMENCEMENT CONSENT** **Subject to conditions attached hereto**
Consent operates from	TO BE ADVISED
Consent lapses	FIVE YEARS FROM THE DATE OF ADVICE THAT THIS CONSENT IS OPERABLE; OR AT THE END OF THE TIME SPECIFIED IN THE DEFERRED COMMENCEMENT CONDITIONS

Right of appeal:

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice. *(Not applicable to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry*

Review of determination:

Under S82A of the Act, an applicant may request the council to review a determination of the applicant's application other than:

* a determination in respect of designated development, or
* a determination in respect of integrated development.

The request for a review must be made within 28 days after the date on which you receive this notice. The prescribed fee must be paid in connection with a request for a review.

Signed on behalf of Consent Authority: G J HANDFORD 13 May 2003

Per: Paul de Szell

Contact for further advice: PAUL DE SZELL ~ PHONE: (02) 6591 7344

A. DEFERRED COMMENCEMENT CONDITIONS

The following deferred commencement conditions must be satisfied before the commencement of any work:

1. This consent does not operate until Council is satisfied as to the matters relating to conditions 2-5 and no work is to physically commence on the development until such time as council has notified the applicant in writing that these conditions have been satisfied.

2. A management plan is to be prepared by a suitably qualified and experienced hydrologist in order to:

   - ensure that the present hydrological regime of the SEPP 14 Wetland is maintained for the majority of the site;
   - demonstrate that there will be no increase in contaminants entering the SEPP 14 Wetland;
   - ensure that the quality of surface water entering the SEPP 14 Wetland and the quality of the groundwater entering the SEPP 14 Wetland will not be adversely affected;
   - establish a monitoring system for assessing the health of the SEPP 14 Wetland. Monitoring should assess issues such as any changes in the size of the Wetland, relative abundance of species and water quality in sources of input. Monitoring is to be undertaken by a suitably qualified ecologist;
   - demonstrate that the long term effectiveness of any detention system, water quality treatment ponds or other works for protecting the hydrological regime of the Wetlands and the quality of water entering the Wetlands and the groundwater regime of the Wetlands will be maintained to ensure the effective operation of these protective measures;
   - indicate the criteria by which water quality of any Wetland protection mechanisms will be measured and identify the responsibilities of land owners, Council, civil contractors and builders, residents and the Environment Protection Authority. It should also recommend actions if monitoring detects problems with any water quality device or system.

   Note: The management plan referred to above is to include provisions for the establishment of base line data for water quality and hydrological regimes for both surface and groundwater. The plan must also provide for a monitoring program to ensure the effective operation of the protective measures."

3. A soil and water management plan is to be prepared by a suitably qualified and experienced consultant and is to comprise the following principles of stormwater management:

   - Plan for erosion and sediment control concurrently with engineering design and in advance of earthworks, ensuring proper assessment of site constraints and integration of the various needs;
   - Minimise the area of soil exposure;
   - Conserve the topsoil;

- Control water flow from the top of the development area, through the works and out the bottom of the site, for example:
  - divert clean runoff above denuded areas;
  - minimise slope gradient and length;
  - keep runoff at non-erodable velocities;
  - trap soil and water pollutants.
- Rehabilitate disturbed lands quickly; and
- Maintain soil and water management measures at a level to ensure the finally developed site releases water of a quantity and quality equal to, or better than, the pre-developed condition.

Note: The management plan referred to above is to include provisions for the establishment of base line data for a monitoring program to ensure there are no adverse impacts on water quality through changes to surface hydrology and potential acid sulphate soils.

The management plan referred to above should also include Soil and water management measures to meet the performance criteria outlined in the following documents, as updated from time to time:

- Soil and Water Management for Urban Development (Department of Housing, Second Edition, 1993).
- Managing Urban Stormwater: Strategic Framework (Environment Protection Authority for the State Stormwater Coordinating Committee, 1996).
- Managing Urban Stormwater: Construction Activities (Environment Protection Authority for the State Stormwater Coordinating Committee, 1996).
- Managing Urban Stormwater: Treatment Techniques (Environment Protection Authority for the State Stormwater Coordinating Committee, 1996).
- Assessing and Managing Acid Sulphate Soils: guidelines for land management in NSW coastal area (EPA, 1995).
- Great Lakes Council Erosion and Sediment Control Policy

4. A water management plan is to be prepared by a suitably qualified and experienced consultant which specifies the water quality performance criteria to be achieved within the water quality treatment system for the site and the procedures for ensuring that the specified water quality performance criteria are met.

The management plan shall specify provisions for the establishment of baseline data and for a monitoring program to ensure the long term viability of the water quality treatment system, including details of the monitoring procedure for ensuring the performance of the pollutant control function, with regard to nutrient stripping.

The management plan shall detail the means of restricting the use of the waterbody for secondary contact recreation and shall specify the means of maintaining the visual standard of the water treatment system with particular regard to litter, excessive weed and algal growth.

The management plan shall also identify those persons responsible for the monitoring and maintenance, including responsibility for costs for maintaining scenic and water quality of the water treatment system, and further identifying those persons responsible for any remediation actions or costs required to improve scenic, recreation and water quality of the water quality treatment system."

5. Details to satisfy conditions 2-5 being submitted within 6 months from the date of determination. If sufficient details are not submitted within this time, the consent will lapse.

B. CONDITIONS OF CONSENT

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.

2. Submission of an application for a subdivision certificate complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Amendment Regulation 2000.

3. Existing vegetation is to be retained with in the open space / community areas proposed to be provided as part of the subdivision where possible. Details of vegetation retention are to be show on an amended plan prior to the release of any Subdivision Certificate.

4. The subdivision layout being amended to incorporate the following changes.

   (i) All allotments are to have a minimum width of 12.6m at the street frontage (except for battleaxe lots);
   (ii) All lots shall be capable of containing a rectangle suitable for building purposes measuring 8m x 20m or 10m x 16m behind the building line and a private open space area of 40m² with a minimum dimension of 4m.
   (iii) Proposed lots 74 and 75 must be provided with one shared driveway for access to both front and rear allotments [Driveway design and location must take into account the provisions for parking and driveways in Council's *Residential DCP*].

   Details are to be shown on an amended plan and approved by Council prior to the release of any Subdivision Certificate.

5. The proposed subdivision not being released until all roads in association with DA 764/02 have been registered.

6. A variable width easement is to be created from the back of the Bi-Lo site to the nutrient pond, as the existing easement will be dissolved/extinguished with any adjustments to the residue lot.

7. A Certificate of Compliance from Telstra Australia being submitted to verify that satisfactory arrangements have been made and all payments have been finalised for the supply of telephone services to the subdivision.

8. A Certificate of Compliance from Country Energy being submitted to verify that satisfactory arrangements have been made and all payments finalised for the supply of electricity to the subdivision

9. A Certificate of Compliance being received from MidCoast Water prior to the release of the subdivision stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

10. All activities being carried out with minimum harm to the quality- quantity dependant eco-systems that rely on groundwater in the area.

11. The proposed water quality ponds being constructed above the level of the groundwater table to avoid direct connection with groundwater. Note: To further protect groundwater systems water quality ponds must have an impermeable bottom.

12. Any works that intercept the groundwater table will require a licence under Part 5 of the Water Act.

13. A Bush Fire Safety Authority being obtained from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997 for the proposed subdivision

14. Recommendations 1-6 of the Bush Fire Threat Assessment prepared by Conacher Travers Pty Ltd (October 2002) being incorporated into the proposed subdivision layout. Details are to be shown on an amended plan and approved by Council prior to the release of any Subdivision Certificate.

15. The subdivision being provided with a fire hydrant system that is capable of servicing the perimeter fire trail system. This system is to be designed in accordance with AS 2419.

16. A plan of the fire hydrant system required by Condition 15 above is to be provided to the Great Lakes Rural Fire Service District Office for approval prior to installation.

17. The proposed perimeter fire trails being constructed in accordance with *Planning for Bushfire Protection 2001* and are to incorporate sufficient and adequate passing bays for fire fighting appliances. All fire trails are to be linked to the internal subdivision road system so as to create through traffic flow from the trails.

18. A plan of the fire trail system required by Condition 17 above is to be provided to the Great Lakes Rural Fire Service District Office for approval prior to installation.

19. The perimeter of the subdivision having a well maintained Asset Protection Zone (APZ) at all times in accordance with *Planning for Bushfire Protection 2001.*

20. Trees within the Inner Protection Area of the APZ must not be continuous or overhang the buildings and there must be a minimum 2m separation distance between tree canopies.

21. Any changes to the positioning of the proposed allotments on the site are to be referred back to the RFS to ensure that adequate bushfire protection measures are incorporated into the final allotment layout.

22. An evacuation plan is to be prepared for the proposed subdivision and include procedures for emergency bushfire situations. This plan is to be provided to the local Rural Fire Service District Office for approval prior to installation.

23. All reasonable measures shall be undertaken to protect vegetation, which is to be retained on the site from damage during construction.

    Where any damage is caused, remedial action shall be carried out to the specifications of a horticulturalist.

24. All useable trees and shrubs shall be salvaged for re-use either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material, such as roots and stumps, may be disposed of in an approved form at sites nominated by Council.

25. Vegetation (including trees) not being disposed of by burning unless specifically approved by both Council and the NSW Rural Fire Service.

Details of the means of tree disposal are to be submitted for Council's approval prior to the commencement of subdivision works.

26. The landscaping plan submitted with the Development Application being amended to comply with Council's Standard Drawing 172 and Council's letter dated 12/03/03. All landscaping other than street trees is to be deleted from Council's road reserves. An amended plan incorporating the amendments is to be submitted prior to the issue of any subdivision construction certificate.

27. One advanced street tree is to be planted in the road reserve in front of each lot. This tree is to be surrounded by an effective tree guard to protect the planting from damage during subsequent building works. Two trees (one on each frontage) are to be provided for corner lots.

28. Street tree planting is only to be undertaken by the developer when the subdivision is at an advanced stage, roads and main service lines are in place and the location of footpaths and driveway crossings has been identified.

29. The submission, prior to the issue of a subdivision construction certificate, of a Geotechnical Report by a qualified consultant on the suitability of the land for residential development and also engineering works. The Geotechnical Report is to include details of any special building practices and pavement design for the proposed road within the subdivision.

An 88B Instrument may be required to be noted on the approved subdivision plan.

30. Soil surveys being undertaken over the course of the development of the subdivision to verify the presence or absence of actual or potential acid sulphate soils.

Where actual or potential acid sulphate soil conditions are identified, the generic Acid Sulfate Soils Management Plan prepared by Coffey and Partners (ref no. N07628/01-BF) is to be adopted, if soils exceeding the action criteria are to be disturbed.

31. Erosion and sediment control measures shall be implemented on the land to the satisfaction of Council in accordance with the specifications and standards contained in the Erosion and Sediment Control Plan (ESCP) (prepared in accordance with Council's ESC Policy) submitted to satisfy the deferred commencement conditions.

32. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to the satisfaction of Council.

33. Measures shall be applied, to the satisfaction of Council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development. Details are to be submitted with the ESCP.

34. All disturbed areas shall be rendered erosion-resistant by turfing, mulching, paving or otherwise suitably stabilised within seven (7) days of completion of all bulk earthworks. Details are to be submitted with the Erosion and Sediment Control Plan. Disturbed areas without such protection are not to exceed 1.5 hectares.

35. In conjunction with the approved Erosion and Sediment Control Plan, the following construction measures shall be implemented in the sequence outlined:

a) Approved run-off and erosion controls shall be installed prior to clearing of site vegetation (other than that associated with the construction of the controls). These shall be as shown on an Erosion and Sediment Control Plan approved by Council.

b) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

c) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural or artificial water body, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned.

d) Uncontaminated runoff shall be intercepted upsite and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.

e) Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, road base, spoil or other sediment escaping from the site or entering any downstream drainage easements or natural or artificial water bodies.

36. Measures must be implemented to ensure effective dust suppression during construction of the subdivision. These measures include use of water carts and/or seeding. Details of the measures proposed to be implemented are to be included as part of any ESCP implemented on the site.

37. The developer, at no cost to Council, making any necessary alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision.

38. The provision by the developer of works-as-executed drawings of all engineering works prior to the issue of the subdivision certificate. Where the design is carried out utilising computer aided design CAD, all cad computer files are required to be provided on 3.5 inch format disks with the final drawings.

The provision by the developer of CAD files which include all lot and road boundaries, lot numbers and easements, prior to the issue of the subdivision certificate. The data is to be supplied to the requirements of Council's GIS Officer.

39. All engineering works being provided to serve all lots with the works complying with Council's Engineering Specifications, Standards, Codes and Policies.

All work is to be at the developer's expense. No engineering works are to commence on the development until a subdivision construction certificate has been issued. Detailed design plans are to be submitted with the application for a construction certificate, and approved by the Director of Engineering prior to a construction certificate being issued. The work is to be completed in accordance with the registered plans prior to the issue of a subdivision certificate. Included in the engineering works is to be the following:

a) The provision of kerb and gutter, ancillary drainage, relocation of services, footpath levelling and turfing, and road construction with full width AC seal for the full frontage of all new roads.

b) Deletion of the Shoreline Drive central median.

c) Formation of the footpath area, construction of 1.2m and 2m m wide concrete footpaving and topdress and grass the remainder of the footway on the frontage of the following streets

- Shoreline Drive - 1.2m footpath (northern) and 2m cycleway (southern)
- Road 1 – 2m cycleway
- Road 2 - 1.2m footpath
- Road 3 – delete concrete footpath

d) All necessary traffic control during construction.

e) Street name signs at the intersections of all roads in the subdivision. The names for new streets are to be approved by Council and are to be shown on the final plan of subdivision.

f) Street lighting being provided to the requirements of Council with all work being completed, and payments being made, prior to release of the subdivision certificate.

g) Provision of pipes and drains for the conveyance, within public roads, public reserves, or adjoining land, of stormwater from the development to a discharge outlet approved by Council.

h) An interallotment drainage system for all lots that cannot drain to the street.

40. A traffic control plan complying with the requirements of the Roads & Traffic Authority is to be submitted prior to the issue of a subdivision construction certificate.

41. The staging plan being amended so that road 2 terminates at the common boundary of Lot 32 and Lot 33. Lots 31, 32, 42 and 43 are to be released in stage 2.

42. Detailed calculations for the sizing of the open drain being submitted for approval with the subdivision construction certificate.

43. The community title plan is to clearly indicate that Council is not responsible for the maintenance of the open drain.

44. Construction of a concrete driveway within the access handle to lot 75 with the creation of a reciprocal right-of-carriageway for proposed lot 74 in accordance with Councils Subdivision DCP.

45. Construct a layback and a residential / industrial / commercial type footpath crossing at the entry/exit to Lot 75 in accordance with Council's Standard Drawing No 26 (Standard Urban Vehicular Crossing).

46. Roads in the adjoining subdivision, required to give access to this subdivision, being dedicated before the issue of the subdivision certificate.

47. Provision, at no cost to Council, of the following public transport facilities:
(i) A Bus shelter and roadway signage
(ii) Provision of additional land where the shelter cannot be located within the road reserve to the satisfaction of Council's Manager Transport Asset.
(iii) Provision of bus indent in accordance with NAASRA guidelines and any road widening that may be required to facilitate this indent.

48. The creation or obtaining of the following easements/reserve by the developer at no cost to Council:

a) Easements to drain sewerage in favour of MidCoast Water over existing and necessary sewer mains and associated works.

b) Easements to drain stormwater in favour of Great Lakes Council over existing and proposed channels, pipelines and associated works.

c) The easement required to be created by Condition 6 of this consent.

Details of the above are to be indicated on the final subdivision plan and copies of any respective Section 88B Instruments are to be submitted with the application for a subdivision certificate.

49. Payment of the following fees, charges and/or bonds with the application for a construction certificate:

a) A defects liability bond of 6% of all public engineering works associated with the development, as required by this approval, with a minimum of $2300. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. Three (3) years after the acceptance of these works by Council or release of the subdivision plan, whichever is later, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

The defects liability bond is reviewed periodically and may change prior to the release of the subdivision. The fees and maintenance period shall be determined from Council's current requirements at the time of the subdivision release.

b) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.

50. The lodgement, with the application for a subdivision certificate, of proper plans of subdivision and seven copies, prepared by a Registered Surveyor and suitable for registration by the Land Titles Office, including any necessary Section 88B Instruments. Note: Council will not endorse restrictions as to user other than those required under these conditions or as approved in the Development Application. The plans of survey are to show connections to at least two survey control permanent marks where such exist in the vicinity of the subdivision or where practical. Existing and proposed street names are to be shown on the plans.

51. The developer shall restore, replace or reconstruct any damage caused to road pavements, surfaces, street furniture, roadside drainage, street lighting or underground facilities on the haulage routes used for the construction of the subdivision.

Haulage routes for the construction shall be as agreed with the Director Engineering Services. Written agreement shall be made prior to the issue of a construction certificate.

52. The use of the premises and the operation of all plant and equipment shall not give rise to any offensive noise as defined in the Protection of Environment Operations Act.

53. Hours of operation are to be restricted to 7.00 am to 5.30 pm Monday to Friday and 8.00 am to 4.00 pm Saturdays, with no work/activities on Sundays or public holidays.

54. Where the development is to be staged, the contributions may be paid in full prior to the release of the first subdivision certificate or on a pro rata basis for each unit or lot that is contained in each staged release.

55. Payment of a contribution of 4.3 cents per cubic metre of material per kilometre hauled, prior to the issue of the construction certificate, in accordance with Council's Sec 94 Plan for Road Haulage. The levy is to be used for maintenance/repairs of damage caused to public roads by the above work.

The applicable contribution rate is subject to review. Any new rates become applicable immediately following such review and all contributions shall be paid at the rate determined at the most recent review.

Copies of the Contributions Plan may be inspected at Council's offices in Breese Parade, Forster.

56. In accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and the Great Lakes Wide Section 94 Contributions Plan, a monetary contribution shall be paid to Council prior to the issue of a Construction Certificate/Subdivision Certificate. The services and facilities for which the contributions are levied and the respective amounts payable are:

		Stage 1	**Stage 2**
a)	Library Stock	$ 3,813.82	$ 5,395.16
b)	Administration of Sec 94 Contributions	$ 989.74	$ 1,400.12
c)	Preparation of Sec 94 Contribution Plans	$ 33.62	$ 47.56
d)	Rural Fire Fighting Facilities	$45,838.00	$64,844.00

The applicable contribution rate is subject to review. Any new rates become applicable immediately following such review and all contributions shall be paid at the rate determined at the most recent review.

Copies of the Contributions Plan may be inspected at Council's offices in Breese Parade, Forster.

57. In accordance with Section 94 of the Environmental Planning and Assessment Act and the Tea Gardens and Hawks Nest Section 94 Contributions Plan, a monetary contribution shall be paid to Council prior to the issue of a subdivision certificate. The services and facilities for, which the contributions are levied and the respective amounts payable are:

		Stage 1	**Stage 2**
a)	Arterial Roads	$40,710.95	$57,591.10
b)	Community Facilities	$18,349.55	$25,957.90
c)	Open Space Acquisition	$12,961.74	$18,336.12
d)	Open Space Embellishment	$29,607.33	$41,883.54
e)	Cycleways	$ 7,533.34	$10,656.92
f)	s94 Studies	$ 282.49	$ 399.62

The applicable contribution rate is subject to review. Any new rates become applicable immediately following such review and all contributions shall be paid at the rate determined at the most recent review.

Copies of the Contributions Plan may be inspected at Council's offices in Breese Parade, Forster.

58. In accordance with Section 94 of the Environmental Planning and Assessment Act and the Section 94 Contributions Plan for Surf Life Saving Equipment, a monetary contribution shall be paid to Council prior to the issue of a Construction Certificate/Subdivision Certificate. The services and facilities for which the contributions are levied and the respective amounts payable for Acquisition of Surf Life Saving Equipment at Hawks Nest are:

Stage 1	**Stage 2**
$4,174.21	$5,904.98

The applicable contribution rate is reviewed annually and new rates, if applicable, become payable from 1 July each year. All contributions shall be paid at the rate determined at the most recent review.

Copies of the Contributions Plan may be inspected at Council's offices in Breese Parade, Forster.

Date: 13 May 2003

G J HANDFORD
Director Planning & Environmental Services

Per: Paul de Szell

Breese Parade, Forster NSW 2428
Phone: 0265917222 Fax 0265917200
ABN 60 343 393 217

SECTION 94 CONTRIBUTIONS

PLEASE RETURN THIS FORM WITH PAYMENT

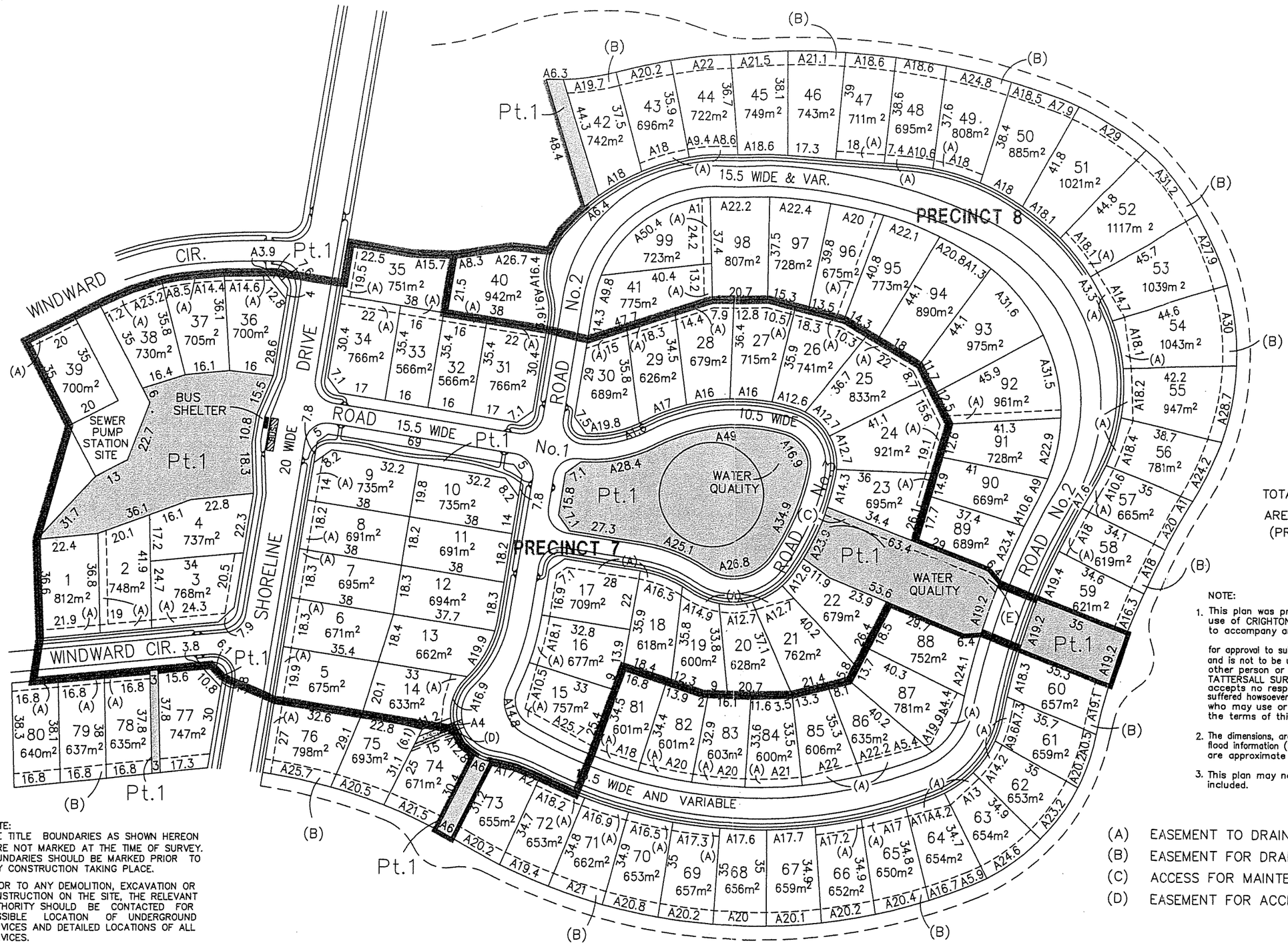
13-May-2003

DA-341/2003

Crighton Properties Pty Ltd
DX 7215
GOSFORD NSW 2822

	Stage 1	Stage 2
GLW - Provision of Library Stock	3,813.82	5,395.16
GLW - Section 94 Administration	989.74	1,400.12
GLW - Section 94 Preparation	33.62	47.56
GLW - Bushfire Contributions - Coastal Precinct	45,838.00	64,844.00
T. Gardens/H. Nest - Arterial Roads	40,710.95	57,591.10
T. Gardens/H. Nest - Community Facilities	18,349.55	25,957.90
T. Gardens/H. Nest - New Urban - O.S. Acquisition	12,961.74	18,336.12
T. Gardens/H. Nest - Infill - O.S. Embellishment	29,607.33	41,883.54
T. Gardens/H. Nest - Cycleways	7,533.34	10,656.92
T. Gardens/H. Nest - Section 94 Studies	282.49	399.62
Hawks Nest - SLS Facilities	4,174.21	5,904.98
TOTAL PAYABLE:	**$164,294.79**	**$232,417.02**

Note: This invoice applies to the current financial year and is subject to indexation.



GREAT LAKES COUNCIL
These are the plans approved by N.O.D. 341/2003 dated: 28 APRIL 2003
for Director Planning Services

TOTAL SITE AREA = 10.4 ha
AREA LOT 1 = 11377m²
(PRECINCT PROPERTY)

NOTE:

1. This plan was prepared for the purpose and exclusive use of CRIGHTON PROPERTIES PTY LTD to accompany an application to

   for approval to subdivide the land described in the plan and is not to be used for any other purpose or by any other person or corporation.
   TATTERSALL SURVEYORS accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses 2 or 3 hereof.
2. The dimensions, area, size and location of improvements, flood information (if shown) and lots shown on this plan are approximate only and may vary.
3. This plan may not be photocopied unless this note is included.

NOTE:
THE TITLE BOUNDARIES AS SHOWN HEREON WERE NOT MARKED AT THE TIME OF SURVEY. BOUNDARIES SHOULD BE MARKED PRIOR TO ANY CONSTRUCTION TAKING PLACE.

PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE, THE RELEVANT AUTHORITY SHOULD BE CONTACTED FOR POSSIBLE LOCATION OF UNDERGROUND SERVICES AND DETAILED LOCATIONS OF ALL SERVICES.

THIS PLAN IS PREPARED FOR THE EXCLUSIVE USE OF CRIGHTON PROPERTIES PTY LTD AND SHOULD NOT BE USED OR RELIED UPON BY ANY OTHER PERSON.
THIS PLAN IS LIMITED TO THE MATTER DESCIBED BY THE PLAN HEADING AND IS PROTECTED BY COPYRIGHT.

(A) EASEMENT TO DRAIN SEWAGE 3 WIDE & VAR.
(B) EASEMENT FOR DRAINAGE 5 WIDE
(C) ACCESS FOR MAINTENANCE 3 WIDE
(D) EASEMENT FOR ACCESS 6 WIDE

FILE: S:\PROJECTS\MYALL-QUAYS\DWG\GENERAL\stage 7-8 15-4-03 DA

TATTERSALL SURVEYORS
DEVELOPMENT CONSULTANTS

PLAN OF PROPOSED SUBDIVISION OF DEVELOPMENT LOT 22 IN DP 270100 MYALL QUAYS ESTATE PRECINCT 7 & 8
Client CRIGHTON PROPERTIES

Locality TEA GARDENS
Council GREAT LAKES
Sheet No. 1 of 1

Ref. 201117 201478
Date 15/04/2003
Scale 1:1500

MQ 7&8

GREAT LAKES COUNCIL

Breese Parade, Forster
PO Box 450, Forster NSW 2428
DX 7110, Forster

Telephone: (02) 6591 7222
Fax: (02) 6591 7200

Tattersall Surveyors
PO Box 54
RAYMOND TERRACE NSW 2324

Our Reference: DA-341/2003
GMS : SB

Contact: Mr Gavin Maberly-Smith
02 6591 7292

7 June 2004

Dear Sir/Madam

APPROVAL FOR MODIFICATION OF DEVELOPMENT CONSENT NO: DA-341/2003
DEVELOPMENT DESCRIPTION: 100 LOT COMMUNITY TITLE SUBDIVISION (STAGED): STAGES 7 & 8
PROPERTY: LOT 17 DP 270100, TOONANG DRIVE, TEA GARDENS NSW 2324
OWNER: CRIGHTON PROPERTIES PTY LTD

Reference is made to your application in respect of the above matter.

In accordance with Section 96(1A) of the Environmental Planning and Assessment Act 1979, Development Consent No: DA-341/2003 is modified by the following:

- ***Deleting Conditions 13, 16 & 22***

Section 96(6) of the Environmental Planning and Assessment Act 1979 confers a right of appeal to the Land and Environment Court on any applicant dissatisfied with a decision of Council under that Section. Any appeal must be lodged within twelve (12) months of notification of Council's decision. Appeal forms are available from any Court House.

Yours faithfully

G MABERLY-SMITH
Manager Development Assessment
Planning & Environmental Services

Peter - FYI.

Regards

Bob

Mr G Cox
Crighton Properties
DX 7215
GOSFORD NSW 2250

Our Reference: DA 341/2003

Contact: Paul De Szell
Telephone: (02) 6591 7344

5 September 2003

Dear Sir/Madam

DEFERRED COMMENCEMENT CONDITIONS DEVELOPMENT CONSENT 341/2003 FOR A 100 LOT COMMUNITY TITLE SUBDIVISION
PROPERTY: PT LOT 22 DP 270100, SHORELINE DRIVE TEA GARDENS

I refer to the Water Management Plan [Cardno Willing –April 2003, (amended - September 2003)] and the Soil and Water Management Plans (Tattersall Surveyors – April 2003) submitted in order to address deferred commencement conditions 2, 3 and 4 of Development Consent 341 / 2003.

For your information please note that the details submitted are considered to suitably address the requirements of the afore mentioned conditions.

Therefore you are formally advised in accordance with *Clause 95. (5) of the Environmental Planning and Assessment Regulation 2000* that the consent authority (Great Lakes Council) is satisfied that the deferred commencement conditions attached to Development Consent 341 / 2003 have been addressed.

You are also advised that for the purposes of *Section 83 of the Environmental Planning and Assessment Act 1979*, Development Consent 341 / 2003 operates from the 5th of September 2003.

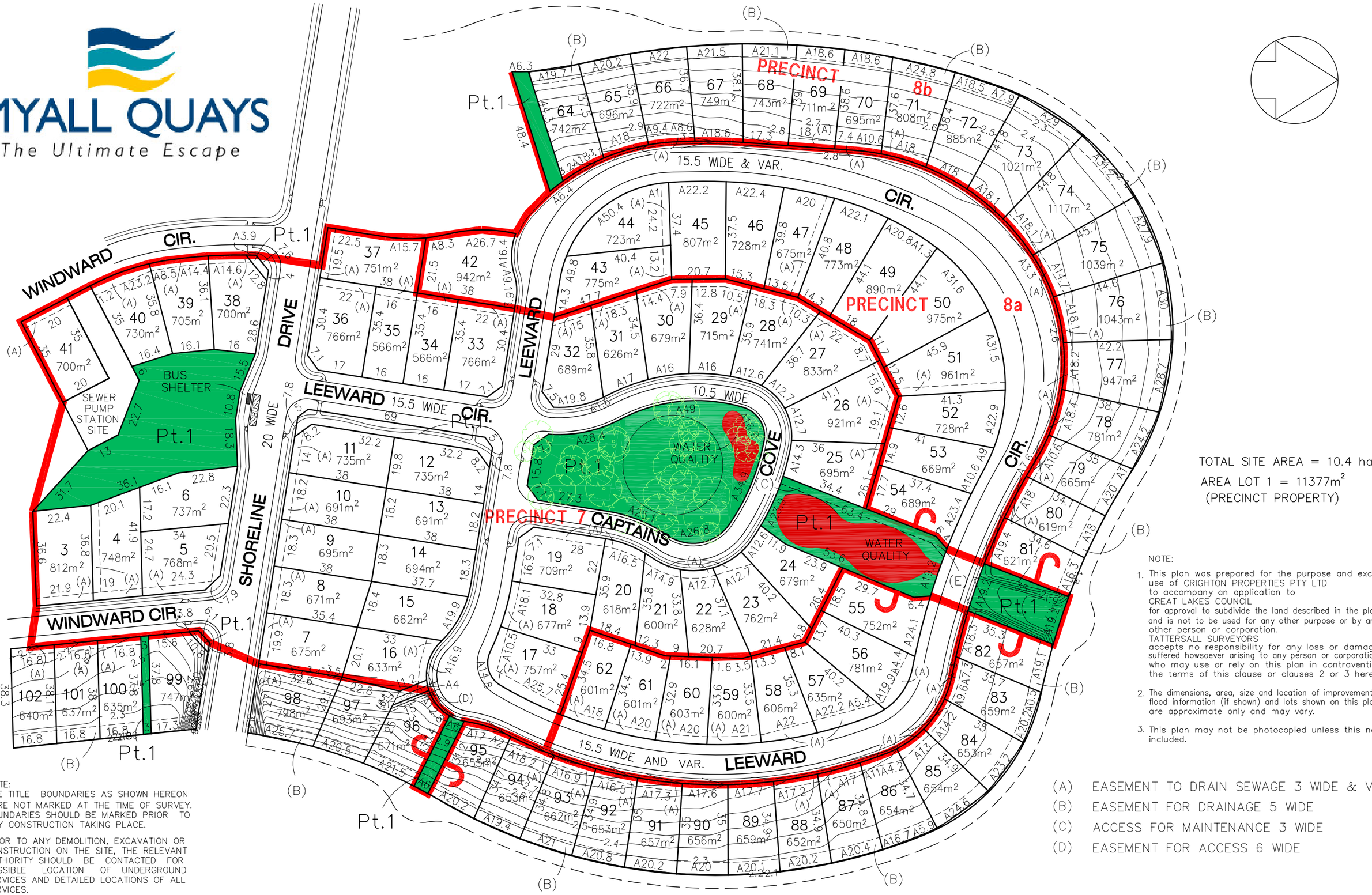
If you have any further queries please do not hesitate to contact Mr Paul de Szell on (02) 65917344.

Yours faithfully

G MABERLY-SMITH
Manager Development Assessment
Planning & Environmental Services

MYALL QUAYS

The Ultimate Escape



TOTAL SITE AREA = 10.4 ha
AREA LOT 1 = 11377m²
(PRECINCT PROPERTY)

NOTE:

1. This plan was prepared for the purpose and exclusive use of CRIGHTON PROPERTIES PTY LTD to accompany an application to GREAT LAKES COUNCIL for approval to subdivide the land described in the plan and is not to be used for any other purpose or by any other person or corporation. TATTERSALL SURVEYORS accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses 2 or 3 hereof.
2. The dimensions, area, size and location of improvements, flood information (if shown) and lots shown on this plan are approximate only and may vary.
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(A) EASEMENT TO DRAIN SEWAGE 3 WIDE & VAR.
(B) EASEMENT FOR DRAINAGE 5 WIDE
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FILE: S:\PROJECTS\MYALL-QUAYS\DWG\STAGE 8\STAGE 8A-8B 27-1-04 DA

TATTERSALL SURVEYORS
DEVELOPMENT CONSULTANTS

PLAN OF PROPOSED SUBDIVISION OF DEVELOPMENT LOT 22 IN DP 270100 MYALL QUAYS ESTATE PRECINCT 7, 8a & 8b

Client CRIGHTON PROPERTIES

Locality	TEA GARDENS	**Ref.**	201117 201478
Council	GREAT LAKES	**Date**	13-08-08
Sheet No.	1 of 1	**Scale**	1:1500

Volume 1:

Annex C: DGR's

NSW GOVERNMENT
Department of Planning

Contact: Kim Johnston
Phone: 02 9228 6489
Fax: 02 9228 6540
Email:kim.johnston@planning.nsw.gov.au

Our ref: MP 06_0010
Your ref:
File: 9041553

Crighton Properties Pty Ltd
C/o Mr Steve O'Connor
Environmental Resources Australia
PO Box 71
Thornton NSW 2322

Dear Mr O'Connor,

Re: Mixed Residential, Commercial andTourist Subdivision Development – Riverside at Tea Gardens - MP06_0010

I refer to your letter dated 7th July 2008 in which you requested confirmation that your proposal *Riverside at Tea Gardens* is a Major Project to which Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act) applies, sought authorisation for the lodgement of a concept plan and sought the Director General's Assessment Requirements for a concept plan and the first stage project application.

Confirmation that the proposal is a Major Project

The former Minister for Planning formed the opinion on 4th September 2008 that the proposal is a Project and that Part 3A of the Act applies. Consequently, you may now apply for the approval of the Minister to carry out this Project.

Confirmation of authorisation of lodgement of a Concept Plan application

I can confirm that on the 4th September 2008 pursuant to Section 75M of the Act, the former Minister for Planning authorised your request for the above Major Project to be dealt with as a Concept Plan.

Constitution of an Independent Hearing and Assessment Panel

The former Minister for Planning also directed on 4th September 2008 that an Independent Hearing and Assessment Panel (IHAP) be held for this project and constituted the Panel.

The Panel members are Mr Peter Dundon, Dr Judy Smith and the chair of the Panel is Ms Barbara Crossley.

The Terms of Reference for the IHAP are in **Attachment A.** It is intended notification of a public hearings on the proposal will be given at the same time that the Environmental Assessment is exhibited.

Issue of DGRs

The Director-General's Environmental Assessment Requirements (DGRs) are in **Attachment B**, comprising the DGRs (Attachment B1) and a list of the relevant plans and documents which will be required upon submission of your proposal (Attachment B2). A list of some relevant

technical and policy guidelines which may assist in the preparation of the EA are attached at Attachment B3. Some further general advice on the DGRs and the Part 3A process is outlined in Attachment B4.

These requirements supersede the DGRs dated 16 September 2006, 28 December 2006 and 6 March 2007 that were issued in relation to the previous version of the project and clause 6 opinion dated 22nd February 2006.

Comments on Revised Proposal

Following a review of the revised proposal, and the meeting held on 2 September 2008, the Department reiterates its continued and ongoing concern with this project, particularly in light of the proposed widening of a channel connecting the existing lake on the adjoining site with the Myall River.

The proposal now envisages extensive clearing of vegetation within a wetland listed under *State Environmental Planning Policy No 14 – Coastal Wetlands* (SEPP 14) and which is considered part of an Endangered Ecological Community to accommodate this channel.

The removal of approximately 270m² of SEPP 14 wetland vegetation for residential development is unprecedented. Such vegetation removal is contrary to the *NSW Wetlands Management Policy* and the aims, objectives and requirements of SEPP 14.

You are strongly encouraged to reconsider your proposal in light of these concerns and provide a proposal that does not involve the requirement for any channel works between the existing lake and the Myall River.

The above advice is in addition to the Department's long-standing concerns in relation to the proposed water management regime for the site.

If you have any queries regarding the above requirements, please contact Kim Johnston on 9228 6489 or email kim.johnston@planning.nsw.gov.au.

Yours sincerely

16.9.08

Chris Wilson
Executive Director
Major Project Assessments
as delegate for the Director General

ATTACHMENT A

TERMS OF REFERENCE FOR

'RIVERSIDE TEA GARDENS'

INDEPENDENT HEARING AND ASSESSMENT PANEL

TERMS OF REFERENCE FOR RIVERSIDE TEA GARDENS INDEPENDENT HEARING AND ASSESSMENT PANEL

Under Section 75G(1)(a), as directed by the Minister for Planning on 4th September 2008,the Panel of Experts is to:

1. Consider and advise on the:

    a) Ecological impacts of the project including impacts on the SEPP 14 wetland, Myall River and the removal of vegetation and its location within a regionally significant habitat corridor;

    b) Hydrological impacts of the project including:-

        (i) Whether the proposed water sensitive urban design measures will result in adverse impacts on groundwater and local surface hydrology, particularly on the SEPP 14 wetland and the Myall River; and
        (ii) Whether the proposed water sensitive urban design measures will result in adverse impacts on flooding for the subject site and surrounding properties.

    c) relevant issues raised in submissions in regard to the above impacts; and

    d) adequacy of the proponent's response to the issues raised in submissions

2. Identify and comment on any other related significant issues raised in submissions or during the panel hearings.

ATTACHMENT B

DIRECTOR GENERAL'S ASSESSMENT REQUIREMENTS

'RIVERSIDE TEA GARDENS'

Attachment B1
Director-General's Environmental Assessment Requirements

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

Application number
MP 06_0010
Project
Concept Plan and Project application (Stage 1) for a mixed use Residential, Commercial and Tourist development
Location
Lot 1 DP 270100, Lot 10 DP 270100, Lot 19 DP 270100, Lot 30 DP 270100 and Lot 38 DP 270100 Myall Street, Tea Gardens.
Proponent
Crighton Properties Pty Ltd
Date issued
September 2008
General requirements

PART A : Concept Plan Application

The Environmental Assessment (EA) for the **Concept Plan Application** must include:

1. An executive summary;
2. An outline of the scope of the project including:

(i) Any development options;
(ii) Justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;
(iii) Outline of the staged implementation of the project, if applicable;

3. A thorough site analysis and description of existing environment;
4. Accurate mapping of zones for the site and surrounds, overlayed on the site survey plan
5. Consideration of any relevant statutory and non-statutory requirements and identification of any non-compliances with such provisions, in particular relevant provisions of Environmental Planning Instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans
6. Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999;
7. An environmental risk analysis of the project including consideration of the issues raised during consultation;
8. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;
9. The plans and documents outlined in Attachment 2;
10. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading;
11. A Quantity Surveyor's certificate of cost to verify the capital investment value of the project; and
12. A detailed assessment of the key issues specified below and a table outlining how and where in the EA document these key issues and the above requirements have been addressed.

PART B: Project Application

The Environmental Assessment (EA) for the **Project Application** must include:

1. The matters listed above in Part A (with the exception of Point 2),
2. A detailed description, including plan details, of the project application component (comprising Stage 1 of the development); and
3. Where relevant, demonstrate compliance with BCA and relevant Australian Standards for proposed building; traffic, road and parking; utilities; noise and flooding.

Key Issues

The EA must address the following key issues:

Part A: Key Issues to be addressed in the Concept Plan Application Environmental Assessment

1. Strategic Planning

1.1	Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.
1.2	Demonstrate consistency with the Sustainability Criteria set out in the relevant Regional Strategy (including draft Regional Strategies).
1.3	The proposal must demonstrate compliance with the provisions of *State Environmental Planning Policy No. 71 – Coastal Protection.*
1.4	The proposal should not include any elements which would be defined as Canal Estate development as defined in *State Environmental Planning Policy No. 50 – Canal Estate Development.*
1.5	Demonstrate that the proposed densities are appropriate for the future housing needs of the Tea Gardens area. Demonstrate compliance with the recommendations of the *Tea Gardens Housing Strategy (May 2006)* particularly relating to affordable housing types and their location.
1.6	Provision of all development consents issued for the subject site and the adjoining site (known as Myall Quays) including the existing detention lake and connection to the Myall River.
1.7	Provision of the Community Management Statement for the existing development adjoining the site, known as Myall Quays.

2. Subdivision Design, Layout and Desired Future Character

2.1	Demonstrate the consistency of the proposal with the character of existing development in terms of the locality, street frontage, scale, building envelopes and future built form controls, aesthetics, energy and water efficiency and safety.
2.2	Demonstrate the consistency of the proposed subdivision design and layout with the *Coastal Design Guidelines for NSW*, NSW *Coastal Policy 1997* and *SEPP 71 – Coastal Protection.*
2.3	Identify the type of subdivision proposed across the site i.e. community, Torrens, strata. A draft community management statement should be provided if community title is proposed.
2.4	Provide details of any staging that demonstrates the lots will be released in an orderly and coordinated manner and identify how the proposal relates to the existing and proposed future stages to ensure an integrated and holistic approach to environmental management;
2.5	Outline the long-term management and maintenance of any areas of open space or conservation including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management.
2.6	Address any public access to the shoreline in accordance with the principles of ecologically sustainable development and the NSW Coastal Policy.
2.7	Address safety and security of the proposal and provide mitigation measures where required.
2.8	Demonstrate compliance with relevant zone objectives.
2.9	Demonstrate the application of sound urban design principles in the design of the proposal.

3. Visual Impact

3.1	Demonstrate suitability of the proposal with the surrounding area in relation to the proposed and potential bulk, scale, amenity (including noise) and visual amenity having regard to the *Coastal Design Guidelines of NSW* (2003). In particular, address impacts on the amenity of the foreshore, loss of views from public places and cumulative impacts.

4. Infrastructure Provision

4.1	Address the capacity of existing infrastructure to accommodate the proposed development such as water, electricity, gas, telecommunications and their staging. Specific consideration should be given to the capacity of the sewerage treatment facility at Hawks Nest to accommodate the proposal. Identify and describe staging, if any, of infrastructure works.
4.2	A risk assessment of effluent disposal including the potential impacts and relevant mitigation measures in the event of a failure of the effluent disposal system through flood or other events.
4.3	Provide details of any Planning Agreements entered into or proposed as part of this development and the proponent payment of Section 94 contributions. Note: Any Planning Agreement must be outlined in the Statement of Commitments as an offer under Section 93G of the Act. This should take the form of a draft agreement. Planning Agreements should only contain matters outside of the scope of Section 94.
5. Traffic and Access	
5.1	Prepare a Traffic Impact Study in accordance with the RTA's Guide to *Traffic Generating Developments*.
5.2	Protect existing public access to and along the coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate.
5.3	Demonstrate compliance with sound urban design principles, including parking, access, and transport. This must demonstrate options, particularly as they relate to access to and from adjoining urban areas, with a view to minimising traffic loads on one or more particular access way. In addition consideration must be given to: - pedestrian/cycle access through the site; - public transport access through the site, with particular emphasis on road compatibility for bus access through the site; and - intersection capability to withstand anticipated traffic loads. With respect to traffic and access, traffic modelling in accordance with the relevant standards is required.
5.4	Demonstrate the provision of access and servicing links between the subject site and Shearwater Estate (through the Myall Quays site). Consideration of any alternative access requirements of the *Great Lakes Hawks Nest/Tea Gardens Conservation and Development Strategy (2003)* is also required.
6. Hazard Management and Mitigation	
Coastal Processes	
6.1	Address coastal hazards and the provisions of the *Coastline Management Manual*. In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms in accordance with the principles of ecologically sustainable development and the NSW Coastal Policy
Contamination and Acid Sulfate Soils	
6.2	Address any existing contamination and required remediation of soils on the site. Particular regard must be given for Acid Sulphate Soils on the site, particularly relating to the excavation of these soils.
Bushfire	
6.3	Address the requirements of *Planning for Bush Fire Protection 2006* (RFS).
Geotechnical	
6.4	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.
Flooding	
6.5	Provide an assessment of any flood risk on site (for the full range of floods including events greater than the design flood, up to probable maximum flood, and from coastal inundation,

	catchment based flooding or a combination of the two) and having consideration of any relevant provisions of the *NSW Floodplain Development Manual, 2005*. The assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development; address the impact of the development (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event.
6.6	Assess the potential impacts of sea level rise and an increase in rainfall intensity on the flood regime of the site and adjacent lands with consideration of *Practical Consideration of Climate Change – Floodplain Risk Management Guideline (DECC, October 2007)*.
7. Water Cycle Management	
7.1	Assess the impacts of the proposal on surface and groundwater hydrology and quality during both construction and occupation of the site.
7.2	Address potential impacts on the water quality of surface and groundwater, having regard to the relevant State Groundwater, Rivers, Wetlands and Estuary Policies. Consideration must be made for water impacts to the Myall River and identified SEPP 14 Wetlands. Particular regard must be given to how the proposal will minimise altered salinity, pH, litter, weeds, exotic fauna, gross disturbance of these wetlands, and nutrient intake to receiving water bodies.
7.3	An Integrated Water Cycle Management (IWCM) Plan based upon Water Sensitive Urban Design principles is required. This must address the requirements of the *NSW Floodplain Management Manual*.
7.4	Demonstrate the suitability of using the lake to be a receiving body for stormwater runoff.
7.5	Demonstrate and justify the proposed widening and deepening of a channel connecting the existing lake with the Myall River, particularly in relation to the removal of vegetation from a SEPP 14 wetland and an Endangered Ecological Community.
7.6	Address the aims, objectives and requirements (particularly of Clause 7) of State Environmental Planning Policy No 14 – Coastal Wetlands ('SEPP 14'), particularly in relation to the proposed removal of vegetation from the wetland for the proposed channel works.
7.7	Stormwater management should be designed to ensure ongoing protection of the groundwater aquifer in accordance with the principles of ANZECC & ARMCANZ: Guidelines for Groundwater Protection in Australia, National Water Quality Management Strategy, Commonwealth of Australia, 1995. Ensure there is no impact on the existing groundwater aquifer and existing groundwater quality resulting from the proposal. Suitably justify the stormwater treatment measures to be used in the proposal (amended by DGRs – 28/12/06).
7.8	A Wetland Management Plan is required to guide the rational conservation, management, and restoration of the SEPP 14 wetland habitats and their buffers.
7.9	Details of any proposed dredging and reclamation activities including the methods, uses, timing, extent, and duration of works, nature of sediment to be dredged, etc. Specific detail must be provided to outline any activities that may harm marine vegetation, or block the passage of aquatic fauna.
8. Heritage and Archaeology	
8.1	An Independent Archaeology report must be included in the Environmental Assessment. This must address and document information requirements set out in the draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DEC 2005) and *Interim Community Consultation Requirements for Applicants* (DEC 2004).
9. Flora and Fauna	
9.1	Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
9.2	Address measures to protect and manage the SEPP 14 wetland and adjacent aquatic habitats.
9.3	Outline and document commercial, recreational, and indigenous fishing activities that may be affected by the proposal. Investigation is required into whether the proposal will impact on the continuing operation and viability of nearby aquaculture or marine culture ventures.
9.4	Demonstrate that any water discharge shall meet the benchmark set under the *Oyster Industry Sustainable Aquaculture Strategy* (amended by DGRs – 6/3/07).
9.5	Outline measures for the conservation of flora and fauna and their habitats within the meaning of the *Threatened Species Conservation Act 1995*, *Native Vegetation Act, 2003*, and the *Fisheries Management Act, 1994* including, but not limited to Koala populations, and other EECs.

9.6	The EA must consider how the proposal has been managed to conserve flora and fauna habitats on the subject site and subject area. The measures proposed to mitigate any effects of the proposal must be provided, including any long term strategies to protect areas within the study area with threatened species. This may include elements that restore or improve habitats. Pre-construction monitoring plans or on-going monitoring of the effectiveness of the mitigation measures must be outlined in detail.
10. Socio-economic Impacts	
10.1	Address social infrastructure including health services and schools. Consultation with service providers, Council, Department of Health, and Department of Education is required. Provide evidence of the capacity to service the proposed development and expected growth in the locality (amended by DGRs – 6/3/07).
Part B: Key issues to be addressed in the Project Application Environmental Assessment (Stage 1 of the Development)	
1. Compliance with Concept Plan	
1.1	The EA must demonstrate consistency with all Environmental Assessment requirements as detailed above in Part A, and the following additional matters.
2. Subdivision Design, Layout and Desired Future Character	
2.1	Provide details of potential building envelope, built form and design quality controls and the means for implementing them. Ensure subdivision and road works are contained within the relevant zone.
2.2	Provide details of the construction of Community facilities where proposed as part of the Project Application for Stage 1 works.
2.3	Demonstrate compliance with BASIX requirements for any BASIX affected development (as defined by the *Environmental Planning and Assessment Regulation 2000*) that is proposed as part of the Project Application for Stage 1 works.
3. Water Cycle Management	
3.1	Provide a detailed Construction Management Plan which mitigates the impacts of the proposal on surface and groundwater hydrology and quality on the site.
3.2	Provide a detailed Integrated Water Cycle Management (IWCM) Plan based upon Water Sensitive Urban Design principles.
3.3	Provide a detailed Stormwater management Plan in accordance with the Environmental Assessment Requirements for the Concept Plan application.
4. Bushfire	
4.1	Provide a detailed plan which addresses the requirements of *Planning for Bush Fire Protection 2006* (RFS), in particular in relation to asset protection zones, adequacy of water supply, and future management of areas of hazard remaining, including natural areas and buffer zones.
5. Earthworks and Filling	
5.1	Address impacts of earthworks and filling on the existing hydrology and water quality, the conservation of flora and fauna habitat and the management of acid sulphate soils and any contamination on the site.
5.2	Provide details of the source of fill including types of material and soils, and details of suitable revegetation planting.
Consultation	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment: (a) *Agencies or other authorities:* • Great Lakes Shire Council; • Department of Environment and Climate Change; • Department of Primary Industries (Fisheries);	

- NSW Rural Fire Service;
- Department of Water and Energy;
- NSW Maritime;
- Department of Lands;
- NSW Police Service;
- State Emergency Service;
- Hunter & Central Rivers Catchment Management Authority;
- Port Stephens-Great Lakes Marine Parks Authority;
- Local Aboriginal Land Council/s and other Aboriginal community groups; and
- MidCoast Water.

(b) *Public:*
Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.

The consultation process and the issues raised should be described in the Environmental Assessment.

Deemed Refusal Period

120 days – it is considered to involve a complex environmental assessment and approval process

Attachment B2
Plans and Documents to accompany the Application

Plans and Documents of the development	The following plans, architectural drawings and diagrams of your proposal as well as the relevant documents will be required to be submitted for your application: 1. The **existing site survey plan** is to be drawn to 1:500 scale (or other appropriate scale) and show: • the location of the land, the measurements of the boundaries of the land, the size of the land and north point; • the existing levels of the land in relation to buildings and roads; • location and height of existing structures on the site; and • location and height of adjacent buildings and private open space. 2. An **aerial photograph** of the subject site with the site boundary superimposed. 3. A **Site Analysis Plan** must be provided which identifies existing natural elements of the site (including all hazards and constraints), existing vegetation, property dimensions, footpath crossing levels and alignments, existing pedestrian and vehicular access points and other facilities, slope and topography, natural features such as watercourses, rock outcrops, utility services, boundaries, orientation, view corridors and all structures on neighbouring properties where relevant to the application (including windows, driveways etc.). 4. A **locality/context plan** drawn to 1:500 scale (or other appropriate scale) should be submitted indicating: • significant local features such as parks, community facilities and open space, water courses and heritage items; • the location and uses of existing buildings, shopping and employment areas; • traffic and road patterns, pedestrian routes and public transport nodes; and • The existing site plan and locality plan should be supported by a written explanation of the local and site constraints and opportunities revealed through the above documentation. 5. **Subdivision plans** are to show the following:- • The location, boundary dimensions, site area and north point of the land, and names of roads fronting the land; • Title showing the description of the land with lot and DP numbers etc; • Existing and proposed subdivision pattern including all measurements and sites areas of existing and proposed allotments; • Location and details of all proposed roads and footpaths; • Location of all structures proposed and retained on site; • Cross sections of roads, including gradients, widths, road names, footpaths etc (for Project Application). • Existing and proposed finished levels in relation to roads, footpaths and structures (for Project Application); • Location and details of access points to the subdivision; • Existing vegetation on the land and vegetation to be retained; • Location of services and infrastructure, and proposed methods of draining the land;

	• Any easements, covenants or other restrictions either existing or proposed on the site; • Type of subdivision proposed (Torrens, strata and/or community title). 6. **Stormwater Concept Plan** - illustrating the concept for stormwater management from the site and must include details of any major overland flow paths through the site and any discharge points to the street drainage system. Where an on-site detention system is required, the type and location must be shown and must be integrated with the proposed landscape design. Site discharge calculations should be provided; 7. **Erosion and Sediment Control Plan** – plan or drawing that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site; 8. **Landscape Concept Plan** – plan or drawing that shows the basic detail of planting design and plant species to be used, listing botanical and common names, mature height and spread, number of plants to be utilised and surface treatments (i.e. pavers, lawn etc); 9. **Construction Management Plan** – a plan which outlines traffic and pedestrian management during construction and management of impacts on amenity of adjoining properties and appropriate mitigation measures including noise, dust and sediment and erosion controls; 10. **View analysis** – artist's impression, photomontages, etc of the proposed development in the context of the surrounding development.
Specialist advice	Specialist advice, where required to support your Environmental Assessment, must be prepared by suitably qualified and practising consultants in relation to issues including, but not limited to, the following: • Flora and Fauna; • Bushfire; • Landscaping; • Geotechnical and/or hydrogeological (groundwater); • Stormwater/drainage; • Urban Design/Architectural; • Contamination in accordance with the requirements of SEPP 55; and • Acid Sulfate Soil Management Plan.
Documents to be submitted	• Both hard copy and electronic versions of the Environmental Assessment will be required to be submitted. Please contact the Department prior to submitting your Environmental Assessment to determine how many copies will be required. • If the Environmental Assessment is bulky, you will be required to package up each Environmental Assessment ready for distribution by the Department to key agencies.
Electronic Documents	Electronic documents presented to the Department for publication via the Internet must satisfy the following criteria:- ▪ All files should be approximately 5 Mb. ▪ Large files of more than 5 Mb will need to be broken down and supplied as different files.

Attachment B3
State Government technical and policy guidelines

The following list provides relevant technical and Policy Guidelines which may assist in the preparation of the Environmental Assessment. It should be noted, however, that this list is not exhaustive as other documents and policies may need to be reviewed. It is also important to note that not of all of these guidelines may be relevant to your proposal.

The majority of these documents can be found on the relevant Departmental Websites, on the NSW Government's on-line bookshop at http://www.bookshop.nsw.gov.au or on the Commonwealth Government's publications website at http://www.publications.gov.au.

Aspect	Policy /Methodology
Biodiversity	
	Draft Guidelines for Threatened Species Assessment (DEC & DPI, 2005)
	Draft Threatened Biodiversity Survey and Assessment Guidelines (DEC, 2004)
	Why do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (NSW Fisheries, 2003)
	Policy and Guidelines: Aquatic Habitat Management and Fish Conservation (NSW Fisheries, 1999)
	Threatened Species Management Manual (NPWS, 1998)
Coastal Planning	
	NSW Coastal Policy 1997 - A sustainable Future for the New South Wales Coast, NSW Government, 1997
	Coastal Design Guidelines for NSW, PlanningNSW, February 2003
	NSW Wetlands Management Policy (DLWC, March 1996)
	Coastline Management Manual (NSW Government 1990)
Community Consultation	
	Guidelines For Major Project Community Consultation, (NSW Department of Planning, 2007) http://www.planning.nsw.gov.au/assessingdev/pdf/Dr3%20DOP%20GuideMajProjComConsult%20BRO.pdf
Bushfire	
	Planning for Bushfire Protection 2006 (NSW Rural Fire Service)
Contamination and Soils	
	Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land (DUAP & EPA, 1998)
	Best Practice in Contaminated Sites (Commonwealth DEH, 1999, ISBN 0 642 546460)
	Contaminated Sites: Sampling Design Guidelines (EPA, 1999)
	NSW Acid Sulfate Soil Management Advisory Committee - Acid Sulfate Soil Manual (ASSMAC,1998).
Environmental Management Systems	
	NSW Government Interim Water Quality and River Flow Environmental Objectives (DEC)
	Guidelines for the preparation of Environmental Management Plans (DIPNR, 2004)

Aspect	Policy /Methodology
Heritage	
Aboriginal	Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DEC, 2005)
	Interim Community Consultation Requirements for Applicants (DEC, 2004)
Non-Indigenous	Assessing Heritage Significance Update for Heritage Manual, NSW Heritage Office, 2000
	Statements of Heritage Impact, NSW Heritage Office 2002
	NSW Heritage Manual, NSW Heritage Office 1996
Noise	
	Environmental Criteria for Road Traffic Noise (EPA, 1999)
	Acoustics - Road traffic noise intrusion - Building siting and construction (Standards Australia, 1989, AS 3671-1989)
Safety and Hazards	
	Electrical Safety Guidelines (Integral Energy)
Traffic & Transport	
	Guide to Traffic Engineering and Guide to Geometric Design of Rural Roads (Austroads, 2003, AP-G1/03)
	Guide to Traffic Generating Developments (RTA, 2002)
Urban Design: Cycleway/Pathway Design	
	Guidelines for the Design and Construction of Paths and Cycleways along Watercourses and Riparian Areas (Version 2) (DIPNR/DNR)
Water	
Water Quality	Water quality guidelines for the protection of aquatic ecosystems for upland rivers. (ANZECC, 2000)
	Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC 2000)
Effluent Reuse	Environmental Guidelines for the Utilisation of Treated Effluent by Irrigation (NSW DEC 2004)
Floodplain	NSW Government Floodplain Development Manual - the Management of Flood Liable Land (DIPNR, 2005)
	Practical Consideration of Climate Change – Floodplain Risk Management Guideline (DECC, October 2007)
Groundwater	NSW State Groundwater Quality Protection Policy (DLWC, 1998, 0 7313 0379 2)
	NSW State Groundwater Quality Protection Policy (DLWC 1998)
	NSW Groundwater Dependent Ecosystem Policy (DLWC 2000)
Stormwater	Managing Urban Stormwater: Soils & Construction (NSW Landcom, March 2004) - "The Blue Book"
Waterways	Waterways Crossing Design & Construction (Version 4 – DIPNR/DNR Draft Guidelines)
Wetlands	NSW Wetlands Management Policy (DLWC 2000)

ATTACHMENT B4

RIVERSIDE AT TEA GARDENS
GENERAL DGRS AND PART 3A ADVICE

The DGRs have been prepared based on the information provided to date. Under section 75F(3) of the Act, the Director-General may alter or supplement these requirements if necessary and in light of any additional information that may be provided prior to the proponent seeking approval for the project.

If the EA is not exhibited within 2 years of the date of issue of these requirements, you should consult further with the Director-General in relation to the preparation of the EA.

Please contact the Department at least two weeks before you propose to submit the Environmental Assessment (EA) for the project to determine:

- the fees applicable to the application. Note that you will need to provide a signed statement from a Quantity Surveyor to verify the capital investment value of the project;
- consultation and public exhibition arrangements that will apply; and
- number and format (hard-copy or CD-ROM) of the EA that will be required.

Prior to exhibiting the EA, the Department will review the document to determine if it adequately addresses the DGRs. The Department may consult with other relevant government agencies in making this decision. If the Director-General considers that the EA does not adequately address the DGRs, the Director-General may require the proponent to revise the EA to address the matters notified to the proponent. Following this review period, the EA will be made publicly available for a minimum period of 30 days.

If your proposal includes any actions that could have a significant impact on matters of National Environmental Significance (NES), it will require an additional approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. It is your responsibility to contact the Commonwealth Department of the Environment, Water, Heritage and the Arts in Canberra (6274 1111 or http://www.environment.gov.au) to determine if the proposal is likely to have a significant impact on matters of NES and would require an approval under the EPBC Act. The Commonwealth Government has accredited the NSW environmental assessment process for assessing any impacts on matters of NES. As a result, if it is determined that an approval is required under the EPBC Act, please contact the Department immediately as supplementary DGRs will need to be issued.

Please note that under section 75U of the Act, Part 3A applications do not require certain permits/approvals required under other legislation. These matters are considered as part of the Part 3A assessment process. For example, Section 87 permits and Section 90 consents under the *National Parks and Wildlife Act 1974* are not required for Part 3A applications. Section 75U applies from the date of issue of the DGRs.

Notwithstanding, the Department still requires an equivalent level of information within the EA as would ordinarily be required for the issue of any such permit/approval to enable an assessment of the relevant works. Please notify the Department should any sub-surface testing be required during the preparation of your EA.

Volume 1:

Annex D: Architectural Design

MYALL QUAYS

MYALL QUAYS ESTATE

ARCHITECTURAL & LANDSCAPE DESIGN GUIDELINES

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1. PREVIEW

1.1 INTRODUCTION

The Myall Quays is located on land adjacent to the Myall River and abutting the Tea Gardens township. The majority of the site was originally a pine forest which was destroyed by fire in the late 1970's. Parts of the site have since revegetated with low lying scrub and some stands of attractive native trees which will be maintained where possible.

The site includes a significant area of wetlands (classified S.E.P.P. 14 Designated Wetlands) which requires specific protection from development. This wetland area is intended to be protected by the addition of an artificial wetland conservation area located along the western edge of the protected wetlands.

Myall Quays will be developed to project an image of an elegant and casual coastal lifestyle. It is thus anticipated that each home will be carefully planned to enhance the site and to preserve the character of the estate. To this end a Review Committee is to be established to assist proprietors determine the best solution for their block, given the constraints of their budget and their interest in enhancing their privacy and minimising the cost of energy.

1.2 REVIEW COMMITTEE

The Review Committee consisting of two Design Consultants nominated by the Original Developer and a Director of Crighton Properties Pty Limited (The Original Developer) has been established as a sub Committee to the Executive Committee of the Community Association. The Review Committee's role is to ensure that the development preserves and protects the estate in a natural environment and maintains the concept, image and aesthetic quality of the development.

To that end no building, dwelling, accessory building, fence or other structure shall be erected, placed, demolished or altered on any Lot within the community parcel until the proposed design and documentation including site plan, floor plans, elevations, together with details, specifications, external finishes and a construction programme has been approved in writing by the Review Committee. The Review Committee has created these guidelines for assistance to those contemplating construction and to provide maintenance and repair guidelines for the Community Association.

1.3 DESIGN GUIDELINES

The development of Myall Quays provides a unique opportunity to formulate architectural and landscape design guidelines that will assist property owners to construct homes which are both distinctive and innovative and will provide the occupiers with enhanced privacy and comfort.

The primary reasons for wanting to effect more control over building activities in Myall Quays are:

(a) to encourage the care of the environment within the estate and to foster ecologically sustainable design to alleviate escalating Local Government costs, and to reduce the cost of energy; and

(b) to preserve the design integrity and architectural quality of homes in the estate to add value to all property in the precinct; and

(c) to preserve and enhance the existing landscape and the quality of the streetscape to provide the residents in the community with an environment they can enjoy and take pride in; and

(d) to maintain the highest possible aesthetic standards to assist in establishing Myall Quays as the most attractive and desirable place to live on the Mid-North Coast; and

(e) to prevent any owner building a home in the estate which, because of its inappropriate design relative to the block on which it is proposed to be built, devalues the surrounding properties, causing financial damage to the neighbours.

1.4 BENEFITS OF THE DESIGN GUIDELINES

These guidelines have been developed to enhance the overall quality and character in Myall Quays and to provide residents with a quality of life significantly better than they might otherwise enjoy in homes where less care is given to the design.

An important feature of these guidelines is a requirement seeking owners' co-operation in selecting a design for their block which provides solar access to the main family and living areas in order to save energy.

The Guidelines elaborate on the restrictions in the Community Association By-Laws and the Management Statement. Creativity is encouraged within bounds of appropriateness, but the Review Committee has established basic standards for Myall Quays with a view to promoting and retaining an harmonious community image and ensuring environmental compatibility.

1.5 THE THEME OF THE ESTATE

Myall Quays is conceived as a leisure oriented residential resort in which it is proposed to include a commercial centre with outdoor restaurants and sidewalk cafes overlooking a large lake known as Myall Cove. A golf course interspersed with large freshwater lakes together with parks and gardens and tree lined streets are features which will encourage an idyllic, tranquil lifestyle.

The architectural style of each of the homes within the estate will be encouraged to reflect the theme that has been evolved to achieve a consistent architectural image, one that reflects the casual urbane character of the Myall Quays.

The treatment of the "theme" as a whole should reinforce the feeling that:

* Myall Quays is a well planned and well managed Estate.

* A strong Community atmosphere and identity has been fostered.

    * The residential and commercial development has been designed to blend into the natural environment.

    * The waterways and parklands throughout the estate give residents a unique sense of freedom and space.

* The individual homes within the development exhibit an elegant and gracious character.

2. APPLICATIONS TO THE COMMUNITY ASSOCIATION

2.1 Preparation & Lodgement of Plans

All applications for the approval of building plans for each new dwelling or other building to be erected, or for any retaining walls above 1.00m in height, must be lodged with and approved by the Review Committee, before any Building Application is made to Great Lakes Council.

All building plans must be prepared by a qualified Architect or an Architectural Draftsperson and must include sample chips or cards or brochures indicating the proposed colours of the bricks, roof and other accessories intended to be used on the dwelling or building. All documentation will be reviewed by the Review Committee for the owner within fourteen (14) days. The maintenance of this Committee and the prompt and professional discharge of its duties shall be the responsibility of the Original Developer.

The Review Committee must consider all plans and specifications submitted to it for approval, including but not limited to, all plans and specifications for any new home or landscaping which involves the erection of any retaining wall in excess of 1.00m in height.

No fee is applicable for the submission to, or the obtaining of Review Committee approval. All applications must be posted by prepaid certified post to Myall Quays Review Committee, PO Box 38, Tea Gardens 2324 or delivered personally to the Original Developer's office in Tea Gardens. The proof of such delivery shall be the responsibility of the applicant.

2.2 Approval Subject to Conditions

The Review Committee may impose conditions on its approval of plans and specifications, and/or any colours of any materials proposed to be used on any dwelling or building.

The Review Committee may require an Applicant to deposit with the community Association a bond to be held by the Community Association on account of any damage that may be caused to Association Property or Common Property as a result of Building Modifications, Landscape Modifications or New Construction.

On completion of the Building Modification, Landscape Modification or New Construction the Community Association must account to the Applicant within 60 days, for the bond, after deduction (if any) for damage to the Association Property or Common Property.

2.3 Decision of Review Committee.

The Review Committee must, within 21 days after it has received all information required by it to make a decision, deliver to the Applicant its written approval or reasons for rejection. Approval will be in the form of an interim approval subject to Great Lakes Council's approval of identical plans.

Plans and specifications submitted under By-Law 1.3 will be deemed to be approved by the Review Committee, unless:

a) a written disapproval; or
b) a request for further information

has been delivered to the Applicant within 21 days after the Review Committee has received the plans and specifications, or where a request has been made, within 21 days of the Review Committee receiving the additional information.

A decision made by the Review Committee is binding on the Applicant.

2.4 Required Documents

Prior to lodging any Building Application with Great Lakes Council, the Applicant must submit two (2) sets of the following documents to the Review Committee for review. (The information required by the Review Committee is essentially the same information as the information required by Great Lakes Council for a Building Application).

Schematic Drawings

1:200 Site Plan

1. north arrow
2 property lines with dimensions and bearings
3. existing and proposed contours by registered surveyor
4. location of existing trees. Trees to be removed shall be noted ("removed")
5. setback limits shown
6. building accurately located from property line
7. driveways and paths shown
8. principal views shown
9. adjacent structures located
10. shadow projections at 21 June at 9.00 am, 12 noon and 2.00 pm.

1:100 Floor Plans. These should include each floor, mezzanine and ground floor level plan.

1. room use labelled
2. all walls shown
3. all windows and doors with swing shown
4. all overhangs of floors or roof of above shown as dashed lines
5. all fixtures, cabinets and appliances shown
6. dimensions overall limits of plans
7. ground level plan to indicate foundations, enclosure, driveway location (if applicable), stairway, garbage and any air conditioning or solar heating units.

1:100 Elevations. One for each major exposure

1. show how building relates to existing natural ground level
2. show screening type and location
3. indicate overall height from natural ground to ridge of roof

Note: At the time of preliminary submission, the corners of the house should be staked on the lot in the proposed location. Trees to be removed should be flagged with red surveyors tape.

All applications must include estimated completion dates. The Community Association may not approve a request whose time frame it considers unreasonable.

2.5 BUILDING APPLICATION TO COUNCIL

Immediately an owner lodges a Building Application with Great Lakes Council, the Applicant must submit an identical copy of all B.A. drawings, construction documents and specifications for the Review Committee's records in order that the Review Committee might be satisfied that the final plans are in accordance with the preliminary application.

The conformance to all applicable building regulations is the responsibility of the Owner. After the applicant has secured Council B.A. approval, the Review

Committee will upon request, issue a letter of confirmation that the plans have been approved by the Review Committee.

No fee is applicable for the submission to, or the obtaining of Community Association approval.

Owners are encouraged to discuss their proposals at the earliest opportunity with the Review Committee prior to preparing final documentation. Considerations addressed early in the design process to take into account the overall planning intent theme, community objectives and other issues such as solar access, views and privacy can increase property value as well as accelerating the approval process.

Owners should also be aware of the fact that approval by the Review Committee will place Great Lakes Council under no obligation to approve the plans subsequently submitted and Great Lakes Council may, at its absolute discretion, reject, amend or place conditions on the approval as it sees fit. The conformance to all applicable building regulations is the responsibility of the Owner.

The review Committee's role is to consider the layouts, scale and aesthetics of all dwellings, while Council will be concerned with a wider range of considerations including aspects of construction, engineering and geotechnical impact.

3 COMMUNITY PROPERTY

3.1 Residential Streetscape

To assist in achieving the image of a consistent well maintained frontage to each residential lot, all footpaths fronting lots which entitle the owners to be included in the Community Association will be set aside as Community Property and these footpaths will be referred to as the Residential Streetscape.

The Residential Streetscape will be maintained by the Community Association. No buildings, structures or the like shall be constructed on this land and no landscaping can be disturbed without the consent of the Executive Committee.

Much attention has been paid in the site planning at Myall Quays and to the retention, where possible, of existing vegetation and/or the replanting of a wide range of native trees and shrubs to encourage native birds and animals to recolonise the neighbourhood.

Therefore, it is of utmost importance to the Estate that this philosophy is understood and carried through to the individual residences so that a unified aesthetic environment will result.

The Residential Streetscape will set the standard and character for the entire subdivision. It has been designed:

* To provide a considerably maintained streetscape which will ensure the entrance to each individual home-site will enhance any dwelling built on any lot.

* To evoke the feelings of living in a residential "resort", emphasised by the careful selection of hard elements and plant materials.

* To provide a living streetscape which will attract native birds and animals the whole community can enjoy and interact with.

* To enhance and protect the capital appreciation of all proprietors in the development.

The profile of the residential streetscape consists of a footpath which has a minimum width of 4 metres, part of which may be paved for pedestrian and bicycle use. This area will be landscaped with street trees, ornamental trees and shrubs and specially selected street furniture. These various landscaping elements will be maintained by the Community Association.

3.2 Residential Roads

All roads within the estate will remain the property of Great Lakes Council. It is Great Lakes Council's responsibility to repair, maintain and reconstruct (when required) the road surface and kerbs in accordance with the standards provided in the initial construction.

3.3 Lighting

Street lighting selected to enhance and reinforce the theme of the estate will be installed by Orion Energy and maintained by Great Lakes Council. This lighting is intended to be a feature at night and an embellishment to the streetscape.

4. THE ARCHITECTURAL THEME

The masterplan of the Myall Quays Estates has resulted in the residential development being sited to ensure that each lot in each stage of the development will have the benefit of a specific aesthetic backdrop or view, with the majority of homes having either lakefront, or golf course frontage or golf course or lake, or reserve views.

The architectural style that will be developed for Myall Quays will distinguish the Estate from other developments in Tea Gardens and Hawks Nest. The style envisaged will be different from the usual contemporary mass housing, whether spec built or project built.

The architectural theme, the 'signature' of the Myall Quays Estate will be encouraged to reflect an elegant, casual, friendly and relaxed lifestyle, as distinct from one that is detached, or conspicuously opulent.

The architectural language that has been selected to achieve this image is based on coastal seaside buildings that reflect the Australian individuality. The plan and overall success of the development means that the architecture should particularly reflect and originate from the indigenous qualities of the Australian culture and this theme should be further carried through to the landscaping around each individual dwelling.

Each design needs to reflect certain primary requirements, therefore the Review Committee encourages the following:

(i) Massing

* That residential building form does not consist of a large block of mass but rather a collection of forms - a combination of 2 storey and single storey forms is thus encouraged.

* That the interest of the architecture should be derived from the form or collection of forms rather than from excessive decoration.

(ii) Materials

* External walls of either white-washed, lime-washed, bagged or rendered brickwork of earthen or ochre hues are particularly encouraged or full brick

or brick veneer of a conservative character with stone or glass or timber (or a combination of these materials) as long as at least 70% of the total area of the external walls are constructed of rendered concrete or brick or brick veneer. Walls with a northerly aspect or a view should feature a larger area of glass while walls with a southerly aspect should be predominantly solid.

* Roofs of corrugated colourbonded metal are encouraged, however, either cement or terracotta tiles or slates or shingles or non-reflective, non-flat metal materials of a colour approved by the Review Committee will be considered. Preferably, the pitch of the roof shall be set to a minimum pitch of 30 degrees and a maximum pitch of 35 degrees.

(iii) Style

Homes should portray an Australian "Coastal" character without any need to resort to the usual cliches such as bullnosed corrugated iron verandahs, trellised gables, dominant porticoes or decorations that allude to periods of architecture (e.g. Victorian, Federation, Palladium, Georgian etc.).

* Eaves and verandahs are encouraged to be used to cast shade where necessary to enhance thermal efficiency and/or to provide outdoor areas of private open space for relaxation and entertaining.

* Large canvas awnings and pergolas of a white or plain colour may be approved and used successfully to create a friendly, casual atmosphere as well as assisting in lowering large building masses.

The Committee does not encourage the following:

* Spanish style arched windows, although shallow arched colonnades in conjunction with thick walls would be considered .

* Multi-paned windows.

* Bulky precast concrete balustrades.

* Pediments, cornices and decoration which seek to establish a predominantly Victorian or Federation character.

- Non-functional louvre shutters fixed to walls on either side of the window.

4.1 SITING CONSIDERATIONS

The siting of each home should be such that it should enhance the general streetscape. Each residential development including garages, should be sited with a view to enhancing and/or preserving the privacy and solar orientation of an adequate area of private open space for the added comfort of its occupants.

4.2 MINIMUM SETBACKS

In streets of a width of no more than 7.5 metres the minimum setback from the front boundary is 4.5 metres including garages which have their door perpendicular to the street. Garages which face the street must have a minimum setback of 6 metres from the street to accord with Great Lakes Council regulations.

The rear setback for any lot with absolute frontage to any waterbody or golf course is 5 metres from the rear boundary of the lot in accordance with the Community Association Guidelines.

Residential floor levels of any dwelling are not to be lower than R.L. 2.55 to comply with Great Lakes Council's minimum floor height measured against Australian Height Datum.

Certain lots feature a zero side boundary set back for dwellings, and lots adjoining a zero boundary lot require a 1.5 metre set back from that boundary. The Community Management Statement and/or Neighbourhood Management Statement contain details of all lots burdened or benefited by these innovations.

4.3 DRIVEWAYS

Access to each property off the street shall be via a single driveway of maximum width 4m and minimum width 3m and sited no less than 0.5m from either side boundaries.

Single driveways may widen into double driveways once the property boundary has been transversed.

Driveways are to be constructed from either gravel with brick edging or from a selection of clay or brick pavers or stamped concrete or concrete capped with coloured oxide or any other material acceptable to the Review Committee.

4.4 GARAGES

In order to maintain the concept of a collection of forms, the Review Committee encourages garages to be designed and sited as a single form attached to and built of the same materials as the main residence although consideration will be given to an independent (separate) form where the architectural style is complemented.

If more than two garages are required they should be sited so that no more than 2 garages are constructed in one line. Where garage entry doors face the street the garage must be positioned at least 6.0 metres back from the street frontage to accord with Great Lakes Council's planning code.

Maximum Garage Size

1 car garage - 3.5m x 6.5m
2 car garage - 6.5m x 6.5m

4.5 CARPORTS

Carport designs must be sympathetic to the design of the residence, and attached to the main residence or garage and constructed of similar materials, to the materials used on the main residence.

Carports are only to be only utilised for the garaging of cars. The Community Association will not permit carports to shelter boats, caravans, trailers or the like, or to be used for any other storage purposes.

Carport structures should be designed as an integral part of the residence. Trellis walls and pergola roof structures will be allowed at the discretion of the Review Committee as long as the structure is seen to complement the forms of the residence.

4.6 BOATS, CARAVANS, TRAILERS

Boats, caravans, trailers or the like are only to be housed in garages or totally screened from the streetscape.

4.7 ANCILLARY STRUCTURES

Ancillary structures like garden structures, gazebos or the like are to be sited and designed in accordance with the Landscaping Considerations. All garden structures are subject to the approval of the Review Committee.

Independent garden sheds are not permitted, the Review Committee will require storage facilities for garden tools and accessories to be included in the overall design of the residence and/or garage.

4.8 FLOOR AREA

The gross floor area (square metres) for residences including garages but excluding any other ancillary structures shall be as follows:-

For lots less than 550 square metres in area the minimum floor area will be 130 square metres.

For lots greater than 550 square metres in area but less than 801 square metres in area, the minimum floor area will be 155 square metres.

For lots greater than 801 square metres in area but less than 1000 square metres in area, the minimum floor area will be 180 square metres.

For lots greater than 1000 square metres in area, the minimum floor area will be 250 square metres.

The maximum site coverage should not exceed 60% of the total site.

Lots measuring 14 metres wide (or less) and other specific lots specified in the Community Management Statement and/or Neighbourhood Management Statement will generally be limited to single level dwellings, however, approval may be given to residences on smaller lots where additional living space is substantially incorporated into the roof form of the residence and/or the design of the dwelling is considered to be in keeping with other residences in the precinct. All residential lots are limited to dwellings of no more than two levels in height.

4.9 DUPLEXES

No strata titled or separate titled duplex or dual occupancy residences will be permitted other than on lots specifically designated for same, (refer Community Management Statement and/or Neighbourhood Management Statement) but approval may be given to a residence which incorporates a flat or flatette for use of the family members.

4.10 AWNINGS

Large canvas awnings that blend in and complement the architectural style of a home are permissible provided they are of a conservative colour such as white, or bone, or any other sympathetic plain colour as may be approved by the Review Committee at their absolute discretion.

4.11 BALCONIES

Balconies adjacent to the upper floor of a two storey residence should extend for the width of the adjacent room, and should be of a proportion strictly in keeping with the scale of the building.

Generally it is preferable that balconies be sited on the elevation with the best view (e.g. over a golf course, reserve, or waterbody). However if the orientation is such that a balcony is required on the street side, it would be preferable if it was integrated into the roof form and did not have transparent balustrades.

Balustrades generally should be of timber or steel construction of a simple design. Balustrades featuring elaborate cast iron lace work, fret work, precast concrete posts or other ostentatious decoration would not generally be considered appropriate.

4.12 AIR CONDITIONING UNITS

Air conditioning equipment must be located behind the building alignment and located in such a position that it is not visible or audible from any neighbouring property. All air conditioning units must be located below the roof line and be painted to match the surrounding construction.

When making an application to the Community Association for the installation of an air conditioning unit with or separately to the original building application, the applicant must include details of the precise location of the equipment with respect to the dwelling, property boundaries, adjacent dwellings and the adjacent property's windows and doors. Noise pollution is of particular concern and air conditioning contractors must be able to guarantee the performance of the unit proposed within certain predetermined noise limits.

4.13 CHIMNEYS AND FLUES

Chimneys or flues must be generally of brick or metal and where appropriate include the relevant additional fittings such as spark arrestors and wind vanes.

All chimneys should be unadorned, non-ornamental and painted a colour to accord with the rest of the structure and be built no higher than the minimum requirement necessary for operational efficiency.

Chimneys should be of the same or similar height to other existing chimneys or flues in neighbouring dwellings or throughout the Myall Quays Estate generally; and of such design that no external visible means of bracing or support is required.

4.14 SOLAR COLLECTORS AND HOT WATER UNITS

Hot water units should be architecturally integrated with the dwelling.

An application for the installation of solar collectors whilst encouraged, will only be considered against the following criteria:

* solar collectors on pitched roofs must lie flat on the roof such that the top edge of the panel is parallel with the roof ridge line;

* no part of the installation should project above the line of the roof ridge;

* support brackets, frames and any exposed pipework should be painted to match the roof colour; and

* all major pipe runs, storage tanks, wiring and control devices should be concealed and should not be visible from the street.

* solar hot water systems should be of the remote tank type, non-integrated, with only the solar panels located on the roof.

4.15 SKYLIGHTS AND VENTILATORS

Roof mounted skylights and ventilators should, where possible, be placed on the roof plane least visible from the road and adjoining dwellings and should not project at any point above the roof ridge line.

Skylights (with the exception of light transmitting sections) and Ventilators should

be painted to match the roof colour and be unobtrusive and appropriate in size for the use and location.

Generally, the wind powered variety of ventilators will not be approved due to their relatively large size, difficulty in painting and the height at which they are required to be installed to operate efficiently.

4.16 SECURITY ALARMS

Security devices are permitted on the basis that they do not detract from the design intent or integrity of the dwelling or neighbourhood.

Security devices such as sirens, strobe or flashing lights should be the minimum size necessary and located as unobtrusively as feasible and programmed so as not to cause undue adverse affect to neighbouring property owners.

4.17 SECURITY DOORS AND WINDOWS

Approval for the installation of any security doors or windows, must be obtained from the Review Committee. In considering your application the Review Committee will have regard to the following guidelines:

(a) security doors must be finished in a colour complimentary to the dwelling;

(b) sliding security doors must match the full size of the existing glass door they secure and must not detract from or dominate the existing door;

(c) security bars on windows should be installed on the inside of and for the full size of the window and painted a colour to blend with the background.

(d) under no circumstances will metal "block out" shutters be considered.

4.18 EXTERNAL SCREENS

The construction of external light framed screening such as trellises and simple pergolas for visual privacy is generally permitted and encouraged, according to the following guidelines:

* the screen should harmonise and integrate with the architectural style and treatment of the residence;

* the screen should be appropriate to the design and scale of the residence; and

* the screen must be physically and visually attached to the residence.

4.19 SIGNAGE

No signs are permitted to be erected in the Estate without the express written permission of the Original Developer while ever the Original Developer is the proprietor of any lots in the Estates. Signs, hoardings and advertising (whether for product, services or businesses) will not be permitted on any residential allotment, after the last lot in the Estate has been sold by the Original Developer, without the permission of the Review Committee with the exception of signage connected with any exhibition homes erected in any precinct.

Signage advertising the resale of vacant land, or house and land packages, sale or lease of community facilities or property, may not be erected on any allotments without the prior written consent of the Original Developer for so long as the Original Developer is engaged in developing any land in Myall Quays.

Temporary signage advertising the sale or rental of a dwelling may be approved by the Original Developer provided that the application is for no more than one sign and the sign measures no larger than 900mm x 600mm. This sign must be removed immediately upon the transaction being completed.

4.20 COLOURS

Approval to re-apply existing colours, utilising the same or similar specification paint, is not required.

Approval to vary the colour or type of paint previously approved will be required to be granted by the Community Association, such approval not to be unreasonably withheld. However, each proposal will be considered on its merits and will take account of the fact that the proposed colours and materials must be within the colour palette appropriate to the neighbourhood.

Any application to vary the existing or approved schemes should include:

* Sample chips or cards indicating the proposed new colours, and those to be retained.

* A clear and concise schedule of the repainting proposal.

* Colour photographs clearly showing the existing remaining colours.

* A specification of the material to be used.

5 ENERGY EFFICIENCY

Residents in Myall Quays are encouraged to give consideration to energy efficiency during the design stage of their residence. There are a number of publications available through the Energy Information Centre 18 Hickson Road, The Rocks, Sydney (02) 247.1144 which provides comprehensive and practical information. In particular this centre can provide literature which discusses how to maximise building design for energy efficiency, including climate factors, site location, landscaping, layout and construction methods. The benefits of energy efficient design are year round comfort, low energy bills and homes that do not require air conditioning.

Some specific features to be considered in designing an energy efficient residence are:-

* Windows in the largest daytime living area of the house should where possible face north.

* Window sizes should follow guidelines which depend on their orientation, the location of the house, glass type, shading and the amount of thermal mass (heavy building materials) used inside the building. The thermal mass depends upon the type of walls and floor used.

* Dwellings should have adequate ceiling and wall insulation, with a suitable R-value.

* Fixed ventilation and air leakage characteristics should not exceed given levels.

Design techniques or passive systems are an integral part of any energy efficient design, which will allow the energy from the sun to heat the residence in the winter months.

The five basic principles of passive solar design which should be considered are:-

1. Mass - amount of concrete or brick used.

2. Orientation - maximum benefits at 90° true north

3. Insulation - the thermal performance of the building.

4. Co-operation - environmentally sympathetic materials & colours.

5. Breeze ways and landscaping - spatial design to promote breezes and provide areas which can be closed off during winter.

5.1 FIVE STAR DESIGN RATING - HOW IT WORKS

The C.S.I.R.O. Division of Building Research have developed a Five Star Design Rating award. The award indicates a standard of excellence in home design and construction and is awarded by the National G.M.I. Council based on the recommendation of the examining body, the Office of Energy in New South Wales.

In a Five Star home the principles of energy efficiency as developed by the C.S.I.R.O. Division of Building Research are incorporated to provide real benefits. Homes are cooler in summer and warmer in winter, but without high energy consumption. By the planned use of insulation, glass, building materials and special design features, the best use of the local climate can be achieved.

Winter sun entering a Five Star home brings valuable warmth plus brightness to the interior. At the same time summer sun is excluded, thus greatly reducing unwanted heat.

The zoning of Five Star homes allows areas of the home to be used for different purposes, without interference. Since most Five Star homes feature sound proofing masonry walls around the living area, the children can sleep while their parents entertain.

5.2 FIVE STAR DESIGN RATING - AESTHETICS

The Five Star Design Rating was developed to allow for the practical and inexpensive use of energy efficiency principles in houses whilst ensuring that these homes retained aesthetics that made them attractive to home buyers.

Homes that meet Five Star Design Rating standards normally use traditional construction methods and can be designed in a variety of styles.

5.3 FIVE STAR DESIGN RATING - FEATURES WHICH MAKE IT UNIQUE

The design principles of Five Star Design Rates homes are elegantly simple. Three basic elements; glass, mass and insulation are used to ensure levels of comfort, value and energy efficiency in the home. This means that most methods of construction can be used to achieve the Five Star Design Rating.

The importance of each element varies from place to place. Good home design uses a proper balance of glass, mass and insulation that suits local climatic conditions and helps achieve superior energy efficiency and comfort.

Glass

Windows are sized and situated to make the most of solar energy and light collection and to control heat loss and gain.

Mass

Heavy building elements inside the home, such as brick walls and concrete floors, play an important role in moderating temperatures, thus maintaining comfortable air temperatures in all seasons.

Insulation

The correct use of insulation reduces unwanted heat flows all year round. The Five Star Design Rating is the home buyer's assurance that the walls and ceilings contain appropriate levels of insulation.

Room Orientation

The temperatures throughout a house vary due to differing amounts of exposure to the elements. The north side of a house tends to be warmer in winter because of greater exposure to direct sun, but can be easily shaded in summer by horizontal shading devices such as wide eaves, pergolas, verandahs or awnings.

West facing rooms tend to be cooler in winter, but can be hot on summer afternoons. East facing rooms receive morning sun in winter, and they tend to heat up quickly on summer mornings. East and west windows are more difficult to protect from the summer sun as the summer sun is much lower in the sky.

South facing rooms tend to be cold in winter as they receive no direct sun and often face prevailing winds. However, they are cool in summer even though they may receive some early morning or late afternoon sun.

5.4 QUESTIONS AND ANSWERS

How does the Five Star Design Rating take advantage of room orientation?

Locating the main daytime living areas (including the kitchen) to the north keeps these rooms warm in winter, but these rooms will in turn require protection from the summer sun simple shading. Other living areas used less often might face north, south or east in areas with long, hot summers. These areas which are away from the sun's heat and the heat produced by cooking activities, provide a cool haven on summer afternoons and evenings.

If the living areas of a home cannot be orientated to face due north, can a Five Star Design Rating still be obtained?

Under the Five Star Design Rating Scheme all living areas of a home should be oriented between 30° east of true north and 20° west of true north.

What are the criteria for the Five Star Design Rating?

The criteria for the Five Star Design Rating are a balance of energy efficiency and comfort with practical design and construction requirements. Five Star Homes are comfortable all year round, have low energy bills and don't need air conditioning. The Five Star Design Rating criteria are designed to make this possible at a minimum additional cost.

The following features contribute to a Five Star Award Rating:

* Windows in the largest daytime living area of the house must face a northerly direction.

* Window sizes must follow guidelines which depend on their orientation, the location of the house, glass type, shading and the amount of thermal mass (heavy building materials) used inside the building. The thermal mass depends upon the type of walls and floor used.

* Windows must have adequate shading devices and internal coverings, depending on their orientation.

* Houses must have adequate ceiling and wall insulation, with an R-value suitable for the location.

- Fixed ventilation and air leakage characteristics must not exceed given levels.

How can a Five Star Design Rating appraisal be obtained?

There are essentially two ways:

Approved Design Rating:

House designs can be appraised at drawing board stage and be given an "Approved Design Rating". This means that any home can be designed to meet the Five Star Standard of Performance.

Houses Of Approved Design:

Homes do not automatically receive the Five Star Design Rating when they are built to an approved design. Before final Ratings are issued, inspections are carried out by the examining body to ensure homes meet Five Star Standards.

Can all types of construction qualify for a Five Star Design Rating?

Yes, with appropriate design, orientation and insulation, all conventional forms of construction can be used in a Five Star home. The Five Star Design Rating is more easily achieved in some forms of construction than others, and the local climate will greatly influence this, thus before a house or design receives a Five Star Design Rating, the location of the home must be known.

Notwithstanding the wide variety of materials that can be used, research carried out by the C.S.I.R.O. Division of Building Research has shown the importance of introducing thermal mass into buildings to stabilise air temperatures, particularly in the summer.

Is full brick construction necessary to meet Five Star Design Rating criteria?

Full brick construction provides the optimum in energy efficiency and thermal comfort because it provides the highest level of thermal mass of the various types of construction. However, The National G.M.I Council has developed the concept of Masonry Core construction to enable brick veneer houses to have sufficient thermal mass to achieve the performance needed for the Five Star Design Rating. Masonry core construction (which is where some of the internal walls are made of masonry) and the selective use of hard floor coverings allows the designer flexibility on how much mass to provide inside a Five Star home.

How much extra does a Five Star home cost?

The Five Star Design principles make it possible to build energy efficient homes at little extra cost when compared to other homes. For many builders, their standards of construction already exceed the minimum Five Star Design Rating requirements, and the only new aspects are often design considerations and the use of wall and ceiling insulation. Five Star home owners save considerably on energy bills as their heating and cooling requirements will be much smaller. This adds up to big savings, year after year.

Will a Five Star Design Rating add to the resale value of a home?

Yes. The Five Star Design Rating is a major selling point that guarantees the potential buyer that your house offers superior comfort, value and efficiency.

In the USA, homes with the "Thermal Crafted" endorsement have 9% higher resale values than other houses of equal size, according to the National Association of Realtors. Similarly, Five Star homes in Australia are expected to bring higher resale prices.

How much money will be saved on energy bills in a Five Star Rated home?

Five Star Homes require less heating and don't need air conditioning. It is difficult to state precisely the level of energy savings that will be achieved in practice. However, comparisons can be made between the energy consumption and bills of Five Star and non-Five Star homes to achieve the same standards of comfort. Savings of up to 89-90% should be possible on combined heating and cooling costs.

Since much less heating or cooling is required, much less capacity is also required from heating and cooling appliances in a Five Star home. This could be expected to reduce the installed costs and maintenance costs of the appliances by around 50%. However, because the accuracy of these calculations depends on many factors no guarantee can be given as to the actual cost savings which can be achieved with a Five Star home.

Where is more information obtained from to assist with house design?

A technical design advisory service is available. Contact the Energy Information Centre for more information. Their address is 18 Hickson Road, The Rocks, Sydney (Phone (02) 247.1144).

5.5 ENERGY CONSERVATION.

The Energy Information Centre offers a wide range of services to the public on such matters as:-

* Saving energy in the home.
* Energy efficient building.
* Appraisal of building plans for energy efficiency.
* Five Star Design Rating appraisals of new homes.
* Insulation.
* Home heating and cooling.
* Water heating.
* Buying energy efficient appliances.
* Using solar energy
* Electrical safety
* Energy and the Environment

6. WATER CONSERVATION

As the cost of reticulated water is likely to continue to escalate under the now widely accepted user pay principle, it is important that all owners incorporate as many water saving devices as possible into their home and garden landscaping.

If careful thought is given to water saving devices at the design and building stage, substantial cost savings will accrue to owners over the years ahead.

With these potential savings in mind, owners should:

* Incorporate water conservation planning into the design of the internal plumbing systems within their home;

* Seek out water minimising appliances and devices, including shower heads, dishwashing machines, clothes washing machines, tapware and water closets;

* Install clothes washing machines that feature suds saving cycles;

* Consider the most efficient size of baths, shower baths, sinks and basins to reduce waste;

* Use modern pipe materials and jointing methods to minimise breakages and leakages in any water supply pipework installed in the garden or house;

* Avoid the use of inefficient or wasteful appliances such as insinkerators and other water using waste disposal units, hot water storage systems that overheat and small capacity undersink instantaneous hot water boiling units.

7. LANDSCAPE CONSIDERATIONS

PRIVATE ZONES AROUND THE HOUSE

Several zones can be identified around the house,

* Entry courts
* Outdoor rooms (Rear yards)
* Service yards and
* Interface zones to a waterway or open space

Each can be used as part of a sequence for the user, which leads and builds toward a climax i.e. the entry point to the house or specific use zones around the building such as outdoor entertainment areas.

Entry Courts

As part of this sequence, plant materials can play a major role by increasing colour and detail from common street areas toward house entry points, creating a sequence through the landscape, and heightening the experience of the architecture and entry. This approach will also provide a basis for selection of hard landscape materials, i.e. driveways and pathways.

Plant materials should be selected on the basis of space available with an emphasis on contrasting foliage size, colour and texture. They should relate to plantings in the street and park landscaping but in no way be restricted to this selection only. Diversity around each home is important to the overall streetscape.

Classified weed species such as Lantana and Privet are not permitted.

Outdoor Rooms (Rear yards)

Rear yards must be well maintained and kept in a tidy state particularly when they can be viewed from any waterway, golf course or park. Rear yard plantings and surface treatments should thus draw from the informality of the surrounding bush while closer to the home there can be more structure and introduced order.

In considering a design for these areas, retention of views out from the house to any waterway or other open space coupled with provision for a measure of privacy to the user is highly desirable. Shrub planting to 1200mm high and small to medium sized trees should be included in the rear yards to maintain privacy to user areas and at the same time allowing exposure of the architecture of the

home to the waterways or other open space. The use of medium to large shrubs, i.e. 2-4m should be kept to a minimum.

The inclusion of family structures such as cubby-houses, trampolines, swing sets etc. should be thoughtfully and carefully planned into the structure of the gardens. These elements must be screened from views so as not to detract from the overall concept.

Service Yards

It is suggested that all clothes lines, air conditioning compressors, garden maintenance equipment, compost bins, vegetable gardens, pet enclosures and the like are located in a screened Service Yard. Initial screening must be structural, i.e. lattice panelling or masonry walling, which can be softened over time by the introduction of shrubbery or climbing plant material.

Interface Zone to a Waterway or Open Space

Any existing or newly planted vegetation beyond the boundary line can play an important role in the relationship between house lot and surrounding areas and must not be interfered with by the individual home owner.

Stands of endemic Melaleuca and Eucalyptus species may be maintained in the interface zone between property boundary and any waterway or area of open space by the Community Association to promote a naturalistic setting. Planting of this vegetation would generally be limited to areas of the Community property in the vicinity of the side boundary of any property so as not to impact on views out from homes adjoining any waterway or area of open space.

Removal of Plant Materials

Permission must be sought prior to removal of any significant vegetation from the site, i.e. trees with calliper diameter of greater than 200mm. Removal of any trees, (or damage thereto), without permission from Great Lakes Council may result in severe penalties.

SITE ELEMENTS

Hard elements in the landscape such as walls, fences, decks and structures play an important role in the character development of the estate. In the outdoor room to the rear they can also impact significantly on the views of the home from

any adjoining Community property. It is therefore important to control the impact of these elements for the benefit of the whole community. The following sections outline the control and the intention behind the control.

Decks and Terraces

To avoid the potential for unsightly storage areas which inevitably result under timber decks, level areas outside the home used for formal or informal entertainment shall be constructed in pavement or for situations up to 1m off natural ground, timber decking with masonry walls to the perimeter of the deck.

Walling pertaining to these areas shall be constructed from rendered brickwork or materials to match the detailing of the particular house concerned.

Garden Structures

The Committee does not encourage ornamental structures such as arbours and gazebos with fussy detailing. Functional structures such as pergolas, (either attached to or detached from the house) are permissible but should be detailed sympathetically to the architecture.

Suitably sized timber members shall be used to reflect permanence and solidity, for example, posts should be a minimum 100mm x 100mm.

Side Fences

Side boundary fences are to be located no further forward than one metre back from the front of the dwelling and 5m from the rear boundary. Permissible materials are lapped and capped (C.C.A.) treated, timber palings, bagged and painted brick or brushwood or any other material approved by the Review Committee.

To assist Koalas that frequent the area to travel safely throughout the Estate each proprietor/owner shall immediately upon the erection of any fence of a height above 0.8 metres fully enclosing any part of any lot, fit securely to the inside of any side fence in an upright position, square lattice panels no less than 1.5 metres x 1.5 metres in size, the spacing of which shall not be less than 10 metres apart around the perimeter of the fence.

Fences Abutting any Waterway or Proposed Waterway

From the waterway it is important that solid fences do not dominate the yard space of the property and all fencing is consistent with the desired character of the Estate. If any fence is required to be constructed on any property facing any waterway or proposed waterway, permissible materials are powder coated aluminium "looped" pool fencing of a height not in excess of 1.2 m of a colour designed to tone in with the colour of the external walls of the home. No fence across a property abutting a waterway or proposed waterway is permitted to be erected closer than five (5) metres from that boundary.

Solid Colorbond fencing is not permitted.

Where allotments are adjacent to public walkways or public open space (Community or Neighbourhood Property) and fencing has been previously provided, the materials and construction of the fence cannot be altered except with the approval of the Community Association.

Front Fences

Residents will be permitted to erect a front fence parallel with the street fronting their property provided this fence is set back 1.0m from the front property boundary. All front fences will be subject to the approval of the Review Committee and residents will be encouraged to plant hedges on the side of the fence facing the street.

Fences constructed forward of a dwelling must not exceed 800mm in height and must extend down each side boundary to adjoin the side boundary fence which shall be located 1m back from the front of the respective building alignment.

Swimming Pools

The Committee encourages swimming pools to be sited in the back garden or on the sunniest side of the house. If for reasons of orientation a pool is required on the street side of the house it should be integrated into the design of the house so that the pool is within a walled courtyard or a glazed conservatory or located in some other fashion so it is not visible from the street.

Care should be taken in the siting of the pool so that the rear garden is not fragmented by fences – ideally the pool should be located adjacent to the house as an outdoor space leading from the house – possibly to one side so that a landscaped garden can extend to the rear of the property.

Pool equipment housing shall be sited discreetly and its housing detailed to relate to the house architecturally. Pool surrounds shall be stone, terracotta tile, or brick to match pavements used around the house. Pebblecrete and untreated concrete finishes will not be permitted.

Each design will be subject to the approval of the Review Committee. However certain preferred guidelines include:

* Generally pools are to be sited in the rear garden.

* Where lots face north and it is appropriate to locate the pool in the front yard the pool must be screened from the street with a brick fence of an approved design 1500 mm high and such fence shall not be forward of the designated building alignment.

* "Above ground" or "inflatable bubble" pools are not permissible.

* Glass enclosures are not permissible unless the enclosure forms part of the house.

* All pools are to be fenced in accordance with Council's requirements.

* Adequate provision is to be made for housing pool equipment and accessories and appropriate noise elimination measures must be taken.

* An approved ladder to enable a Koala to escape from the pool must be fitted permanently to the pool.

Tennis Courts!

As tennis courts will be provided within future stages of the estate, no private tennis courts will be permitted. This will also ensure that no lights and sounds from private courts will disturb the neighbourhood.

PLANTING APPROACH

Planting Plans

The Review Committee would prefer a Landscape / Planting Plan for each new home to be presented prior to commencing construction, and written approval of all landscaping work must be obtained from the Review Committee. Preferably all work should be completed before occupation of the dwelling. The

Landscaping should be designed to complement and draw from elements expressed in the streetscape landscaping.

Massing of quantities of appropriate materials to achieve colour and textural interest should be used in preference to a few plants of many species. Such an approach will create a unified garden setting which over time can increase in diversity as the structure establishes itself and niches are found for other detail plant materials.

It is useful to consider the garden as a painting with splashes of greens and colour.

Plant Materials

Ultimate sizes of plant materials should be considered when selecting and positioning materials on plan. Trees selected for front yards are not to exceed 10m in height so as not to overpower trees in the streetscape.

Particular attention should be paid to soil conditions when selecting plant materials.

A detailed list of appropriate trees and shrubs together with a maintenance schedule may be obtained from the Review Committee.

Boat Ramps

As boat ramps will be provided within future stages of the estate, no private boat ramps will be permitted. This will also ensure that no lights and sounds from private ramps will disturb the neighbourhood

Jetties and Pontoons

Refer to Community Management Statement and/or Neighbourhood Management Statement.

INTERPRETATIONS AND EXAMPLES

The purpose of this document is to provide clarification of the Architectural & Review Committee's direction in terms of the architectural theme of homes in the Myall Quays Estate in Tea Gardens. (See Section 4, P.10 in the Myall Quays Estates – Architectural & Landscape Design Guidelines).

The Architectural & Review Committee wishes to clarify terms and illustrate acceptable design criteria in terms of massing, roof pitch style, siting and setbacks for homes as detailed in the Architectural & Landscape Design Guidelines.

MASSING (4.(i))

Two storey homes should be a collection of forms, not a mass or block style.

For unacceptable design – (refer "A Block of Mass" Illustration 1)

For acceptable/encouraged design – (refer "A Collection of Forms" Illustration 2)

TWO STOREY HOMES

- No two storey home is to have an unbroken gutter/fascia line the width of the home to the rear of the home, which faces any waterway or reserve (refer Illustration 1 for unacceptable design, and Illustration 3 for acceptable/encouraged design)

- No two storey home is to have a continuous gutter/fascia line on the upper level greater than 8 metres in any length. This could be broken up by the use of gables or preferably projections of parts of the roof (refer Illustration 2 for acceptable/encouraged design).

- The "insetting" of upper levels of homes is encouraged to create a collection of forms (refer Illustration "3").

ROOF PITCH

A roof pitch of a minimum of 30 degrees is the standard acceptable roof pitch for construction in Myall Quays.

Any variation or request for a reduction of the pitch of the roof will be considered only when the home design has any roof truss length exceeding 14 metres. In such a design the Architectural and Review Committee will consider a reduction of roof pitch based off elevations and/or perspective drawings that may need to be supplied with any such request. No home plans will be approved with a roof pitch less than 26 degrees.

ROUND ROOFS

Home designs with a rounded main roof will be considered for approval.
However such approval will be at the sole discretion of the Review Committee, and may require the owner to supply elevations and perspective drawings.

MINIMUM SETBACKS – TWO STOREY HOMES

Where the upper level of any two storey home is inset from the lower wall, the upper level walls must be a minimum of 3 metres from the side boundary. In this case, lower level walls may be as close as 1.3 metres to the side boundary (refer Illustration 5(a)).

Where there is a two storey high wall facing any side boundary, that part of the dwelling must be at least 3 metres from the side boundary of the lot. This is to enhance the light to, and privacy of. adjoining owners (refer Illustration 5(b)).

Two storey homes can only be erected closer than 3 metres from the side boundary of the lot when the upper level of the home is setback a minimum of 3 metres from that boundary (refer Illustration 5(b))

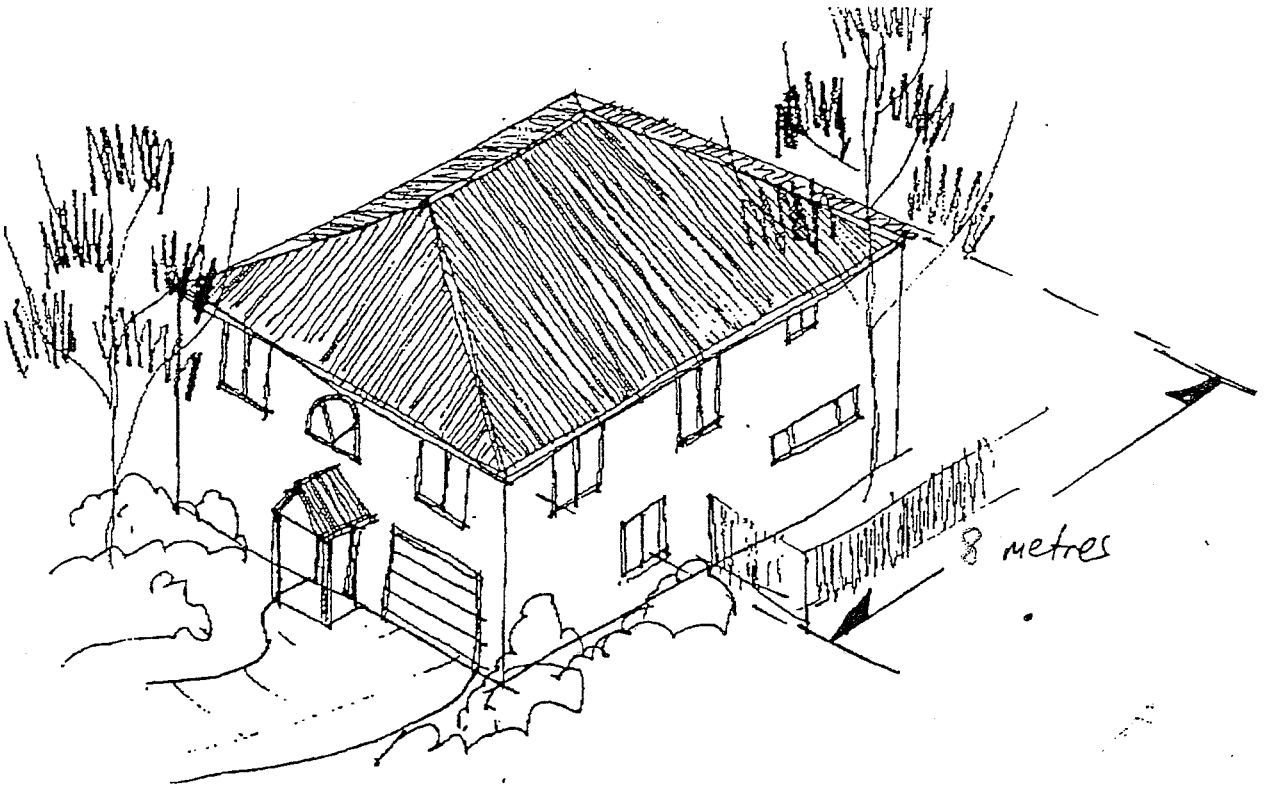


ILLUSTRATION 1.

"A BLOCK OF MASS"
(Unacceptable Design)

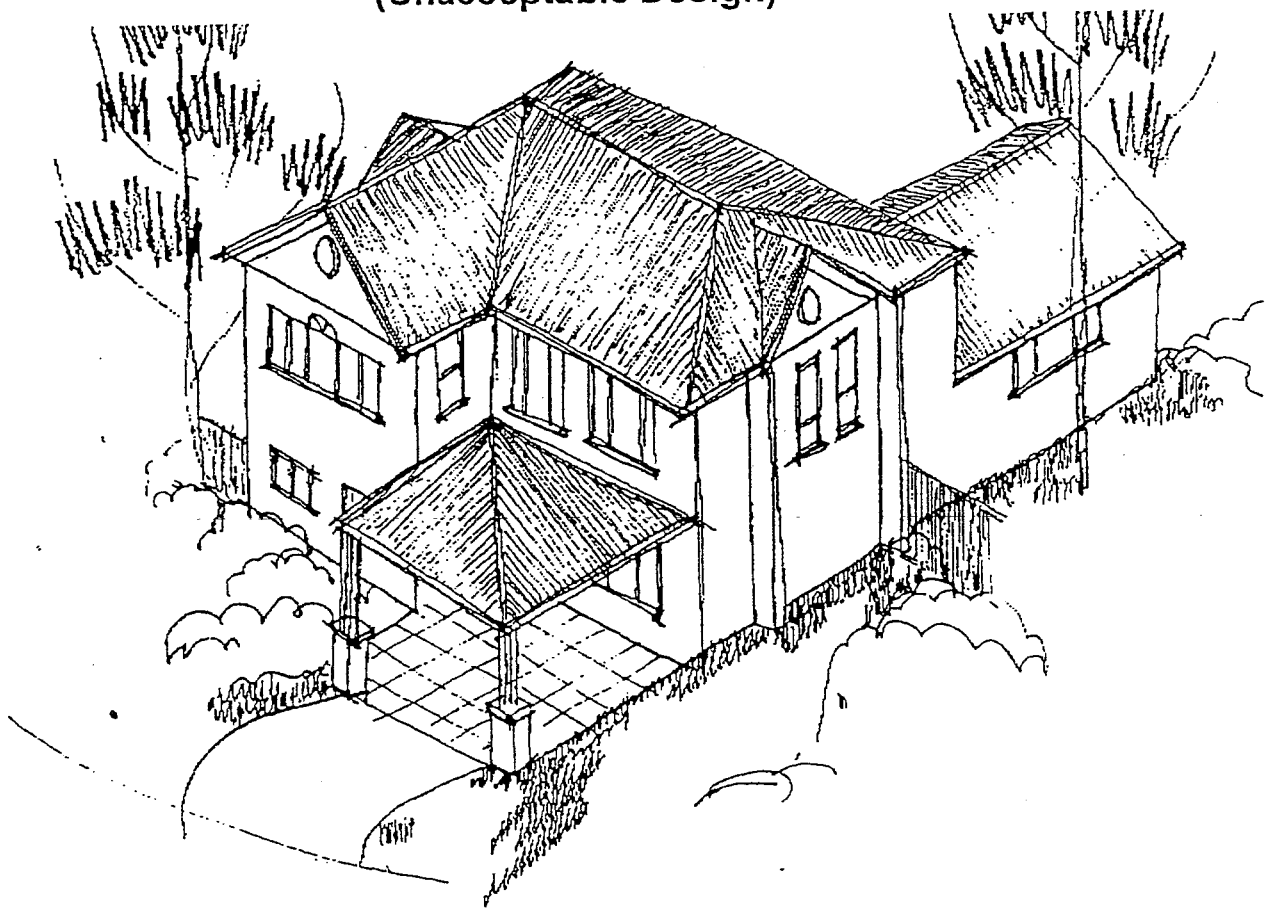


ILLUSTRATION 2.

"A COLLECTION OF FORMS"
(Acceptable/Encouraged Design)

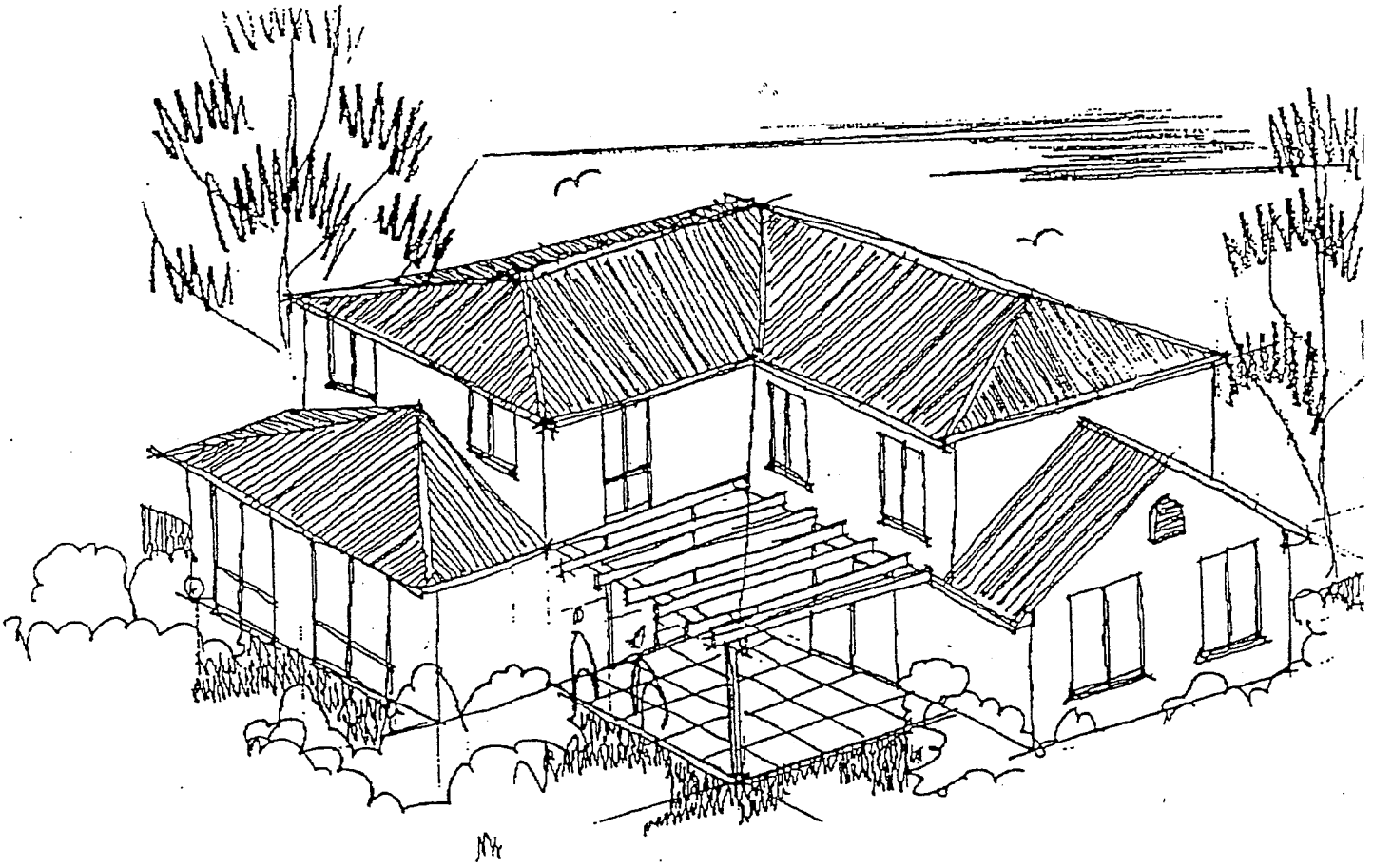


ILLUSTRATION 3

"A COLLECTION OF FORMS"
(Insetting of Upper Levels Encouraged)

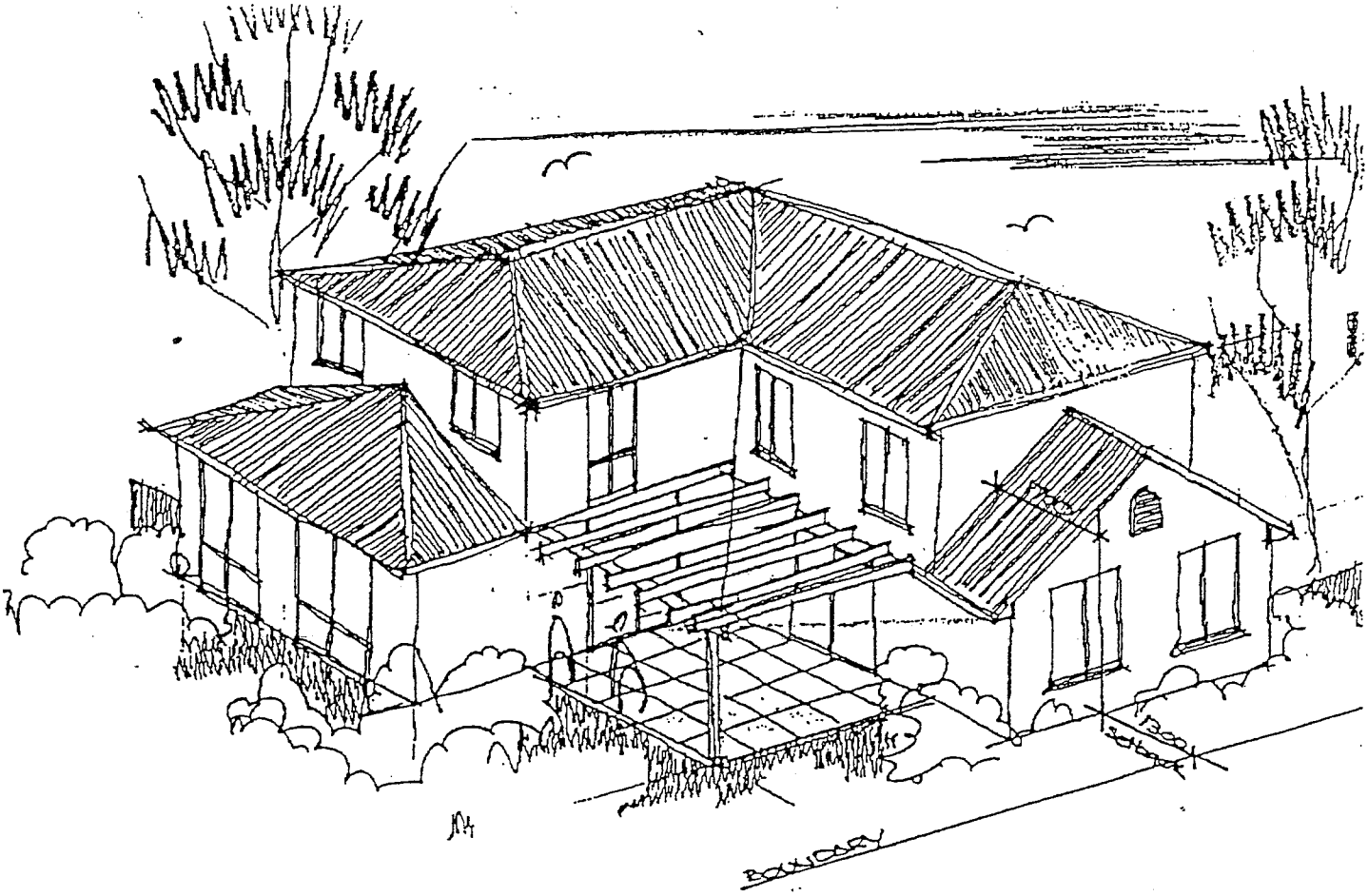


ILLUSTRATION 5(a)

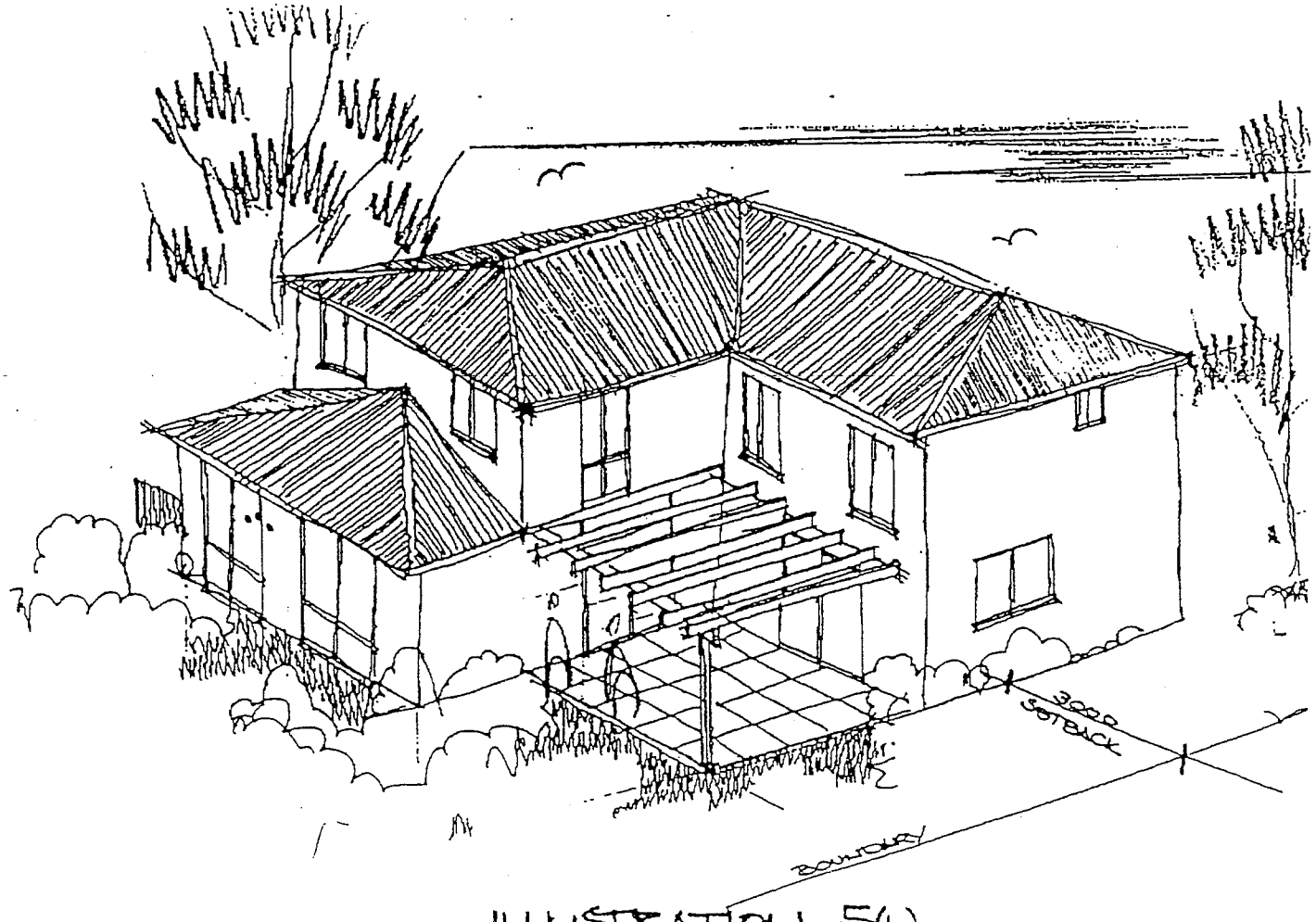
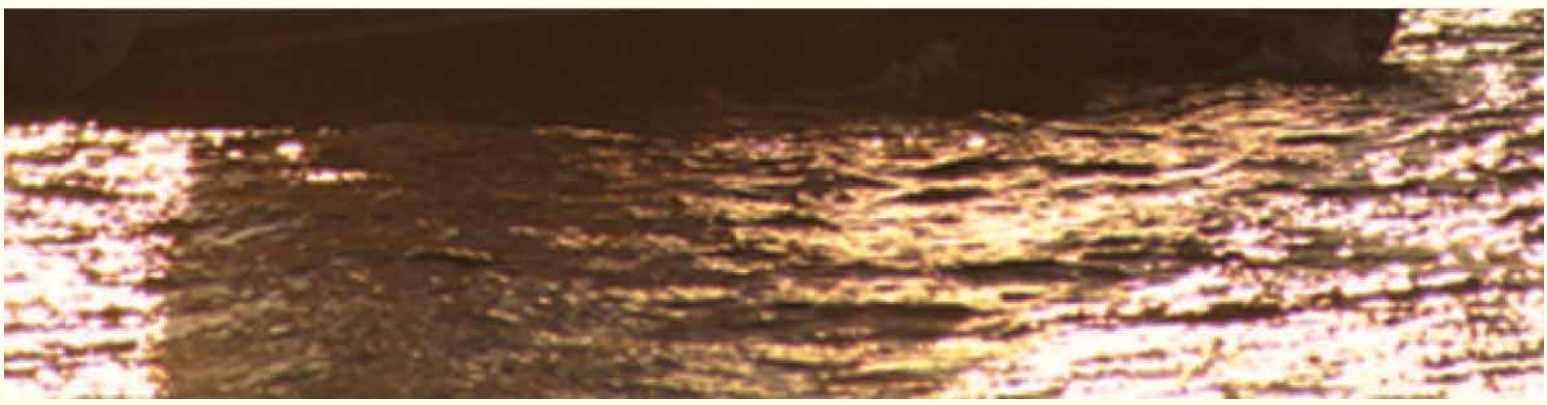


ILLUSTRATION 5(b)



Myall Quays Estate

Architectural Guidelines



Architectural Guidelines

An introduction to the architectural and landscape design guidelines of Myall Quays.

The Development of Myall Quays provides a unique oppurtunity to formulate architectural and landscape design guidelines that will assist property owners to construct homes which are distinctive, innovative and will provide the occupiers with enhanced privacy and comfort.

These guidelines have been developed to enhance the overall quality and character in Myall Quays and to prvide residents with a quality of life significantly better than they might otherwise enjoy in homes where less care is given to them.

The guidelines elaborate on the restrictions in the Community Association By-Laws and the Management Statement. Creativity is encouraged within bounds of appropriateness, but the Review Committee has established basic standards for Myall Quays with a view to promoting and retaining a harmonious community image and ensuring environmental compatability.

Theme of the estate

Myall Quays is concieved as a leisure oriented residential resort in which it is proposed to include a commercial centre with outdoor restaurants and sidewalk cafes overlooking a large lake known as Myall Cove. Large freshwater lakes together with parks, gardens, and tree lined streets are features which will encourage an idyllic, tranquil lifestyle.

The architectural style of each of the homes within the estate will be encouraged to reflect the theme that has been evolved to achieve a consistant architectural image, one that rflects the casual urbane character of Myall Quays.

The treatment of the theme as a whole should reinforce the feeling that :

- Myall Quays is a well planned and well managed estate.
- A strong Community Atmosphere and identity has been fostered.
- The residential and Commercial development has been designed to blend into the natural environment.
- The waterways and parklands throughout the estate give residents a unique sense of freedom and space.
- The individual homes within the development exhibit an elegant and gracious character.







Attachments

Ancillary structures to be sited and designed in accordance with Landscape and Streetscape Considerations.



✓ Large Canvas Awnings that compliment the style of the home may be approved by the review panel



✗ Hot water systems should be remote tank type with only solar panels on roof



✓ Roof Skylights and Ventilators to be placed on roof plane least visable from the road, must not project above the ridge. They must match roof colour



✗ No Multi pane windows, Fixed shutters to side of windows, or Arched windows



✓ Solar collectors to lay flat on roof below the ridge. All brackets, frames and piping to match roof colour



✗ No bulky pre-cast balustrades



✓ Air conditioning units must be painted to match the building. They are not to be visable from any neighbouring property or from the street. Noise emmissions are to comply with relevant requirements



✗ No Victorian / Federation pediments, cornices or other decoration



✓ Chimneys to be of similar height to other existing chimneys or flues in adjacent area and built no higher than minimum requirement



✗ No television aerials are to be visable from street



✓ All ancillary structures to accord with building setback requirements



✗ No boat ramps, jetties or pontoons

Verandahs and Balconies

Balconies to be in proportion and scale of the building and extend the width of the adjacent room.

✓ If Balcony faces the street, it is preferred that it be intergrated into the roof form

✗ No Bullnose Verandahs allowed

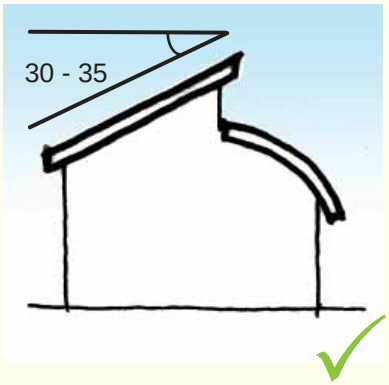


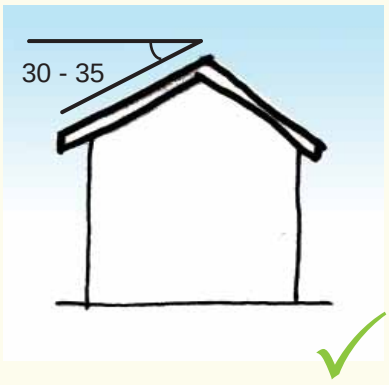


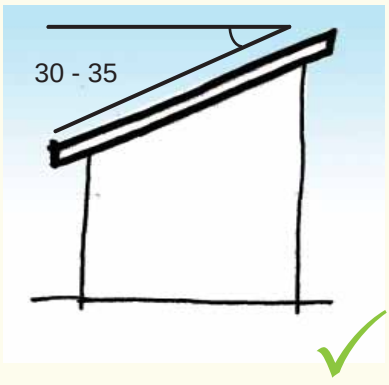
Roofing

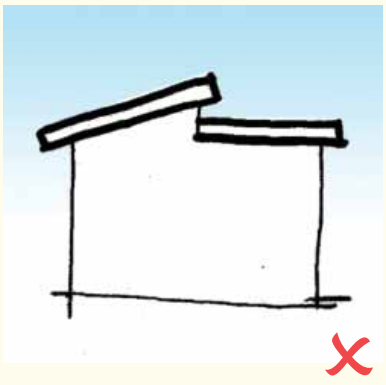
Corrugated metal roofs are encouraged.

- Corrugated metal roofs are encouraged
- Minimum 30 degree and Maximum 35 degree roof pitch
- Curved roofs at a lower pitch may be allowed
- Roof pitch may be reduced for truss lengths over 14.0m
- No flat metal or reflective roofs



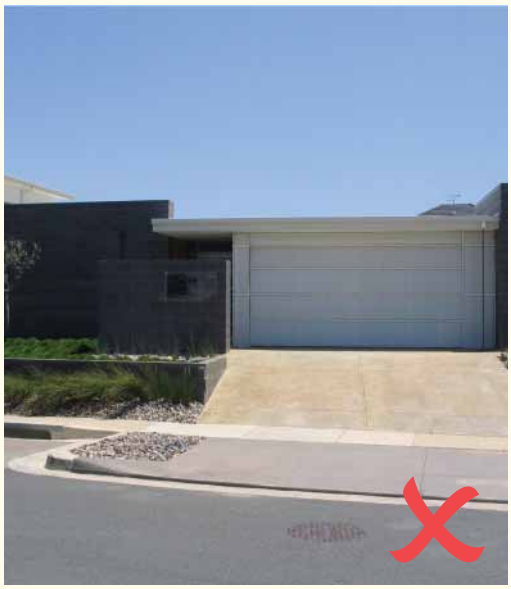












Walls

Walls to be of consistant uniform finish with a limited collection of materials and colours allowed

At least 70% of the total areas of external walls are to be constructed of rendered concrete, brick or brick veneer. The finish to be lime wash, whitewash, bagged or rendered brickwork of earthen or ochre hues, full brick or brick veneer of a conservative character. No mottled bricks allowed







Massing

building form not to consist of a large block, but rather a collection of forms.

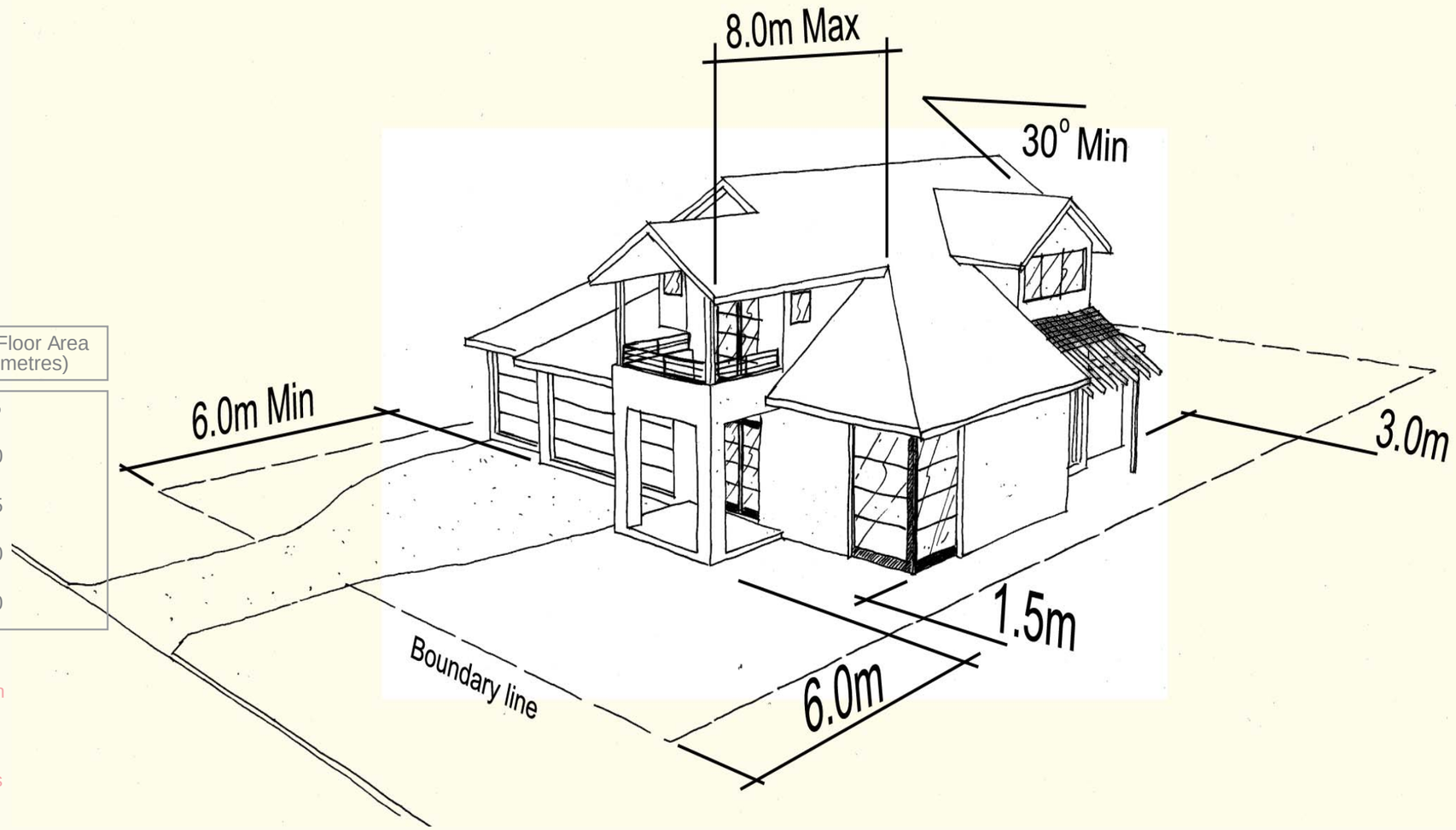
- Building form not to consist of a large block, but rather a collection of forms
- Gutter / fascia lines on the upper level to be less than 8.0m in any length
- Roofs / gutters can be broken up by projections or gables
- Lots less than 14.0m wide generally limited to single storey
- The minimum gross floor area for residences including garages, excluding any other ancillary structures shall be as follows :-

Lot Area (square metres)	Minimum Floor Area (square metres)
< 400	115
400 - 550	130
550 - 801	155
801 - 1000	180
1000 +	250

- No two storey home to have an unbroken gutter / fascia line the width of the home facing any waterway or reserve
- No dual-occupancies allowed, unless lot is specifically designated for that use
- The maximun site coverage should not exceed 60% of the total site

Siting Considerations

Sited to enhance and preserve privacy, solar orientation of private open space and consistance of streetscape.



- All houses to be setback a minimum of 6.0m from the street
- Single storey side setbacks as per B.C.A requirements
- A minimum side setback of 4.5m is required for houses on corner lots
- Two storey homes to have the upper floor setback 3.0m from side boundary. Lower floor walls can be set 1.3m from the side boundaries
- Lots adjoinig a zero setback lot must setback 1.5m from that side boudary
- Any house on a lot adjoining a waterbody must have a minimum rear setback of 5.0m
- Minimum floor level for any house to be RL 2.55
- Houses to be sited to respect the privacy of neighbouring lots
- Windows to be located to respect privacy of neighbouring lots





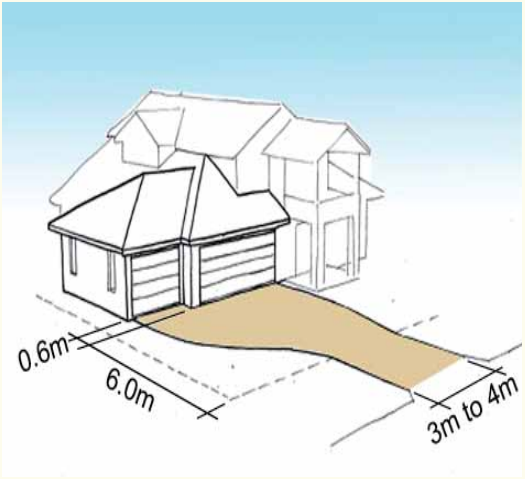




Garages and Driveways

Garages / Carports and Driveways are not to dominate the street

- A minimum front garage setback 6.0m exists when garage faces the street. A minimum setback 4.5m when garage doors are perpendicular to the street
- Maximum garage size 6.5m x 6.5m (double) or 3.5m x 6.5m (single)
- Carports will only be allowed subject to materials and form complying with house structure and required setbacks
- Boats, caravans or trailers to be housed in garages or totally screened from the streetscape behind the building line



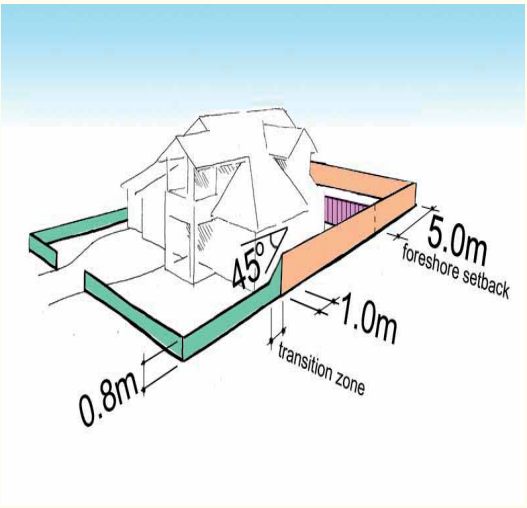
- Driveways are to be a minimum 3.0m wide maximum 4.0m wide, No less than 0.5m from the side boundary
- Driveways can be gravel with brick edging, clay / brick pavers, stamped concrete or coloured concrete
- Driveways to be single driveway width only, can widen to double width once inside the property boundary
- No plain concrete
- Carports only allowed for garaging of cars

Fencing

Fencing to be consistant with neighbouring lots and protect the streetscape.

Front fences are discouraged, however if required :-

- Front fences to be set back 1.0m from front boundary. Must not exeed 800mm in height and extend down side boundary to adjoin side boundary fence with a 45 degree splay trasition. Co-ordination with hedge planting encouraged
- Side and rear boundary fences are to be located no further forward than 1m back from the front of the dwelling (building line)
- Rear fences abutting waterways to be pool type fencing maximum 1.2m high erected 5m from that boundary



- No side or rear fence adjacent a waterway to be constructed within 5.0m of that boundary lots rear
- No colourbond fences allowed



Landscaping

Landscaping designed to complement and draw from elements in the streetscape.

Preferably all work to be completed prior to occupation of dwelling.

Planting plan to be approved by A.R.P

Timber decks up to 1.0m high to have masonary, sub-floor perimeter wall matching the dwelling finish

Pools encouraged to be located in rear yard

Plant massing to be used in preference to a few plants of many species



No above ground or inflatable pools

If pool is located in front yard it must be behind the building line and screened by 1.5m approved fencing

Glass enclosures not permitted unless they form part of house

No tennis courts

General Colour Requirements















Panel and Process

The Review Committee consisting of two Design Consultants nominated by the Original Developer and a Director of Crighton Properties Pty Limited (the Original Developer) has been established as a sub Committee to the Executive Committee ot the Community Association. The Review Committee's role is to ensure that the development preserves and protects the estate in a natural environment and maintains the concept, image and aesthetic quality of the development.

To that end no building, dwelling, accessory building, fence or other structure shall be erected, placed, demolished or altered on any Lot within the community parcel until the proposed design and documentation including site plan, floor plans, elevations, together with details, specifications, external finishes and a constrution program has been approved in writing by the Review Committee.

The Review Committee has created these guidelines for assisstance to those contemplating construction and to provide maintenance and repair guidelines for the Community Association

Preperation & Lodgement of Plans

All applications for the approval of building plans for each new dwelling or other building to be erected, or for any retaining walls above 1.0m in height, must be lodged with an approved by the Review Committee, before any Building Application is made with the Great Lakes Council.

All building plans must be prepared by a qualified Architect or Architectural Draftsperson and must include sample chips or cards or brochures indicating the proposed colours of the bricks, roof and other accessories intended to be used on the dwelling or building. All documentation will be reviewed by the Review Committee for the owner within 14 days. The maintenance of this Committee and the prompt and professional discharge of its duties shall be the responsibility of the Original Developer.

The Review Committee must consider all plans and specifications submitted to it for approval, including but not limited to, all plans and specifications for any new home or landscaping which involves te erection of any retaining wall in excess of 1.0m in height.

No fee is applicable for the submission to, or the obtaining of Review Committee approval. All applications must be posted by prepaid certified post to:

Myall Quays Review Committee,
P.O. Box 38,
TEA GARDENS N.S.W 2324

Alternativly applications can be hand delivered personally to the Original Developers office in Tea Gardens.
The proof of such delivery shall be the responsibility of the applicant.







Location of Myall Quays



- Join the F3 freeway at Wahroonga & head north;
- Don't take the Newcastle exit - Keep Going!!
- At the end of the F3 turn right onto the Pacific Hwy at the roundabout;
- Stay in the left hand lane to take the ramp onto the Hexham Bridge - head towards Taree Via Pacific Hwy;
- Stay on the Raymond Terrace by-pass, join the new Karuah By-pass and keep heading north for another 13kms;
- Turn right at the Tea Gardens turn off - just past the Ayers Rock Roadhouse;
- Follow Myall Street for the next 8km's and you will discover Myall Quays on your left;
- Turn left into Myall Quays Boulevard at the shopping centre, follow this road to the end.
- Turn right at the round-a-bout into Shoreline Drive, go over the bridge and you will find our display home and office on the first corner on your left (corner Leeward Ciruit).

Other Quality Estates Developed by the Crighton Group

BRISBANE WATERS ESTATE · Boat Harbour ESTATE · MACQUARIE WATERS ESTATE · MYALL RIVER DOWNS · TEA GARDENS GRANGE · figtree bay · The HERMITAGE

MYALL QUAYS
TEA GARDENS

1/50 Spinnefex Ave, Tea Gardens NSW 2324

Volume 1:

Annex E: Draft VPA

DEED OF PLANNING AGREEMENT

THIS DEED OF PLANNING AGREEMENT made on 2008

BETWEEN **COUNCIL OF GREAT LAKES**
Breese Parade
Forster.
("Council") of the one part

AND **CRIGHTON PROPERTIES PTY LTD.**
Suite F, Level 1, 2 Reliance Drive
TUGGERAH NSW 2259

("Developer") of the other part

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RECITALS

A. The Developer owns the Land.

B. The Developer has lodged an application under part 3A of the EP&A Act for Project Approval over part of the land and Concept Plan Approval over the remainder of the Land for a combination of residential, tourism and commercial purposes.

C. As part of its proposal for development of the Land, the Developer has offered to enter into this agreement.

DEFINITIONS:

In this agreement the following definitions apply:-

"Council Lot" is That part of Lot 54 DP 1039382 nominated as Lot 542 on the attached Draft plan of subdivision (Annexure 2.)

"***Council's solicitors***" means Mallik Rees Lawyers, 141 Vincent Street, Cessnock 2325 or such other solicitors as nominated in writing by Council to the Developer from time to time.

"Concept Plan Approval" means a Concept Plan approved under Part 3A of the EP&A Act.

"***Dealing***" in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

"Developer" means any person who wishes to act upon an approval for the development of the land.

"***Developer's solicitors***" means Conditsis and Henderson Cotter Lawyers, Suite 305, Level 3, Kensman Building, 131-133 Donnison Street, Gosford NSW 2250 or such other solicitors as nominated in writing by the Developer to Council from time to time.

"***Dwelling -house Lot***" is a lot in a plan of subdivision of the Land or part of the Land, upon which a dwelling-house or dual Occupancy is capable of being erected..

"***EPAA***" means the Environmental Planning & Assessment Act 1979 as amended and any Act replacing same.

"***GST***" has the same meaning as in the GST Law.

"***GST Law***" has the meaning given to that term in A New Tax System (Goods & Services Tax) Act 1999 (Cth) and any other legislation or regulation relating to the imposition or administration of the GST.

"***Land***" means that part of Lot 40 DP270100, Lot 19 DP 270100, Lot 30 DP 270100, Lot 1 DP 270100, Lot 40 DP 270100, Lot 5 DP 270561, Lot 1 DP 270561 and Lot 2 DP 270561 that is the subject of the Riverside Part 3A Concept Plan and Project Application and shown outlined in heavy black on the accompanying plan, annexed "1." hereto.

"***LPI***" means the Land and Property Information division of the Department of Lands (NSW).

"Part 3A Application" means an application for combined Concept Plan Approval and Project Approval lodged under Part 3A of the EP&A Act.

"Part 3A Approval" means the approval issued for the Part 3A application by the Minister.

"***Party***" means a party to this agreement, including its successors and assigns.

"Project Approval" means a Project Approval under Part 3A of the EP&A Act.

"Proposed Development" means the development proposed within the Part 3A Application.

"***Residential Lot*** "means a home site proposed upon the plans which make up the part 3A application proposed to be used for residential and / or tourist residential purposes.

"The Minister" means the NSW State Minister for Planning.

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INTERPRETATION:

In the interpretation of this agreement, the following provisions apply unless the context otherwise requires:-

(1) Headings are inserted for convenience only and do not affect the interpretation of this agreement.

(2) A reference in this agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

(3) If the day on which any act, matter or thing is to be done under this agreement is not a business day, the act, matter or thing must be done on the next business day.

(4) A reference in this agreement to dollars or $ means Australian dollars and all amounts payable under this agreement are payable in Australian dollars.

(5) A reference in this agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(6) A reference in this agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.

(7) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this agreement.

(8) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

(9) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

(10) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other gender.

(11) References to the word ‘include’ or ‘including’ are to be construed without limitation.

(12) A reference to this agreement includes the agreement recorded in this agreement.

(13) A reference to a party to this agreement includes a reference to the servants, agents and contractors of the party, and the party’s successors and assigns.

(14) Any schedules and attachments form part of this agreement.

(15) A covenant or agreement on the part of 2 or more persons binds them jointly and severally.

In the interpretation of this agreement no rule of construction shall apply to disadvantage one party on the basis that that party put forward the particular covenant term or provision.

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OPERATIVE PART:

1 Planning agreement under the EPAA

The parties agree that this agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the EPAA.

2 Application of this agreement

This agreement applies to the Land.

3 Operation of this agreement

3.1 This planning agreement takes effect on the date it is made

3.2 In the event that the Approval Authority makes amendments to the Proposed Development prior to the issuing of the Part 3A approval or any subsequent Project Approval , the parties to the agreement, may with each others agreement, amend the agreement.

4 DETAILS OF Part 3A Approval

4.1 Part 3A Application

The Proposed Development consists of a;

- Project Application - which encompasses 381 home sites, in addition to 4 super lots within the commercial precinct, as well as a range of water management devices and infrastructure provisions including a private clubhouse.
- Concept Plan Application – which consists of a further 599 residential home sites, 65 tourist home sites as well as a range of water management devices and infrastructure provisions including 3 further private clubhouse sites.
- Part 3A Approval will consist of a Project Approval and a Concept Approval for the Proposed Development.

4.2 Nature and Extent of Provision to be made

If Part 3A Approval occurs, the Developer will undertake the works and pay the amounts as prescribed in Schedule 1 to this agreement.

4.3 Time for Provision to be made

The time by the provision shall be made is as set out in Schedule 1 to this agreement.

4.4 Manner by Which Provision is to be made

The manner by which the provision referred to in clause 4.2 is to be made is by the developer completing the works and paying to Council the monies as set out in Schedule 1 to the agreement.

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4.5 **Promises by Developer**

The Developer promises to perform its obligation in clause 4.2 by undertaking the works and the paying monies set out in Schedule 1.

5 APPLICATION OF SECTIONS 94 AND 94A OF THE EPAA

5.1 This agreement does not exclude the application of sections 94 or 94A of the EPAA to development applications received by the Council after Part 3A Approval, being in respect of the Land or part thereof, or any other land owned by the Developer.

6 Registration of this agreement s93H of the EPAA

The Parties shall do all things reasonably necessary to enable the Council following Part 3A Approval, to obtain registration of this Agreement under section 93H of the Act at the LPI, such that on registration of this Agreement, the Registrar General will have made an entry in the relevant Folio(s) of the Register kept under the Real Property Act 1900 in relation to the Land. To that end the Developer shall deliver to the Council on the date this agreement is made all necessary documents in registrable form to enable the Council to lodge those documents at LPI and obtain immediate registration of this agreement following Gazettal.

7 Review of this agreement

The Parties agree that from time to time it may become necessary to review this Agreement, but any amendment to this Agreement shall only be effective if in writing and signed by all Parties and registered under Section 93H of the EPAA.

8 Dispute resolution

8.1 If a dispute arises out of or relates to this agreement, including any dispute as to breach or termination of this agreement or as to any claim in tort, in equity or under any legislation, a party cannot commence any court proceedings relating to the dispute unless that party has complied with the following clauses except where that party seeks urgent interlocutory relief.

8.2 A party claiming that a dispute has arisen must serve a notice specifying the nature of the dispute.

8.3 On receipt of that notice by that other party, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or similar techniques agreed by them.

8.4 If the parties do not agree within 7 days of service of the notice, or any further period agreed in writing by them, as to:

8.4.1 the dispute resolution technique and procedures to be adopted;

8.4.2 the timetable for all steps in those procedures; and

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8.4.3 the selection and compensation of the independent person required for that technique,

the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales and must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

9 ENFORCEMENT and SECURITY:

9.1 On the date this agreement is made, the Developer will deliver to the Council

9.1.1 a plan of subdivision of Lot 54 DP 1039382 showing only two lots, namely the **Council Lot**, and the residue lot, as shown in the plan that is annexed 'C' hereto), such plan being capable of immediate registration as a deposited plan at LPI and being properly executed by the Developer, every mortgagee of the Land and every other person having an estate or interest in the land whose execution of the plan is required to secure its immediate registration at LPI, as well as bearing any required executed subdivision certificate, and which plan will, on its registration, create the Council Lot.

9.1.2 the documents of title for the Land or, if they are not in the possession of the Developer, an irrevocable undertaking in the form of a deed poll by the person having possession of the title deeds to the Land, in favour of the Council, promising in consideration of the Council's entering into this planning agreement with the Developer; to consent to the registration of this agreement on the title to the land under section 93H of EPAA and the registration of any other documents required to vest the Council Lot in the name of the Council; to produce the title documents in relation to the Land when required by the Council and/or LPI to enable registration of this agreement under section 93H of EPAA and also the registration of any other documents required to vest the Council Lot in the name of the Council including the documents referred to in clauses 9.1.1, 9.1.3 and 9.1.4 below; and, should it receive a certificate of title for the Council Lot, whether it be in the name of the Council or not, to forward to the Council the certificate of title to the Council Lot immediately following its receipt by that person .

9.1.3 a form of transfer under the Real Property Act 1900 for the purpose of transfer of the Council Lot when it is created to the Council, with the Developer named as transferor and the Council of Great Lakes as transferee, properly executed by the Developer but with the description of land omitted, which omission the Council is entitled to rectify by inserting the proper title reference to the Council Lot that will be appropriate at the time of lodgment of the transfer at LPI.

9.1.4 any other document (for example, a discharge of mortgage or withdrawal of caveat but not being for a caveat lodged by the Council) in registrable form ("the other document") as is necessary to ensure that the Council is able to register this agreement and the plan and

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transfer referred to above and obtain the title to the Council Lot of the nature referred to in clause 9.7. If the other document is held by the person who will provide a deed poll under clause 9.1.2, the other document need not be delivered as required by this clause 9.1.4 provided the person promises in that deed poll to produce the other document with the documents of title when required in accordance with the terms of clause 9.1.2.

9.2 The documents referred to in clause 9.1 above are to be held by the Council as security for the performance by the Developer of the obligations imposed on it under this agreement. The Developer must not permit or suffer the possession of the title deeds to be changed without the person into whose possession the title deed will go executing a similar deed poll to that required by clause 9.1.2, and if necessary, under clause 9.1.4, in favour of the Council and delivering that deed to the Council beforehand, but this obligation does not apply to a change of possession of the title deeds for the purpose of registration of a document under this agreement provided the person who produced the deeds is the same to whom the deeds are to be returned. The deed poll referred to in clause 9.1.2 may also be used by the Council for the purpose of enforcement of clause 7.

9.3 If Part 3A Approval occurs but the transfer of the Council Lot is not effected in accordance with this agreement by the time required by clause 4.3, then the Council is entitled to lodge for registration at LPI, any or all of the documents referred to in clauses 9.1.1, 9.1.3 and 9.1.4 and require compliance with the undertaking referred to in clause 9.1.2 and become registered as proprietor of the Council Lot. In such circumstances the Council will make that land available for the purpose and within the time described in clause 5.

9.4 Until the Developer has performed its obligations under this agreement, it shall not lodge or suffer or cause to be lodged for registration at LPI any document (except the plan held by the Council under clause 10) which would, if registered

9.4.1 cause any document held by the Council under clause 10 to be incapable of being registered at the LPI and/or

9.4.2 cause the undertaking given under clause 9.1.2, or any document to be provided pursuant thereto, to become obsolete.

9.5 The Developer will pay all rates, taxes and charges owing in respect of the Land within 14 days of receiving each assessment notice for the Land, up to and including the date of registration of the transfer of the Council Lot to the Council, before that registration occurs. There shall be no apportionment of those rates, taxes and charges.

9.6 Should the Council register the transfer referred to in this agreement, the Developer promises that the Council will have on its registration, an estate in fee simple in possession in the Council Lot, freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates and contracts, except as may by this agreement be permitted.

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9.7 The Developer grants to the Council, immediately upon Part 3A Approval, an equitable and proprietary interest in the Council Lot sufficient to support a caveat that the Council may lodge at the LPI against the registration of dealings, to protect its estate or interest in that part of the Land shown on the plan that is attached "C" hereto as the intended Council Lot, pending the transfer to the Council of the Council Lot. The Developer also promises that it will not take or suffer to be taken any steps to be taken in relation to the removal of that caveat. The Council must withdraw that caveat as soon as possible following the vesting in it of the Council Lot.

9.8 If any document provided to and held by the Council under this agreement to ensure the performance of the Developer's obligations, becomes obsolete or incapable of registration at the LPI, the Developer, upon being made aware of that fact and whether requested by the Council or not, shall immediately take all necessary steps to ensure that the Council is returned to a position that will allow it to continue to hold adequate and sufficient documentation to secure the satisfactory performance of the Developer's obligations under this agreement.

9.9 The Developer will fairly and promptly answer to the best of its ability all requisitions raised by LPI in relation to the registration and/or lodgment of documents including plans, that are permitted or required to be registered under this agreement.

9.10 Notwithstanding anything else in this agreement, should the transfer to the Council Lot not be able to be effected for any reason by the process set out in this agreement, the Developer shall, when advised by the Council of the ineffectual transfer, forthwith do all things necessary to effect the vesting of the Council Lot in the Council and not suffer the interest that the Council has in the Council Lot to be adversely affected until that vesting occurs.

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10 Notices

10.1 Any notice, consent, information, application or request that must or may be given or made to a party under this agreement is only given or made if it is in writing and sent in one of the following ways:

10.1.1 delivered or posted to that party at its address set out below.

10.1.2 faxed to that party at its fax number set out below.

10.1.3 emailed to that Party at its email address set out below.

Council

Attention: The General Manager

Address: Breese Parade
PO Box 450
FORSTER NSW 2528

Fax Number: (02) 6591 7366

Email: council@greatlakes.nsw.gov.au

Developer

Attention: The Managing Director ……..

Address: **PO Box 3369**
Tuggerah NSW 2259

Fax Number: (02) 4352 4343

Email: geoff@crighton.com.au

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10.2 If a party gives the other party 3 business days notice of change of its address or fax number, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or faxed to the latest address or fax number.

10.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:

10.3.1 if it is delivered, when it is left at the relevant address.

10.3.2 if it is sent by post, 2 business days after it is posted.

10.3.3 if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

10.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

11 Approvals and consent

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under

this agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

12 Costs

12.1 The Developer will pay all stamp duty imposed on this agreement.

12.2 In all other respects, each party must bear its own costs.

13 Entire agreement

This agreement contains everything to which the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this agreement was executed, as permitted by law.

14 Further acts

Each party must promptly execute all documents and do all things that another party from time to time reasonably request to affect, perfect or complete this agreement and all transactions incidental to it.

15 Governing law and jurisdiction

This agreement is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of its courts, and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

16 No fetter

Nothing in this agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

17 Representations and warranties

The parties represent and warrant that they have power to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

18 Severability

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

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19 Modification

No modification of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.

20 Waiver

The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

21 GST

If any party reasonably decides that it is liable to pay GST on a supply made to the other party under this agreement and the supply was not priced to include GST, then the recipient of the supply must pay an additional amount equal to the GST on that supply.

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Schedule 1– Schedule of Contributions and Works (clause 4)

1. Developer's contributions

1.1 Monetary Contributions

(a) Subject to this clause, the monetary contributions to be paid by the developer to the Council are outlined set out in the Table below.

TABLE 1

Public Purpose Items	Contributions	Timing for payment
Open Space – New urban areas establishment	$85,654.00	Before 295 Lots (Stage 7) registered
Arterial Roads	$499,907.00	Before 295 Lots (Stage 7) registered
Marine Drive embellishment	$391,058.00	Before 295 Lots (Stage 7) registered
Miscellaneous	$19,903.00	Before issue of CC for 840 Lots (Stage 11)
TOTAL:	$996,522.00	

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(b) The contribution rates set out above apply to the year 2008-09 only.

(c) The rates are to be re-calculated on 1 July each year thereafter in accordance wit the following formula:

$$\text{Revised Rate for the particular Item in the above table} = \text{Rate shown in the above table} \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

where

CPI 1 is the All Groups Consumer Price Index, weighted average of 8 capital cities for December quarter 2008 being …….

CPI 2 is the All Groups Consumer Price Index, weighted average of 8 capital cities for the December quarter preceding 1 July in the year in which the rate is being re-calculated.

The CPI 2 is the All Groups Consumer Price Index, weighted average of 8 capital cities for the quarter immediately preceding 1 July in the year in which the rate is being re-calculated.

(d) The 'Estimated Contributions' shown for item 1 in the table is for indicative purposes only and is to be adjusted according to the actual number of Dwelling-house Lots and and Dual Occupancies to be developed on the land.

(e) Monetary contributions are payable for a Dwelling-house Lot and a Dual Occupancy proposed to be erected on that Dwelling–house Lot.

However, the amount payable for each Dual Occupancy shall be reduced by the amount paid by the Developer prior to the issue of the subdivision certificate for the Dwelling-house Lot upon which the Dual Occupancy is proposed to be erected

1.2 Material public benefit

(a) The developer will provide the following material public benefits:

TABLE 2

Public purpose	Works	Value of works	Timing for completion of works
Open Space, New urban areas acquisition	Land Dedication as per the attached draft plan (Annexure 2.)	$1,250,000.00	Before 295 Lots (Stage 7) registered
Arterial Roads	Upgrading of Myall Road in accordance with the attached road works concept plan (Annexure 3.)	$2,200,000.00	Before issue of CC for 547 Lots (Stage 10)
Other	Entry Statement to be built at highway intersection.	$50,000.00	Before issue of CC for 840 Lots (Stage 11)
Other	Entry Statement to be built at Myall Street / Toonang Drive intersection	$50,000.00	Before issue of CC for 840 Lots (Stage 11)

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(b) Detailed engineering plans and specifications for the above works are to be approved by Council prior to the commencement of any of the works.

EXECUTED AS A DEED

Signed sealed and delivered by the Parties as follows

THE COMMON SEAL OF COUNCIL OF GREAT LAKES is hereunto affixed pursuant to resolution made on **)** **)**

General Manager	Mayor

Executed by **Crighton Properties Pty Limited. CAn 000 830 875** Under Section 127(1) of the Corporations Act 2001 by being signed by: **)** **)** **)**

……	……
Director	Secretary
……	……..
Name	Name

Final Draft

DEED OF PLANNING AGREEMENT

BETWEEN

COUNCIL OF GREAT LAKES
("Council")

AND

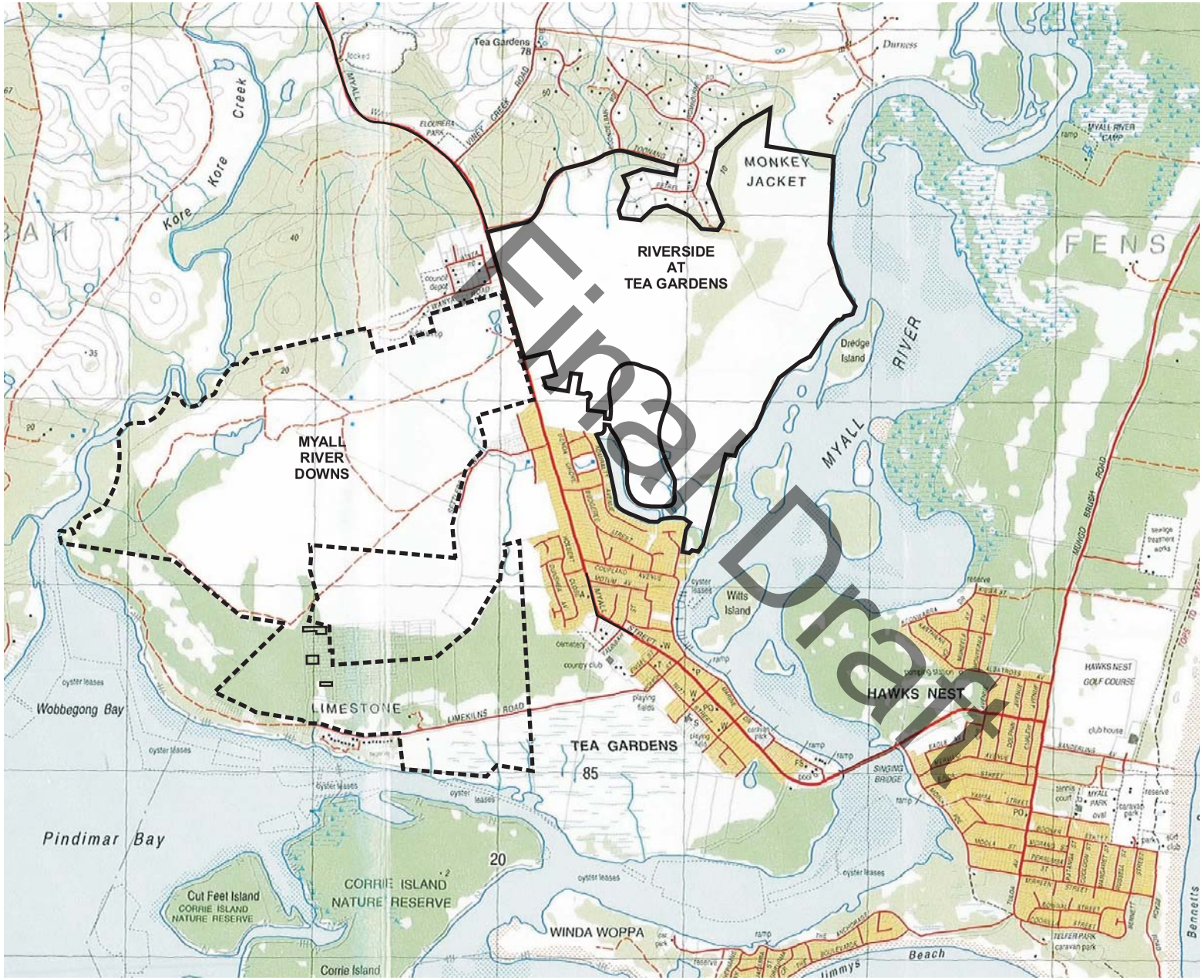
CRIGHTON PROPERTIES PTY LTD
("Developer")

DATED **…….**

Final Draft

Annexure 1.
"Land" – Extent of Part 3A application to which this agreement relates.

Final Draft



Final Draft

Legend

Riverside at Tea Gardens Site Boundary

Figure 1.1

Locality Plan

Client:	Crighton Properties Pty Ltd		
Project:	Environmental Assessment Riverside at Tea Gardens		
Drawing No:	0043707hv_EA_aug_01		
Date:	21/08/08	Drawing size:	A4
Drawn by:	JD	Reviewed by:	AA
Source:	1:25,000 Topo Series Port Stephens Sheet		
Scale:	Refer to Scale Bar		

N

0 250 500 750m

Environmental Resources Management Australia Pty Ltd
53 Bonville Avenue, Thornton, NSW 2322
Telephone +61 2 4964 2150

ERM

Annexure 2.
"Council Lot" – Draft Plan of subdivision.

Final Draft

(B) EASEMENT TO DRAIN WATER VARIABLE WIDTH
(C) RIGHT OF ACCESS 25 WIDE
(D) EASEMENT FOR BERM TO REMAIN 10 WIDE (DP 1022829)
(E) BENEFIT OF EASEMENT TO DRAIN WATER 1, 1.5 & 3 WIDE (VIDE DP 878733)
(Z) COVENANT (BK 1310 NO 47)

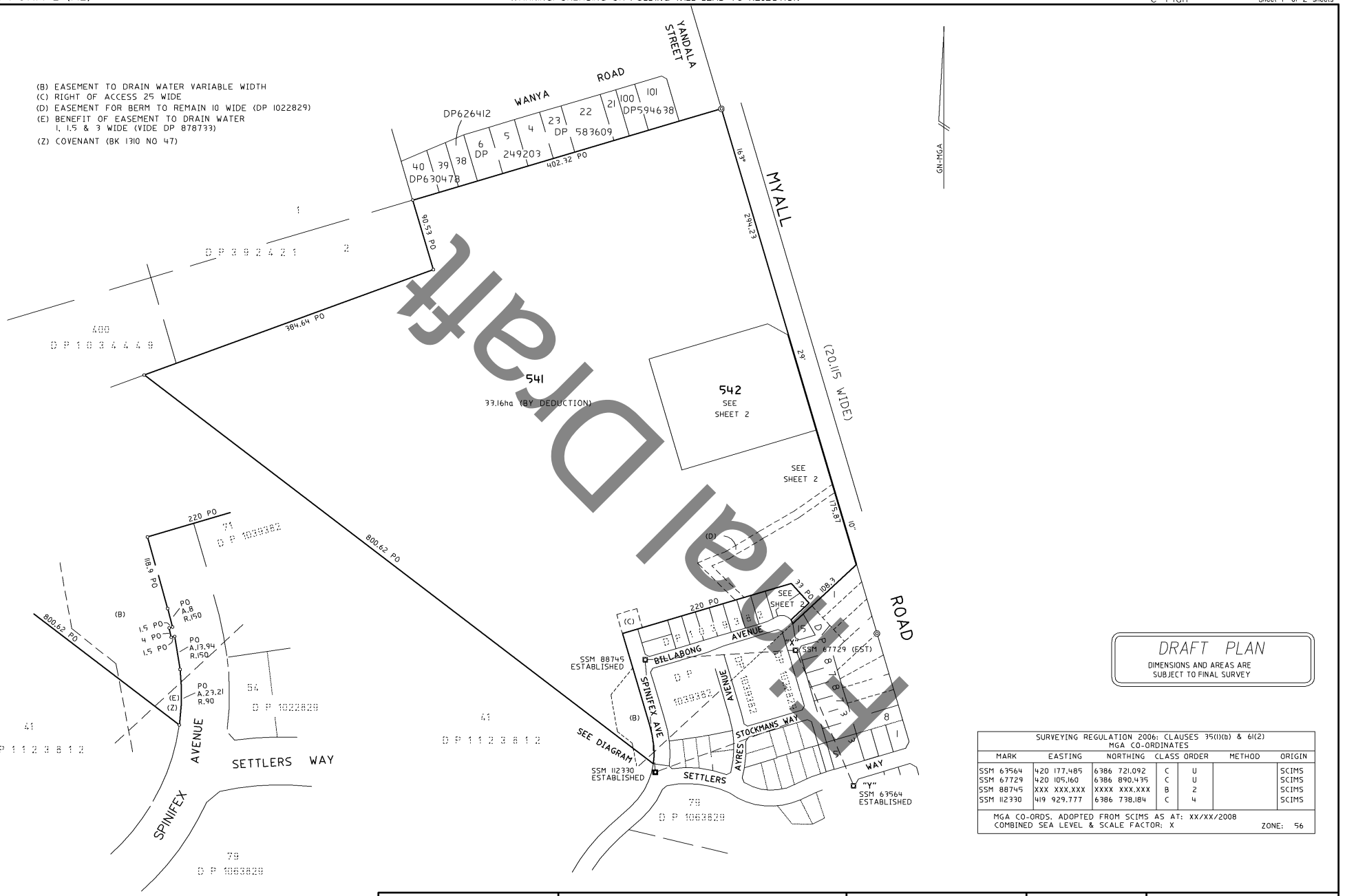


DIAGRAM
SCALE- 1:1000

DRAFT PLAN
DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY

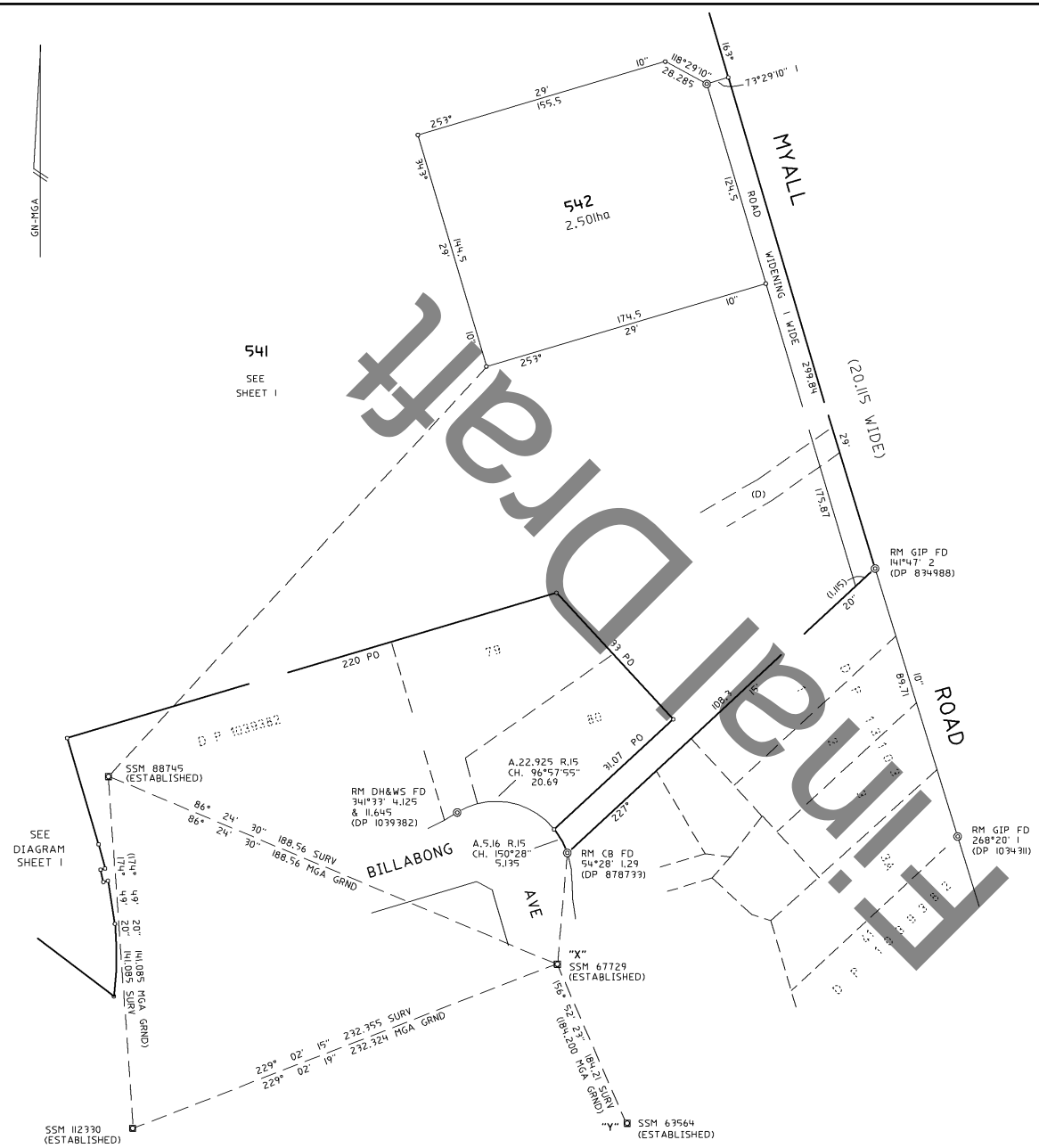
SURVEYING REGULATION 2006: CLAUSES 35(1)(b) & 61(2)
MGA CO-ORDINATES

MARK	EASTING	NORTHING	CLASS	ORDER	METHOD	ORIGIN
SSM 63564	420 177.485	6386 721.092	C	U		SCIMS
SSM 67729	420 105.160	6386 890.435	C	U		SCIMS
SSM 88745	XXX XXX.XXX	XXXX XXX.XXX	B	2		SCIMS
SSM 112330	419 929.777	6386 738.184	C	4		SCIMS

MGA CO-ORDS. ADOPTED FROM SCIMS AS AT: XX/XX/2008
COMBINED SEA LEVEL & SCALE FACTOR: X ZONE: 56

Surveyor: DONALD GEORGE BEGG Date of Survey: DECEMBER 2008 Surveyors Ref: 920428 VPA	PLAN OF SUBDIVISION OF LOT	LGA: GREAT LAKES Locality: TEA GARDENS Subdivision No: Lengths are in metres. Reduction Ratio 1: 3,000	Registered	DP

10 20 30 40 50 60 70 80 90 100 110 120 Table of mm



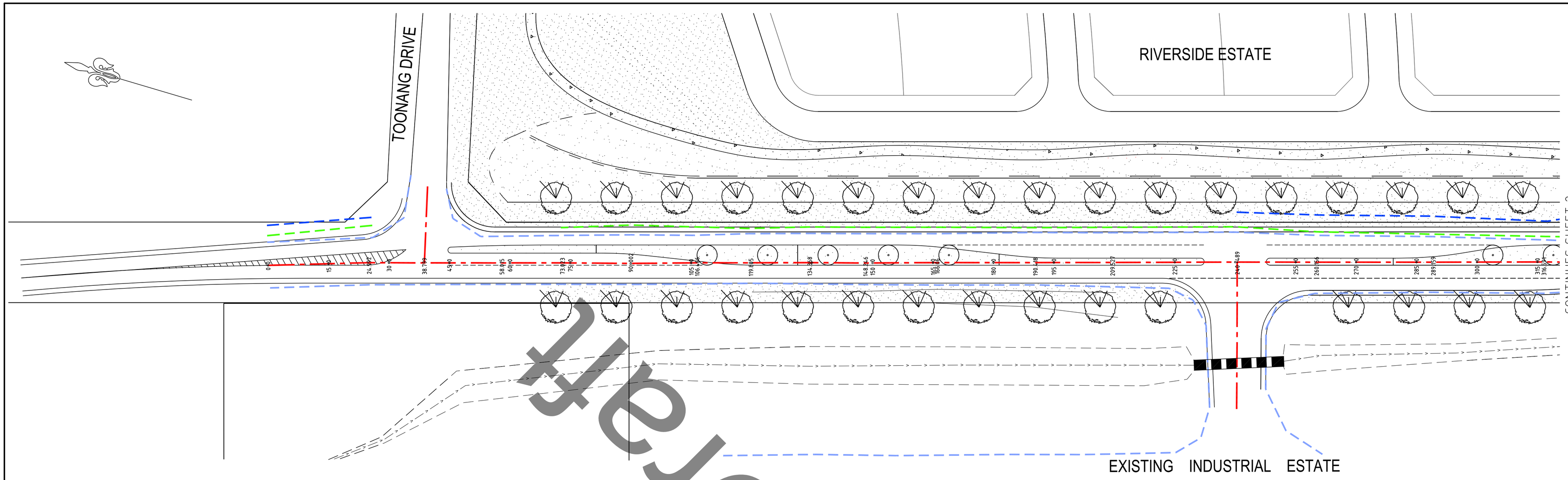
DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY

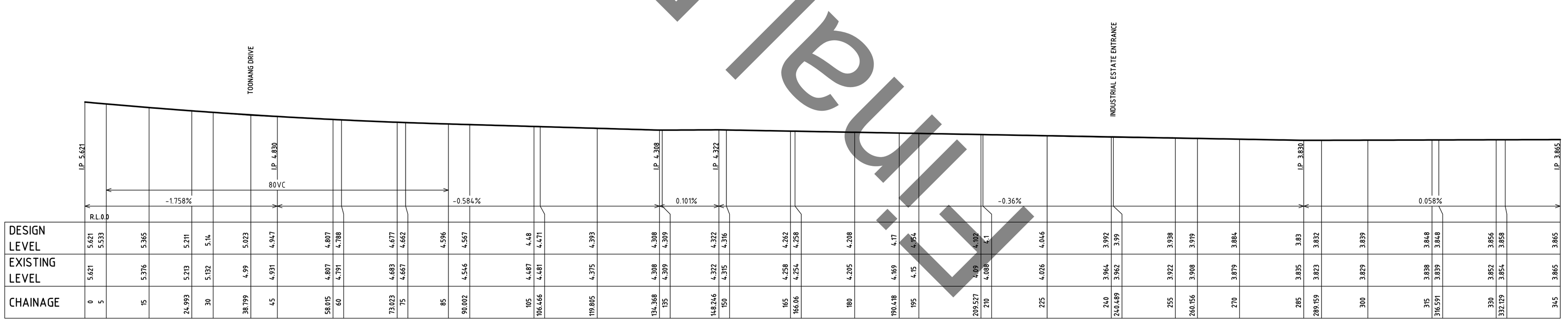
Surveyor: DONALD GEORGE BEGG Date of Survey: DECEMBER 2008 Surveyors Ref: 920428 VPA	PLAN OF **SUBDIVISION OF LOT**	LGA: GREAT LAKES Locality: TEA GARDENS Subdivision No: Lengths are in metres. Reduction Ratio 1: N.T.S.	Registered	DP

10 20 30 40 50 60 70 80 90 100 110 120 Table of mm

Annexure 3.
"Upgrading of Myall Road" – Extent of works proposed.

Final Draft





LEGEND

EXIST. CENTRELINE
EXIST. EDGE OF BITUMEN
EXIST. SHOULDER
EXIST. TOE OF BATTER

Draft

REV	DETAILS OF AMENDMENT	DESIGNED	DRAWN	CHECKED	APPROVED	DATE
A	Original Issue	AV	AV	-	-	13/07/07*

* Denote the original signature and date when revision was issued.

TATTERSALL SURVEYORS
DEVELOPMENT CONSULTANTS
ENGINEERING, SURVEYING & PLANNING
2 Bourke St. P.O.Box 54
RAYMOND TERRACE 2324
Fax (02) 49871733 Phone (02) 49871500
DX 21403 RAYMOND TERRACE

MYALL WAY RECONSTRUCTION
TEA GARDENS

COUNCIL: GREAT LAKES	REFERENCE: 20700192
PARISH	SHEET SIZE: A1
SCALE: 1:500	SHEET No.: 1
DATE : Plotted 14:19 13/07/07	
CLIENT:	JOB No.: 201479
COMPUTER FILE : S:\projects\Myall Quays\dwg\STG9\Myall Rd.dwg	

Xref: 910370 - BDY [910370 - BDY.dwg] Xref: Shearwater Boundaries xref [Shearwater Boundaries xref.dwg] Xref: Riverside Road Layout B-isg [Riverside Road Layout B-isg.dwg] Xref: 920428 - Boundary Xref [920428 - Boundary Xref.dwg]

Xref: 919310 - BDY (919310 - BDY.dwg) Xref: Shearwater Boundaries xref [Shearwater Boundaries xref.dwg] Xref: Riverside Road Layout B-isg (Riverside Road Layout B-isg.dwg) Xref: 920628 - Boundary Xref (920628 - Boundary Xref.dwg)

CHAINAGE	345	360	375	389.949	403.762	405	420	425.704	435	445.798	450	465	477.458	480	495	500.091	510	523.903	525	540	547.576	555	570	577.711	585	600	611.592	615	630	632.984	645	660	674.219	675	690	697.913	705
EXISTING LEVEL	3.865	3.854	3.85	3.841	3.827	3.825	3.853	3.863	3.854	3.837	3.837	3.828	3.816	3.82	3.788	3.778	3.77	3.759	3.758	3.741	3.732	3.73	3.725	3.729	3.702	3.661	3.624	3.629	3.594	3.599	3.563	3.529	3.489	3.488	3.457	3.441	3.425
DESIGN LEVEL	3.865	3.856	3.848	3.837	3.828	3.829	3.853	3.863	3.854	3.839	3.838	3.827	3.808	3.811	3.793	3.788	3.778	3.764	3.763	3.747	3.74	3.732	3.717	3.709	3.702	3.667	3.633	3.641	3.591	3.598	3.564	3.529	3.496	3.494	3.46	3.441	3.425
	R.L.0.0																																				

IP 3.865 — −0.063% — IP 3.827 — 0.174% — IP 3.863 — −0.101% — IP 3.702 — −0.231% — IP 3.425

EXISTING CULVERT

PROPOSED ROUNDABOUT

EXISTING CENTRELINE
H=1:500 V=1:100

Final Draft

Median Planting

Mound planting

RIVERSIDE ESTATE

CONTINUES FROM SHEET 1

LEGEND

EXIST. CENTRELINE
EXIST. EDGE OF BITUMEN
EXIST. SHOULDER
EXIST. TOE OF BATTER

REV	DETAILS OF AMENDMENT	DESIGNED	DRAWN	CHECKED	APPROVED	DATE
A	Original Issue	AV	AV			

* Denote the original signature and date when revision was issued.

TATTERSALL SURVEYORS
DEVELOPMENT CONSULTANTS

SCALE : 0 5 10m (1:500for A1 Size Plot)
JOB No. : 2014.79
DATE : Plotted 1.:20 13/07/07
SHEET SIZE A1
FILE : 207001.93
COMPUTER FILE : S:\projects\Hall Quays\dwg\STG\Hall Radwg

Attachment B

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Introduction
The purpose of this explanatory note is to provide a plain English summary to support the notification of a proposed planning agreement prepared under Section 93F of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).

Clause 25E of the *Environmental Planning and Assessment Regulation* 2000 requires that an explanatory note be prepared jointly between the parties to the agreement and that it be available for public inspection at the same time as the proposed planning agreement.

The planning authority for the agreement will be Great Lakes Council. Explanatory details of the agreement are as set out below:

Planning Agreement under s93F of the Environmental Planning and Assessment Act 1979

1. Parties

Great Lakes Council	*Planning Authority*
Crighton Properties Pty Ltd	*Developer*

2. Description of Subject Land:

Lots 1, 10, 19, 30 & 40 DP 270100 and Pt Lot 1, Pt Lot 2 & Lot 5 DP 270561 Myall Road Tea Gardens

3. Description of project

Crighton Properties (the 'Developer') have lodged an Environmental Assessment with the Department of Planning (Major Project 06-0010) for a mixed-use, residential, commercial and tourist subdivision at the Riverside site in Tea Gardens. The proposal is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies. In connection with the proposal, the Developer has agreed to enter into a Voluntary Planning Agreement with Great Lakes Council that offers to make contributions (both monetary and in-kind) towards a range of community infrastructure and facilities in the Tea Gardens locality. The contributions proposed are in addition to those levied under Section 94 of the *EP&A Act*.

4. Summary of Objectives, Nature and Effect of the Proposed Planning Agreement:

The objectives of the Planning Agreement are to:

- ensure that the development of the land results in the provision of physical infrastructure to adequately service the development and the wider Tea Gardens locality;

- ensure that the development of the land results in the payment of contributions towards the provision of community services and facilities that will be required as a consequence of the increased population from the development of the land.

- give effect to the developer's recognition that there is a social obligation incumbent on them to contribute to services and facilities that are provided by Council, over and beyond those identified in s94 Contributions Plans, and which enhance the attractiveness of the area for investment and which add to the wellbeing of the community.

The **nature** of the Planning Agreement is such that if Part 3A Approval occurs, the Developer will be obliged to undertake certain works and make certain contributions (both monetary and in-kind) towards the provision of a range of community infrastructure and facilities as prescribed in Schedule 1 to the agreement.

The **effect** of the Planning Agreement will be that the works undertaken and contributions made by the Developer to the Council will have a financial value of $4,546,522 (calculated at current s94 rates), which is in addition to any contributions levied under Section 94 of the *EP&A Act*.

The contributions (both monetary and in-kind) will be applied toward the following community infrastructure and facilities:

1. Arterial Roads
2. Open Space – Acquisition and Embellishment
3. Marine Drive Embellishment
4. Other specific (entry statements at Pacific Highway intersection and at Myall Street/ Toonang Drive intersection)

Note: The contributions payable under the Planning Agreement are subject to adjustment calculated using Council's method of indexation in its current s94 Contributions Plans.

5. Assessment of the Merits of the Proposed Planning Agreement:

The Planning Purposes Served by the Proposed Planning Agreement

The provision of basic services and infrastructure to meet the needs of the growing population is an issue that constantly confronts Council when it prepares its budget. Sources, such as s94 contributions go a long way towards providing funds for this infrastructure but there are limitations on the use of s94. There are always services and facilities, other than the basic ones for which s94 contributions are levied, that enhance the well being of the community and which will make Tea Gardens a better place to live.

In recognition of this Crighton Properties has offered to enter into a Planning Agreement with Council to provide contributions with a financial value of $4,546,522 (calculated at current s94 rates) for community infrastructure and

facilities to benefit the wider community. These funds will be in addition to the standard s94 contributions that will be payable to Council as development of the land proceeds. The funds will be expended so as to give better planning outcomes for the residents of, and visitors to, Tea Gardens.

How the Proposed Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

The Planning Agreement promotes Clause 5(a)(i), (ii), (iv) and (v) of the Environmental Planning and Assessment Act 1979 which aim to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

(iv) the provision of land for public purposes, and

(v) the provision and co-ordination of community services and facilities.

How the Proposed Planning Agreement Promotes the Public Interest

The proposed contributions will be expended on essential infrastructure as well as other improvements that will enhance the social and cultural welfare of the Tea Gardens community.

The planning purpose served by this agreement is the provision by the Developer of part of the anticipated cost of providing the public amenities, public services and infrastructure required partly because of the development on the Land. The agreement will provide a reasonable means of achieving this purpose.

Contributions will still be required from other developers towards the provision of other essential facilities.

The making of the Agreement is consistent with the principle that it is in the public interest for the community to benefit from major developments by the redistribution of some of the profits.

How the Planning Agreement promotes Elements of Council's Charter

The proposed planning agreement, being a mechanism to deliver the provision of infrastructure and community facilities, promotes the following points as stated in Council's Charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;

- to exercise its functions with due regard for the cultural and linguistic diversity of its community;

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible;

- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;

- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants.

Whether the proposed Planning Agreement Conforms with the Authority's Capital Works Program

The majority of contributions to be provided by the developer, as set out in Schedule 1 of the Planning Agreement, are based on a work program for each of the respective services and facilities in Council's current s94 Contribution Plans.

In relation to the Material Public Benefits described in the table to Section 1.2 of the Agreement these are required as a result of the development of the land.

Volume 1:

Annex F: Community Management Statement

Volume 1:

Annex F: Community Management Statement

1. Community Management Statement
for Myall Quays

Req:R913218 /Doc:DP 0270100 M /Rev:16-Nov-2004 /Sts:SC.OK /Prt:10-Jul-2007 09:52 /Pgs:ALL /Seq:1 of 56
Ref:NS-MQ8A /Src:T

DP 270100

COMMUNITY MANAGEMENT STATEMENT

MYALL QUAYS

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TERMS OF INSTRUMENT NOT CHECKED
IN LAND TITLES OFFICE

REGISTERED MB 21·3·1996

Req:R913218 /Doc:DP 0270100 M /Rev:16-Nov-2004 /Sts:SC.OK /Prt:10-Jul-2007 09:52 /Pgs:ALL /Seq:2 of 56
Ref:NS-MQ8A /Src:T

COMMUNITY MANAGEMENT STATEMENT

DP 270100

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1.3 Approvals

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3.2 Community Property and Special Facilities

3.3 Internal fencing

3.4 Garbage

3.5 Services

3.6 Insurance

3.7 Executive Committee

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4.2 Community Association's right to enter into contracts

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COMMUNITY LAND DEVELOPMENT ACT 1989
COMMUNITY LAND MANAGEMENT ACT 1989

COMMUNITY MANAGEMENT STATEMENT

WARNING

The terms of this Management Statement are binding on the Community Association, each Subsidiary Body within the Community Scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a Community Development Lot or Strata Lot within the Community Scheme.

This Management Statement should be read with reference to Part 6.

PART 1

BY-LAWS FIXING DETAILS OF DEVELOPMENT

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These By-Laws relate to the control and preservation of the essence or theme of the Community Scheme and as such may only be amended or revoked by a unanimous resolution of the Community Association in accordance with section 17(2) of the Community Land Management Act 1989.

BY-LAW 1.1 ARCHITECTURAL AND LANDSCAPE STANDARDS

1.1.1 The Community Association may prescribe Architectural and Landscape Standards for the Community Property.

1.1.2 Each Subsidiary Body must prescribe Architectural and Landscape Standards for the relevant Subsidiary Body.

1.1.3 On prescription of the standards referred to in this By-Law the standards shall become Architectural and Landscape Standards for the Community Scheme.

1.1.4 The Architectural and Landscape Standards bind:

(a) the Community Association and each Subsidiary Body;

(b) each proprietor or occupier of a Lot;

(c) each mortgagee in possession of a Lot; and

(d) each lessee of a Lot.

BY-LAW 1.2 AMENDING ARCHITECTURAL AND LANDSCAPE STANDARDS

1.2.1 The Community Association may from time to time add to or alter the Architectural and Landscape Standards by unanimous resolution. The Architectural and Landscape Standards may not be added to or altered except in accordance with this By-Law.

1.2.2 The proprietor of a Lot or a Subsidiary Body may make application to the Community Association requesting additions or alterations to Architectural and Landscape Standards.

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1.2.3 An application under By-Law 1.2.2 must contain sufficient details of the proposed additions or alterations to enable the Community Association to understand with reasonable certainty the nature and extent of the proposed additions or alterations. The Community Association may request additional information to enable it to make a decision on an application.

1.2.4 The Community Association must refer an application under By-Law 1.2.2 to a General Meeting for its decision by unanimous resolution.

1.2.5 If the Architectural and Landscape Standards are added to or altered, in accordance with this By-Law, then the Community Association must, within a reasonable time, deliver a copy of the additions or alterations to each Subsidiary Body and each proprietor of a Community Development Lot.

1.2.6 The Community Association must, when requested by the proprietor of a Lot or a Subsidiary Body, provide the proprietor of the Lot or Subsidiary Body at the reasonable cost of that proprietor or Subsidiary Body with an up to date copy of the Architectural and Landscape Standards.

BY-LAW 1.3 APPROVALS

1.3.1 All plans and specifications must be submitted to the Original Proprietor for consideration and approval including, without limitation, plans and specifications for Building Modifications, New Constructions or Landscape Modifications for as long as the Original Proprietor owns a Lot and is willing to act in this capacity. After that, the Executive Committee must consider and approve plans and specifications.

1.3.2 No Building Modification, New Construction or Landscape Modification may commence or take place until the plans and specifications for it have been approved by the Executive Committee as to:

For Building Modification or New Construction:

(a) suitability of design, colour and materials;

(b) quality of design, colour and materials;

(c) harmony of external design with existing structures;

(d) location in relation to surrounding structures and topography;

(e) elevation in relation to existing structures and topography; and

(f) harmony with existing landscaping; or

For Landscape Modification:

(g) suitability of design, colour, plant species and landscape materials and features;

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(h) quality of design, colour, plant species and landscape materials and features;

(i) location in relation to surrounding structures and topography;

(j) elevation in relation to existing structures and topography;

(k) harmony with existing landscaping and structures; and

(l) the removal of or dealing with existing plants, flowers, shrubs and trees.

1.3.3 The plans and specifications submitted for approval must:

For Building Modification or New Construction:

(a) show the nature, kind, shape, height, width, colour, size, materials and location of the Building Modification or New Construction; and

(b) contain a landscaping proposal; or

For Landscape Modification:

(c) show the nature, kind, shape, colour, height, quantity and location of the proposed plants, flowers, shrubs and trees; and

(d) show the nature and type of proposed landscaping material and features.

1.3.4 Approval or disapproval under this By-Law of plans and specifications must be made solely on the matters set out in:

(a) the By-Laws;

(b) the Architectural and Landscape Standards in force at the time of its decision; and

(c) the Rules in force at the time of the decision.

1.3.5 The Original Proprietor or the Executive Committee are the sole approving bodies for applications for approval under By-Law 1.3.2. This does not prevent the Original Proprietor or the Executive Committee from referring any application to the Community Association for a direction given by a General Meeting of the Community Association.

BY-LAW 1.4 MODIFICATIONS AND NEW CONSTRUCTIONS BY COMMUNITY ASSOCIATION

If the Community Association wants to make or permit:

(a) a Building Modification;

(b) a Landscape Modification; or

(c) a New Construction

on Community Property, then it must comply or ensure compliance with the Architectural and Landscape Standards.

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MANAGEMENT STATEMENT

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PART 2

RESTRICTED COMMUNITY PROPERTY

These By-Laws may not be amended during the initial period, except by order of the Supreme Court or the Board, and may only be amended after the expiry of that initial period by special resolution and with the written consent of each person entitled by the By-Law to use the restricted Community Property in accordance with section 54 of the Community Land Management Act 1989.

BY-LAW 2.1 DEVELOPMENT IN STAGES

2.1.1 Use of Community Property as it is comprised from time to time (except the Area Not Required For Development) and Service Lines owned by the Community Association is restricted to the proprietors for the time being of Community Development Lots 3, 4 & 5 (excluding a Subsidiary Body) ("**Developer**") jointly and severally in the manner and for the purposes set out in these By-Laws.

2.1.2 Restricted use of the Community Property referred to in this By-Law shall cease when the Developer serves upon the Community Association a notice informing the Community Association that Development Activities on the Community Parcel have ceased. Despite this the Developer may give such a notice at any time in relation to part of the Community Property if Development Activities on that part of the Community Property have ceased at which time restricted use of that part of the Community Property will cease.

2.1.3 The Developer and all persons authorised by the Developer have the Development Rights for the purpose of facilitating development of the Community Parcel in stages and carrying out Development Activities on the Community Parcel.

2.1.4 The terms and conditions relating to use of the Community Property under this By-Law are the Development Conditions.

2.1.5 Access to Community Property referred to in this By-Law is to be exercised by public road or Access Ways set apart under the Development Act.

2.1.6 If the Developer locks up or secures any of the Community Property referred to in this By-Law, the Developer must give the Secretary a Security Key for that locked or secured area.

2.1.7 Subject to any requirements imposed by the Council, the restricted use rights conferred on the Developer in this By-Law may be exercised between the hours of 7.00 am and 7.00 pm on Mondays to Saturdays inclusive or such other times as may be permitted by the Council, excepting Sundays, Christmas Days and Good Fridays.

2.1.8 Subject to the obligations imposed by the Development Conditions the Community Association must maintain the Community Property.

2.1.9 The Community Association must levy a contribution on its members for any costs associated with maintaining the Community Property referred to in this By-Law unless that cost is payable by the Developers under this By-Law.

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See Rq: 6346634

See new by-laws 2.1.10 filed as ANNEXURE 'D'

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PART 3

MANDATORY MATTERS

BY-LAW 3.1 ACCESS WAY

No part of the Community Property has been set apart as an Access Way.

BY-LAW 3.2 COMMUNITY PROPERTY AND SPECIAL FACILITIES

3.2.1 The Community Association is responsible for the control, management and maintenance of the Community Property in accordance with the Management Act.

3.2.2 The Community Association is entitled to make Rules relating to use of the Community Property but such Rules are subject to the By-Laws and must not impede any express rights in relation to the use of Community Property or Special Facilities granted under a By-Law.

3.2.3 The Community Association may contract with persons to provide management operational, maintenance and other services in connection with Community Property.

3.2.4 (a) The proprietor of each Community Development Lot must procure for the Community Association on registration of a Subsidiary Plan exclusive use by exclusive use by-laws (or care and control by some other means) of the Restricted Subsidiary Association Property in the relevant Subsidiary Scheme.

(b) If the exclusive use by-laws referred to in paragraph (a) of this By-Law are not created on registration of the relevant Subsidiary Plan, then the proprietor for the time being of the relevant former Community Development Lot must promptly procure the Subsidiary Body created on subdivision of that Community Development Lot to enter into an agreement for the care and control of the Restricted Subsidiary Association Property by the Community Association or pass a by-law to grant exclusive use of the Restricted Subsidiary Association Property to the Community Association.(or both).

(c) The Community Association must accept a grant of exclusive use or care and control of the relevant Resticted Subsidiary Association Property under paragraph (a) or (b) of this by-law and, subject to paragraph (d) of this By-Law, is responsible for the control management, operation, maintenance, and repair of the Restricted Subsidiary Association Property as if it was Community Property.

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(d) the exclusive use by-law and the agreement contemplated by By-Laws 3.2.4(a) and (b) must provide for the relevant Subsidiary Association to reimburse the Community Association for the costs associated with the operation, management, maintenance and repair of the Restricted Subsidiary Association Property in that Subsidiary Scheme. The costs payable by the relevatn Subsidiary Association under this By-Law 3.2.4(d) are to be calculated by reference to actual costs or a method of calculation which fairly apportions these costs.

(e) The Restricted Subsidiary Association Property is available for use by persons entitled to use Community Property as if it were Community Property.

(f) The grant of exclusive use under paragraph (a) or (b) of this By-Law must contain a provision imposing on the members of the Community Association the obligation to contribute towards the costs of control, management, operation, maintenance and repair of the Restricted Subsidiary Association Property as if those costs were Community Association costs levied under the Management Act.

BY-LAW 3.3 INTERNAL FENCING

3.3.1 Subject to this By-Law 3.3, provision of, and payment for internal fencing on the Community Parcel is governed by the Dividing Fences Act 1991.

3.3.2 Neither the Community Association or any Subsidiary Body has any obligation in relation to the provision of, or payment for internal fencing on the Community Parcel, unless they resolve otherwise.

3.3.3 With the approval of the Executive Committee, a fence may be contructed parallel with the Access Way at the front of the Lot ("Front Fence").

3.3.4 If a Front Fence is constructed it must:

(a) be constructed forward of the building line but not closer than 1 metre to the front boundary line;

(b) not exceed 0.8 metres in height; and

(c) extend for the length of the side boundaries to the side boundary fence.

~~3.3.5 A fence may be constructed with 5 metres of and parallel with the rear boundary line of a Lot ("Rear Fence").~~

~~3.3.6 If a Rear Fence is contructed it must:~~

REPEALED
See Rq. 5851594
See new by-laws
filed as ANNEXURE A
28.6.99

(a) be constructed of powder coated aluminium "looped" pool fencing;

(b) not exceed 1.2 metres in height;

(c) be of a colour that is in keeping with the external walls of any dwelling contructed on the Lot; and

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~~(d) not be constructed of solid "Colourbond" fencing or other similar material.~~

~~3.3.7 An existing Rear Fence contructed on a Lot adjacent to Community~~ Property or Association Property that is a public walkway or public open space, must not be altered ~~without the written approval of the Original Proprietor or Executive Committee according to By-Law 1.8.~~

~~3.3.8 A fence constructed along the side boundary line of a Lot ("Side Fence")~~ must:

(a) be contructed at least 1 metre to the rear of the building line;

(b) be at least 5 metres from the rear boundary line;

REPEALED See. Rq. 5851594 See new by-laws filed as ANNEXURE A 28.6.99

(c) be of height of 1800 mm except for the end closest to the rear boundary which may taper to 1200 mm in height from a point located 4.8 metres from the end of that fence; and

(d) be constructed of:

(i) lapped and capped timber palings treated with copper chromium arsenate (C.C.A.);

(ii) bagged and painted brick;

(iii) brushwood; or

~~(iv) any other material approved by the Executive Committee.~~

3.3.9 To assist koalas that frequent the area to travel safely throughout the Community Parcel, if a fence fully encloses any part of any Lot and is more than 0.8 metre in height, square lattice panels must be fitted to each Side Fence that are:

(a) not less than 1.5 metres x ~~1.95~~ 1.5 metres;

(b) not less than 10 metres apart; and

SEE 8537409 BY-LAWS 3.3.10 TO 3.3.12 ADDED SEE ANNEXURE 'E' *

(c) securley fitted vertically to the inside of the fence.

BY-LAW 3.4 GARBAGE

3.4.1 Garbage must be sorted, stored and made available for collection in accordance with the requirements of the Community Association and Council. Council's requirements prevail if there is any inconsistency.

3.4.2 Neither the Community Association nor any Subsidiary Body has any obligation to collect garbage (subject to their obligations to properly maintain Community Property or Subsidiary Association Property as the case may be).

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BY-LAW 3.5 SERVICES

3.5.1 The relevant Service Provider is responsible for and must maintain and repair Statutory Services and associated Service Lines within the Community Parcel.

3.5.2 The Community Association is responsible for and must maintain and repair Private Services and associated Service Lines within the Community Parcel.

3.5.3 If a Service Line is shown as a proposed Service Line in the Prescribed Diagram for the Community Scheme or a Subsidiary Scheme, and it is installed in a position different from that shown in the relevant Prescribed Diagram, each proprietor of a Lot, any Subsidiary Body and the Community Association must take whatever action is necessary under Section 36(4) of the Development Act to enable a later prescribed diagram to be registered as an amendment of the Management Statement or as an amendment of any relevant Neighbourhood Management Statement.

BY-LAW 3.6 INSURANCE

3.6.1 In addition to the provisions of the Management Act which apply in relation to insurances the following By-Laws apply.

3.6.2 The Community Association must review, on an annual basis:

(a) all insurances effected by it; and

(b) the need for new or additional insurances.

3.6.3 Notice of an Annual General Meeting must:

(a) include a form of motion to decide whether insurances effected by the Community Association should be confirmed, varied or extended; and

(b) (unless the Executive Committee otherwise resolves) for every alternate Annual General Meeting be accompanied by a written valuation of all buildings, structures and other improvements on Community Property made by a qualified valuer.

3.6.4 The Community Association must immediately effect new insurances or vary or extend existing insurances if there is an increase in risk or a new risk to Community Property or the Community Association.

3.6.5 A proprietor or occupier of a Lot must not, except with the approval of the Community Association, do anything that might:

(a) void or prejudice insurance effected by the Community Association; or

(b) increase any insurance premium payable by the Community Association.

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BY-LAW 3.7 EXECUTIVE COMMITTEE

3.7.1 In addition to the provisions of the Management Act in relation to the Executive Committee, the following By-Laws apply.

3.7.2 The office bearers of the Executive Committee are the officers required by the Management Act.

3.7.3 The Functions of office bearers of the Executive Committee are:

(a) those set out in the Community Titles Legislation; and

(b) the usual Functions performed by the relevant office bearer in an organisation.

3.7.4 The Management Act applies in relation to meetings of the Executive Committee.

3.7.5 The Executive Committee must fix (and maintain) a notice board to some prominent part of the Community Property.

3.7.6 The Secretary or the member of the Executive Committee who convenes a meeting must, for not less than 48 hours immediately before the Executive Committee holds a meeting, display on the notice board:

(a) the notice of intention to hold the meeting; and

(b) the proposed agenda for the meeting.

3.7.7 The agenda for a meeting must include details of all business to be dealt with at that meeting.

3.7.8 No business may be dealt with at a meeting unless details of that business are set out in the agenda for that meeting.

3.7.9 A proprietor of a Lot or, where the proprietor is a corporation, the company nominee of the corporation, may attend a meeting of the Executive Committee but that person may not address the meeting unless authorised by the Executive Committee.

3.7.10 The Management Act applies in relation to the keeping of minutes of Executive Committee meetings, records of its decisions and records of notices given to the Secretary.

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PART 4

OPTIONAL MATTERS

BY-LAW 4.1 RESTRICTIONS ON PARKING

4.1.1 A proprietor or occupier of a Lot must not park a vehicle, boat or trailer on or over any paved footpath, or bicycle way, on the Community Parcel.

4.1.2 A proprietor or occupier of a Lot must ensure that their invitees use any visitor parking area only for the purposes of casual parking.

BY-LAW 4.2 COMMUNITY ASSOCIATION'S RIGHT TO ENTER INTO CONTRACTS

4.2.1 The Community Association may, on its own behalf or on behalf of any Subsidiary Body, contract with persons to:

(a) provide management, operational maintenance and other services in connection with Community Property;

(b) provide services or amenities to the proprietors or occupiers of Lots; and

(c) provide other services or amenities to Community Property, Subsidiary Association Property or the proprietors and occupiers of the Lots.

4.2.2 (a) The Community Association is empowered, on its own behalf or on behalf of each Subsidiary Body, to contract with the Original Proprietor or its nominee ("**Manager**") to provide management maintenance and operational services in relation to the Community Scheme.

(b) The Community Association intends during the initial period to enter into a management agreement the effect of which is disclosed for the purposes of the Management Act as follows:

Parties: The Community Association and Manager.

Term: 5 years with 1 option of 5 years.

Duties: The duties of the Manager are:

(a) in accordance with the directions of the Community Association, the cleaning, caretaking, security, supervision and service of the Community Property and Subsidiary Association Property use of which is restricted to the Community Association or any personal property vested in the Community Association and for the general repair and maintenance or renewal and replacement of that property;

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(b) the provision of services to the Community Association and Subsidiary Bodies or the proprietors and occupiers of Lots, including without limitation, the services of a handyman, room cleaning and servicing, food and non-alcoholic drink service;

(c) a letting or property management and sales service;

(d) the supervision of any employees or contractors of the Community Association;

(e) any other matter, activity or thing which the Community Association agrees is necessary or desirable having regard to the operational and management requirements of the Community Association,

but excluding any services which only a Managing Agent may perform.

Privileges of the Manager: The Manager has the sole right to conduct a letting service and to provide ancillary and other services to Subsidiary Bodies and proprietors of Lots in the Community Scheme.

Remuneration: An annual sum equivalent to 20% of the annual operational, management and maintenance costs of the Community Scheme excluding the costs incurred by a Managing Agent.

Assignment: The Manager has the right to assign its rights under the agreement to a respectable and responsible assignee.

Termination: The agreement may be terminated by the Community Association if:

(i) the Manager assigns its interest in the agreement in breach of assignment provisions;

(ii) the Manager fails or neglects to carry out its duties after 21 days notice of same from the Community Association;

(iii) the Manager is guilty of gross misconduct or gross negligence in performance of its duties; or

(iv) the Manager enters into liquidation.

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The agreement may be terminated by the Manager:

(i) if the Community Association fails or neglects to carry out its duties after 21 days notice of same from the Manager;

(ii) if the Community Association fails to pay to the Manager its remuneration or other moneys payable within 14 days of the due date whether or not any formal demand has been made;

(iii) if an order is made by the Supreme Court of New South Wales for variation or termination of the Community Scheme; or

(iv) at any time during the term of the agreement upon giving 3 months prior notice to the Community Association.

BY-LAW 4.3 PRIVATE SERVICES

4.3.1 The Community Association may, on its own behalf or on behalf of a Subsidiary Body:

(a) provide Private Services to a Subsidiary Body or the proprietor or occupier of a Lot;

(b) arrange for the installation and maintenance of Service Lines for the provision of Private Services; and

(c) contract with persons to monitor or provide, in part or in whole, Private Services.

4.3.2 The proprietor or occupier of a Lot must not:

(a) carry out any works which interfere with Private Services;

(b) carry out any works which interfere with Private Services except with the approval of the Community Association; or

(c) obstruct access to, overload or damage Private Services.

4.3.3 If a proprietor or occupier of a Lot becomes aware of damage to or the defective operation of Private Services they must immediately give notice to the Community Association of that damage or defective operation.

BY-LAW 4.4 COMMUNITY ASSOCIATION'S RIGHT TO MAINTAIN SERVICES

Subject to giving notice in accordance with section 60(2) of the Management Act, the Community Association and persons authorised by it may enter a Lot to maintain, repair, alter, add to, increase the capacity of or renew Private Services.

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BY-LAW 4.5 PROPRIETOR AND OCCUPIER RESPONSIBLE FOR OTHERS

4.5.1 A proprietor or occupier of a Lot must take all reasonable steps to ensure that an Authorised Visitor complies with the By-Laws as if that Authorised Visitor were a proprietor or occupier of a Lot.

4.5.2 If an Authorised Visitor does not comply with the By-Laws then the proprietor or occupier must withdraw the consent of the person to be on the Community Parcel and request that person to leave the Community Parcel.

4.5.3 If the By-Laws prohibit a proprietor or occupier of a Lot from doing a thing, the proprietor or occupier must not allow or cause another person to do that thing.

BY-LAW 4.6 THINGS NOT IN KEEPING

The proprietor or occupier of a Lot must not, except with the approval of the Community Association, construct, install or maintain on or in a Lot any thing which can be seen from outside the Lot and which in the reasonable opinion of the Community Association is not in keeping with the building on or the landscaped areas of the Lot.

BY-LAW 4.7 MAINTENANCE OF BUILDING ON A LOT

4.7.1 The proprietor or occupier of a Lot must keep the Lot clean and tidy and in good repair and condition.

4.7.2 The Community Association may give a notice to the proprietor or occupier of a Lot requiring them to comply with the terms of this By-Law.

BY-LAW 4.8 RULES

4.8.1 The Community Association may make Rules relating to the control, management, operation, use and enjoyment of the Community Parcel including, without limitation, the control, management operation and use of the Access Way and any Special Facilities or any Subsidiary Association Property under its control.

4.8.2 The Community Association may at any time add to or alter the Rules.

4.8.3 The Community Association may not make a Rule or add to or other a Rule so that it becomes inconsistent or in conflict with the Management Act, Development Act or the By-Laws.

4.8.4 Rules bind proprietors of Lots, Authorised Visitors, occupiers, mortgagees in possession and lessees of Lots and any Subsidiary Body.

BY-LAW 4.9 ADDITIONAL RESTRICTIONS

4.9.1 A proprietor or occupier of a Lot must not:

(a) create any noise or behave in a manner likely to interfere with the peaceful enjoyment of the proprietor or occupier of another Lot or of any person lawfully using Community Property or Subsidiary Association Property; or

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(b) obstruct lawful use of Community Property or Subsidiary Association Property by any person.

4.9.2 A proprietor or occupier of a Lot when on Community Property or Subsidiary Association Property (or on any part of a Lot so as to be visible or audible from another Lot or from Community Property or Subsidiary Association Property) must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the proprietor or occupier of another Lot or to any person lawfully using Community Property or Subsidiary Association Property.

4.9.3 A proprietor or occupier of a Lot must not permit any child under the control of that proprietor or occupier to play on any area of Community Property or Subsidiary Association Property or unless accompanied by an adult remain on any area of Community Property or Subsidiary Association Property comprising a car parking area or other area of possible danger or hazard to children.

4.9.4 A proprietor or occupier of a Lot must at the proprietor's or occupier's own expense promptly comply with all laws relating to the Lot including, without limitation, any requirements, notices and orders of Council.

4.9.5 A proprietor or occupier of a Lot must not use the Lot for any purpose that may impugn the good reputation of the Community Scheme.

4.9.6 A proprietor or occupier of a Lot must keep the Lot, including all glass in windows and all external doors and so much of such windows and doors as is Common Property (where applicable) (which are safely accessible to that proprietor or occupier), clean and in good repair.

4.9.7 A proprietor or occupier of a Lot must not operate or permit to be operated on the Community Parcel any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Community Parcel.

4.9.8 A proprietor or occupier of a Lot must not do or permit anything including, without limitation, bring or permit to be brought into the Community Parcel any heavy article, which might cause structural damage to the Community Parcel or any building on the Community Parcel.

4.9.9 A proprietor or occupier of a Lot must not do anything to interfere with, damage or deface Community Property or Subsidiary Association Property without the prior written consent of the Community Association or the relevant Subsidiary Body.

4.9.10 A proprietor or occupier of a Lot must not damage any lawn, plant, tree or garden forming part of or situated on Community Property or Subsidiary Association Property or use for the proprietor's or occupier's purpose as a garden any part of the Community Property or Subsidiary Association Property.

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4.9.11 A proprietor or occupier of a Lot must not, without the prior written consent of the Community Association or Subsidiary Body (as applicable), interfere with Community Property or Subsidiary Association Property or remove any article from the Community Property or Subsidiary Association Property placed there by direction or authority of the Community Association or Subsidiary Body and must use all reasonable endeavours to ensure that such items are used only for their intended use and not damaged.

4.9.12 A proprietor or occupier of a Lot must not, without the authority of the Community Association or Subsidiary Body (as applicable) interfere with the operation of any equipment installed in the Community Property or Subsidiary Association Property.

4.9.13 A proprietor or occupier of a Strata Lot must not modify any existing air conditioning unit, ventilation system or associated ducting (whether or not such air conditioning unit, ventilation system or associated ducting is contained wholly within that Strata Lot) without the prior written consent of the relevant Strata Corporation which consent must not be unreasonably withheld.

4.9.14 A proprietor or occupier of a Lot must not do or permit anything which may prejudice the security or safety of the Community Parcel and, without limitation, a proprietor or occupier of a Lot must take all reasonable steps to ensure that all fire and security doors are kept locked or secure or in an operational state, as the case may be, when not in immediate use.

4.9.15 A proprietor or occupier of a Lot must promptly notify the Executive Committee of any damage to or defect in the Community Property or Subsidiary Association Property or any personal property vested in the Community Association or any Subsidiary Body.

4.9.16 The proprietor or occupier of a Lot is liable to compensate the Community Association or any Subsidiary Body in respect of any damage to the Community Property or Subsidiary Association Property or personal property vested in the Community Association or any Subsidiary Body caused by that proprietor or occupier or any lessee, licensee or invitee of that proprietor or occupier.

4.9.17 The Community Association or any Subsidiary Body must take all reasonable steps to ensure the security of the Community Parcel (or any part of it) from intruders and to preserve the safety of the Community Parcel from fire or other hazard.

4.9.18 The proprietor or occupier of a Lot must not, except with the approval of the Community Association, use, keep or store on the Lot or any other part of the Community Parcel, any flammable chemical, gas or other materials other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes or in the fuel tank of a motor vehicle or internal combustion engine.

4.9.19 The proprietor or occupier of a Lot must not use any storage area outside the habitable part of the Lot for storage of any perishable substances and must keep such storage areas free of vermin at all times.

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4.9.20 The proprietor or occupier of a Lot must not enclose any storage area outside the habitable part of the Lot without the prior written consent of Council and the Community Association. This does not apply to such areas already enclosed when this Statement is registered.

BY-LAW 4.10 ANIMALS

4.10.1 The proprietor or occupier of a Lot in a Neighbourhood Scheme may keep or allow in their lot any:

(a) goldfish or other fish kept in an indoor aquarium;

(b) canaries, budgerigars or other similar birds kept indoors at all times;

(c) a domestic dog with the consent of the Executive Committee; and

(d) a domestic cat provided the animal is confined indoors between sunset and sunrise.

No other Animals may be kept or allowed in any other Lot or on any part of the Community Parcel.

4.10.2 In determining whether to grant its consent pursuant to paragraph (c), the Executive Committee may take into consideration the type and size of the dog, whether the relevant proprietor or occupier has obtained consent to the keeping of any other dog and any other matter which the Executive Committee considers relevant.

Consent Not Granted

(e) The Executive Committee will not give its consent for a dog to be kept on a Lot if:

(i) it is not registered in accordance with the Dog Act 1966; or

(ii) it has been declared a dangerous dog under the Dog Act 1966.

(f) The Executive Committee will generally not grant consent for the keeping of the dogs which - in the view of the Executive Committee - are accepted to be or have a reputation as being vicious, aggressive, noisy or difficult to control.

Consent Will Be Given

(g) The Executive Committee will generally grant consent for the keeping of a small or medium sized dog which - in the opinion of the Executive Committee - are not accepted as being or have a reputation as being vicious, aggressive, noisy or difficult to control.

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Implied Conditions

4.10.3 Despite anything in this By-Law:

(a) a completely or partially blind proprietor or occupier of a Lot may keep a dog used as a guide on a Lot; and

(b) a completely or partially blind person may use a dog as a guide on a Lot or on any other part of the Community Parcel.

4.10.4 Where a proprietor or occupier of a Lot or any person who is on the Community Parcel with the proprietor's consent (express or implied) brings or keeps an Animal on a Lot or any other part of the Community Parcel the proprietor or occupier is:

(a) responsible for ensuring that the Animal (in the case of a dog) is at all times restrained on a leash.

(b) liable to the proprietors and occupiers of other Lots and all other persons lawfully on the Community Parcel for any noise which is disturbing to an extent which is unreasonable and for damage to or loss of property or injury to any person caused by the Animal; and

(c) responsible for cleaning up after the Animal has used any part of another Lot or any other part of the Community Parcel.

4.10.5 The liability and responsibility imposed on the proprietors and occupiers of Lots under this By-Law exists notwithstanding that a proprietor or occupier has obtained the approval of the Community Association to keep an Animal on a Lot in a Neighbourhood Scheme.

4.10.6 The Executive Committee reserves absolutely to itself the right to order the removal of an Animal from the Community Parcel if after consideration of all evidence placed before it:

(a) any Animal kept or allowed on a Lot becomes offensive, vicious or audibly or visually a nuisance; or

(b) any Animal is kept in breach of any conditions of approval imposed by the Community Association under paragraph (b); or

(c) the Animal is brought onto the Community Parcel, kept or used in breach of this By-Law.

4.10.7 If the Executive Committee orders the removal of an Animal under this By-Law then the proprietor or occupier who owns the Animal (or has the care or control of it) must remove the Animal from the Community Parcel in accordance with the terms of the order.

(i) Any consent by the Executive Committee for the keeping of an Animal under this By-Law is subject to any requirement by a relevant Government Authority.

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BY-LAW 4.11 PESTICIDES, FERTILIZERS & INSECTICIDES

A proprietor or occupier of a Lot must, before applying any pesticide, fertilizer, insecticide or chemical of any description to or around a Lot, (or building on a Lot), ensure that the substance proposed to be used will not damage the environment on, around or below the surface level of the Lot, or any other Lot or Community Property or Subsidiary Association Property.

BY-LAW 4.12 PERMITTED ENCROACHMENTS

4.12.1 In this By-Law, the term "Permitted Encroachment" means eaves, guttering and downpipes or any part of them on a structure erected on Lot in a Neighbourhood Scheme, which encroaches onto an adjoining Lot to a maximum extent of 0.18 metres.

4.12.2 The proprietor of a Lot in a Neighbourhood Scheme on which an adjoining Lot encroaches (Lot Burdened) must accept any Permitted Encroachments onto that Lot and, without limitation, and subject to this By-Law, must in respect of the Permitted Encroachment, consent to the creation of any easement under Section 88B of the Conveyancing Act 1919 which benefits the adjoining Lot (Lot Benefited) and burdens the Lot Burdened.

4.12.3 An easement created under this By-Law should require that the proprietor of a Lot Burdened to:

(a) refrain from causing or permitting any support provided by the soil of the lot burdened to the Permitted Encroachment to be removed; and

(b) use best endeavours to prevent any damage to or defacement of a Permitted Encroachment; and

(c) grant reasonable access to the Lot Burdened for the proprietor of the Lot Benefited (or that proprietor's agents) to inspect, repair, paint or replace a Permitted Encroachment.

4.12.4 An easement created under this By-Law should entitle the proprietor of a Lot Benefited to maintain and keep that part of the structure which is a Permitted Encroachment on and over that part of a Lot Burdened.

4.12.5 An easement created under this By-Law should require the proprietor of a Lot Benefited to:

(a) except in the case of emergency, give the proprietor of a Lot Burdened not less than 7 days notice of access;

(b) cause as little disturbance to the Lot Burdened or its occupants as reasonably possible; and

(c) promptly make good all damage occasioned to that Lot.

4.12.6 An easement created under this By-Law should require the proprietor of the Lot Benefited to idemnify the proprietor of the Lot Burdened against:

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(a) any costs, damages, expenses or awards arising out the existence of any encroachment referred to in this By-Law; or

(b) the exercise by the proprietor of the Lot Benefited of any rights under the easement.

4.12.7 In this By-Law, the word "proprietor" includes lessee, occupier, mortgagee and covenant chargee.

BY-LAW 4.13 INTEGRATED HOUSING

4.13.1 A proprietor or occupier of a Lot must not erect a dwelling on any Lot less than 550m2 in area unless the dwelling is in accordance with the siting and design provisions of Great Lakes Council's Policy for Integrated Housing (D.C.P.No.7).

4.13.2 A proprietor or occupier of a Lot must ensure that the design of a dwelling erected under this By-Law maximises solar access, acoustic and visual privacy and provides adequate and usable open space accessible to interior living areas to the satisfaction of the Great Lakes Council.

BY-LAW 4.14 MINIMUM AREAS

4.14.1 Despite any requirements of By-Law 1.1 and 1.2, the following minimum size covenant applies to a dwelling on a Lot in a Neighbourhood Scheme:

(a) on any Lot of 400 square metres or less in area, a dwelling of not less than 115 square metres in area including any fully enclosed garage, but excluding any carport, breezeway, patio or verandah; or

(b) on any Lot not less than 400 square metres in size but not more than 550 square metres in area, a dwelling of not less than 130 square metres in area including any fully enclosed garage but excluding any carport, breezeway, patio or verandah; or

REPEALED
See Rg. 5851594
See new by-laws
filed as ANNEXURE 'A'
28.6.99

~~(c) on any Lot of 550 square metres or more in area, a dwelling of not less than 155 square metres in area including any fully enclosed garage but excluding any carport, breezeway, patio or verandah.~~

BY-LAW 4.15 REVETMENT WALLS

4.15.1 Revetment Walls must be built to a design approved by Great Lakes Council on developed Lots with absolute frontage to any Waterbody to protect the Lot from erosion and to protect the Waterbody from pollution.

4.15.2 A proprietor or occupier of a Lot must not damage or deface a Revetment Wall, or fix any permanent item or structure to the Revetment Wall or alter or allow to be altered the level of the sand or soil abutting, or in the vicinity of the Revetment Wall.

4.15.3 Despite a Revetment Wall being located entirely within the boundary of a Lot, the Community Association is responsible for keeping the Revetment Wall in a true and structurally sound position.

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4.15.4 The proprietor or occupier of a Lot must allow the Community Association's servants and agents access to their Lot for the purpose of effecting any repairs that may be necessary to maintain the integrity of the Revetment Wall.

4.16 DETENTION SYSTEM

4.16.1 In this By-Law Detention System includes a Detention System installed from time to time as and when each Community Development Lot is developed, to help maintain the highest possible water quality in any Waterbody within the Community Parcel.

4.16.2 The proprietor or occupier of a Lot on which a Detention Tank is installed is responsible for the care and maintenance of the Detention Tanks and all ancillary fittings. The proprietor or occupier must, without limitation, prevent sediments, weedicides, pesticides, fertilizers, grass clippings or other foreign matter entering the Detention Tanks and provisions of By-Law 4.19 shall apply in this instance.

4.16.3 To protect the Detention Tanks no proprietor or occupier of a Lot must erect any structure whatsoever or drive any vehicle on that part of the Lot containing the Detention System, which area extends from the rear boundary of the Lot to a line five metres in from and parallel to the rear boundary of the Lot.

4.16.4 The proprietors or occupiers of a Lot must not remove or damage the grated drain extending across the width of the rear Lot alongside the Revetment Wall or the associated sediment pits which collect water draining from the grated drain to the Detention Tanks and must maintain these drains and pits in good working order, free of silt, leaves, grass, weeds or other substances, so as to prevent all such foreign material entering into the Detention Tanks.

4.16.5 The proprietors or occupiers of a Lot must ensure that all stormwater draining from any roof, driveway or patio to be erected on any Lot is piped to and connected into the nearest Detention Tanks via a pit or pits located adjacent to one or both of the side boundaries of the Lot. Each pit must contain a sediment trap of a volume no less than 0.2 cubic metres capacity each, and this trap or these traps must be regularly cleaned of all silt, leaves, grass, weeds or other substances by the proprietor or occupier.

4.16.6 Persons approved by the Community Association may enter upon any Lot for the purpose of inspecting any Detention Tank or ancillary drainage works.

See. Rq. 6346634 4.16.7
See new by-laws filed as ANNEXURE 'D' JA 14.12.1999

BY-LAW 4.17 JETTIES AND PONTOONS ON WATERBODIES

4.17.1 The Community Association is empowered to enter into license agreements with proprietors of Lots, which abut any Waterbody owned or under the control of the Community Association, for the construction, maintenance, use, repair and removal of jetties and pontoons on the Waterbody, and any excavation necessary to create a berth for a vessel provided always that the proprietor accepts that such license agreement is not necessarily exclusive and the Community Association may at its absolute discretion authorise the adjoining neighbour to share any jetty and pontoon on the terms and conditions set out in this By-Law.

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4.17.2 The Community Association may grant a license under this by-law subject to:

(a) the proprietor undertaking to comply with the terms of the license agreement including the requirement to maintain and keep the jetty and pontoon in good repair and condition;

(b) the proprietor obtaining the consent of the Community Association to construct a jetty and pontoon on a Waterbody adjoining the proprietor's Lot;

(c) the proprietor (and any successor in title) granted a license under this by-law (licensee) being responsible for the maintenance, repair and, if necessary, removal of the jetty and pontoon the subject of the license; and

(d) the license shall allow the permanent mooring of only one vessel per Lot on the jetty and pontoon and the condition of license shall specify the type, size and repair of any vessel allowed to be moored on any jetty or pontoon in the Waterbody.

4.17.3 The Executive Committee will generally consent to the construction of a jetty and pontoon on a Waterbody owned by or under the control of the Community Association if the jetty and pontoon:

(a) accords with Architectural and Landscape Standards for the construction of a jetty and pontoon;

(b) does not unduly interfere with the use and enjoyment of the Waterbody by other proprietors, occupiers and Authorised Visitors; and

(c) is specifically located adjacent to and parallel with the boundary of the Lot nominated by the Original Proprietor as the boundary from which a jetty and pontoon may extend ("Designated Boundary").

4.17.4 The Executive Committee may refuse or approve an application for the erection of a jetty and pontoon on a Designated Boundary under this By-Law with or without conditions.

4.17.5 To enhance the aesthetics of the Waterbody, all jetties and pontoons have been designed to accommodate two vessels and, as a consequence, most jetties and pontoons will be required to be erected parallel with, and in a line with, the middle of the Designated Boundary.

4.17.6 (a) Where only one proprietor of a Lot applies to erect a jetty and pontoon, or the Designated Boundary does not abut a property on which a residential home may be erected, the proprietor is responsible for the full cost of the erection and maintenance.

(b) Where the proprietors of two adjoining Lots sharing a Designated Boundary agree to a joint application, the cost of erecting and maintaining the jetty and pontoon must be shared equally between the proprietors.

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(c) Where an application is made by an adjoining owner not being the original applicant to share an existing jetty and pontoon, the subsequent applicant shall reimburse the original applicant half the current cost of replacing the jetty and pontoon, which amount shall be agreed between the parties and if such agreement is not forthcoming, then for an amount set by the Community Association. The original applicant shall be paid the amount determined from time to time by the Community Association less a 5% administration fee which shall be retained by the Community Association and form part of its sundry revenue.

4.17.7 Persons approved by the Community Association may enter onto the Lot and the jetty and pontoon the subject of the license agreement to do anything which should have been done by the licensee but which has not been done or not done properly in the construction and landscaping of the jetty and pontoon and the immediate environment.

4.17.8 If the Community Association exercises its right under this By-Law then for as long as it is necessary and at the cost of the licensee the Community Association and persons authorised by it may enter the Lot and remain there for as long as is necessary to carry out the works required under the license agreement to remove, and repair the jetty and pontoon.

4.17.9 Persons authorised by the Community Association may enter and remain on the Lot and any structure erected under the license agreement only after the date specified in a notice given to the licensee by the Community Association stating its intention to so enter and carry out the works.

4.17.10 The licensee must pay or reimburse the Community Association for the costs, charges and expenses of the Community Association in connection with the contemplated or actual enforcement, or preservation of any rights under the license or under this By-Law.

BY-LAW 4.18 TV AERIALS

A proprietor or occupier of a Lot must not erect any television aerial, radio mast, satellite dish or similar electronic receiving or transmitting device on any Lot where such device is visible from the street fronting the Lot or from Community Property unless the Lot is not provided with access to a cable capable of delivering:

(a) television signals direct from any conventional television station transmitting to the area; and

(b) television signals from any satellite transmitting to the area; and

(c) television signals from any MDS television transmitter, transmitting to the area.

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Should a lot not be provided with access to (a), (b) and (c) the proprietor or occupier must not erect a television aerial, radio mast, satellite dish or similar electronic receiving or transmitting device without the consent of the Executive Committee.

BY-LAW 4.19 COMMUNITY ASSOCIATION'S RIGHT TO REMEDY

4.19.1 The Community Association may do anything on a Lot which should have been done by the proprietor or occupier of a Lot under the By-Laws but which has not been done or not been done properly.

4.19.2 If the Community Association exercises its right under By-Law 4.11.1, then for as long as it is necessary and at the cost of the proprietor or occupier of the Lot, the Community Association and persons authorised by it may enter the Lot and remain there.

4.19.3 The Community Association may enter and remain on a Lot under By-Law 4.11.2 only after the date specified in a notice given to the proprietor or occupier of the Lot by the Community Association stating its intention to so enter.

BY-LAW 4.20 REIMBURSEMENT OF COSTS, CHARGES AND EXPENSES

4.20.1 A proprietor or occupier of a Lot must pay or reimburse the Community Association on demand for the costs, charges and expenses of the Community Association in connection with the contemplated or actual enforcement, or preservation of any rights under the By-Laws in relation to the proprietor or occupier.

4.20.2 The costs, charges and expenses under By-Law 4.12.1 shall include, without limitation, those expenses incurred in retaining any independent consultant or other person to evaluate any matter of concern and its administration costs in connection with those events.

BY-LAW 4.21 COMMUNITY ASSOCIATION NOT LIABLE FOR DAMAGE

The Community Association is not liable for damage to, or loss of property or injury to any person in or near the Community Parcel due to any cause other than the negligence or fraud of the Community Association or any employee or agent of the Community Association.

BY-LAW 4.22 INTEREST ON OVERDUE MONEY

4.22.1 A proprietor or occupier of a Lot must pay the Community Association interest on any amount, other than a contribution levied by the Community Association under the Management Act, that is due for payment and remains unpaid from and including the date it is due for payment.

4.22.2 During the period that an amount under this By-Law remains unpaid, on demand or at times notified by the Community Association, interest will be calculated on daily balances at the rate equal to 2% per annum above the rate quoted from time to time by the Community Association's bankers (as nominated by the Community Association) on overdraft accommodation in excess of $100,000.

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4.22.3 Interest which is not paid when due for payment may be capitalised by the Community Association at monthly intervals and is payable on capitalised interest at the rate and in the manner referred to in this By-Law.

4.22.4 Nothing in this By-Law prevents the Community Association from recovering any amount exceeding the interest calculated under this By-Law as a consequence of any amount not being paid when due.

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PART 5

BY LAWS REQUIRED BY PUBLIC AUTHORITIES

BY-LAW 5 ORION ENERGY RIGHTS FOR ELECTRICITY TRANSMISSION LINES (OVER-HEAD AND/OR UNDERGROUND)

5.1.1 Full and free right leave liberty and licence for Orion Energy ("Transferee") its successors and assigns, its and their officers, servants, agents, workmen and contractors and all other persons authorised by it or them to act on its or their behalf:

(a) to erect construct place inspect alter repair renew maintain and use of Community Property ("Servient Tenement") overhead and/or underground electricity transmission mains wires and cables and the supports therefore (including towers and poles) and other ancillary works for the transmission of electricity (the ownership of all of which works the Community Association ("Transferor") hereby acknowledges is vested in the Transferee); and

(b) to cause or permit electricity to flow or to be transmitted through and along the said mains wires and cables; and

(c) with or without vehicles and plant and equipment to enter and be in the Servient Tenement for the purposes of exercising any right leave liberty or licence granted hereunder; and

(d) to cut trim or lop trees branches and other growths or foliage which now or at any time hereafter may overhang encroach or be in or on the Servient Tenement and which in the opinion of the Transferee may or may be likely to interfere with any right leave liberty or licence granted hereunder; and

(e) for the purpose of gaining access to the Servient Tenement, with or without vehicles, plant and equipment enter, be upon traverse and depart from land adjoining the Servient Tenement owned by the Transferor its successors and assigns.

5.1.2 This By-Law may not be amended or revoked without the consent of Orion Energy.

BY-LAW 5.2 WATER QUALITY

5.2.1 The Community Association is responsible for, and must maintain at its cost, the water quality in the Waterbody at any standards that may be specified from time to time by Council.

5.2.2 At the time of preparation of a water quality strategy by the Developers, Council may specify:

(a) water quality standards, including recreational and biological, that are to be maintained within the Waterbody;

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(b) water sampling and testing locations and procedures so as to monitor water quality within the Waterbody; and

(c) if Council considers it appropriate, means of achieving and maintaining the water quality within the Waterbody.

5.2.3 The Community Association is responsible for water quality monitoring and subsequent reporting in accordance with any reasonable requirements of Council.

5.2.4 The Community Association must ensure that an appropriately qualified person approved by Council, undertake the ongoing sampling and testing referred to in this By-Law.

5.2.5 If the sampling and testing referred to in this By-Law indicates water quality of a significantly lesser standard than that which Council has specified, the Community Association must prepare and implement a remediation plan to improve the water quality.

5.2.6 The Waterbodies must be managed by the Community Association so as to maximise their pollution control function, provide habitat, and ensure that usage for primary contact water based recreation is restricted.

5.2.7 A code of practice describing best household and land and water management practice to ensure high quality stormwater runoff must be prepared and implemented by the Community Association.

5.2.8 The Community Association will be responsible, at its cost, for the maintenance of the visual standard of the Waterbody, including the removal of excessive weed or algal growth.

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BY-LAW 5.2.9
ADDED.
SEE ANNEXURE "F"

12.11.2004

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PART 6

BY-LAW 6.1 DEFINITIONS, INTERPRETATION AND GENERAL

6.1.1 The following words have these meanings in the By-Laws unless the contrary intention appears:

"Access Way" means the Private Access Way or Open Access Way shown on the Access Way Plan registered with this Management Statement as amended from time to time).

"Animal" means an animal, reptile, insect or bird.

"Annual General Meeting" means an annual general meeting of the Community Association other than the first annual general meeting.

"Architectural and Landscape Standards" means any standards prescribed by the Community Association or a Subsidiary Body for the Community Scheme or the relevant Subsidiary Scheme as amended from time to time.

"Area Not Required for Development" means that part of the Community Property identified as "Area Not Required For Development" on the Concept Plan.

"Authorised Visitor" means a person on the Community Parcel with the consent express or implied of a proprietor or occupier of a Lot, the Community Association or a Subsidiary Body.

"Building Modification" means any modification, addition, alteration or exterior colour change made on or to an existing building or structure on a Lot or Community Property or Subsidiary Association Property.

"By-Law" means a by-law in the Management Statement.

"Common Property" means the common property in a Strata Scheme.

"Community Property" means lot 1 in the Community Plan.

"Community Association" means the corporation that:

(a) is constituted by section 25 of the Development Act on registration of the Community Plan; and

(b) is established as a community association by section 5 of the Management Act.

"Community Development Lot" means a lot in the Community Plan which is not Community Property, a public reserve or a drainage reserve and is not land that has become subject to a Subsidiary Scheme or a lot that has been severed from the Community Scheme.

"Community Parcel" means the land the subject of the Community Scheme.

"Community Plan" means the deposited plan registered with this Management Statement.

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"Community Property" means the lot shown in the Community Plan as community property.

"Community Scheme" means:

(a) the subdivision of land by the Community Plan;

(b) the subdivision of land in the Community Plan by a Subsidiary Plan;

(c) the proposals in any related Development Contract; and

(d) the rights conferred, and the obligations imposed, by or under the Community Titles Legislation and the Strata Titles Act 1973 in relation to the Community Association, Community Property, any Subsidiary Body and persons having interests in, or occupying Lots.

"Community Titles Legislation" means the Development Act, the Management Act and cognate legislation.

"Concept Plan" means the plan labelled as the concept plan contained in part 7 of this Management Statement.

"Council" means the relevant consent authority for subdivision or development approval.

"Detention Tanks" means the stormwater detention system located behind the Revetment Wall built into all lots with absolute frontage to a Waterbody.

"Development Act" means the Community Land Development Act 1989 and regulations made under it.

"Development Activities" means:

(a) any form of demolition work, building work or work ancillary to or associated with building work on the Community Parcel including, without limitation, the installation of Private Services;

(b) any form of landscaping work or work ancillary to or associated with landscaping work on the Community Parcel;

(c) any form or work other than the forms of work referred to in paragraphs (a) and (b) of this definition which is considered necessary or desirable by the proprietors for the time being of all Community Development Lots;

(d) the use of any part of the Community Parcel in connection with the forms of work referred to in paragraphs (a) to (c) of this definition; or

(e) the subdivision of land forming part of the Community Parcel.

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"**Development Conditions**" means:

(a) all damage to or interference with the Community Parcel must be made good at the expense of the Developers as soon as possible after that damage or interference occurs.

(b) the interference with the use or enjoyment by proprietors or occupiers of Lots or of the Community Property must, insofar as it is consistent with the carrying out of Development Activities, be kept to a minimum; and

(c) on completion from time to time of Development Activities the relevant Community Parcel areas must be left in a clean and tidy condition.

"**Development Rights**" means:

(a) **Access Rights** - complete and unrestricted access by foot or motor vehicle over Community Property;

(b) **Parking Rights** - the right to park motor vehicles and equipment on Community Property;

(c) **Temporary Facilities** - the right to place on or attach to Community Property temporary offices, sheds, depots, building materials, cranes and other equipment;

(d) **Right to Install Services** - the right to install (or arrange installation of) Services on Community Property;

(e) **Right to Connect Services** - the right to connect Services within Community Property; and

(f) **Right to Attach Signs** - the right to attach and place marketing and advertising signs, placards, banners, notices or advertisements on the Community Property;

(g) **Right to Conduct Sales** - the right to conduct Sales Activities on the Community Property.

"**Electricity Provider**" means any electricity supply authority including, without limitation, Orion Energy.

"**Executive Committee**" means the executive committee of the Community Association as constituted or elected from time to time under the Management Act.

"**First annual General Meeting**" means the General Meeting convened and held under section 9 of the Management Act.

"**Former Community Development Lot**" means a Strata Parcel or Neighbourhood Parcel that, before it became subject to a Strata Scheme or Neighbourhood Scheme, was a Community Development Lot.

"**Function**" includes a power, authority and duty.

"**General Meeting**" means:

(a) an annual general meeting; or

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(b) a special general meeting

of the Community Association.

"**Landscape Modification**" means any modification, addition or alteration made on or to an existing landscaped area on a Lot or Community Property or Subsidiary Association Property.

"**Lot**" means a Community Development Lot, a Strata Lot or a Neighbourhood Lot.

"**Management Act**" means the Community Land Management Act 1989 and regulations made under it.

"**Management Statement**" means this community management statement as from time to time added to, modified or amended in accordance with the Community Titles Legislation.

"**Managing Agent**" means an agent appointed under section 50 of the Management Act.

"**Neighbourhood Association**" means the corporation that:

(a) is constituted by section 25 of the Development Act on the registration of a Neighbourhood Plan; and

(b) is established as a neighbourhood association by section 7 of the Management Act.

"**Neighbourhood Parcel**" means land the subject of a Neighbourhood Plan.

"**Neighbourhood Plan**" means a neighbourhood plan which subdivides a Community Development Lot.

"**Neighbourhood Property**" means the lot shown in a Neighbourhood Plan as neighbourhood property.

"**Neighbourhood Scheme**" means:

(a) the subdivision of land by a Neighbourhood Plan;

(b) the proposals in any related Development Contract; and

(c) the rights conferred and the obligations implied, by or under the Community Titles Legislation in relation to the Neighbourhood Associations, Neighbourhood Property and the proprietors and other persons having interests in, or occupying Neighbourhood Lots.

"**New Construction**" means building work that is intended to be carried out on a Lot or Community Property or Subsidiary Association Property.

"**Open Access Way**" means an open access way set apart under section 41 of the Development Act.

"**Open Space Area**" means those parts of the Community Parcel intended as passive recreation or communal open space areas.

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"Original Proprietor" means Crighton Properties Pty Ltd (ACN 000 830 875) and persons authorised by it.

"Pedestrian Accessways" means any parts of the Community Property designated or intended for use as a pedestrian thoroughfare.

"Prescribed Diagram" has the meaning given to it in the Development Act.

"Private Access Way" means a private accessway set apart under section 44 of the Development Act.

"Private Service" means a Service in the Community Parcel which is not a Statutory Service.

"Prohibited Activities" means:

(a) riding skateboards; or

(b) using rollerskates or rollerblades; or

(c) playing; and

(d) on Pedestrian Access Ways only, riding bicycles.

8537409
SEE ~~857400~~
BY-LAW ADDED
SEE ANNEXURE 'E'
REGISTERED 9-5-2002

"Proprietor" includes lessees, occupiers, mortgagees, and covenant chargees.

'Reserve'

"Restricted Subsidiary Association Property" means:

(a) in the case of a Neighbourhood Scheme, the Neighbourhood Property, (including, without limitation, Waterbodies and recreational facilities) limited to a depth of 20 metres below natural ground level; and

(b) in the case of a Strata Scheme, all external Common Property open space areas.

"Revetment Wall" means a wall constructed across the rear of a Lot with absolute frontage to a Waterbody.

"Rules" means the rules made under By-Law 4.8.

"Sales Activities" means activities relating to the sale, including sale by auction, of Lots or leasing of Lots and all ancillary activities.

"Secretary" means the secretary of the Executive Committee.

"Security Key" means a key, magnetic card or other device used to:

(a) open and close doors, gates, buildings or locks; or

(b) operate alarms, security systems or communications systems.

"Service" includes:

(a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil; and

(b) the provision of sewerage and drainage; and

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Ref:NS-MQ8A /Src:T

(c) transmission by telephone, radio, television satellite or other means; and

(d) security systems; and

(e) any other facility, supply or transmission.

"**Service Line**" means a pipe, wire, cable, duct, or pole by means of which a Service is or is to be provided.

"**Service Provider**" means any statutory or governmental authority that provides a Service to the Community Parcel such as, without limitation, the Water Board, Telecom Australia or an Electricity Provider and any authorities or corporations assuming their Functions.

"**Sinking Fund**" means the sinking fund referred to in clause 12 part 4 of schedule 1 of the Management Act.

"**Special Facilities**" means any special facilities provided on the Community Property or under the control of the Community Association (such as under a lease to the Community Association or restricted use of Subsidiary Association Property granted to the Community Association) including, without limitation, any special facilities shown on the Concept Plan or expressly referred to in any By-Law dealing with special facilities.

"**Statutory Service**" means a Service in the Community Parcel provided by a Service Provider.

"**Strata Scheme**" means:

(a) a strata scheme under the Strata Act that is part of the Community Scheme;

(b) the proposals in any related development contract; and

(c) the rights conferred, and the obligations imposed, by or under the Strata Act and the Community Titles Legislation in relation to the scheme.

"**Strata Act**" means the Strata Titles Act, 1973.

"**Strata Corporation**" means a body corporate constituted by section 54 of the Strata Act for a Strata Scheme.

"**Strata Lot**" means a lot within the meaning of the Strata Act that is part of the Community Scheme.

"**Strata Parcel**" means the land the subject of a Strata Scheme.

"**Strata Plan**" means a strata plan under the Strata Act.

"**Subsidiary Association Property**" means Common Property or Neighbourhood Property or both.

"**Subsidiary Body**" means a Strata Corporation or Neighbourhood Association of the Community Scheme or both.

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Ref:NS-MQ8A /Src:T

"Subsidiary Plan" means in the case of a Strata Corporation, a Strata Plan and in the case of a Neighbourhood Association, a Neighbourhood Plan.

"Subsidiary Scheme" means a Strata Scheme or a Neighbourhood Scheme.

"Waterbody" means a body or bodies of water artificially created in the Community Parcel.

6.1.2 In the By-Laws unless the contrary intention appears:

(a) a reference to an instrument, by-law or matter regulated by a by-law includes any variation or replacement of it;

(b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(c) the singular includes the plural and vice versa;

(d) the word "person" includes a firm, a body corporate, an association or an authority;

(e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation persons taking by novation) and assigns; and

(f) a reference to a day is a reference to the period of time commencing at midnight and ending 24 hours later.

(g) headings are inserted for convenience and do not affect the interpretation of this Management Statement.

6.1.3 If the whole or any part of a provision of the By-Laws is void, unenforceable or illegal, it is severed. The remainder of the By-Laws have full force and effect. This By-Law has no effect if the severance alters the basic nature of the By-Laws or is contrary to public policy.

6.1.4 The Community Association may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by the Community Association does not prevent a further exercise of that or of any other right, power or remedy. Failure by the Community Association to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

6.1.5 The rights, powers and remedies provided in the By-Laws are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of the By-Laws.

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6.1.6 A reference to an authority, institute, association or body or to any officer of them is in the event of that authority, institute, association, body or officer ceasing to exist or being reconstituted, renamed or replaced or of their respective powers or functions being transferred to any other organisation or person deemed to be a reference to the organisation or officer established, constituted or appointed in lieu of or as replacement for or which or who serves substantially the same purposes or subject of that authority, institute, association, body or officer.

6.1.7 Words or expression which have the first letter capitalised are defined terms. Where such a word or expression is not expressly defined in the Management Statement it shall have the same meaning as it has in the Community Titles Legislation, unless the context otherwise requires.

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REGISTERED NB 21.3.1996

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DP 270100 **MANAGEMENT STATEMENT** Sheet 38 of 40 Sheets

SIGNATURES, CONSENTS AND APPROVALS

DATED 15th day of MARCH 1996

THE COMMON SEAL of CRIGHTON PROPERTIES PTY LIMITED (ACN 000 830 875) is affixed in accordance with its articles of association in the presence of:

CRIGHTON PROPERTIES PTY. LIMITED A.C.N. 000 830 875 Common Seal

L. McCarthy .....
Signature of Director

DIRECTOR — LORRAINE McCARTHY
Name of Director (block letters)

.....
Signature of Secretary/Director

ANDREW COX
Name of Secretary/Director (block letters)

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

CERTIFICATE OF APPROVAL

It is certified :

(a) that the consent authority has approved of the development described in Development Application No. 403/95 ; and

(b) that the terms and conditions of this Management Statement are not inconsistent with that development as approved.

Date: 15th March, 1996

Signature on behalf of consent authority .....

WESTPAC BANKING CORPORATION ARBN 007 457 141
by its attorney CHRISTINE PHOEBE MALCOLM
under Power of Attorney No. 831 Book 4059

~~Manager~~ MGR. LEGAL PROPERTY FINANCE GROUP
~~Assistant to the Manager Legal Sydney Office CBC~~
18 March 19 96

Witness: MICHELLE A. KENCALO
(name) 130 Phillip St Sydney
(business address)

R:P9600

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DP 270100

MANAGEMENT STATEMENT

PART 7

CONCEPT PLAN (SHEET)

See attached plan showing Area Not
Required for Development and Special Facilities

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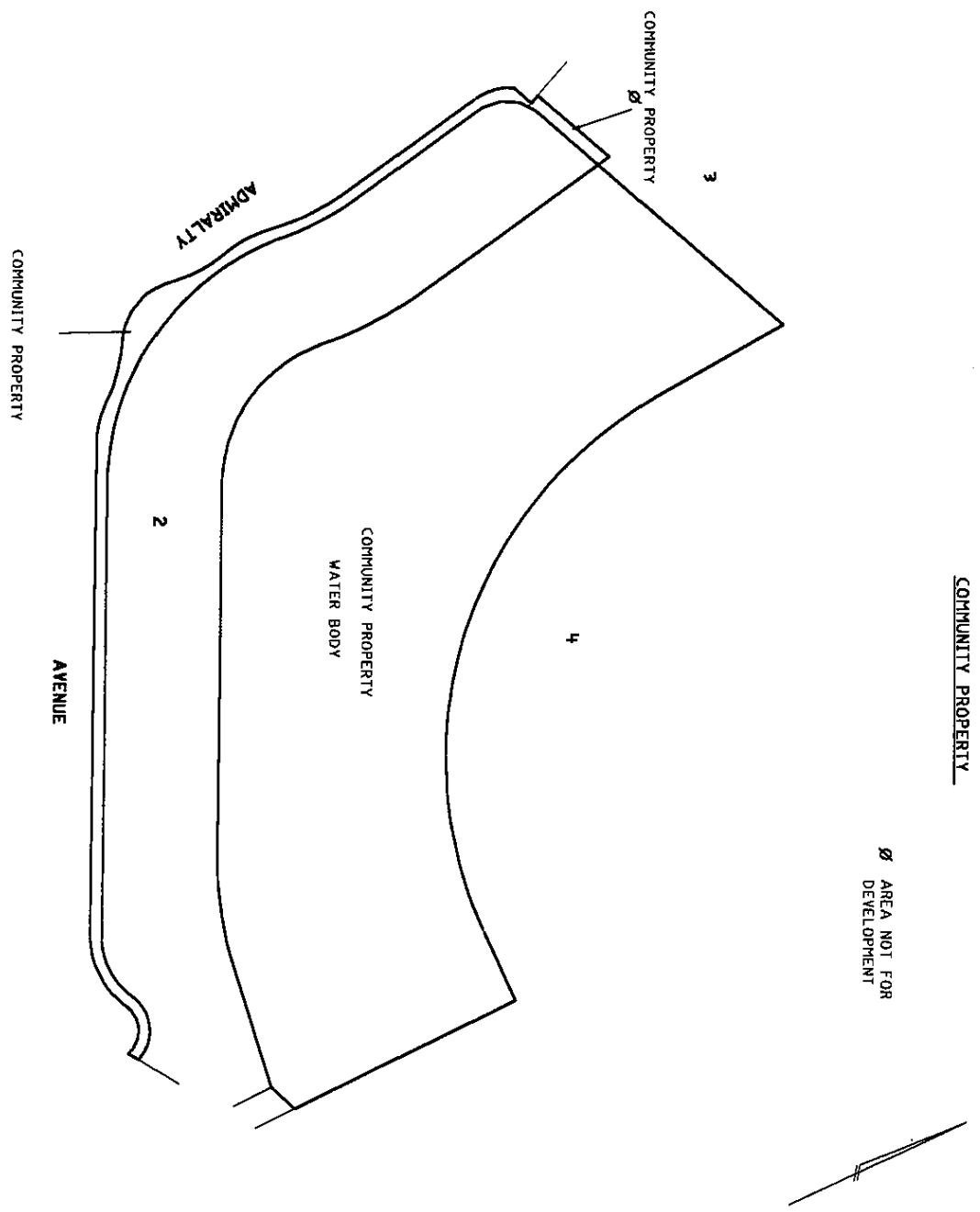
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MANAGEMENT STATEMENT



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Edition: 9804

REQUEST
New South Wales
Real Property Act 1900

MANAGEMENT STATEMENT

5851594Q

(A) **STAMP DUTY** If applicable. Office of State Revenue use only

DP270100

ANNEXURE 'A'

(B) **TORRENS TITLE** 1/270100

(C) **REGISTERED DEALING** If applicable

(D) **LODGED BY**

LTO Box	Name, Address or DX and Telephone	CODE
28A	GALLOWAY & CO. Phone: (02) 9233 1011 Fax: (02) 9232 6491 DX 340, SYDNEY L.T.O. Delivery 28A Reference (optional): Crighton - Manage	R

(E) **APPLICANT** COMMUNITY ASSOCIATION DP NO 270100

(F) **NATURE OF REQUEST**

AMENDMENT TO MANAGEMENT STATEMENT
Section 39 Community Land Development Act 1989

(G) **TEXT OF REQUEST** SEE ATTACHED ANNEXURE

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REGISTERED 28.6.99

All handwriting must be in block capitals.
A set of notes on this form (97-11R-2) is available from the Land Titles Office.

Checked by (LTO use):

DP270100

MANAGEMENT STATEMENT

ANNEXURE TO REQUEST

REQUEST AMENDMENT OF MANAGEMENT STATEMENT
Section 39 community land Development Act 1989

The Applicant certifies that, by a unanimous resolution passed on 17 May 1999 in accordance with section 14 of the Community land Management Act 1989, it amended the management statement as follows:

REPEALED BY-LAW 4.14 (c)

ADDED BY-LAW NO 4.14 (d), (e) & (f)

REPEALED Req. 6010962 See new by-laws filed as ANNEXURE 'B' 26-8-1999

~~(d) on any Lot not less than 550 square metres in size but not more than 800 square metres in area, a dwelling of not less than 155 squaqre metres in area including any fully enclosed garage, but excluding any carport, breezeway, patio or verandah; or~~

~~(e) on any Lot not less than 800 square metres in size but not more than 1000 square metres in area, a dwelling of not less than 180 square metres in area including any fully enclosed garage, but excluding any caprort, breezeway, patio or verandah; or~~

(f) on any lot of 1000 square metres or more in area, a dwelling of not less than 250 square metres in area including any fully enclosed garage, but excluding any carport, breezeway, patio or verandah.

REPEAL BY-LAWS 3.3.5, 3.3.6, 3.3.7 AND 3.3.8

REGISTERED 9-5-2002 REPLACE WITH BY-LAWS

SEE 8537409 BY-LAW REPEALED REPLACED SEE ANNEXURE 'E'

~~3.3.5(2) A fence may be constructed five metres from and parallel with a boundary line abutting a waterbody ("waterbody fence").~~

~~3.3.6(2) If a Waterbody Fence is constructed it must:~~

SEE 8537409BY-LAW REPEALED REPLACED SEE ANNEXURE 'E' REGISTERED 9-5-2002

(a) be constructed of powder coated aluminium "looped" pool fencing;
(b) not exceed 1.2 metres in height;
(c) be of a colour that is in keeping with the external walls of any dwelling constructed on the Lot; and
~~(d) not be constructed of solid "Colourbond" fencing or other similar material.~~

~~3.3.7(2) An existing Waterbody Fence constructed on a Lot adjacent to Community~~ property ~~or~~ Association Property that is a Public Walkway or public open space, must not be altered ~~without the~~ written approval of the Original Proprietor or ~~Executive Committee according to By-Law 1.3.~~

SEE 8537409 BY-LAW REPEALED REPLACED SEE ANNEXURE 'E' REGISTERED 9-5-2002

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 28.6.99

DP270100

MANAGEMENT STATEMENT

~~3.3.8(2) A fence constructed along the side and rear boundary lines of a lot that are not~~ waterbody fences ("neighbourhood fences") must:

SEE 8537409 BY-LAWS REPEALED REPLACED SEE ANNEXURE 'E'
REGISTERED 9-5-2002

(a) be constructed at least 1 metre to the rear of the building line;
(b) be at least 5 metres from a waterbody boundary line;
(c) be of a height of 1800mm except for the end closest to a waterbody boundary, which may taper to 1200mm in height from a point located 4.8 metres from the end of that fence; and
(d) be constructed of:
  (i) lapped and capped timber palings treated with copper chormium arsenate (C.C.A.);
  (ii) bagged and painted brick;
  (iii) brushwood; or
  ~~(iv) any other material approved by the Executive Committee.~~

DELETE THE DEFINITION OF "WATERBODY" IN BY-LAW 6.1 AND REPLACE IT WITH:

"Waterbody" means a body or bodies of water artificially created or proposed to be created in the Community Parcel.

ADD BY-LAW NO 5.3

BY-LAW 5.3 WETLAND MANAGEMENT ZONE

5.3.1 The Community Association is responsible for, and must maintain the vegetation in any Wetland Management Zone (which is delineated and marked as such on the Community Plan) at all times. Artificial fertilizers or pesticides are not to be used within this zone.

5.3.2 The Community Association must ensure the dumping of rubbish is prohibited within this zone.

5.3.3 Despite the Wetland Management Zone being located entirely within the boundary of a Lot, the Community Association is responsible for enforcing the above by-laws. The proprietor of the Lot must allow the Community Association's servants and agents access to their Lot for the purpose of effecting any maintenance required.

5.3.4 The Community Association is empowered to take action against those proprietors found contravening 5.3.1 and 5.3.2 via Part Four of the Community Land Management Act 1989.

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Ref:NS-MQ8A /Src:T

DP270100

MANAGEMENT STATEMENT

The community association certifies that it has, by unanimous resolution, consented to the repealing and addition of the by-laws contained within the Management Statement.

THE COMMON SEAL OF COMMUNITY ASSOCIATION DEPOSITED PLAN NO 270100 was affixed on) ..... in the presence of Monteath & Powys Strata Management Pty Limited being the person authorised by section 8 of the Community Land Management Act 1989 to attest the affixing of the seal.) .....

THE COMMON SEAL OF MONTEATH & POWYS STRATA MANAGEMENT PTY LIMITED was hereunto affixed by authority of its Board of Directors in the presence of:) .....

.....

COMMUNITY PLAN No. 270100 D.P. Seal of Association

Monteath & Powys Strata Management Pty Limited A.C.N. 070 795 667 Common Seal

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 28.6.99

DP270100

MANAGEMENT STATEMENT

We certify this dealing correct for the purposes of the Real Property Act 1900. **DATE:**

Signed in my presence by the applicant who is personally known to me.

Signature of witness: Signature of applicant:

Name of witness:

Address of witness:

The Common Seal of Monteath & Powys Strata Management Pty. Ltd. was hereunto affixed by authority of the Board of Directors in the presence of:

Monteath & Powys Strata Management Pty Limited ACN 070 795 667 Common Seal

D.P. No. 270100 COMMUNITY PLAN Seal of Association

EXECUTION INCLUDING STATUTORY DECLARATION

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900, and I certify this application correct for the purposes of the Real Property Act 1900.

Made and subscribed at

in the State of on in the presence of-

Signature of witness: Signature of applicant:

Name of witness:

Address of witness:

Qualification of witness:

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 28.6.1999

Form: 97-11R
Licence: 10V/0559/96
Edition: 9804

REQUEST
New South Wales
Real Property Act 1900

Land Titles Office use only

Do not affix additional pages here: use the left-hand corner

MANAGEMENT STATEMENT

(A) **STAMP DUTY** If applicable. Office of State Revenue use only

DP270100

ANNEXURE 'B'

(B) **TORRENS TITLE**

1/270100	

(C) **REGISTERED DEALING** If applicable

(D) **LODGED BY**

LTO Box	Name, Address or DX and Telephone	CODE
28A	GALLOWAY & CO. Phone: (02) 9233 1011 Fax: (02) 9232 6491 DX 340, SYDNEY L.T.O. Delivery 28A Reference (optional): CRIGHTON : 270100.	R

(E) **APPLICANT** COMMUNITY ASSOCIATION DP NO 270100

(F) **NATURE OF REQUEST**

AMENDMENT TO MANAGEMENT STATEMENT

Section 39 Community Land Development Act 1989

(G) **TEXT OF REQUEST** SEE ATTACHED ANNEXURE

TERMS OF INSTRU... ...OT CHECKED IN LAND TI... OFFICE

REGISTERED 26.8.99

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A set of notes on this form (97-11R-2) is available from the Land Titles Office.

Checked by (LTO use):

DP270100

MANAGEMENT STATEMENT

ANNEXURE TO REQUEST

REQUEST **AMENDMENT OF MANAGEMENT STATEMENT**
Section 39 Community Land Development Act 1989

The applicant certifies that, by a unanimous resolution passed on 5 July 1999 in accordance with section 14 of the Community Land Management Act 1989, it amended the management statement as follows:

REPEALED BY-LAW 4.14 (d) & (e)

ADDED BY-LAW NO 4.14 (g) & (h)

(g) on any Lot not less than 550 square metres in size but not more than 801 square metres in area, a dwelling of not less than 155 square metres in area including any fully enclosed garage, but excluding any carport, breezeway, patio or verandah; or

(h) on any Lot not less than 801 square metres in size but not more than 1000 square metres in area, a dwelling of not less than 180 square metres in area including any fully enclosed garage, but excluding any carport, breezeway, patio or verandah.

The Community Association certifies that it has, by unanimous resolution, consented to the repealing and addition of the by-laws contained within the Management Statement.

THE COMMON SEAL OF COMMUNITY ASSOCIATION DEPOSITED PLAN NO 270100 was affixed on in the presence of Monteath & Powys Strata Management Pty Limited being the person authorised by Section 8 of the Community Land Management Act 1989 to attest the affixing of the seal.

COMMUNITY PLAN Seal of Association D.P. No. 270100

.....

THE COMMON SEAL OF MONTEATH & POWYS STRATA MANAGEMENT PTY LIMITED was hereunto affixed by authority of its Board of directors in the presence of:

Monteath & Powys Strata Management Pty Limited A.C.N. 070 795 667 Common Seal

.....

.....

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REF: /LM

REGISTERED 26.8.99

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Ref:NS-MQ8A /Src:T

DP270100

MANAGEMENT STATEMENT

We certify this dealing correct for the purposes of the Real Property Act 1900. **DATE:** 12 July, 1999

Signed in my presence by the applicant who is personally known to me.

Signature of witness: C. Paul

Signature of applicant:

Name of witness: C. Paul

Address of witness: 25 Bolton St, Newcastle

COMMUNITY PLAN Seal of Association D.P. No. 270100

The Common Seal of Monteath & Powys Strata Management Pty. Ltd. was hereunto affixed by authority of the Board of Directors in the presence of:

Monteath & Powys Strata Management Pty Limited A.C.N. 070 795 667 Common Seal

EXECUTION INCLUDING STATUTORY DECLARATION

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900, and I certify this application correct for the purposes of the Real Property Act 1900.

Made and subscribed at Newcastle in the State of NSW on 12/7/99 in the presence of-

Signature of witness: C. Paul

Signature of applicant:

Name of witness: C. Paul

Address of witness: 25 Bolton St, Newcastle

Qualification of witness: Strata Manager.

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REGISTERED 26.8.99

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Form: 97-11R
Licence: 10V/0559/96
Edition: 9804

1/2

REQUEST
New South Wales
Real Property Act 1900

MANAGEMENT STATEMENT

6346634X

(A) **STAMP DUTY** If applicable. Office of State Revenue use only

DP270100

ANNEXURE 'D'

(B) **TORRENS TITLE** 1/270100

(C) **REGISTERED DEALING** If applicable

(D) **LODGED BY**

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28A	GALLOWAY & CO. Phone: (02) 9233 1011 Fax: (02) 9232 6491 DX 340, SYDNEY L.T.O. Delivery 28A Reference (optional): Crichton - DP270100	R

(E) **APPLICANT** COMMUNITY ASSOCIATION DP NO 270100

(F) **NATURE OF REQUEST**

AMENDMENT TO MANAGEMENT STATEMENT
Section 39 Community Land Development Act 1989

(G) **TEXT OF REQUEST**

SEE ATTACHED ANNEXURE

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 14.12.1999

All handwriting must be in block capitals.
A set of notes on this form (97-11R-2) is available from the Land Titles Office.

Checked by (LTO use):

(H) **STANDARD EXECUTION** DP270100

We certify this dealing correct for the purposes of the Real Property Act 1900. **DATE:** 8 November 1999

Signed in my presence by the applicant who is personally known to me.

MANAGEMENT STATEMENT

Signature of witness:

Signature of applicant:

Name of witness:

Address of witness:

Montecelli & Powys Strata Management Pty Limited ★ A.C.N. 070 795 667 Common Seal

Secretary.

COMMUNITY PLAN Seal of Association D.P. No. 270100

DIRECTOR

EXECUTION INCLUDING STATUTORY DECLARATION

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900, and I certify this application correct for the purposes of the Real Property Act 1900.

Made and subscribed at

in the State of on in the presence of-

Signature of witness:

Signature of applicant:

Name of witness:

Address of witness:

Qualification of witness:

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 14.12.1999

DP270100 MANAGEMENT STATEMENT

ANNEXURE TO REQUEST

AMENDMENT OF MANAGEMENT STATEMENT
Section 39 Community Land Development Act 1989

The Applicant certifies that, by a unanimous resolution passed on ...13/10/99 in accordance with Section 14 of the Community Land Management Act 1989, it amended the management statement as follows:

ADD BY-LAW NO 2.1.10

Notwithstanding By-Law 2.1.1., the Proprietors for the time being of Lots 27 and 28 in DP 1004218, shall have the right of full use of the Community Property in DP 270100 and Neighbourhood Property in DP 285585 provided that such proprietors abide by the By-Laws and the Rules of the Community Association 270100.

Lot 27 is to contribute 3% and Lot 28, 5% of the total Administrative Fund levy, total Sinking Fund Levy or total Special Levy that is set from time to time by the Neighbourhood Association of DP 285585.

ADD BY-LAW NO 4.16.7

Notwithstanding anything contained in By-Law 4.16.3 above, the Community Association, through the Review Committee of the Architectural & Landscape Guidelines, may permit the addition of approved materials used for the purpose of landscaping, provided no such materials raise any part of the lot containing the Detention System (which area extends from the rear boundary of the Lot to a line five (5) metres in from and parallel to the rear boundary of the lot), more than 300mm above the original finished surface of the land.

TERMS OF INSTRUMENT NOT CHECKED
IN LAND TITLES OFFICE

REGISTERED 14.12.1999

DP270100

MANAGEMENT STATEMENT

The Community Association certifies that it has, by unanimous resolution, consented to the repealing and addition of the by-laws contained within the Management Statement.

THE COMMON SEAL OF
COMMUNITY ASSOCIATION
DEPOSITED PLAN NO 270100
Was affixed on 8 November 1999
In the presence of Monteath &
Powys Strata Management Pty
Limited being the person
Authorised by Section 8 of the
Community Land Management
Act 1989 to attest the affixing
Of the seal.

COMMUNITY PLAN Seal of Association No. 270100

.....

THE COMMON SEAL OF
MONTEATH & POWYS STRATA
MANAGEMENT PTY LIMITED was
Hereunto affixed by authority of its
Board of directors in the presence
Of:

Secretary

.....

Monteath & Powys Strata Management Pty Limited A.C.N. 070 795 667 Common Seal

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

REGISTERED 14.12.1999

Form: 21CSM
Licence: 98M111
Edition: 0105

AMENDMENT OF MANAGEMENT STATEM

New South Wales
Section 39
Community Land Development Act

PRIVACY NOTE: this information is legally required and wil

Leave this space clear. Affix additional

DP 270100
MANAGEMENT STATEMENT ANNEXURE 'E'

(A) **TORRENS TITLE**

Folio of the Register for the Association Property
1 / DP 270100

(B) **LODGED BY**

Delivery Box	Name, Address or DX and Telephone	CODE
269B	DUTTON & TANKO P/L Reference (optional): MONTEATH 1	CS

(C) **APPLICANT**

Community/~~Neighbourhood/Precinct Association~~	Deposited Plan No. DP 270100

(D) The applicant certifies that by a special/~~unanimous~~ resolution passed on 25 FEBRUARY 02 and in accordance with section 14 of the Community Land Management Act 1989 it amended the management statement as follows:

(E) **BY-LAWS**

Repealed	Added
	as fully set out below

(F) **TEXT OF ADDED BY-LAW**

By-Law 3 (See annexure marked "A" attached)

Ammended By-Law 6.1

RESOLVED that by Special Resolution By-Law 6.1 of the Community Management Statement Dictionary be amended by adding;-

"Reserve" means a parcel of neighbourhood, precinct or community land maintained by either the neighbourhood, precinct or community associations and set aside for the amenity, enjoyment and pedestrian/bicycle thoroughfare of the community.

(G) The common seal of the community/neighbourhood/precinct association deposited plan was affixed hereto in the presence of a person authorised by section 8 of the Community Land Management Act 1989 to attest the affixing of the seal.

Signature of witness:

Name of witness:

Date:

REGISTERED 9-5-2002

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

All handwriting must be in block capitals.

A set of notes on this form (21CSM-2) is available from Land and Property Information NSW.

Req:R913218 /Doc:DP 0270100 M /Rev:16-Nov-2004 /Sts:SC.OK /Prt:10-Jul-2007 09:52 /Pgs:ALL /Seq:54 of 56
Ref:NS-MQ8A /Src:T

"A"

This is page 1 of the Annexure marked "A referred to in the Change of By-Laws relating to DP 270100 and certified by the Owners of Deposited Plan No. 270100 dated 25 February 2002.

7. RESOLVED that by Special Resolution the Crighton Properties Pty Ltd proposal to amend By-Laws 3.3.5(2), 3.3.6(2), 3.3.7(2) and 3.3.8(2) as outlined be accepted and adopted for Community Management Statement DP 270100.

3.3.5(3) A rear fence may only be constructed on any lot abutting a water body if this fence is located five metres from and parallel with a rear boundary line abutting that water body ("water body fence")

3.3.6(3) A rear fence may only be constructed on any lot abutting a neighbourhood, precinct or community property if that fence is located on the rear boundary line abutting that neighbourhood, precinct or community property ("reserve fence")

3.3.7(3) If a water body or reserve fence is constructed on any lot, it:

a) must be of a powder coated aluminium "looped" top (pool fencing)
b) must be 1.2 metres in height
c) must be of a colour that is Dark Green or (with the consent of the Review Committee) in keeping with the external walls of any dwelling constructed on the Lot; and
d) may be sheeted on the side facing the home with dark green painted "weathertex" (for privacy) provided this material does not extend above the top of that fence.

3.3.8(3) If any fence already exists on any side boundary of any Lot adjacent to Community, Neighbourhood or Precinct Property then that fence must not be altered without the prior written approval of the Original Proprietor or Executive Committee according to By-Law 1.3.

REGISTERED 9-5-2002

TERMS OF INSTRUMENT NOT CHECKED IN LAND TITLES OFFICE

Req:R913218 /Doc:DP 0270100 M /Rev:16-Nov-2004 /Sts:SC.OK /Prt:10-Jul-2007 09:52 /Pgs:ALL /Seq:55 of 56
Ref:NS-MQ8A /Src:T

3.3.10 If any side boundary fence is constructed to meet a water body fence line or a reserve fence line then that fence:

a) must be (other than for (c) below) 1800mm in height
b) must not be constructed further forward than a point 1 metre to the rear of the building line.
c) must not be constructed further back than 4.8 metres from a water body fence line or a reserve fence line, unless that 4.8 metre portion of that fence tapers from the point 4.8 metres back from the water body or reserve fence to 1200mm in height where that fence meets the water body or reserve fence line.
d) must be constructed of:

i) lapped and capped timber paling treated with copper chromium arsenate (CCA).
ii) bagged and painted brickwork
iii) brushwood; or
iv) any other material approved by the Executive Committee.

3.3.11 If a rear boundary fence on a lot other than a lot containing a water body or reserve fence or a lot with more than one frontage to a public road (a corner lot) is to be erected, this fence shall be erected no further forward than one metre behind the designated building alignment and must be located on the lot boundary and must be of a height of 1800mm and must be constructed of brick, rendered masonry, brushwood or C.C.A.(Copper Chromium Arsenate) treated lap and cap timber.

3.3.12 If a side boundary fence on a lot with more than one frontage to a public road (a corner lot) shall be erected, then the location of that fence shall be subject to Great Lake's Shire Council's requirements and the fence shall be constructed of brick, rendered masonry, brushwood or C.C.A. (copper Chromium Arsenate) treated lap and cap timber.

REGISTERED 9-5-2002

TERMS OF INSTRUMENT NOT CHECKED
IN LAND TITLES OFFICE

383

Form: 21CSM
Licence: 98M111
Edition: 0105

AMENDMENT OF MANAGEMENT STATEME

New South Wales
Section 39
Community Land Development Act 198

DP 270100

MANAGEMENT STATEMENT

ANNEXURE 'F'

PRIVACY NOTE: this information is legally required and will become part of the public record

F

(A) **TORRENS TITLE**

Folio of the Register for the Association Property
1/DP 270100

(B) **LODGED BY**

Delivery Box	Name, Address or DX and Telephone	CODE
269B	DUTTON & TANKO P/L Reference (optional): MONTEATH	CS

(C) **APPLICANT**

Community/Neighbourhood/Precinct Association | Deposited Plan No. 270100

F ED
2 9 OCT 2004

(D) The applicant certifies that by a special/~~unanimous~~ resolution passed on 28/5/2004 and in accordance with section 14 of the Community Land Management Act 1989 it amended the management statement as follows: 9.

(E) **BY-LAWS**

T ... 11:45

Repealed | Added By-law 5.2.9 as fully set out below

AM 12.11.04

(F) **TEXT OF ADDED BY-LAW**

By-Law 5.2.9... "The Community Association is to be responsible at its cost

for the maintenance of any water quality control facilities required to treat stormwater generated by the proposed subdivision. The Community Association is to ensure that all water quality control features are regularly maintained at no cost to Council as required or as directed by Great Lakes Council"... provided that, the Myall Quays Shopping Centre maintains the water runoff from that site in accordance with the Water Management as provided by Crighton Properties Pty Ltd.

TERMS OF INSTRUMENT NOT CHECKED IN L.P.I.

Powys Strata Management Pty Limited A.C.N. 070 795 667 Common Seal

COMMUNITY PLAN Seal of Association D.P. No. 270100

(G) The common seal of the community/neighbourhood/precinct association deposited plan 270100 was affixed hereto in the presence of a person authorised by section 8 of the Community Land Management Act 1989 to attest the affixing of the seal.

Signature of witness:
Name of witness: TONY JONES
Date: 15/07/2004

REGISTERED AM 12.11.2004

All handwriting must be in block capitals.

A set of notes on this form (21CSM-2) is available from Land and Property Information NSW.

Volume 1:

Annex F: Community Management Statement

2. Community Management Statement
for Myall Quays Town Centre

hunt&hunt

Crighton Properties Pty Limited

Myall Quays Town Centre Community

Community Management Statement

74 Hunter Street, Newcastle NSW 2300 | PO Box 492, Newcastle NSW 2300
DX 7926 Newcastle | T +61 2 4925 5500 | F +61 2 4925 5599
Ref: DKA/JPL:9391422 v14 06May2008

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FORM 28

COMMUNITY LAND DEVELOPMENT ACT 1989

MANAGEMENT ACT 1989

Community Management Statement

Warning

A. The terms of this Management Statement are binding on:

(a) the Community Association;

(b) each Subsidiary Body; and

(c) each person who is an Owner, Occupier or mortgagee in possession of a Lot.

B. An Owner or Occupier of a Subsidiary Scheme is bound by the terms of:

(a) this Management Statement;

(b) the Precinct Management Statement if the Subsidiary Scheme is a Precinct Scheme;

(c) the By-Law instrument of the Neighbourhood Scheme if the Subsidiary Scheme is a Neighbourhood Scheme;

(d) the By-Law instrument of the Strata Scheme if the Subsidiary Scheme is a Strata Scheme.

PART 1: BY-LAWS FIXING DETAILS OF DEVELOPMENT

By-Law 1 Theme of Development

1.1 This By-Law relates to the control and preservation of the essence or theme of the Community Scheme.

1.2 The theme of this Community Scheme is to provide a mixed use development being primarily commercial in nature and to accommodate the use of foreshore areas by the Owners, Occupiers and Invitees of the Community Scheme.

1.3 The Community Association, Owners and Occupiers:

(a) will use their best endeavours to ensure that all activities carried on and within the Community Scheme are consistent with the theme;

(b) will preserve the theme; and

(c) acknowledge the commercial development and the use of the foreshore area is integral to the theme.

1.4 This By-Law 1 may only be amended or revoked by a Unanimous Resolution of the Community Association in accordance with Section 17(2) of the Management Act.

By-Law 2 Guidelines

2.1 The Community Association must adopt the Guidelines at the inaugural meeting.

2.2 A Subsidiary Body is subject to the prescribed Guidelines.

2.3 The parties bound by this Management Statement are bound by the Guidelines.

2.4 An Owner may request the Community Association to amend for that Lot the Guidelines.

2.5 Subject to By-Law 2.9, a Subsidiary Body may request the Community Association to amend the Guidelines.

2.6 An Application must contain sufficient detail of the proposed amendments to enable the Community Association to understand with reasonable certainty the nature and extent of the proposed amendments.

2.7 The Community Association must refer an Application to amend the Guidelines to a General Meeting for the decision by that General Meeting.

2.8 The Community Association may in order to determine an application, request additional information, reports or documents.

2.9 The Guidelines may be amended by:

(a) the Design Review Committee for so long as the Developer is an Owner of a Lot within the Community Scheme or for such period as the Developer is prepared to act in this capacity; and thereafter

(b) the Community Association by Special Resolution.

2.10 If the Community Association amends the Guidelines, then the Community Association must, within a reasonable time, deliver a copy of the amendments to:

(a) each Subsidiary Body; and

(b) each Owner of a Community Development Lot.

2.11 If requested by an Owner or a Subsidiary Body, the Community Association must provide, at the reasonable cost of that Owner or a Subsidiary Body, a current copy of the Guidelines.

2.12 Notwithstanding any other provision herein contained, whilst the Developer is the Owner of a Community Development Lot, the Guidelines cannot be amended without the written consent of the Developer.

By-Law 3 The Design Review Committee

3.1 A Design Review Committee must be appointed:

(a) prior to and until the First Annual General Meeting or such other period as determined by the Developer in its absolute discretion, only by the Developer; and

(b) thereafter by the Community Association.

3.2 For so long as the Design Review Committee is appointed by the Developer in accordance with By-Law 3.1(a), the Design Review Committee will comprise the Developer or the Developer's representative.

3.3 Where the Community Association appoints the Design Review Committee in accordance with By-Law 3.1(b), the Community Association must ensure the Design Review Committee comprises the following persons:

(a) two (2) Owners, other than the Developer provided two or more Owners exist;

(b) a registered architect approved by the Developer; and

(c) the Developer or the Developer's representative for so long as the Developer is an Owner of a Lot within the Community Scheme or for such period as the Developer is prepared to act in this capacity.

3.4 The Community Association and the Developer may from time to time in addition to those members stated in By-Laws 1.1 and 3.3 appoint consultants to the Design Review Committee where deemed appropriate by the Developer or the Community Association, as the case may be, in its absolute discretion.

3.5 Following appointment by the Community Association, the Design Review Committee must hold meetings at times necessary to perform its functions provided that a quorum of at least three (3) members are present. Decisions of the Design Review Committee must be by majority with the Chairperson having a casting vote in the event of an equal number of votes.

3.6 The appointment of a member to the Design Review Committee other than the Developer or the Developer's representative lasts until that member resigns or the appointment is revoked by the Community Association or the Developer, for so long as the Developer is an Owner of a Lot in the Community Scheme.

3.7 The Design Review Committee must ensure records of its decisions are properly kept and retained with the records referred to in Clause 9 Schedule 1 of the Management Act.

3.8 The powers and functions of the Design Review Committee include:

(a) performing its functions or any other function delegated to it by Special Resolution of the Community Association;

(b) reviewing and making decisions of all Applications for Improvements on Lots within the Community Scheme prior to review and determination by Council;

(c) ensuring all Improvements are consistent with the provisions of these By Laws the Rules, the theme and the Guidelines; and

(d) appointing consultants and other professionals to prepare reports and advise the Design Review Committee.

3.9 Prior to Owners or Occupiers undertaking any Improvement on the Community Scheme, Owners and Occupiers must make an Application to the Design Review Committee for approval by the Design Review Committee and Council in accordance with the procedure set out in the Guidelines.

3.10 The Design Review Committee must, within such time as provided for in the Guidelines, make a decision on an Application and deliver to the Applicant its written decision.

3.11 The Design Review Committee may:

(a) unconditionally approve an Application;

(b) disapprove an Application;

(c) conditionally approve an Application; or

(d) impose as a condition of its approval of an Application the payment of a bond, to be held by the Community Association, for any damage that may be caused by the Applicant, its contractors, employees or agents to Community Property.

3.12 Where an Applicant disputes the decision of the Design Review Committee, the Applicant may request a review by the Design Review Committee. In assessing any such review the Design Review Committee may refer its decision to the Community Association and any subsequent determination will be final.

3.13 An Applicant seeking approval for the carrying out of any Works must comply with the terms of this By-Law.

3.14 During the carrying out of any Works, a party must:

(a) ensure no damage to Service Lines or Services within Community Scheme or Subsidiary Scheme;

(b) ensure that the Works are carried out in a proper and workmanlike manner;

(c) strictly comply with the Guidelines;

(d) ensure the Works are carried out to the satisfaction of the Community Association and, if appropriate, the Council or other government agency;

(e) repair any damage caused to the Community Property or Subsidiary Body Property as a result of the Works; and

(f) carry out the Works promptly.

3.15 The Owner must allow the Design Review Committee access to inspect the Works whenever reasonably required by the Design Review Committee.

3.16 No Works must be constructed or will be permitted to remain unless the necessary approvals have been obtained in accordance with this By-Law and the provisions of this By-Law 3 have been satisfied.

3.17 Nothing in this By-Law 3 requires the Design Review Committee to approve Works where an Owner has not complied with the other provisions of these By-Laws.

3.18 An Owner or Occupier must not occupy a dwelling or commercial building constructed on a Lot or a lot in a Subsidiary Scheme until after the date the Design Review

Committee has served a notice on the Owner that it considers Practical Completion of the Works has occurred.

3.19 The Owner must give the Design Review Committee at least 14 days' notice of the anticipated date of Practical Completion.

3.20 The Design Review Committee will be deemed to be satisfied that the Works have achieved Practical Completion, unless a written disapproval or a written waiver from the Design Review Committee has been delivered to the Owner within 4 days after the anticipated date of Practical Completion (as that date is specified in the notice under By-Law 3.19)

3.21 If the Design Review Committee gives notice that it is not satisfied Practical Completion has occurred, the Owner must complete the Works and serve another notice on the Design Review Committee when Practical Completion has occurred. After that notice the Design Review Committee will be deemed to be satisfied that the Works have achieved Practical Completion, unless a written disapproval or written waiver from the Design Review Committee has been delivered to the Owner within 7 days after the date of the Owner's notice.

3.22 The Design Review Committee will not bear any responsibility nor incur any liability whatsoever arising out of any review, comment, approval, rejection or failure to reject any aspect of the Works.

3.23 Nothing in this By-Law:

(a) affects the rights of the Developer under By-Law 7 to carry out Development Activities;

(b) affects the Developer's Development Rights under By-Law 7; or

(c) imposes an obligation on the Developer to obtain consent for the purposes of carrying out Development Activities.

By-Law 4 Asset Management Plan

4.1 The Community Association may prescribe an Asset Management Plan for the Community Scheme.

4.2 Each Subsidiary Body must prescribe an Asset Management Plan for the relevant Subsidiary Scheme.

4.3 If an Asset Management Plan referred to in this By-Law is prescribed, this will become the Asset Management Plan for the Community Scheme and the parties bound by this Management Statement are bound by the Asset Management Plan.

4.4 The Asset Management Plan binds:

(a) the Community Association and each Subsidiary Body;

(b) each Owner or Occupier of a Lot; and

(c) each mortgagee in possession of a Lot.

4.5 The Community Association may from time to time amend the Asset Management Plan with the approval of the Design Review Committee.

4.6 An Owner or a Subsidiary Body may make Application to the Community Association requesting amendments to the Asset Management Plan.

4.7 An Application under By-Law 4.6 must contain sufficient detail of the proposed amendment to enable the Community Association to understand with reasonable certainty the nature and extent of the proposed amendments. The Community Association may, in order to determine an Application, request additional information from an Applicant.

4.8 The Community Association must refer an Application to amend the Asset Management Plan under By-Law 4.6 to the Design Review Committee for final approval. The Design Review Committee may, in order to determine an Application, request additional information from the Applicant.

4.9 If the Asset Management Plan is amended in accordance with this By-Law, then the Community Association must, within a reasonable time, deliver a copy of the amendments to:

(a) each Subsidiary Body; and

(b) each Owner of a Community Development Lot.

4.10 If requested by an Owner or a Subsidiary Body, the Community Association must provide at the reasonable cost of that Owner or a Subsidiary Body, an up to date copy of the Asset Management Plan.

By-Law 5 Use of the Community Scheme

5.1 Owners and Occupiers but excluding the Developer, must unless otherwise directed or permitted by the Community Association:

(a) regularly maintain and keep clean and in a state of good repair and condition any improvement on the Owner's or Occupier's Lot unless otherwise required by the Community Association and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Community Association and the Developer but only for so long as the Developer is an owner of a lot in the Community Scheme;

(b) keep the landscaped areas of the Lot clean and tidy and in good repair and condition and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Community Association and the Developer but only for so long as the Developer is an owner of a lot in the Community Scheme;

(c) effect all maintenance and repairs to the Lot and Improvements on the Lot in a proper and workmanlike manner and in accordance with this Management Statement, the Guidelines and to a standard acceptable to the Community Association and the Developer but only for so long as the Developer is an owner of a lot in the Community Scheme;

(d) only build and undertake construction works between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive and 7.00 am to 1.00 pm Saturday or as otherwise permitted by the Council;

(e) only use hydraulic rock hammers and other equipment or activities likely to contravene the provisions of the Protection of the Environment Operations Act

1997, between the hours of 8.00 am to 6.00 pm Monday to Thursday inclusive and 8.00 am to 4.00 pm Friday excepting public holidays or as otherwise permitted by the Council;

(f) not use anything on the Community Scheme for any purpose other than that for which it was intended;

(g) promptly notify the Community Association of any damage to or defect in Community Property;

(h) not interfere with, damage or obstruct the use of the Community Property;

(i) not construct any building or structure or Improvements on Community Property;

(j) not attach anything to or alter Community Property;

(k) not, except with the approval of the Community Association, use or store on any part of the Community parcel any explosive, toxic or flammable solid, liquid or gas other than where it is intended to be used solely for domestic purposes;

(l) not conduct any auction or sale on Community Property;

(m) not erect any sign on a Lot or Community Property without the prior written approval of the Design Review Committee; and

(n) only conduct business from a Lot where approved by Council.

5.2 Where an Owner fails to maintain their Lot in accordance with this Management Statement, the Guidelines and to an acceptable standard:

(a) to the Developer, for so long as the Developer is an Owner of a Lot in the Community Scheme; and

(b) the Community Association,

either the Community Association or the Developer may maintain the Lot, at the expense of that Lot Owner. The Community Association may recover any money owing to it by an Owner for the maintenance of their Lot, as it is were a debt under By-Law 25.

By-Law 6 Change to Development Act permitting addition of land to Community Scheme and Lease of Entry Feature

6.1 The Community Association will, if the Development Act is amended to, permit to add additional land to the Community Scheme to form either a Development Lot or part of Community Property.

6.2 The Community Association must do everything reasonably necessary to effect land transfers and consolidations contemplated by this By-Law.

6.3 Following the addition of land to the Community Scheme an application will be made to the Tribunal for the revaluation of the unit entitlements for the Development Lots.

6.4 Notice of the resolution must be held with the minutes of the General Meetings of the Community Association.

6.5 The water feature at the front entrance of Myall Quays (**Entry Feature**) forms part of association property for DP270100. Pursuant to the Asset Management Plan the Community Association leases the Entry Feature.

6.6 If the Development Act is altered or amended to allow for transfer or consolidation of land outside a community scheme then this land may be joined to form part of the Community Property together with all or part of Lot 80 in DP702022.

PART 2: RESTRICTED COMMUNITY PROPERTY

These By-Laws may not be amended during the Initial Period and may only be amended after the expiry of the Initial Period by Special Resolution and with the written consent of each person entitled by the By-Laws to use the Restricted Community Property (see Section 54 of the Management Act).

By-Law 7 Development in Stages

7.1 To enable the Developer to carry out Development Activities, use of the Community Property and Service Lines is restricted to the Developer on the terms of this By-Law 7, for so long as the Developer is the Owner of a Community Development Lot.

7.2 Restricted use of the Community Property referred to in this By-Law shall cease when the Developer serves upon the Community Association a notice informing the Community Association that Development Activities on the Community Parcel have ceased. Despite this the Developer may give such a notice at any time in relation to part of the Community Property if Development Activities on that part of the Community Property have ceased at which time restricted use of that part of the Community Property will cease.

7.3 The Developer and all persons authorised by the Developer have the Development Rights for the purpose of facilitating development of the Community Parcel in stages and carrying out Development Activities on the Community Parcel.

7.4 The terms and conditions relating to use of the Community Property under this By-Law are the Development Conditions.

7.5 Access to Community Property referred to in this By-Law is to be exercised by public road or Access Ways set apart under the Development Act.

7.6 If the Developer locks up or secures any of the Community Property referred to in this By-Law, the Developer must give the Secretary a Security Key for that locked or secured area.

7.7 Subject to any requirements imposed by the Council, the restricted use rights conferred on the Developer by this By-Law may be exercised between the hours of 7.00 am and 7.00 pm on Mondays to Saturdays inclusive or such other times as may be permitted by the Council, excepting Sundays, Christmas Days and Good Fridays.

7.8 Subject to the obligations imposed by the Development Conditions the Community Association must maintain the Community Property.

7.9 The Community Association must levy a Contribution on its members for any costs associated with maintaining the Community Property referred to in this By-Law unless that cost is payable by the Developer under this By-Law.

PART 3: MANDATORY MATTERS

By-Law 8 Use, Maintenance and Management of Community Property

8.1 Community Property shall be available for use by:

(a) Owners and Occupiers; and

(b) Invitees; and

(c) Subject to By-Laws 8.1(d) and 8.1(e) the General Public;

(d) the Community Association may from time to time exclude the General Public from Community Property for special events scheduled in the Asset Management Plan;

(e) The Community Association may exclude the General Public from part of the Community Property, which it deems is for the exclusive use of Owners, Occupiers and Invitees.

8.2 The Community Association may with the approval of the Design Review Committee, restrict access to Community Property (including but not limited to, by way of gates or fencing to any part of the Community Property by means of Security Keys) during the course of maintenance, rectification, construction works or special event in accordance with any Asset Management Plan.

8.3 The Community Association may construct Community Facilities on Community Property in accordance with this Management Statement and the Guidelines and subject to Council and Design Review Committee approval.

8.4 The Community Association is responsible for the control, management, maintenance and use of Drainage.

8.5 The Community Association must impose Contributions from all Owners for the costs of the control, use, management, operation, maintenance and repair of Community Property and Services and Service Lines owned by the Community Association.

8.6 If there is damage caused by an Owner or Occupier, to Community Property, Drainage or Services and Service Lines owned by the Community Association, the Community Association may recover from that Owner or Occupier the cost of repairing the damage caused by that Owner or Occupier.

8.7 The Community Association must contract with persons named and for the term stated in By-Law 20 for the management, maintenance, control and administration of Community Property.

By-Law 9 Access Ways

9.1 No part of the Community Property has been set apart as an Access Way.

By-Law 10 Fencing

10.1 Subject to By-Laws 10.2 and 10.4 the Dividing Fences Act 1991 applies as between the following parts of the Community Property and the respective Owners or Occupiers of those parts of a Lot and another Lot.

10.2 A Owner or Occupier of a Lot must prior to erecting a fence obtain the consent of the Design Review Committee and must ensure that the fence complies with the Guidelines.

10.3 All internal fencing adjoining Community Property which is on the boundary or within 40 centimetres of the boundary of a Community Development Lot must be maintained and erected in accordance with any Guidelines at the expense of the Lot adjoining Community Property. This By-Law does not apply to retaining walls built for support and constructed on Community Property or fencing built within Community Property that does not adjoin a Lot which must be maintained and repaired at the expense of the Community Association.

10.4 Despite anything to the contrary, no fence shall be erected so as to separate the Lot or the Community Property, applicable from any adjoining lot owned by the Developer without the consent of the Developer provided however that such consent will be deemed to have been given if the fence is erected without expense to the Developer.

By-Law 11 Garbage and Recycling

11.1 Subject to the requirements of Council, the Community Association must either arrange with Council or contract with a garbage and recycling contractor to ensure that garbage and recyclable materials from Lots within the Community Scheme are collected on a regular basis at such times as determined by the Community Association.

11.2 Owners and Occupiers must:

(a) sort, store, dispose of and make garbage and recyclable materials available for collection in accordance with the Rules of the Community Association and any requirements of Council;

(b) not obstruct or interfere with garbage and recycling services or deposited garbage or recyclable materials on Community Property;

(c) keep all garbage and recycling bins on their Lot secure and screened using either screen fences or landscaping or a combination of both so as not to be visible from other Lots or public areas;

(d) not dispose of toxic or dangerous substances in garbage or recycling bins; and

(e) return garbage and recycling bins to storage areas on their Lot within twenty four (24) hours after emptying of garbage and recycling bins.

11.3 The Community Association is responsible for arranging the disposal of garbage generated on Community Property.

By-Law 12 Services

12.1 Subject to any requirements of Service Providers detailed in By-Law 12 of the Management Statement or law or regulation to the contrary, Service Providers will be

responsible for the maintenance of those Services, Additional Services and associated Service Lines owned by that Service Provider.

12.2 The Developer and Community Association may:

(a) provide or contract with Service Providers for Additional Services for Owners and Occupiers; and

(b) arrange for the installation and maintenance of Service Lines for Additional Services, by Service Providers.

12.3 Where the Community Association is the Service Provider of Additional Services and damage, other than fair wear and tear, to the Additional Services is caused by an Owner or Occupier, the Community Association may in its absolute discretion recover from the Owner or Occupier the cost of repairs and materials for the damage.

12.4 Owners and Occupiers must not carry out any works which interfere with Services or Additional Services or obstruct access to, overload or damage Services, or any Additional Services.

12.5 Owners and Occupiers must promptly notify the Community Association of any damage to or defective operation of Services, any Additional Services or Drainage.

12.6 In the case of Private Services, the Community Association grants to the Service Provider of Private Services, all those rights and covenants contained in Section 36 of the Development Act as though the Private Service were a statutory service and the Service Provider a statutory service provider.

By-Law 13 Insurance

13.1 The Community Association must effect all insurances necessary pursuant to Community Title Legislation and any other insurance deemed necessary by the Community Association or as identified in any Asset Management Plan.

13.2 The Community Association must annually review:

(a) all insurances effected by it; and

(b) the need for new or additional insurances.

13.3 Notice of an Annual General Meeting must include a form of motion to decide whether insurances effected by the Community Association should be confirmed, varied or extended.

13.4 The Community Association must immediately take out new insurances or vary or extend existing insurances if there is an increase in risk or a new risk to Community Property.

13.5 Owners and Occupiers must not, except with the prior written consent of the Community Association, do anything that might invalidate, suspend or increase the premium for any insurance policy effected by the Community Association.

By-Law 14 Executive Committee Proceedings

14.1 The Executive Committee of the Community Association will be established in accordance with Division 2 of Part 2 of the Management Act.

14.2 Subject to By-Laws 14.3 to 14.9 and the Management Act, the Executive Committee may meet to conduct business, adjourn and otherwise regulate its meetings as it thinks fit.

14.3 The secretary or the member of the Executive Committee who convenes a meeting must, not less than two (2) days immediately before the Executive Committee holds a meeting, circulate to all Owners:

(a) a notice of intention to hold the meeting; and

(b) the proposed agenda for the meeting.

14.4 The agenda for a meeting must include details of all business to be dealt with at the meeting.

14.5 No business may be dealt with at a meeting unless details of that business are set out in the agenda for that meeting.

14.6 The Secretary or in the Secretary's absence any member of the Executive Committee must, at the request of not less than one-third of the members of the Executive Committee, convene a meeting within the period of time specified in the request or, if no time is specified, within fourteen (14) days of the making of the request.

14.7 Where:

(a) By-Law 14.3 has been complied within in relation to a meeting;

(b) each member of the Executive Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and

(c) the resolution has been approved in writing by a majority of members of the Executive Committee;

then the resolution will, subject to Section 38(3) of the Management Act be as valid as if it had been passed at a duly convened meeting of the Executive Committee even though the meeting was not held.

14.8 Owners may attend meetings of the Executive Committee but may not address the meeting unless authorised by a resolution of the Executive Committee.

14.9 Minutes of meetings must be kept properly and held with the minutes of the General Meetings of the Community Association.

14.10 The Executive Committee must, within seven (7) days after holding a meeting, circulate a copy of the minutes to all Owners.

14.11 The functions of the Secretary include:

(a) preparing and distributing minutes of meetings of the Community Association and the Executive Committee;

(b) giving, on behalf of the Community Association and the Executive Committee, notices required to be given under the Management Act;

(c) maintaining the Community Association roll;

(d) supplying certificates in accordance with Clause 2 of Schedule 4 to the Management Act;

(e) answering communications addressed to the Community Association or the Executive Committee;

(f) convening meetings of the Executive Committee and the Community Association (other than the First Annual General Meeting);

(g) performing administrative or secretarial functions on behalf of the Community Association;

(h) performing administrative or secretarial functions on behalf of the Executive Committee;

(i) keeping records under Part 3 of Schedule 1 to the Management Act.

14.12 The functions of the Treasurer include:

(a) the functions set out in Section 36(1) and (2) of the Management Act;

(b) receiving, acknowledging, banking and accounting for any money paid to the Community Association;

(c) preparing any certificate applied for under paragraphs (b), (c), (d), (e) and (f) of Clause 2 of Schedule 4 of the Management Act;

(d) keeping prescribed accounting records under Clause 10 of Schedule 1 to the Management Act; and

(e) notifying Owners of any Contribution levied under this Management Statement and collecting such Contribution.

14.13 The Executive Committee may from time to time appoint sub-committees comprising one or more or its members to:

(a) conduct investigations;

(b) perform duties and functions on behalf of the Executive Committee; and

(c) report the findings of the sub-committee to the Executive Committee.

14.14 A member of the Executive Committee will not be liable for any loss or damage occurring by reason of an act done in their capacity as a member of the Executive Committee except where the loss or damage occurs as a result of fraud or negligence on the part of that Executive Committee member.

PART 4: OPTIONAL MATTERS

By-Law 15 Acknowledgements and Obligations of Owners and Occupiers

15.1 Owners and Occupiers but excluding the Developer must:

(a) provide any lessee or licensee of the Owners or Occupiers Lot with a copy of this Management Statement and take all reasonable steps, including any action available under the lease or licence agreement, to ensure that any lessee or licensee of the Lot and any person on the Community Scheme with the consent of the lessee or licensee complies with this By-Laws;

(b) take all reasonable steps to ensure that Invitees comply with these By-Laws and if the Invitee does not comply with these By-Laws then the Owner or Occupier must take all reasonable steps to ensure that the Invitee immediately leaves the Community Scheme;

(c) promptly pay to the Community Association all Contributions when and as they fall due on the Owners Lot and pay or reimburse the Community Association on demand for any expenses of the Community Association in connection with the contemplated or actual enforcement or preservation of any rights under these By-Laws concerning the Owner or Occupier including, without limitation, expenses incurred in retaining any independent consultant or other person to evaluate any matter of concern and its administration costs in connection with those events;

(d) do anything which the Owner or Occupier is required to do under these By-Laws at the cost of the Owner or Occupier;

(e) comply on time will all requirements and orders of authorities, all laws in connection with the Lot and the use or occupation of that Lot;

(f) comply with the terms of any notice sent to that Owner or Occupier by the Community Association, the Executive Committee, a Service Provider or other relevant authority;

(g) not directly or indirectly instruct agents, employees or contractors of the Community Association unless authorised to do so by the Community Association;

(h) comply with the reasonable directions of and not hinder emergency services personnel or vehicles;

(i) not make undue noise or behave in a way that might interfere with or cause offence to other Owners or Occupiers or their Invitees;

15.2 Owners and Occupiers acknowledge that this By-Law 15 goes to the theme of the development pursuant to Section 17 of the Management Act and can only be amended by Unanimous Resolution.

By-Law 16 Animals

16.1 Owners or Occupiers of a Lot, may keep or allow in their lot any:

(a) Goldfish or other fish kept in an indoor aquarium;

(b) Canaries, budgerigars or other similar birds kept indoors at all times;

(c) a domestic dog with the consent of the Executive Committee; and

(d) a domestic cat provided the animal is confined indoors between sunset and sunrise.

No other Animals may be kept or allowed in any other Lot or on any part of the Community Parcel.

16.2 In determining whether to grant its consent pursuant to By-Law 16.4, the Executive Committee may take into consideration the type and size of the dog, whether the relevant Owner or Occupier has obtained consent to the keeping of any other dog and any other matter which the Executive Committee considers relevant.

16.3

(a) The Executive Committee will not give its consent for a dog to be kept on a Lot if:

(i) it is not registered in accordance with the Companion Animals Act 1966; or

(ii) it has been declared a dangerous dog under the Companion Animals Act 1966.

(b) The Executive Committee will generally not grant consent for the keeping of the dogs which, in the view of the Executive Committee are accepted to be or have a reputation as being vicious, aggressive, noisy or difficult to control.

16.4 The Executive Committee will generally grant consent for the keeping of a small or medium sized dog which – in the opinion of the Executive Committee – are not accepted as being or have a reputation as being vicious, aggressive, noisy or difficult to control.

16.5 Despite anything in this By-Law:

(a) a completely or partially blind Owner or Occupier of a Lot may keep a dog used as a guide on a Lot; and

(b) a completely or partially blind person may use a dog as a guide on a Lot or on any other part of the Community Parcel.

16.6 Where a Owner or Occupier of a Lot or any person who is on the Community Parcel with the Owner's consent (express or implied) brings or keeps an Animal on a Lot or any other part of the Community Parcel the Owner or Occupier is:

(a) responsible for ensuring that the Animal (in the case of a dog) is at all times restrained on a leash or confined to the Lot by way of a fence or other barrier;

(b) liable to the Owners and Occupiers of other Lots and all other persons lawfully on the Community Parcel for any noise which is disturbing to an extent which is unreasonable and for damage to or loss of property or injury to any person caused by the Animal; and

(c) responsible for cleaning up after the Animal has used any part of another Lot or any other part of the Community Parcel.

16.7 The liability and responsibility imposed on the Owners and Occupiers of Lots under this By-Law exists notwithstanding that a Owner or Occupier has obtained approval of the Community Association to keep an Animal on a Lot.

16.8 The Executive Committee reserves absolutely to itself the right to order the removal of an Animal from the Community Parcel if after consideration all evidence placed before it:

(a) any Animal kept or allowed on a Lot becomes offensive, vicious or audibly or visually a nuisance; or

(b) any Animal is kept in breach of any conditions o approval imposed by the Community Association under paragraph (b); or

(c) the Animal is brought onto the Community Parcel, kept or used in the breach of this By-Law.

16.9 If the Executive Committee orders the removal of an animal under this By-Law then the owner or occupier who owns the Animal (or has the care or control of it) must remove the Animal from the Community Parcel in accordance with the terms of the order.

16.10 Any consent by the Executive Committee for the keeping of an Animal under this By-Law is subject to any requirement by Council.

By-Law 17 Washing

17.1 Owners and Occupiers must not erect any clothes line or hoist or hang any washing, towels, bedding, clothing or other articles of a similar nature from any clothes line, hoist or railing on or within view of public areas, Community Property or another Lot.

17.2 All clothes drying areas must be screened with screening fences or landscaping or a combination of both and in accordance with the Guidelines.

By-Law 18 Restriction on Parking

An Owner or Occupier must and must ensure Invitees only use the designated parking areas allocated on Community Property.

By-Law 19 Additional Restrictions

19.1 An Owner or Occupier of a Lot (or on any part of a Lot so as to be visible or audible from another Lot on any part of the Community Parcel or Subsidiary Body Property) must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Owner or Occupier of another Lot or to any person lawfully using the Community Parcel or Subsidiary Body Property.

19.2 An Owner or Occupier of a Lot must not permit any child under the control of that Owner or Occupier to play on any area of the Community Parcel or Subsidiary Body Property or unless accompanied by an adult remain on any area of Community Parcel or Subsidiary Body Property comprising a car parking area or other area of possible danger or hazard to children.

19.3 An Owner or Occupier of a Lot must at the Owner's or Occupier's own expense promptly comply with all laws relating to the Lot including, without limitation, any requirements, notices and orders of Council.

19.4 An Owner or Occupier of a Lot must not use the Lot for any purpose that may impugn the good reputation of the Community Scheme.

19.5 An Owner or Occupier of a Lot must keep the Lot, including all glass in windows and all external doors, clean and in good repair.

19.6 An Owner or Occupier of a Lot must not do or permit anything including, without limitation, bring or permit to be brought into the Community Parcel any heavy article, which might cause structural damage to the Community Parcel or any building on the Community Parcel.

19.7 An Owner or Occupier of a Lot must not do anything to interfere with, damage or deface the Community Parcel or Subsidiary Body Property without the prior written consent of the Community Association or the relevant Subsidiary Body.

19.8 An Owner or Occupier of a Lot must not damage any law, plant, tree or garden forming part of or situated on the Community Parcel or Subsidiary Body Property or use for the Owner's or Occupier's purpose as a garden any part of the Community Parcel or Subsidiary Body Property.

19.9 An Owner or Occupier of a Lot must not, without the prior written consent of the Community Association or Subsidiary Body (as applicable), interfere with the Community Parcel or Subsidiary Body Property or remove any article from the Community Parcel or Subsidiary Body Property placed there by direction or authority of the Community Association or Subsidiary Body and must use all reasonable endeavours to ensure that such items are used only for their intended use and not damaged.

19.10 An Owner or Occupier of a Lot must not, without the authority of the Community Association or Subsidiary Body (as applicable) interfere with the operation of any equipment installed in the Community Parcel or Subsidiary Body Property.

19.11 An Owner or Occupier of a Lot must not do or permit anything which may prejudice the security or safety of the Community Parcel and, without limitation, an Owner or Occupier of a Lot must take all reasonable steps to ensure that all fire and security doors are kept locked or secure or in an operational state, as the case may be, when not in immediate use.

19.12 An Owner or Occupier of a Lot must promptly notify the Executive Committee of any damage to or defect in the Community Parcel or Subsidiary Body Property or any personal property vested in the Community Association or any Subsidiary Body.

19.13 The Owner or Occupier of a Lot is liable to compensate the Community Association or any Subsidiary Body in respect of any damage to the Community Parcel or Subsidiary Body Property or person property vested in the Community Association or any Subsidiary Body caused by that Owner or Occupier.

19.14 The Community Association or any Subsidiary Body must take all reasonable steps to ensure the security of the Community Parcel (or any part of it) from intruders and to preserve the safety of the Community Parcel from fire or other hazard.

19.15 The Owner or Occupier of a Lot must not use any storage area outside the habitable part of the Lot for storage of any perishable substances and must keep such storage areas free of vermin at all times.

19.16 The Owner or Occupier of a Lot must not enclose any storage area outside the habitable part of the Lot without the prior written consent of Council and the Community Association. This does not apply to such areas already enclosed when this Management Statement is registered.

By-Law 20 Community Association's Rights and Obligations

20.1 The Community Association may, on its own behalf or on behalf of each Subsidiary Body, contract with persons to provide:

(a) management, operational, maintenance and other services for Community Property or Subsidiary Body Property;

(b) services or amenities to the Owners or Occupiers; and

(c) services or amenities to Community Property or Subsidiary Body Property.

20.2 The Community Association may do anything on a Lot:

(a) which should have been done by an owner or Occupier under this Management Statement but which has not been done or has not been done properly; or

(b) to comply with this Management Statement, including remedying, removing or restoring anything on that Lot which breaches this Management Statement.

20.3 If By-Law 20.2 applies, the Community Association is entitled to:

(a) enter and remain on the Lot for as long as it is necessary; and

(b) recover any costs associated with carrying out works under this Management Statement from the Owner of the Lot.

20.4 A person must forward complaints, notices or application to or requests for consideration of matters by the Community Association in writing:

(a) to the Managing Agent of the Community Association; or

(b) if there is no Managing Agent, to the secretary of the Executive Committee.

20.5 The Community Association may, on its own behalf contract with persons to:

(a) Provide management, operational, maintenance and other services and amenities in connection with Community Property; and

(b) Provide services or amenities to Owners and Occupiers.

20.6 The Community Association is empowered on its own behalf to provide certain management, maintenance and services to the Community Scheme and to Owners and Occupiers within the Community Scheme. The Community Association intends, during the initial period, to enter into a Management Agreement. The Management Agreement will be entered into during the initial period and for the purposes of Section 24(2)(a) of the Management Act the particulars of the Management Agreement are disclosed as follows:

(a) **Parties** - The Community Association and the Manager.

(b) **Term** - 12 months.

(c) **Duties** - The scheduled duties of the Manager include, but are not limited to the following:

(i) the general repair and maintenance of landscaping of Community Property;

(ii) the provision of cleaning and maintenance services of Community Property;

(iii) the general repair and maintenance of Security Services;

(iv) the provision of Additional Services, as determined by the Manager and Community Association from time to time;

(v) the provision of services to Owners and Occupiers as may be agreed form time to time and may include, without limitation, the foregoing:

(A) the provision of services and facilities consistent with the operation of the Community Scheme as a commercial mixed use Community Scheme;

(B) the provision of pest control services; and

(C) any other matters, activity or thing which the Community Association agrees is appropriate for the operation and management of the Community Scheme.

(d) **Delegation** - The Manager has the right to subcontract and delegate, withdraw and re-delegate its duties under the Management Agreement, to a responsible third party as determined by the Manager in its sole discretion.

(e) **Remuneration** - As determined between the Community Association and the Manager, but not less than:

(i) the market value of the costs of performing the duties specified in the Management Agreement; and

(ii) an additional margin fee, being a percentage of those costs.

The remuneration is to be reviewed annually in accordance with movements in the Consumer Price Index. The remuneration is also subject to an annual market review.

(f) **Assignment** - The Manager may assign the Management Agreement without the consent of the Community Association.

(g) **Termination** - The Management Agreement may be terminated by the Community Association if:

(i) the Manager neglects or fails to carry out the Manager's duties within a reasonable time of the Manager receiving written notice of the same from the Community Association; or

(ii) the Manager breaches the assignment provision in the Management Agreement; or

(iii) the Manager is grossly negligent in the performance of its duties.

The Manager can, provided written notice has been given to the Community Association, terminate the Management Agreement upon the occurrence of

the usual termination events, including non payment of fees owing or breach of the Management Agreement by the Community Association.

By-Law 21 Service Contracts

21.1 During the Initial Period, the Community Association intends to enter into Service Contracts with one or more service providers.

21.2 The term of each Service Contract will be for a term not exceeding 12 months and for a fee not exceeding the market value for the relevant service.

21.3 The effect of the Services Contracts is disclosed in this By-Law for the purpose of Section 24(2)(a) of the Management Act.

21.4 In this By-Law, **Service Contracts** means the contract or contracts entered into between the Community Association and one or more service providers or (before the date of this Management Statement) between the Developer and one or more service providers for the maintenance, repair and/or upkeep of Community Property and requirements under the Asset Management Plan.

By-Law 22 Encroachments

22.1 All underground footings and foundations for support for Improvements located on Community Property which may encroach onto a Lot (Burdened Lot), must be maintained at the expense of the Community Association.

22.2 Where an Improvement located on Community Property encroaches onto a Lot, the Owner of the Burdened Lot must grant to the Community Association, if requested by the Community Association, an easement in favour of the Community Association for access to and maintenance of the encroaching Improvement.

22.3 Any contractor, employee or agent of the Community Association may enter onto or underneath the Burdened Lot, on giving the Owner or Occupier of the Burdened Lot reasonable notice, for the purposes of maintaining the underground footings and foundations for support specified in By-Law 22.1.

22.4 In exercising the rights under By-Law 22.3, the employee, agent or contractor of the Community Association:

(a) must only stay on the Burdened Lot for so long as is reasonably necessary to comply with By-Laws 22.1 and 22.3;

(b) must only bring onto the Burdened Lot equipment as is necessary to comply with By-Laws 22.1 and 22.3;

(c) must not cause any undue inconvenience or interfere with the Owner or Occupier of the Burdened Lots use of the Lot; and

(d) must promptly rectify any damage to the Burdened Lot caused by the exercise of the rights under By-Laws 22.1 and 22.3.

22.5 All underground footings and foundations for support, for Improvements including, without limitation, overhangs, flashing and structures of a similar nature, which may encroach from a Lot onto Community Property must be maintained at the expenses of the Owner of the encroaching Lot.

22.6 The Owner or Occupier of the encroaching Lot may enter onto and underneath adjoining Community Property upon giving the Community Association prior reasonable notice for the purposes of complying with By-Law 22.5.

22.7 In exercising the rights under By-Laws 22.5 and 22.6, the Owner of the encroaching Lot:

(a) must only carry on work affecting the adjoining Community Property so long as is reasonably necessary to comply with By-Laws 22.5 and 22.6;

(b) must only bring onto the adjoining Community Property equipment as is necessary to comply with By-Laws 22.5 and 22.6;

(c) must not cause any undue inconvenience or interference with other Owners or Occupiers who have a right to use the Community Property; and

(d) must promptly rectify any damage to the Community Property caused by the exercise of the rights under By-Laws 22.5 and 22.6.

By-Law 23 Revetment Walls

23.1 Revetment Walls may be built to a design approved by Council on developed Lots with absolute frontage to any Waterbody to protect the Lot from erosion and to protect the Waterbody from pollution.

23.2 An Owner or Occupier of a Lot must not damage or deface a Revetment Wall, or fix any permanent item or structure to the Revetment Wall or alter or allow to be altered the level of the sand or soil abutting, or in the vicinity of the Revetment Wall.

23.3 Despite a Revetment Wall being located entirely within the boundary of a Lot, the Community Association is responsible for keeping the Revetment Wall in a true and structurally sound position.

23.4 The Owner or Occupier of a Lot must allow the Community Association's servants and agents access to their Lot for the purpose of affecting any repairs that may be necessary to maintain the integrity of the Revetment Wall.

By-Law 24 Detention System

24.1 In this By-Law Detention System includes a Detention System installed from time to time as and when each Community Development Lot is developed, to help maintain the highest possible water quality in any Waterbody within the Community Parcel.

24.2 The Owner or Occupier of a Lot on which a Detention System is installed is responsible for the care and maintenance of the Detention System and all ancillary fittings. The Owner or Occupier must, without limitation, prevent sediments, weedicides, pesticides, fertilisers, grass clippings or other foreign matter entering the Detention Tanks.

24.3 To protect the Detention Tanks an Owner or Occupier of a Lot must not erect any structure whatsoever or drive any Vehicle on that part of the Lot containing the Detention System, which area extends from the rear boundary of the Lot to a line five metres in from and parallel to the rear boundary of the Lot.

24.4 The Owners or Occupiers of a Lot must not remove or damage the grated drain extending across the width of the rear Lot alongside the Revetment Wall or the associated sediment pits which collect water draining from the grated drain to the

Detention Tanks and must maintain these drains and pits in good working order, free of silt, leaves, grass, weeds or other substances, so as to prevent all such foreign material entering into the Detention Tanks.

24.5 The Owners or Occupiers of a Lot must ensure that all stormwater draining from any roof, driveway or patio to be erected on any Lot is piped to and connected into the nearest Detention System via a pit or pits located adjacent to one or both of the side boundaries of the Lot. Each pit must contain a sediment trap of a volume no less than 0.2 cubic metres capacity each and this trap or these traps must be regularly cleaned of all silt, leaves, grass, weeds or other substances by the Owner or Occupier.

24.6 Persons approved by the Community Association may enter upon any Lot for the purpose of inspecting any Detention System or ancillary drainage works.

24.7 The Community Association is entitled to raise a levy on each Owner of a Lot for the purpose of raising the equivalent to 11% of the total unit entitlement for DP270100 (**Special Levy**). The Special Levy is to be contributed by the Community Association to DP270100 for purposes set out in this By-Law 24 which affect DP270100.

By-Law 25 Jetties and Pontoons on Waterbody

25.1 No jetties or pontoons are to be constructed on a Waterbody owned by or under the control of the Community Association.

25.2 This By-Law does not apply to the Developer.

By-Law 26 TV Aerials

26.1 An Owner or Occupier of a Lot must not erect any television aerial, radio mast, satellite dish or similar electronic receiving or transmitting device on any Lot where such device is visible from the street fronting the Lot or from Community Property unless the Lot is not provided with access to a cable capable of delivering:

(a) television signals direct from any conventional television station transmitting to the area; and

(b) television signals from any satellite transmitting to the area; and

(c) television signals from any MDS television transmitter, transmitting to the area.

26.2 If a Lot is not provided with access to (a), (b) and (c) the Owner or Occupier must not erect a television aerial, radio mast, satellite dish or similar electronic receiving or transmitting device without the consent of the Design Review Committee.

By-Law 27 Community Association not liable for Damages

The Community Association is not liable for damages to or loss of property or injury to any person in or near the Community Scheme due to any cause other than the negligence or fraud of the Community Association or any employee or agent of the Community Association.

By-Law 28 Interest on overdue money and right to recover money

28.1 The Community Association may recover any money owing to it under these By-Laws as a debt.

28.2 Owners or Occupiers must pay the Community Association interest on any amount, other than a Contribution levied by the Community Association under the Management Act, that is due for payment and remains unpaid from and including the date it is due for payment.

28.3 During the period that an amount under By-Law 28.2 remains unpaid, interest will be payable on demand or at times notified by the Community Association and will be calculated on daily balances at the rate equal to two per centum (2%) per annum above the rate quoted from time to time by the Community Association's bankers (as nominated by the Community Association) on overdraft accommodation in excess of $100,000.00.

28.4 Interest may be capitalised by the Community Association at monthly intervals and interest is payable on capitalised interest at the rate and in the manner referred to in By-Law 28.3.

28.5 Nothing in this By-Law 28 prevents the Community Association from recovering any amount exceeding the interest calculated under this By-Law as a consequence of any amount not being paid when due.

28.6 Owners agree to pay any GST payable for any taxable supply supplied to that Owner by, through or at the direction of the Community Association, to the Community Association or as directed by the Community Association.

By-Law 29 Rules

29.1 The Community Association may make Rules relating to the control, management, operation, use and enjoyment of the Community Parcel including without limitation:

(a) the control, management, operation and use of Community Property;

(b) the storage, disposal and collection of garbage; and

(c) the supply of Additional Services.

29.2 The Community Association may at any time add to or change the Rules. An addition or change to a Rule must not be inconsistent with the Management Act, the Development Act or these By-Laws.

29.3 Rules bind the Community Association, Owners, Occupiers and Invitees.

By-Law 30 Communications

30.1 Any complaint, notice, request or Application to the Community Association must be addressed in writing to the Managing Agent or if there is no Managing Agent, to the Secretary.

30.2 A certificate signed by the Community Association, its Managing Agent or the Secretary about a matter or a sum payable to the Community Association in connection with these By-Laws is prima facie evidence of the amount or any other factual matter stated in it.

30.3 Any notice, approval or authorisation by the Community Association under these By-Laws must be in writing.

By-Law 31 Approvals of Community Association

31.1 The Community Association may give conditional approval, unconditional approval or withhold its approval by these By-Laws in its absolute discretion, unless expressly provided otherwise in these By-Laws.

PART 5: BY-LAWS REQUIRED BY PUBLIC AUTHORITIES

By-Law 32 Requirements of Public Authorities

32.1 **MidCoast Water**

(a) Notwithstanding any other By-Law in this Management Statement, the terms of memorandum [ ] are incorporated into this Management Statement. The terms of the memorandum set out:

(i) the rights and privileges of MidCoast Water, its servants and agents which are ancillary to the rights and obligations conferred on MidCoast Water by Section 35 of the Development Act; and

(ii) the obligations imposed on Owners within the Community Scheme.

(b) This By-Law 32.1 may only be revoked or amended with the written consent of MidCoast Water.

32.2 **Country Energy**

(a) Country Energy requires that the Community Association provide, at all time, and authorised employees, including but not limited to personnel with mechanical and keyed access to Country Energy's Service Lines and equipment located on the Community Scheme.

(b) Low voltage distribution systems located within the Community Scheme (if any), are the property of the Community Association. The Community Association shall be responsible for and arrange for the maintenance and repair of low voltage distribution systems and related equipment located on the Community Scheme.

(c) High voltage reticulation located on the Community Scheme (if any) remain the property of Country Energy who shall repair and maintain the high voltage reticulation.

(d) All electrical equipment including but not limited to, street lights, LV pillars and LV distribution cables are the property of and are to be maintained by the Community Association.

(e) Country Energy will provide a single, low voltage connection point at each electricity substation located in the Community Scheme. The Community Association must provide a suitable low voltage main switch board to distribute electricity from each such connection point.

(f) Country Energy requires an easement to be created for high voltage, underground cables and kiosk substations located with the Community Scheme and an easement for access over the community property. It is

intended to create a statutory easement pursuant to Section 36 of the Development Act over high voltage underground cables and electricity substations in favour of Country Energy.

(g) This By-Law 32.2 may only be revoked or amended with the written consent of Country Energy.

32.3 **Australia Post**

(a) As a condition of Australia Post providing a delivery service to the Community Scheme, the Community Association and Owners must grant to Australia Post, its contractors, servants and agents, with all necessary vehicles and equipment, reasonable access to the Community Scheme.

(b) Australia Post requires that:

(i) Owners position letterboxes so that the delivery of mail by Australia Post may be effected without the need for Australia Posts' contractors, agents or servants alighting from delivery vehicles and without causing Australia Posts' contractors, agents or servants to contravene traffic laws and regulations,

(ii) Driveways on Lots must not be hindered by closed gates at the boundary alignment so as to preclude delivery as provided for in By-Law 32.3(b)(i), and

(iii) Owners clearly display their Lot number;

(c) Owners and Occupiers acknowledge that Australia Post reserves the right to change the method of delivery of mail based on the most cost efficient method available to Australia Post to deliver mail.

(d) This By-Law 32.3 may only be revoked or amended with the written consent of Australia Post.

32.4 **Telstra**

(a) Pursuant to Schedule 3 of the *Telecommunications Act 1997* (Cth), Telstra may exercise the following powers:

(i) the power to inspect the Community Scheme to determine whether the land is suitable for Telstra's purpose,

(ii) the power to install a facility on the Community Scheme; and

(iii) the power to maintain a facility that is situated on the Community Scheme.

(b) This By-Law 32.4 may only be revoked or amended with the written consent of Telstra.

(c) To the extent permissible at law, the concurrence by the Design Review Committee is required before Telstra may exercise any of its powers under this By-Law.

By-Law 33 Water Quality

33.1 The Community Association is responsible for, and must maintain at its cost, the water quality in any Waterbody within the Community Parcel in accordance with the Asset Management Plan.

PART 6: DEFINITIONS, INTERPRETATION AND GENERAL

By-Law 34 Interpretation

34.1 The following words have these meanings in the By-Laws unless a contrary intention appears:

(a) **Access Way** means either an Open Access Way or a Private Access Way.

(b) **Additional Service** means any service in addition to those listed in By-Law 12.1 running through or serving Lots or Community Property including but not limited to statutory services, private services and security services.

(c) **Adjoining Owners** means the first lot on either side of the Applicant's Lot excluding Community Property within the Community Plan.

(d) **Animal** means any animal including but not limited to dogs, cats, insect, reptiles or birds.

(e) **Annual General Meeting** means the annual general meeting of the Community Association other than the First Annual General Meeting.

(f) **Applicant** means:

(i) for an application to add to or alter the Guidelines – an Owner who applies to the Community Association for the addition or alteration, or

(ii) for Improvements – an Owner who submits plans and specifications to the Design Review Committee for approval.

(g) **Application** means:

(i) for an application to add to or to alter the Guidelines – a written application detailing the alterations or additions and which may also include plans and specifications, or

(ii) for Improvements – a written application for Improvements including, but not limited to, detailed architectural plans and specifications of all Improvements.

(h) **Asset Management Plan** means any asset management plan prescribed by the Community Association for Community Property or Subsidiary Body Property.

(i) **Board** means the Consumer, Trader and Tenancy Tribunal constituted under the Management Act.

(j) **By-Law** means a by-law included in this Management Statement.

(k) **Community Association** means the community association constituted on registration of the Community Plan.

(l) **Community Development Lot** means a lot that is not:

(i) Community Property;

(ii) land that has become subject to a Subsidiary Scheme; or

(iii) severed from the Community Scheme.

(m) **Community Facilities** means facilities constructed by the Developer or Community Association from time to time for the use by Owners, Occupiers and Invitees.

(n) **Community Legislation** includes:

(i) *Community Land Development Act 1989*,

(ii) *Community Land Management Act 1989*,

(iii) *Community Land Development Regulation 2000*, and

(iv) *Community Land Management Regulation 2000*,

as amended from time to time and all cognate legislation and regulations.

(o) **Community Parcel** means the land the subject of the Community Scheme.

(p) **Community Plan** means the plan of subdivision of the land by a Community Plan into lots.

(q) **Community Property** means lot 1 in the Community Plan comprising water basins, footpaths, landscaping and drainage (excluding Service Lines other than Service Lines owned by the Community Association) and Community Facilities.

(r) **Community Scheme** means:

(i) the subdivision of the Community Parcel by the Community Plan, and

(ii) the rights conferred, and the obligations imposed, by or under the Community Titles Legislation or similar legislation in relation to the Community Association, Community Property and persons having interest in or occupying Lots.

(s) **Community Titles Legislation** means the Development Act, the Management Act and cognate legislation.

(t) **Contribution** means the contribution required to be paid under the By Law or agreement to the Community Association by Owners and is the amount X in the following formula:

$X = A \times \frac{B}{C}$ where:

A = the total amount to be raised by the contribution,

B = the unit entitlement for the Owner's Lot, and

C = the aggregate of the unit entitlements for each Lot in the Community Scheme.

(u) **Council** means the relevant consent authority.

(v) **Design Review Committee** means the panel set up pursuant to By-Law 3 of this Management Statement.

(w) **Detention System** means any Detention Tank, pipe, pit, pond, swale, fitting or other device required for the convey or detaining of the flow of stormwater.

(x) **Detention Tank** means any stormwater detention system located behind the Revetment Wall built into all Lots with absolute frontage to a Waterbody.

(y) **Developer** means Crighton Properties Pty Limited ACN 000 830 875 and where the context permits includes their authorised officers, employees, agents, contractors and assignees.

(z) **Development Act** means the *Community Land Development Act 1989* and regulations made under it.

(aa) **Development Activities** means:

(i) any form of demolition work, building work or work ancillary to or associated with building work on the Community Parcel and the Community Scheme including without limitation, the installation of Services and Additional Services and construction of improvements, roads and access ways,

(ii) any form of landscaping work or work ancillary to or associated with landscaping work on the Community Parcel and the Community Scheme,

(iii) any form or work other than the forms of work referred to in paragraphs (i) and (ii) of this definition which is considered necessary or desirable by the Developer,

(iv) the use of any part of the Community Parcel or the Community Scheme in connection with the forms of work referred to in paragraphs (i) to (iii) of this definition,

(v) the subdivision of any part of the Community Parcel or the Community Scheme, or

(vi) work required by Council or any relevant authority in connection with the Community Parcel or the Community Scheme development.

(bb) **Development Conditions** means:

(i) all damage to or interference with the Community Parcel must be made good at the expense of the Developer as soon as possible after that damage or interference occurs,

(ii) the interference with the use or enjoyment by Owners or Occupiers of Lots or of the Community Property must, insofar as it is consistent

with the carrying out of Development Activities, be kept to a minimum, and

(iii) on completion from time to time of Development Activities the relevant Community Parcel areas must be left in a clean and tidy condition.

(cc) **Development Lot** has the same meaning as in the Development Act.

(dd) **Development Rights** means:

(i) **Access Rights** – complete and unrestricted access by foot or motor vehicle over Community Property,

(ii) **Parking Rights** – the right to park motor vehicles and equipment on Community Property,

(iii) **Temporary Facilities** – the right to place on or attach to Community Property temporary offices, sheds, depots, building materials, cranes and other equipment,

(iv) **Right to Install Services** – the right to install (or arrange installation of) Services on Community Property,

(v) **Right to Connect Services** – the right to connect Services within Community Property,

(vi) **Right to Attach Signs** – the right to attach and place marketing and advertising signs, placards, banners, notices, advertisements, flags and flagpoles on the Community Property,

(vii) **Right to Sublet Signage** – the right to sublet signage locations on the Community Property for revenue,

(viii) **Right to Conduct Sales** – the right to conduct sales activities on the Community Property.

(ee) **Drainage** includes but is not limited to underground piping, drainage structures including in road carriageways, causeways, water storage, retention basins, water quality enhancement facilities, overland flow paths, inter-allotment drainage and gross pollutant traps located on Community Property or the subject of a statutory easement or easement in favour of the Community Association.

(ff) **Executive Committee** means the executive committee of the Community Association as constituted or elected from time to time under the Management Act.

(gg) **First Annual General Meeting** means the General Meeting convened and held under Section 9 of the Management Act.

(hh) **Function** includes a power, authority or duty.

(ii) **General Meeting** means a general meeting or special general meeting of the Community Association.

(jj) **General Public** means a person on the Community Parcel without the express consent of an Owner, Occupier or the Community Association.

(kk) **GST** means the Goods and Services Tax as contained in A New Tax System (Goods and Services Tax) Act 1999 and related acts of the Commonwealth and cognate rulings and regulations.

(ll) **Guidelines** means the Architectural and Landscape Guidelines prescribed by the Community Scheme and amended from time to time in accordance with By-Law 2.

(mm) **Improvements** includes building alterations, amendments, modifications, new constructions, structures, building works, landscaping and external repairs whether or not requiring the approval of Council, but for the purposes of By-Law 3 only, exclude changes to the interior of a dwelling which:

(i) do not require the approval of Council,

(ii) do not interfere with or involve connection to Services, and

(iii) are not visible from another Lot or Community Property.

(nn) **Initial Period** means the term "initial period" as set out in Section 3 of the Management Act.

(oo) **Invitee** means a person on the Community Parcel with the express consent of an Owner, Occupier or the Community Association.

(pp) **Lot** means a Lot within the Community Scheme.

(qq) **Management Act** means the *Community Land Management Act 1989* and regulations made under it.

(rr) **Management Agreement** means the agreement between the Community Association and the Manager described in By-Law 20.

(ss) **Management Statement** means the statement registered with the Community Plan from time to time added to, modified or amended in accordance with this Management Statement and the Community Titles Legislations.

(tt) **Manager** means [ ] (ACN [ ]) appointed pursuant to By-Law 20 its successors and assigns.

(uu) **Managing Agent** means an agent appointed under Section 50 of the Management Act.

(vv) **Neighbourhood Association** means the Neighbourhood Association created on registration of the Neighbourhood Plan, being Neighbourhood Association No DP286130

(ww) **Neighbourhood Plan** means the Neighbourhood Plan registered create the Neighbourhood Association.

(xx) **Neighbourhood Scheme** means the Neighbourhood Scheme constituted on registration of the Neighbourhood Plan.

(yy) **Occupier** means a resident and includes resident Owners, any lessee, licensee or assignee of a Lot.

(zz) **Open Access Way** means an open access way within the Community Parcel set apart under Section 47 of the Development Act and shown in the Access Way Plan.

(aaa) **Owner** means the registered proprietor on title of a Lot or mortgagee in possession of a Lot, its successors and assigns.

(bbb) **Parties** means the Community Association and each Owner or Occupier within the Community Parcel.

(ccc) **Practical Completion** means the stage when the Works to construct a dwelling on a Lot, including landscape works, are complete, except for minor defects and omission in relation to which the Owner has reasonable grounds for not rectifying them promptly.

(ddd) **Precinct Plan** means a precinct plan that subdivides a Community Development Lot.

(eee) **Precinct Scheme** means a precinct scheme constituted on registration of a Precinct Plan.

(fff) **Prescribed Diagram** means the diagram relating to the Service Lines with the Community Plan and prescribed in Section 36 of the Development Act.

(ggg) **Private Access Way** means a private access way within the Community Parcel set apart under Section 47 of the Development Act and shown in the Access Way Plan.

(hhh) **Private Services** includes those services provided by a private corporation, body, entity or person other than a statutory authority as prescribed in Part 5 Regulation 37 of the Community Land Development Regulations 2000 or capable of creation as a statutory easement.

(iii) **Revetment Wall** means a wall constructed across the rear of a Lot with absolute frontage to a Waterbody.

(jjj) **Rules** means the rules by under By-Law 29.

(kkk) **Secretary** means the secretary of the Community Association.

(lll) **Security Keys** means a key, magnet card or other automatic or mechanical device used to open, close, lock and unlock gates and doors and activate and operate alarms and security systems on the Community Parcel.

(mmm) **Security Services** means video surveillance cameras and associated wiring cables and equipment, security gates, security patrol personnel and any electronic systems incidental thereto.

(nnn) **Services** means the services referred to in By-Law 11 and includes Private Services and Statutory Services.

(ooo) **Service Line** means a pipe, wire, cable, duct, conduit or pole by means of which a Service is or is to be provided.

(ppp) **Service Provider** means without limitation, MidCoast Water, Country Energy, Telstra, the Council and any authorities or private corporations including the Developer and the Community Association assuming similar functions.

(qqq) **Special Resolution** means a resolution passed in accordance with the Management Act.

(rrr) **Strata Plan** means a strata plan that subdivides a Community Development Lot or a lot in a Subsidiary Scheme.

(sss) **Strata Scheme** means a strata scheme constituted on registration of a Strata Plan.

(ttt) **Subsidiary Body** means a Precinct Association, Neighbourhood Association or an Owners Corporation.

(uuu) **Subsidiary Body Property** means the Precinct Association Property, Neighbourhood Association Property or Common Property.

(vvv) **Subsidiary Scheme** means a Precinct Scheme, Neighbourhood Scheme or a Strata Scheme.

(www) **Treasurer** means the treasurer of the Community Association.

(xxx) **Tribunal** means the Consumer, Trader and Tenancy Tribunal established by the Consumer, Trader and Tenancy Tribunal Act 2001.

(yyy) **Unanimous Resolution** means a resolution passed by a duly convened General Meeting of the Community Association without a vote being cast against it.

(zzz) **Vehicle** means any motorised and non-motorised vehicles whether or not registered unless the context requires otherwise and includes, but is not limited to, motor vehicles, carts, trucks, caravans, trailers, boats and bicycles.

(aaaa) **Waterbody** means a body or bodies of water artificially created in the Community Parcel or any Subsidiary Scheme.

34.2 In these By-Laws unless the contrary intention appears:

(a) A reference to the singular includes the plural and vice versa;

(b) A reference to a statute includes any variations, amendment, re-enactment or replacement of it;

(c) The word person includes a firm, an Owners Corporation, an association or an authority;

(d) Reference to a person includes a reference to the person's executors, administrators, successors and assigns;

(e) A reference to an instrument includes any variation or replacement of it;

(f) A reference to a day is a reference to the period of time commencing at midnight and ending 24 hours later; and

(g) Headings are inserted for convenience and do not affect the interpretation of this Management Statement.

34.3 Unenforceability of a part or provision of these By-Laws does not affect the enforceability of any other party or provision.

34.4 The Community Association may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by the Community Association does not prevent a further exercise of that or of any other right, power or remedy. Failure by the Community Association to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

34.5 A reference to an authority, institute, association or body or to any officer of them is in the event of that authority, institute, association, body or officer ceasing to exist or being reconstituted, renamed or replaced or of their respective powers or functions being transferred to any other organization or person deemed to be a reference to the organization or officer established, constitute dor appointed in lieu of or as replacement for or which or who serves substantially the same purposes or subject of that authority, institute, association, body or officer.

Signatures, Consents and Approvals

Dated day of 2008

EXECUTED by **Crighton Properties Pty Limited** ACN 000 830 875 in accordance with section 127 of the *Corporations Act 2001*:

.....	.....
Director	**Director/Secretary**
ANDREW DOUGLAS COX	GEOFFREY JOHN COX
Name of Director (block letters)	Name of Director/Secretary (block letters)

Certificate of Approval

It is certified:

1. that the consent authority has approved the development described in Development Application DA88/08 ; and

2. that the terms and conditions of this Management Statement are not inconsistent with that development as approved.

Dated 26th day of May 2008

Signature on behalf of consent authority .....

Volume 1:

Annex F: Community Management Statement

3. Myall Quays Community Association

Riverside Precinct Management Statements

Riverside at Tea gardens

A description of the current and proposed future Community structure

November 2008 – V1

Prepared by
Crighton Properties Pty Ltd.

1. INTRODUCTION

The Riverside project represents the development of the remaining land within the "Myall Quays Community Scheme" as it is formally known.

This scheme was registered in 1996 and today contains over 202 individual developed lots. (see Drawing RC-09 which shows the extent of the community parcel).

Complimentary to the "Myall Quays Community Scheme", which contains only residential uses, a second Community scheme, "Myall Quays Commercial Community Scheme", currently exists which contains all of the land located within the proposed boundary of the town centre within Riverside (see figure overleaf which shows the extent of the community parcel). This second Scheme, currently includes;

- 3600 sqm Shopping Centre (including a 2000 sqm BI-LO supermarket and 15 specialty shops)
- 900 sqm Health and Medical Centre
- Service Station and convenience store
- Town square, which supports a monthly market.

These two community schemes operate independently, however they do share many common by-laws and requirements.

Lot 10 DP 270100 is a separately Torrens Tiltled Lot, I.e. it does not form part of either Community Scheme. It is intended that this Lot will form a 3rd Community scheme in it's own right upon development. At this point in time the current Community Legislation does not allow land to be added to an existing scheme, once that scheme has been created.

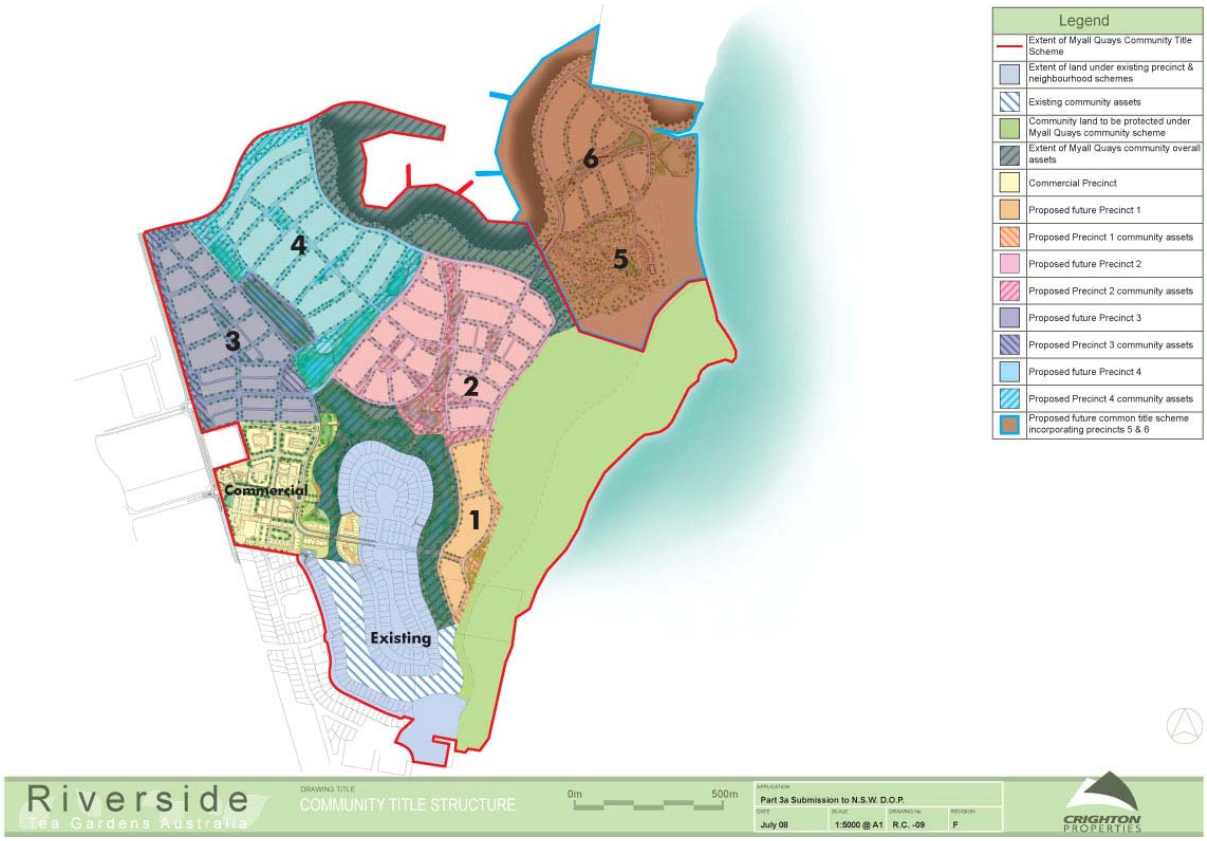
In essence, Community Title is but one mechanism within a suite of mechanisms upon the Riverside site used to regulate the quality and implementation of the desired built form of the site as well as it's ongoing use. There are four key mechanisms to achieve this outcome.

Name	Description	Nature of control	Approval authority	Enforcement Authority
1) Planning Controls	a) Zoning b) VPA commitments c) Conditions of Consent	Behavioural and Built Form Behavioural and Built Form Behavioural and Built Form	Council / DOP Council / DOP Council / DOP	Council/DOP Council/DOP /Land owner Council/DOP
2) Community Title Structure	The Community Management Statement (CMS) sets out a number of By-laws being the rules of operation	Generally behavioural, but some built form controls	Council / DOP	Community Scheme
3) Architectural and Landscape design Controls	The Architectural and Landscape design Guidelines are empowered by the CMS, a committee is convened within the Community scheme to oversee the	Generally Built Form, but some behavioural controls	Council / DOP	Community Scheme

	operation			
4) Covenants	Instruments such as 88B and 88E.	Behavioural and Built Form	Council / DOP	Council

Collectively, each of these four methods of control (over and above the usual Planning controls that already exist at the local Govt and State level) are intended to regulate;

1. Behaviour of residents within the development in accordance with the intention of the project, the conditions of consent and in a socially responsible manner, to protect the well being of other residents and neighbours.
2. The Built form within the development in accordance with the intention of the project, the conditions of consent and so as not to detract from the amenity of the surrounding neighbourhood.
3. Proper land management practices, through responsible maintenance regimes delivered by funding mechanisms which do not impact upon rate payers.



2. What is Community Title?

Community Title is a means of subdividing and titling land and improvements to allow for the individual ownership of some portions of the site (typically being the individual lots) and the communal ownership of other portions of the site (typically being the community amenity areas). Community Title then provides the mechanism for the raising of, and management of funds (via the Community Levy) from the Community Members in order to cover the cost of management of the Community Assets.

Community Title then provides a lawful mechanism (through the use of By-Laws) to regulate housing types and finishes and the actions of its members for the security and benefit the Community. These By-Laws, once established (upon registration of the subdivision), are enforceable under the Community Land Management Act 1989 and can only be changed by unanimous resolution by the Members of the Community Scheme.

Usually, as is the case at Riverside, the Community management scheme is broken down into a number of smaller subsidiary schemes “Precincts” or “Neighbourhoods”, each with it’s own suite of assets and requirements which act in addition to (not instead of) those of the host Community Scheme.

3. What Currently exists at Riverside?

The existing Community Scheme at Riverside consists of 202 individual lots, spread over 2 Precincts and 3 Neighbourhoods (see dia below which indicates the current extent of the developed Community Lots).



4. What is Proposed for further development at Riverside?

Riverside is proposed to be continued to be subdivided under the current Community Title Scheme in accordance with the Community Land Development Act 1989. All roads through the development are, and continue to be proposed to be Public, however, all other land and open space within the development will form part of the Community Scheme. The scheme will operate in accordance with the current "Myall Quays Community Management Statement" which contains the 'rules' (by-laws) by which the scheme will operate.

All further development at Riverside is proposed to be subject to a range of subsidiary Community Schemes, known as 'Precincts'. Separate precincts will be created generally for each stage or collection of stages of ongoing development.

Stages 1 and 2.

The first 'Precinct' proposed to be created under the Riverside approval (Precinct 1 – see drawing RC - 09) will be for stages 1 and 2 of the Concept / Project plan. Consisting of a total of 71 lots, this precinct is to be specifically tailored for use as a home based business Precinct (HBBP). The precinct is specifically designed for the needs of HBBP users, whether they be those;

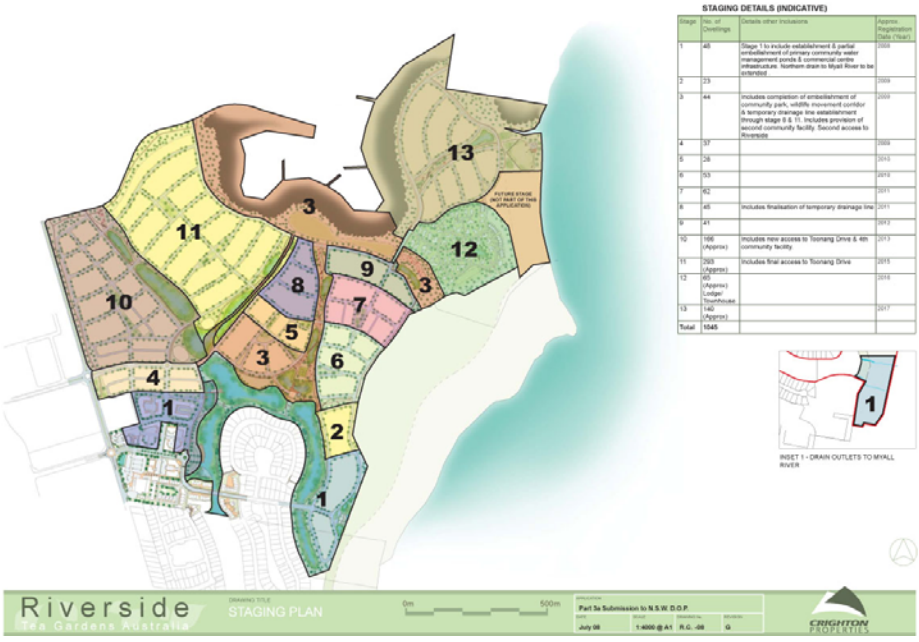
1. Running a small business
2. Starting off a small business with a view to growth
3. Winding back a larger business to a self managed size
4. Looking for a lifestyle change through part / full time telecommuting
5. Individuals returning to the work force without severing domestic commitments – such as recent mothers or
6. Semi-retirees looking to remain in private employment on a full or part time basis.

Whilst each of the above groups has slightly different needs, the project seeks as close as possible to fulfil the requirements of each of these user groups.

This Precinct (as opposed to a typical residential precinct) will seek to encourage these user groups to reside within the Precinct. It is hoped that the Precinct will have an initial take up rate of at least 30% of homes by legitimate HBB users.

Stages 3 onwards.

The remaining Precincts (2 – 4) to be developed at Riverside (stages 3 onwards) will be typically standard residential in nature. Each precinct will be governed by a "Precinct Management Statement" drafted for that precinct which will operate supplementary to (but not conflicting with) the Myall Quays Community Management Statement, which continues to remain in effect.



4. What is Proposed for Precinct 1 (stages 1 and 2)?

The description below forms a precis of the proposed Precinct 1 structure. Prior to registration of this precinct, a Precinct Management Statement will prepared based on the brief outlined below.



1. Precinct Property

The Precinct Parcel is proposed to include all of the site which is coloured orange on drawing RC-09 (see adjacent)



The Precinct Parcel is proposed to be subdivided to form a number of private lots (71) within the Precinct Scheme as well as a communal lot (Precinct Association Property) known as Lot 1 within the Precinct Scheme (see drawing RC-11). This Precinct Lot (Lot 1) will be made up of the communal open space areas – incorporating recreational open space, primary recreational and business open spaces (site of the business hub and common facilities) as well as the perimeter infiltration swales and APZ to the conservation area.

In additional to the lands proposed to be designated as Precinct Land within the Precinct Scheme and Managed by the Precinct Association, a number of private lots within the Community Scheme will also be subject to specific management requirements, either by the individual lot owners or by contactor acting on behalf of the Precinct Association. These management requirements relate to bushfire hazard management.

The extent of Precinct Association Parcel and the Common Property is represented in the Fig adjacent.

In addition to the ownership and management of open space areas, Precinct Property is also proposed to include a range of improvements (building works) which will be owned and managed by the Community Association, this Community Property will include;

1. A Business Support Hub facility containing;
    i. Conference rooms
    ii. Meeting rooms
    iii. Office
    iv. Lounge / Multifunction / Function Space
    v. Kitchenette
    vi. Store
    vii. Toilet Facilities
    viii. Additional residential amenity such as a pool, gymnasium, tennis court, and children's play areas etc.
2. High speed communication network consisting of
    - Hub distribution point located within business support hub, containing hardware and software
    - The network of private underground optic fibre communication cables and associated hardware
3. Outdoor space
4. Water management Ponds and Swales
5. Walkways / Cycleways

The extent of Precinct Association improvements is shown in the figure below.



2. General Provisions

The following general provisions will be considered / included within the drafting of the Precinct Management Statement.

Access
The following access provisions will apply to users;

User Group	Type of access	Facilities	Cost Associated
All Precinct members	Unfettered	All residential amenity	FOC (covered by Levy)
All Precinct members	Unfettered	All business support facilities and services	Base level of services FOC (covered by Levy). Specialised services (such as room rental and typing assistance etc. subsidised user pays cover charge (collected on a do and charge basis through levy)
General Public / Community Members	Unfettered	Unstructured open space, cycle ways, walkways etc.	FOC
General Public / Community Members	Restricted by area or by occasion	Selected residential and business support amenity.	User pays or on subsidised event basis, such as a visiting speaker etc. Community members to be further subsidised

Maintenance

- Maintenance and upkeep of Precinct assets will be the responsibility of the Precinct Association across the board at no cost to rate payers.
- Behavioural provisions will be made to allow for breakage or replacement of damaged / lost items by responsible parties – particularly the HBBP support services.
- In additional to general maintenance a sinking fund will also be structured to cover the future cost of upgrades and technological advancement and replacement.
- A maintenance and management plan will be prepared which details the Maintenance and Management requirements of the Precinct Assets. This plan will form the basis of any sinking fund and future investment schedule.

Financial Management

- All Precinct members will be charged a quarterly levy to cover the financial costs of operation of the Precinct Scheme. This levy covers every thing from maintenance to running costs, insurance to marketing, and technological advancement to consumables.
- It is intended that the base levy will be approximately $2,000.00 p/a (based on 71 homes) – a major portion of which would likely be tax deductable to any legitimate HBBP user. Over and above this base levy, specific services will be available on site on a user pays basis.
- It is intended that all user pays services will be accessible by a unique security code device which logs usage (such as a swipe card) for later debiting of the user or adding to the value of the levy
- The Precinct Association is to be free to generate revenue through it's business activities, which may be returned to its members in the form of a levy subsidy or even a financial return, should one eventuate, such commercial activities may include, the leasing of space, the provision of business support services – such as typing etc, or the holding of an event – such as a conference.

3. Specific Provisions

Additional Management Plans required

It is anticipated that the following management plans will be drafted / have been drafted to facilitate ongoing management of the Precinct assets and scheduling of amenity. These plans will be empowered by the Precinct Management Statement;

- Asset Management Plan – to incorporate;
    - Vegetation / Bushfire Management Plan – in accordance with the BTA and Ecological reports
    - Asset Maintenance Schedule – to be prepared by a qualified building inspector and Engineers on completion of Civil and Architectural works.
    - Resource Management Plan – to be prepared which details the ongoing management of the Home Based Business Hub as a resource and considers issues such as staffing, event scheduling, consumables, investments, revenue raising etc.

- Architectural and Landscape Guidelines

- Business Management Guidelines

1. Architectural and Landscape Design and Business Management Controls

Architectural and Landscape controls

Architectural and landscape controls are already contained within the Myall Quays Community Association Structure at the Community Level within the "Architectural and Landscape Guidelines", which are annexed to the Community Management Statement.

In addition to these guidelines additional guidelines will be drafted specific to Precinct 1 and administered at the Precinct level. These guidelines will set out specific provisions relating to the built environment (over and above those at the Association level) designed to;

1. Adequate space for a HBB is provided within the house.
2. Ensure the quality of the built Environment
3. To protect the amenity of neighbours

The Architectural and Landscape Guidelines are implemented by the Design Review Committee (DRC), which is a sub-committee of the Executive Committee of the Community Association. The Guidelines require all plans for development work to be submitted to the DRC for approval, before being submitted to Council, and again before work commences on site. No building can be built upon the site that has not been approved (stamped and written approval issued) by the DRC.

The Precinct Architectural and Landscape Guidelines will be drafted in both a written technical format as well as a graphic representative format as they have been for the association guidelines.

The Architectural and Landscape guidelines will specifically contain requirements relating to the following.

Category	Provision
Business	A home office must be provided in each house which; 1. Is no less than 15 sqm in size 2. Is no more than 40 sqm in size 3. Is located at the front of the house 4. Has a separate front access door 5. Is not part of a garage.
Car Parking	At least one visitor's space, which is not part of a garage or part of an access driveway, must be provided on site.
Car Parking	Houses must be set back at least 7.5m to facilitate off street parking for visitors and staff.
Signage	Up to 2 business signs may be located on any lot, not having a combined area of more than 1.0 sqm.

Home Based Business Controls

Business operation controls will be contained within the "Business Management Guidelines", which will be annexed to the Precinct Management Statement. The guidelines will set out specific provisions relating to the operational issues of Home Based Business designed to;

1. Ensure an appropriate HBB is provided in each house.
2. To protect the amenity of neighbours
3. To assisting in providing a growth path and transition to a business outside of the HBBP.

The Business Management Guidelines are are over and above any of the local Council requirements for home business development and will be implemented by the Design Review Committee (DRC), which is a sub-committee of the Executive Committee of the Community Association. The Guidelines will require a business impact statement be prepared and be submitted to the DRC for approval, before business operations can commence on site. No business can operate upon the site that has not been approved by the DRC.

The DRC is the same DRC that over sees the implementation of the Architectural and Landscape Design Guidelines a

The Business Management Guidelines will be drafted in a written technical format and will specifically contain requirements relating to the following;

Category	Provision
Business Type	Business types must not be offensive (noise, odour, light emmitance etc) and consistent with a residential environment.
Business Type	No Retail outlets (shops) allowed, so as to limit traffic usage. Some consideration to be given to retail frontage in row of houses adjacent community facilities.
Business Type	Single customer service providers such as General Practitioners, Hair Dressers, and Accountants Etc would be permissible.
Business Type	No Industrial / semi industrial uses allowed such as panel beaters, engineering, spray painting etc.
Business Type	No businesses, such as whare housing etc. which rely upon regular delivery and / or despatch of goods
Parking	All private vehicles to be contained within the lot.
Parking	Garages not to be used for business purposes.
Staffing	A maximum of 2 employees in addition to the home occupants may be employed upon the site.
Staffing	Any staff vehicle must stand upon the site during business hours.
Sales	No business is to solicit upon the street, signage is limited to that contained within the Architectural Guidelines.

2. Covenants

To ensure that the Home Based Business Park is operated in accordance with the proposed Precinct Scheme, the site would be subject to an 88E restriction requiring it to be developed and managed in accordance with the Community Title legislation. In addition to this restriction a range of other restrictions under 88b or 88e would be registered in order to provide an additional level of control over a range of different aspects of the development. Below is a brief description of these restrictions;

Restriction Type	**Description**	**Burden**	**Benefit**	**Authority Empowered To vary**
88E	Site to managed as a Subsidiary Community Scheme in accordance with the Precinct Management Statement	Entire site	Precinct Association	Council
88B / 88E	Common property to be managed in accordance with the Land Management Plan / Community Association to do the work	Common Property	Precinct Association	Council
88B	APZs to be managed in accordance with RFS requirements and findings of the BTA	APZ on individual lots	Individual lot owners / Precinct Association upon default	RFS
88B	Management of APZ in accordance with RFS requirements and findings of the BTA	APZ on Common Property	Precinct Association	RFS

Appendix 1.

Existing Myall Quays Community Management Statement

Appendix 2.

Existing Myall Quays Architectural and Landscape Guidelines.

Appendix 3.

Sample Precinct Management Statement from previous Precinct in Myall Quays.

Volume 1:

Annex G: Legal Opinion SEPP 50

MQ EIS

CRIGHTON PROPERTIES PTY LIMITED:

MYALL QUAYS DEVELOPMENT

ADVICE

TESORIERO HENDERSON COTTER
Solicitors
DX 7209
GOSFORD

Attention: Don Henderson

CRIGHTON PROPERTIES PTY LIMITED:

MYALL QUAYS DEVELOPMENT

ADVICE

Introduction

Crighton Properties Pty Limited (**the Company**) is the owner of a large tract of land at Tea Gardens on the lower north coast of New South Wales. This land is known as "Myall Quays".

The Myall Quays development site is approximately 230 hectares in area. It lies immediately to the west of the Myall River.

Up until 1999, approximately 40 hectares of this are had been developed for residential purposes in accordance with the zoning applicable to it under *Great Lakes Local Environmental Plan 1996* (**the LEP**). By Amendment No.5 to the LEP published in the Gazette on 28 June 2000, the balance of the land comprising the Myall Quays development area was rezoned so that the bulk of it became residential 2(f) with those areas closest to the Myall River being zoned wetlands 7(a) and conservation zone 7(b).

As part of the residential development already carried out at Myall Quays there is provided an artificial waterbody or lake occupying a surface area of approximately 7 hectares. I am told that this lake was formed and provided with the approval of Great Lakes Shire Council (**the Council**) as an essential element of infrastructure for the first stage of Myall Quays, namely to provide an appropriate stormwater detention system for new residential development, thereby controlling the rate of runoff into the Myall River.

This lake is said to have a narrow outlet swale that discharges outflows into a wetland on the western bank of the Myall River. This outlet also allows tidal inflow to the lake at the top of the tide as it flows up the Myall River from the Myall Lake system. Apparently, by reason of the design of the lake and other measures taken to treat runoff from existing development, the present 7 hectare lake is reported to support a thriving aquatic ecosystem, including a range of fish species that has been the subject of study by the Australian Museum.

The Company now intends to develop a further 81 hectares of Myall Quays in accordance with Amendment No.5 to the LEP. This will involve primarily residential development together with a 9 hole golf course in the northern section of the development area.

In order to address runoff from the 81 hectares intended for development, the Company has retained Cardno Willing, consulting engineers, to consider that matter. A number of options have been considered but that selected as being the most appropriate solution to

address stormwater flows is an 11 hectare extension to the existing detention lake, resulting in a total surface area of that lake of 18 hectares.

Detailed design of this extended detention lake is yet to be undertaken. However, the conceptual design involves a northerly extension to both the eastern and western sides of the existing lake such that it will take the shape of an elongated circle, with the land in the middle developed for residential purposes in accordance with development consents that I am told presently relate to that land. Future commercial and residential development is proposed overlooking the eastern, northern and western edges of the extended lake.

As the intended extension to the lake will result in an artificial waterbody having a surface area in excess of 0.5 hectares and by reason both of its proximity to the Myall River and the high water table existing in the area, it constitutes *designated development* under the provisions of the *Environmental Planning and Assessment Act 1979*. Thus, an environmental impact statement is required to be prepared. However, in the course of considering the proposal, a question has arisen as to whether the provisions of *State Environmental Planning Policy No.50 – Canal Estate Development* (**SEPP 50**) prohibit the proposed extension of the detention lake. It is upon that matter that I am asked to advise.

Present Planning Controls

As I have earlier indicated, the applicable local environmental plan is the LEP of 1996, as relevantly amended by Amendment No.5. Apart from altering the LEP map, that amending instrument introduced a new cl.33A that made express provision relating to development at Myall Quays. The objective of the clause is expressed to be to ensure that development on land at Myall Quays is controlled so that (inter alia) *"...any waterbody is maintained under the provisions of a community or neighbourhood scheme."*

Of particular relevance is subclause (2) of cl.33A. It provides as follows:

> *"(2)(a) This subclause applies to development on land within Zone No.2(f) for the purpose of a lake or other waterbody.*
>
> *(b) In determining an application for development to which this clause applies, the Council must not grant the application except with the concurrence of the Department of Urban Affairs and Planning.*
>
> *(c) In considering whether to give concurrence, as referred to in paragraph (b), the Department must take into consideration:*
>
> *(i) the extent to which the proposed development is likely to affect the environmental qualities on the adjoining wetlands within Zone No.7(a) or wet heath areas within Zone 7(b); and*

(ii) the likely cumulative impact (in conjunction with existing water bodies) on the Myall River."

The operation of cl.33A of the LEP is expressly qualified by subclause (4). It provides that nothing in the LEP *"... modifies or otherwise affects the application of State Environmental Planning Policy No.50 ... Nothing in this plan allows development prohibited by the Policy to be carried out on that land."*

In conjunction with the preparation of Amendment No.5 to the LEP, Great Lakes Shire Council also prepared and adopted *Development Control Plan No.22 – Myall Quays Estate* (**the DCP**). This DCP became effective on 20 July 2000. Paragraph 1.6 of that DCP expresses an objective of the Plan as being *"... to provide an opportunity to develop residential lots, with particular aesthetic values such as water views, park views or golf course views which supplement rather than compete with the market for conventional lots ...."*. Paragraph 1.8 further provides that development *"... of an artificial inland lake will be dependent upon the findings of an Environment Impact Statement which will be required to be prepared in support of a Development Application"*.

The need to address water quality in development of land at Myall Quays is addressed in section 2.4 of the DCP. The objectives for water quality are expressed in paragraph 2.4.1 in the following terms:

> *"The standard of discharge of water from the site to the Myall River is to meet primary contact recreation requirements.*
>
> *The principal function of the water quality treatment system is to detain stormwater run off and provide a water quality control system. The stormwater detention system may also provide aesthetic value and opportunities for secondary contact recreation."*

There is then set out in the same subparagraph the policies by which those objectives are to be met. The policies include a requirement that stormwater detention is to be designed and developed in association with a water quality treatment system for the site and that the performance criteria for the water quality treatment system and for any artificial waterbody forming part of that system to be consistent with ANZECC guidelines and *"maintained to secondary contact recreation standards as a minimum."*

It is readily apparent from both clause 33A of the LEP and the provisions of the DCP that the creation of an artificial waterbody to enhance the aesthetics of residential development in proximity to that waterbody was very much part of the planning that led to the rezoning of land comprised within the Myall Quays estate. Further, there was recognition given, particularly in the DCP, to the need for provision of an appropriate water quality detention and treatment system for water discharged from the site but which could serve a secondary aesthetic function. The only qualification to this is that reflected in subclause (4) of cl.33A to the LEP whereby the planning controls were not to be taken to override the operation of SEPP 50.

SEPP 50 prohibits the carrying out of *canal estate development*. The expression *canal estate development* is defined in cl.3 of SEPP 50. That definition is in the following terms:

> *"3. In this Policy,* ***canal estate development*** *means development that:*
>
> *(a) incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or ground water movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimum reasonable size and capacity to meet a demonstrated need for the works), and*
>
> *(b) includes the construction of dwellings ..., and*
>
> *(c) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land."*

It will readily be apparent from the terms of the definition of *canal estate development* that in order to be comprehended by it three elements in respect of a given development must be satisfied. The first is that the development relevantly involves the construction of an artificial waterbody having some connection to a natural waterway or waterbody, subject to the exception that such waterbody is not a work of drainage or for treatment of water. It is to this exception that I will return shortly.

The second element is that the development involves the construction of dwellings and the third is that fill material is required to raise the level of at least part of the land on which dwellings are proposed to be constructed in order to meet requirements relevant to development on flood prone land. It is certainly the case that the intention of the development involving the construction of the lake extension is to have residential development undertaken adjacent to it. Indeed, it is such development that is said to engender the need for the lake extension. It seems to me, therefore, that the second element of the definition is satisfied.

I am informed that the area of the Myall Quays development that is the subject of rezoning under Amendment No. 5 is not shown on any flood level mapping undertaken by or for Great Lakes Shire Council. This being the case it is not land that is defined as "*flood-liable land*" under the provisions of the LEP. However, I am also informed that the Council is currently undertaking a supplementary flood study in the area which may result in some change to the current flood mapping. There is no other information with which I am supplied indicating that the area of Myall Quays proposed to be developed, or any part of it, is *flood prone land* requiring its level to be raised in order to facilitate the erection of dwellings.

Assuming this position pertained at the date of determination of any development application lodged by the Company, for extension to the existing lake, then the third element of the definition of *canal estate*

development would not be met. As a consequence, such development would not be prohibited by SEPP 50. This follows from the interpretation of the definition to which I have earlier adverted, namely that it is necessary for all three elements to be present in a given development before the Policy applies.

Notwithstanding the opinion just expressed, the exception contained in paragraph (a) of the definition needs to be considered on the basis either that the further studies being undertaken by the Council will show some part of the land requiring fill in order to address flooding requirements or that, prior to determination of any development application, there is other information at hand indicating a part, at least, of Myall Quays is *flood prone land* necessitating some fill being placed on it in order to render it suitable for residential development. It is to that matter that I now turn.

Works of Drainage or Water Treatment

In order to satisfy the requirements of the exception contained in paragraph (a) of the definition of *canal estate development*, there are three matters about which the consent authority would need to be satisfied in order to make the exception applicable. Relevantly, they are –

(i) that the works are either for the purpose of drainage or treatment of water;

(ii) that such works are constructed by or with the authority of the body responsible for those function; and

(iii) that the extent of works or rather the resulting waterbody is limited to the minimal reasonable size and capacity required to meet the demonstrated need for those works.

It is convenient to deal with the second of those requirements first.

I am told that the entity having responsibility for drainage works of Myall Quays is the Council. But for the operation of *State Environmental Planning Policy No. 71* applying to the proposed development upon the subject land, the consent authority would have been the Council. By dint of the operation of that Policy, the Minister is the consent authority. Nonetheless, the Council has spoken through the DCP in specifying the requirements for drainage of Myall Quays development. The drainage scheme for the development would, in any event, be submitted to the Council and given these two circumstances, I believe it can properly be said that if the extended waterbody is otherwise properly categorised as a drainage work or one required for the treatment of water or both, then, assuming the Council's agreement in it, such work would be regarded as a work constructed *with the authority* of the Council.

That then leaves for consideration the first and third elements of the exception contained within paragraph (a) of cl.3 of SEPP 50. It is convenient to deal with these elements together.

As I have earlier indicated, the appropriateness of and means by which stormwater runoff from the further development of Myall Quays might be addressed has been referred to Cardno Willing, consulting engineers, for consideration. In a number of reports in which the question has been assessed and addressed conceptually, that firm has indicated that the extended lake is the preferred option for dealing with the matter. In a summary paper prepared in July 2003 it is stated by that firm that water detention lakes and associated systems are a proven means of managing surface water runoff and preventing them from potentially polluting receiving waters and ecosystems downstream of a catchment. As to the size of that which is proposed the following statement appears:

> *"The overall size of the proposed detention lake has been determined through a series of technical investigations and studies. The existing detention lake supports a thriving aquatic ecosystem, including a range of fish species, ... Further, drainage and water quality assessments conducted by Cardno Willing have concluded that in order to maintain salinity and dissolved oxygen regimes that support the aquatic ecosystem at levels similar to that of the existing detention lake, a detention lake of 18 ha in total size is needed to treat runoff from the completed development."*

The same report indicates that the proposed extension to the detention lake would, of itself, be insufficient to address the need to maintain water quality both into the existing lake environment and, in turn, that which would be discharged through the existing swale connection to the Myall River. In that regard the report contains the following statement:

> *"A series of planning, ecological and engineering measures will be adopted to manage the surface water runoff in an efficient manner, in line with the important environmental principles already established for this development. The system includes a series of engineered swales, holding ponds and wetlands, in addition to the detention lake. This is similar to the measures that have already been implemented in the development completed to date ... . The water management scheme requires both the detention lake and these other measures to achieve the environmental objectives. Neither is sufficient in its own right."*

The report concludes that the lake extension "... *is the minimum reasonable size and capacity to meet statutory requirements and the management objectives of the LEP and DCP* ... ". For the purpose of this advice, I must and do accept these expressions of expert opinion.

In order to better understand the issue upon which I am asked to advise, I have conferred with Dr Brett Phillips of Cardno Willing, Dr Phillips being the principal of the firm responsible for the work that has been undertaken to date in respect of the proposed drainage and water treatment design for the development of Myall Quays. In addition to reinforcing the matters that I have quoted from the earlier

reports, he has indicated that the total catchment, extending beyond Myall Quays, has been taken into account for the purpose of assessing drainage; that the existing lake or, rather, the area immediately to the north of it, is the logical area to which drainage should be carried from the proposed development and that the elongated circular shape is proposed because it assures the efficiency of circulation within the lake, thereby minimising the opportunity for "dead areas" that might otherwise become stagnant, leading to the growth of harmful algae and other environmental pollutants. He has also advised that the water table in the area is high with the result that capacity to retain stormwater in the extended lake necessarily involves a much greater surface area than would be the case if the water table was at depth. These factors, together with the need to maintain the present quality of water in the existing lake, have dictated the extension to 18 ha.

Accepting this evidence, it seems to me that it demonstrates fulfilment of the matters identified in the exception to paragraph (a) of cl.3 of SEPP 50. Clearly enough, both the LEP and DCP contemplated a waterbody in the Myall Quays area serving the function of a stormwater detention and water treatment system. The circumstance that the area surrounding this waterbody is to be developed for residential purposes with the artificial lake affording an aesthetic and "unusual" feature for this area, is entirely consistent with the objective expressed in paragraph 1.6 of the DCP to which I have earlier referred.

I am therefore of the opinion that development proposing the extension of the lake is not *canal estate development* within the meaning of cl. 3 of SEPP 50. Thus, it is not prohibited development.

Martin Place Chambers

1 March 2004

MALCOLM CRAIG QC

Volume 1:

Annex H: Compliance with Relevant Policies

ANNEX H COMPLIANCE WITH RELEVANT POLICIES AND PLANS

Table 1 Compliance with the aims of the New South Wales Coastal Policy 1997

Policy Aims	Proposal/Comment
Protect, rehabilitate and improve the natural environment	The Project has identified conservation areas, specifically the Habitat Conservation Area and the SEPP 14 Wetland which contain significant ecological communities. The SEPP 14 Wetland will be not be disturbed as it is intended to preserve these wetlands as part of the project. A small section of the DCP 22 Habitat Conservation Area (approximately 150 m^2) will be cleared as a result of proposed channel extension works predominantly within the 2(f) zoned lands. The asset protection zone (APZs) will provide separation between the wetlands and the proposed subdivision. This buffer zone is shown on the architectural drawing no. R.C -03 submitted with the EA (*Volume 2*). The wildlife corridor identified within the north portion of the site will also be managed to conserve the existing biodiversity and provide a link between the natural environments found on site. The wildlife corridor is identified on the site analysis plan within Volume One of the EA. A management plan for groundwater has been prepared by Coffey Geotechnics to provide quality controls for groundwater. An Integrated Water Cycle Management Plan has been prepared by Cardno Willing which details the management of surface water quality entering the SEPP 14 Wetlands. These management plans include monitoring programs and base line data taken during site surveys to support the management of the SEPP 14 Wetlands. These management plans are detailed within *Sections 4.4, 4.5* and *4.7.*
Protect and conserve cultural heritage	An Archaeological and Aboriginal Heritage Assessment have been undertaken. The Assessment concluded that the subdivision would not have any adverse impact on identified heritage items. The key findings of the assessment are detailed within *Section 4.10* of the Environmental Assessment Report. The Heritage Assessment included a consultation process consistent with DECC's Interim Community Consultation

Policy Aims	Proposal/Comment
	Requirements Guideline (2004) for Aboriginal consultation. The assessment involved a review of the environmental, historical and archaeological context of the Riverside at Tea Gardens site, consultation with the Aboriginal community and field investigations of the survey area in April 2008 in conjunction with members of the Aboriginal community. A midden site previously identified by Brayshaw McDonald Pty Ltd (1988) was not relocated during the April 2008 survey due to access limitations and very low visibility associated with the inundation of the SEPP 14 wetland and surrounds. However this site, previously recorded within the SEPP 14 wetland, will not be impacted by the proposed development. The adjacent 7(b) Conservation lands provide an additional buffer to the SEPP 14 wetland. The April 2008 survey identified a new midden site (Riverside_01) within the proposed tourist precinct. The concept plan has been amended to ensure that it is protected by a minimum 10 metre buffer on all sides. Neither the newly identified midden nor that previously recorded by Brayshaw McDonald (1988) will be directly impacted by the proposed development, however ancillary or indirect impacts may occur. To ensure that indirect impacts do not damage the middens (in particular the recently identified midden located within the proposed tourist precinct, 'Riverside_01'), the following recommendations will be implemented on site: • Riverside_01 is to be protected on all sides by a minimum 10 metre buffer. No construction/excavation works, including the storage of machinery can impinge on this buffer zone; • a management plan will be developed in consultation with the local Aboriginal community to ensure the long-term protection of the middens. This management plan will consider the use of fencing, designated walkways and interpretive signage at Riverside_01 as an educational resource; • if the current development plan is amended, further subsurface investigation may be required to further assess the significance of the sites. • monitoring of clearing and initial excavation works across the whole site should be undertaken by the

Policy Aims	Proposal/Comment
	Karuah LALC; • if during clearing or construction works Aboriginal artefacts are recovered an immediate stop work protocol should be in place in the immediate vicinity of the artefact. A qualified archaeologist should at this time be contacted and the site recorded. Once recording has occurred any salvage can be undertaken and works (with minimal disruption) can continue; and • in the unlikely event of discovery of skeletal material all works should cease, and the police, relevant local Aboriginal community groups and a suitably experienced archaeologist or physical anthropologist should be contacted to assess the material before determining the correct management action.
Provide for public access and use	Public access within the coastal area of the site is directed through open space corridors which connect the residential and commercial precincts. Public access to the SEPP14 Wetlands is limited to pedestrian pathways along the buffer zone which run the length of the Myall River frontage. The access through the wetlands is limited to increase the environmental sustainability of the wetland environment and minimise risk to human safety by maintaining access to designated tracks and pathways. Access through the open space network is detailed within architectural plans 25-31 contained within *Volume 2* of the Environmental Assessment Report. The foreshore park will provide the community, including the adjacent tourist precinct with physical and social opportunities and will involve a landscaped open space area for passive recreation, controlled pedestrian access through the construction of walkways and the provision of community facilities such as BBQ areas and children's play equipment. The park will provide a linkage with other open space areas, thereby facilitating a connected system for future residents to the Myall River.
Recognise and accommodate natural processes	Natural processes have been integrated within the water cycle management plan detailed in *Section 4.4* of the Environmental Assessment Report.

Policy Aims	Proposal/Comment
	Potential hazards have been identified including: • Bushfire – Section 4.11 details asset protection zones and building and construction standards for structures for the Riverside development; • Flooding - resulting from the site being partially located within flood prone land and flooding potential from the Myall River. Mitigation measures have been identified including filling low lying sections of the site and management of overland flows through the lake detention system as detailed within Section 4.3 and 4.4. An assessment of the potential impacts of climate change as detailed within Section 4.4.1 indicates that the adoption of a 0.3m freeboard over and above Council's minimum floor levels will avoid over floor flooding in a 100 yr ARI event under all climate change scenarios; and • Acid Sulfate Soils (ASS) - ASS have been identified on site. An ASS Management Plan has been developed for earthworks, stockpiling of material and soil reuse and is provided within Volume 3 of the Environmental Assessment Report.
Provide for ecologically sustainable development and use of resources	Resource use and land management has been guided by zoning and Council's housing policy to guide the future densities of residential housing proposed within Riverside. The proposal promotes the use of ecologically sustainable development principles by: • incorporating energy efficient subdivision design; • urban design principles incorporating walkable neighbourhoods and linkages between communities; • the adoption of a total water cycle management design philosophy; • the Habitat Conservation Area and SEPP 14 wetland which will preserve significant ecological communities and provide for ecological corridors; • using engineering, architectural and other best practices to reduce development impacts;

Policy Aims	Proposal/Comment
	• protecting Aboriginal archaeological sites of high archaeological significance; • utilising existing service infrastructure; • creating opportunities for public transport usage thereby improving the efficiency of local and regional services; and • providing additional residential land to meet increasing demand.
Provide information to enable effective management	The design and layout of the proposed development was determined through an overlaying process of mapping various opportunities and constraints to determine the overall building envelope and the character of the open space network, as detailed in *Section 2.1*. The site analysis and constraints mapping incorporated information from the specialist environmental studies to ensure the design and layout maximises benefits for the future residents whilst protecting environmentally sensitive areas.
Protect and enhance aesthetic qualities	Tea Gardens is distinctive in terms of its high amenity and small scale development. The estate has been designed in response to unique features, both internally and external to the site, so that it is linked to the landscape. Open space corridors have been created along view lines from the public lookout to Yaccaba Headland. Tree planting and a network of water bodies along the open space corridors will enhance the view lines. The internal north-south streets have been aligned with the view lines to create a layered view comprising parks, dwellings and the volcanic peaks which form the headlands to Port Stephens. The site will also be visible from the surrounding waterways. Riverside has been designed to reduce the visual impact from the waterway by providing appropriate buffer zones which will be generously landscaped. Further, the Landscape Design Report within *Volume 3* has recommended a variety of edge treatments to reduce the visual impact of the proposal. Housing and civic buildings will include a mix of building types and uses, and will be guided by Architectural and Design Guidelines developed for the site and provided in *Volume 3* of the EA Report. They will be of a scale, height, form and design that is distinctively coastal, complements

Policy Aims	Proposal/Comment
	the natural setting, and is appropriately located on the lot.
Provide for ecologically sustainable human settlement	The proposed development is consistent with the planning principles of the draft Mid North Coast Regional Strategy. This Strategy, once finalised will guide local planning within the local government areas of the Mid North Coast, including Great Lakes local government area. The Strategy identifies that demand to live near the coast will continue with the majority of the anticipated growth being accommodated in existing identified growth areas, including Tea Gardens / Hawks Nest.. The proposed development will occur within land currently zoned for residential / commercial development. Adjacent lands zoned 7(b) conservation and the SEPP 14 Wetland are to be largely preserved under the proposal, which is consistent with the objectives of the Strategy and the Hunter Regional Environmental Plan. The proposed development involves innovative urban design, construction and environmental management principles. Housing and civic buildings will include a mix of building types and uses, and will be guided by Architectural and Design Guidelines developed for the site. The proposal does not involve ribbon or unrelated cluster development.
Provide for integrated planning and management	The proposed developed proposal has considered relevant commonwealth, state, regional and local environmental and planning legislation, policies and guidelines and is consistent with the objectives of these, as detailed in *Section 3.*

Table 2 Compliance with Principles of the Coastal Design Guidelines for NSW

Principles	Proposal/Comment
PRINCIPLE ONE - defining the footprint and boundary of the settlement	The design for the estate has been developed following a comprehensive site analysis and constraints mapping. The subdivision footprint excludes development of certain areas based on the ecological constraints of the site. The footprint will be treated with a variety of edge treatments as identified in the Landscape Design Report to reduce the visual impact of the proposal and clearly define the boundary of the development. Particular areas of the site are not proposed to be developed for ecological reasons. Existing vegetation, including significant ecological communities will be largely preserved within the Habitat Conservation Area and the SEPP 14 Wetland, ensuring the coastal environment and corridor links are maintained. A number of open space corridors and community parks are proposed throughout the development, providing separation between settlement areas, but also containing paths and cycleways to facilitate movement and access throughout the development and with adjoining areas. The subdivision has been designed so that it is linked to the landscape. Open space corridors have been created along view lines from the public lookout to the headlands, enhanced by tree planting and a network of water bodies. The internal streets have been aligned with the view lines to create a layered view comprising parks, dwellings and peaks. Housing and civic buildings will be of a scale, height, form and design that is distinctively coastal, complements the natural setting, and is appropriately located on the lot. Services for the subdivision will be extended off nearby existing services. The subdivision provides a variety of dwelling types (including multiple dwellings and various lot sizes), an extension of an existing adjacent commercial precinct and facilities such as community

Principles	Proposal/Comment
	parks, open space and a clubhouse.
PRINCIPLE TWO- connecting open space	The open space corridors and community parks proposed throughout the development provide separation between and within precinct areas. The open space areas are linked by walkways / cycleways, facilitating movement and access within and between precincts of the Riverside development and also with adjoining areas for both residents and visitors. This will provide movement paths between and within residential areas, the commercial area and other natural areas throughout the site The open space areas and the proposed clubhouse facility provide for both active and passive recreational opportunities. The wildlife corridor identified within the north portion of the site, together with the SEPP 14 wetland and 7(b) conservation land (wetland buffer) will conserve the existing biodiversity at the site. Together with the open space corridors across the site, these areas will provide important wildlife corridors and provide protection for areas of aboriginal cultural heritage value. The estate's link to the existing landscape setting will ensure existing views are maintained and enhanced through street and open space design. Urban design guidelines for the site ensure that dwelling and other buildings will be distinctively coastal with appropriate setbacks, complementing the natural setting. An Integrated Water Management Plan has also been prepared which details the management of flooding and drainage, surface water quality entering the SEPP 14 wetlands, maintenance activities, monitoring and management. The proposed lake detention system provides for total water cycle management and will manage stormwater

Principles	Proposal/Comment
	runoff from the site and minimise impact on the water quality of the SEPP 14 wetland and the Myall River. A management plan for groundwater has been prepared by Coffey Geotechnics to provide quality controls for groundwater. The management plans include monitoring programs and base line data taken during site surveys to support the management of the SEPP 14 Wetlands.
PRINCIPLE THREE- protecting natural edges	Open space corridors connecting residential and commercial precincts provide defined public access within the coastal area of the site, providing both passive and active recreational opportunities. Public access to the SEPP14 Wetlands is limited to a pedestrian pathway adjacent to the wetland buffer which runs the length of the Myall River. Access through the wetlands is limited to increase the environmental sustainability of the wetland environment and minimise risk to human safety by maintaining access to designated tracks and pathways and minimise edge effects. The SEPP 14 wetland, the adjacent 7(b) wetland buffer zone, the wildlife movement corridor in the north of the site and the Myall foreshore park proposed as part of the development will ensure development does not encroach on the foreshore edge of the Myall River, providing a significant setback of the development and ensuring the ecological and / or aesthetic values of those areas are retained. An Ecological Site Management Strategy (refer to *Section 4.12.7* of the EA report) has been prepared and provides a range of management strategies to protect the long term environmental and ecological values of land within the proposed development site. The outer 20 metres of the buffer areas will be targeted for vegetation management to increase the ability of these areas to protect vegetation and habitats from the impacts of development and protect the natural edges of the buffer lands. These actions will include: • weed removal; • replanting;

Principles	Proposal/Comment
	• erosion and sediment control; • fencing; • monitoring; and • ongoing maintenance. Bush fire risks will be managed through the creation of asset protection zones and building and construction standards for structures. Setbacks will be provided between the residential areas and the habitat conservation area and 7(b) wetland buffer for bushfire protection purposes and to provide a setback between the conservation areas and the subdivision. All areas of open space will be bordered by perimeter roads, rather then the rear of allotments, thereby enhancing transparency and casual surveillance of these areas.
PRINCIPLE FOUR- reinforcing the street pattern	The street type and layout design incorporates a street hierarchy and permeability to provide streets that fulfil their designated functions and create a legible, safe and attractive environment. The street types have sufficient reservation widths to accommodate public utility services, landscaping and footpaths where appropriate. An open space area is provided at the end of every street. The street network supports the provision of a public transport route with the main street having sufficient pavement width to cater for buses and the layout allowing buses to service the site. Street networks have been designed to provide alternative routes to destinations which include connected pedestrian pathways and separation between vehicles and pedestrian movement to encourage walkability. The road network and pedestrian walkways integrate and connect the landuses across the site. A comprehensive street planting scheme has been formulated to add colour and softness to the built form.

Principles	Proposal/Comment
	Good quality signposting, lighting, use of materials and landscape reflecting the natural coastal setting will promote pedestrian movement across the site.
PRINCIPLE FIVE -appropriate buildings in a coastal context	The estate's layout has been designed to be sympathetic to the natural environment. Buildings within the subdivision will be of a scale, height, form and design that is distinctively coastal, complements the natural setting, and is appropriately located on the lot. The open space areas provide a natural interface throughout the estate. All development and landscaping within the estate will be consistent with the established Architectural and Landscape Design guidelines that have been formulated for the estate. Conservation areas to be retained, including the SEPP 14 wetland, the adjacent 7(b) wetland buffer zone, the wildlife movement corridor in the north of the site and the Myall foreshore park proposed as part of the development provide a significant setback of the development from the Myall River foreshore. This ensures the coastal context of the area and public accessibility to the foreshore is maintained.

Table 3 Compliance with Sustainability Criteria, draft Mid North Coast Regional Strategy

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
1. INFRASTRCUTURE PROVISION		
Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.	• Development is consistent with the Mid North Coast Regional Strategy, any subregional strategy, the State Infrastructure Strategy and relevant section 117 directions	The draft Mid North Coast Regional Strategy identifies Tea Gardens as a 'town', providing small to medium scale concentration of retail, health and other services with lower density residential development. The strategy identifies that demand for coastal living will result in growth within Tea Gardens – Hawks Nest. The proposed Riverside development facilitates further low density residential growth within Tea Gardens, supported by an expansion to the existing town centre to provide essential retail, health and other services to the population. The proposed Riverside development therefore is consistent with the draft Mid North Coast Regional Strategy. The State Infrastructure Strategy (SIS) identifies capital expenditure and infrastructure commitments for NSW based on future population growth, distribution, ageing and longevity as well as technological change, industrial and commercial developments and environmental pressures. The SIS identifies the future installation of an electricity substation within the Tea Gardens zone. No other infrastructure upgrade or development is identified within the SIS for Tea Gardens. Electrical services for the Riverside development will extend from

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		existing services. Crighton Properties has provided Country Energy with proposed subdivision layout so that they can commence designing for major new links from the existing overhead supplies. The Riverside development is consistent with the SIS. The Riverside development does not involve rezoning and therefore there are no section 117 directions that are relevant to the current proposal.
	• The provision of infrastructure (utilities, transport, open space and communications) is costed and economically feasible based on government methodology for determining infrastructure development contributions	In preparing a strategy for servicing the development, investigations of the capacity of existing infrastructure to accommodate the proposal were completed. The relevant service providers were consulted including Mid Coast Water, Country Energy and Telstra. Three stages have been identified for the provision of infrastructure. These three stages are to be implemented in co-operation with Service Supply Authorities to ensure that the connection and extension of infrastructure will not impact on the functioning or capacity of existing infrastructure. Reticulated water supplies are available to the existing development area, south of the site. Existing water mains extend along Myall Street adjacent to the site, along Shoreline Drive and along the north side of Toonang Drive. These services will, in part, be utilised to service the development. There will be a reorganisation of major water supply

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		services from existing dual supplies in Myall Street to a triple supply via North Shearwater. This design has the potential to reduce the trunk main sizing and future demands on potable water supply from the bore fields to the north of Tea Gardens. Areas to the south of the site are already serviced by a reticulated gravity sewer system. Mid Coast Water has recently constructed a 'state of the art' vacuum sewer pumping station, which is sited adjacent to the Myall River Downs Estate, west of Myall Street. It has been specifically sized to suit and be available to provide services for the Riverside development. The proposed electrical and communication services will extend from existing services.
	• Preparedness to enter into development agreement	Crighton Properties has agreed to entering into a development agreement to guarantee the provision of infrastructure to the site.
2. ACCESS		
Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.	• Accessibility of the area by public transport and/or appropriate road access in terms of: • Location/land use – to existing	The Riverside development incorporates a number of transport objectives that relate to pedestrian, vehicle and cycle movement, public transport and parking.

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
	networks and related activity centres. • Network – the area's potential to be serviced by economically efficient transport services. • Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals.	Access for the project application will be from Shoreline Drive via the existing intersection at Myall Street. In the concept plan access will also be provided from a new access point along Myall Street and two access points from Toonang Drive as part of the future development of Riverside. Existing traffic flows at the intersection of Myall Street and Shoreline Drive are low. Riverside is currently served by buses along Myall Street. The proposed Riverside development will increase the population of Tea Gardens, contributing to greater potential patronage levels to sustain a viable bus service. Walkability and cycle access has been integrated in the development of the site, with a shared cycle / pedestrian network through the residential subdivision and the existing commercial centre and the wider area. A traffic impact assessment was undertaken for the development which investigated traffic flow and intersection capacity. The traffic assessment also considered the relationship of the project application to the concept plan and surrounding development. Based on the traffic impact assessment and as per the RTA Guide to Traffic Generating

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		Developments, Myall Street has capacity to absorb the additional traffic generated by the development.
	• No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	There are two bus routes that serve Tea Gardens. Both routes are operated by Busways and provide a service to Raymond Terrace and Newcastle three times daily during weekdays and daily on the weekend. There are also buses to Hawks Nest, Bulahdelah, Forster Tuncurry and Taree that operate at different times during the week and weekends. The concept plan incorporates a street hierarchy that aims to provide potential bus routes within 400 metres of all dwellings. The additional population as a result of the Riverside at Tea Gardens development will assist in maintaining a viable public transport service in this area. It should be noted that there is no rail transport within the Tea Gardens area.
3. HOUSING DIVERSITY		
Provide a range of housing choices to ensure a broad population can be housed.	• Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	Riverside will be a combination of traditional housing lots and smaller lots, with at least ten percent of the lots less than 450 square metres in area, in accordance with Council's adopted Housing Strategy. The development will achieve a net density of at least 13 dwellings per hectare across the site, in accordance with Council's adopted Housing Strategy.

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		Tea Gardens currently has 190 self care units and approval for a 80 bed hostel at Tea Gardens Grange. There is a further 281 self care dwellings approved for the Hermitage site on the west side of Myall Street, adjacent to Myall River Downs. Another ten low care retirement units are located at Myall Lodge Aged Care facility in Hawks Nest with plans for an additional 20 units. Commonwealth benchmarks suggest the need for one aged care bed for each ten residents aged over 70 years. Ultimately, it is estimated that Tea Gardens and Hawks Nest will grow to 12,558 residents with (assuming 2006 census age distributions) 8% of population aged over 70 or 1005 people. This will mean that there should be a demand for 101 aged care beds. Given that 80 beds are proposed to be provided with the funding for additional beds at the Tea Gardens Grange facility and a further 30 beds will be available at Myall Lodge, this should adequately service all the growth anticipated.
4. EMPLOYMENT LANDS		
Provide regional/local employment opportunities to support the Mid North Coast's expanding role in the wider regional and NSW economies.	• Maintain or improve the existing level of sub-regional employment self-containment.	At the time of the 2006 Census labour force participation in Tea Gardens was 35 percent of the population which is lower than the NSW average of 58 percent. The low participation rate can be attributed to the age profile of the population.

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		Riverside will contribute to attracting more jobs and working people to Tea Gardens, through the provision of home business lots. The project application includes 108 home business lots, which provides the opportunity for 108 small businesses to be established in Tea Gardens.
	• Meets subregional employment projections.	The draft Mid North Coast Regional Strategy identifies that an additional 47,000 jobs will need to be created to support population projections. The project application for Riverside at Tea Gardens incorporates 108 'home based business' lots. These lots will provide for home based businesses with an employment base of up to two people that are not residents of the dwelling. This will facilitate newly developing businesses to establish in the area. In addition, • the estimated aggregate total output benefit of the construction phase of the project is $243 million, which will flow directly to the local community over the 15 year life of the project. This is expected to generate 1,479 equivalent full time jobs; • the construction phase of the retail / commercial component will generate approximately 645 jobs, which equates to an estimated $21.7 million in wages and salaries; • residential consumption activities will directly contribute an estimated $17.9 million per annum to the local economy base,

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		which will support an estimated 107 equivalent full time jobs in the local area when complete; and • jobs associated with the day to day operation of the site and ongoing capital maintenance will be created. For Riverside this it is estimated to equate to $2,115,000 to $4,230,000, which represents ten additional full-time direct jobs and 53 jobs overall (direct and indirect).
	• Employment-related lands provided in appropriately zoned areas.	The draft Mid North Coast Regional Strategy identifies the need for an additional 428 hectares of employment lands in the region over the next 25 years. It does not however identify specific areas within the greater Taree / Great Lakes subregion. The Riverside development proposes an extension of the existing town centre on the north side of Shoreline Drive, to accommodate a range of uses including additional retail and commercial uses, a child care and a motel (approximately 4 hectares). Tea Gardens currently supports an existing light industrial estate of approximately 13 hectares. An additional area of 6.5 hectares to the south of the existing industrial estate has been identified for future expansion of the estate.

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
5. AVOIDANCE OF RISK		
Land use conflicts, and risk to human health and life, avoided.	• No residential development within 1:100 floodplain.	The planned development is subject to flooding from both the Myall River and from runoff from the local catchment. However, a major retarding basin is proposed within the open space corridor of Riverside as well as smaller local basins to reduce the 100 yr ARI peak flows from the development to the Myall River and the wetland. The extension of the existing lake to a water body with a 9.5 hectares water surface will also create additional storage to further mitigate increases in peak runoff up to the 100 yr ARI event. The development has adopted an additional freeboard of 0.3m for minimum floor levels over and above Council's adopted minimum floor level of 2.6m AHD in areas subject to inundation from the Myall River to mitigate the impacts of climate change and to avoid over floor flooding in a 100 yr ARI event under all climate change scenarios. The adoption of a minimum floor level of 2.9m AHD will provide all homes in the development with a far greater level of protection against climate change than a large number of existing properties in Tea Gardens. Elsewhere in the development the adoption of a minimum floor level of 0.5m above the local 100yr ARI flood level (under no climate change) would provide a minimum 0.22m freeboard above the local 100 yr ARI

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		flood level under a high climate change scenario.
	• Avoidance of physically constrained land, e.g. • High slope • Highly erodible.	The design and layout of Riverside was determined through an overlaying process of mapping various opportunities and constraints to determine the overall building envelope and the character of the open space network. Key constraints at the site include: 7(a) Wetland and Littoral rainforest zone; 7(b) Conservation zone; DCP 22 buffer; asset protection zones; wildlife corridors; vegetation communities; endangered ecological communities; Wallum Froglet habitat; Aboriginal midden site and existing drainage lines. Part of the site is mapped as bush fire prone land in the Great Lakes Council bush fire prone land mapping. The potential bush fire threat was identified from Dry Sclerophyll Forest vegetation to the north of the site. The proposal incorporates a range of bush fire mitigation measures, including Asset Protection Zones (APZs), which were determined in accordance with NSW Rural Fire Service guidelines, building construction standards, hazard management, evacuation routes, availability to fire fighting services, water supply and communication.
	• Avoidance of landuse conflicts with adjacent existing or future landuse as planned under relevant subregional or	The design of the Riverside development has incorporated an assessment of the natural constraints of the site, urban capability, availability of public services, access to employment, commercial and community facilities and the provision in choice of housing and

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
	regional strategy.	location. The proposed development has been designed having regard to ecologically sensitive areas. The less disturbed vegetation communities (Wetland Fringing Woodland and Forests, Wetlands) with higher habitat values are afforded a higher level of retention and protection. Adjacent landuse includes existing residential and rural residential development, town centre comprising commercial and retail services and conservation lands protected under Environment Protection zoning. A light industrial estate is located to the west of Myall Street, with an area to the south identified for an expansion of the estate. A future sporting complex and residential development is identified for land west of Myall street (to the south of the industrial estate). The Riverside development is therefore consistent with adjacent land use and proposed future landuse strategies.
	• Where relevant available safe evacuation route (flood and bushfire).	Under a high climate change scenario, there would be increased inundation of a number of planned roads by up to 0.8m (which would still be Low Hazard due to the expected very low velocity of flow on the fringes of the river flooding through the development) however this would comply with the requirements for safe wading. Planned roads would provide flood free egress via for residents evacuating from threatened properties to higher ground on the northern and north western boundaries of the development.

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
6. NATURAL RESOURCES		
Natural resource limits not exceeded /environmental footprint minimised.	• Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows.	Reticulated water supplies are available to the existing development area, south of the site. Existing water mains extend along Myall Street adjacent to the site, along Shoreline Drive and along the north side of Toonang Drive. These services will, in part, be utilised to service the proposed development. Mid Coast Water has completed the upgrade and augmentation of potable water storages at the Viney Creek Road Reservoirs. In addition an 8.1ML reservoir has recently been commissioned and will provide sufficient capacity to meet the potable water needs of various potential developments in the area in the immediate future. Mid Coast Water also has a secure coastal bore water supply that has a known water supply capacity which exceeds the requirements of the current potential developments at Riverside, Myall River Downs Estate, North Shearwater and Hawks Nest North. The proposed water supply service strategy includes a reorganisation of major water supply services from existing dual supplies in Myall Street to a triple supply via North Shearwater. This third supply will also be potentially extended to Hawks Nest North via a connection at the northern part of the Riverside development. This design has the potential to reduce the trunk main sizing and future demands on

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		potable water supply from the bore fields to the north of Tea Gardens.

	• Demonstrates most efficient/suitable use of land
	  • Avoids identified significant agricultural land.
	  • Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying.
		Most of the Riverside at Tea Gardens site was previously used for a pine plantation and has been substantially cleared of native vegetation. The site is not productive agricultural land or productive resource lands.

	• Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy – requires demonstration of efficient and sustainable supply solution.	The proposed electrical services will extend from existing services. The Riverside at Tea Gardens development has incorporated passive thermal efficiency design, including consideration of solar access and orientation.
7. ENVIRONMENTAL PROTECTION		
Protect and enhance biodiversity, air quality, heritage, and waterway health.	• Consistent with government approved Regional Conservation Plan (if available).	The draft Mid North Coast Regional Conservation Plan is currently being prepared and has not yet been released.
	• Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and	The proposed development will require approximately 126 hectares of vegetation to be removed or modified, however much of this consists of disturbed/cleared land. The concept plan proposes the retention,

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
	agreed by DEC). This includes regionally significant vegetation communities; critical habitat; threatened species; populations; ecological communities and their habitats.	protection and management of approximately 78 hectares of vegetation including areas of the endangered ecological community Coastal Saltmarsh and areas within SEPP 14 wetlands.
	• Maintain or improve existing environmental condition for air quality.	Riverside at Tea Gardens proposes a residential / mixed (commercial / retail) use over the majority of the site and a tourist and residential component located in the north eastern corner of the site. These land uses will not have an adverse impact on air quality.
	• Maintain or improve existing environmental condition for water quality: • Consistent with community water quality objectives for recreational water use and river health (DEC and CMA). • Consistent with catchment and stormwater management planning (CMA and council).	The Riverside at Tea Gardens design incorporates drainage and stormwater quality measures within the open space network. The primary aim for the management of water quality is to protect the SEPP 14 wetland by directing runoff from the catchment to a tidally flushed lake. The treatment train includes a number of smaller ponds and artificial wetlands located within the residential areas. A combination of measures will be implemented, including: • the installation of rainwater tanks on all new residential lots; • extending the existing detention lake; • constructing a number of ancillary water quality control ponds to create a 'treatment train' for runoff prior to discharge into the lake;

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		• constructing local wetlands to create a 'treatment train' for runoff prior to discharge to the Myall River and the existing wetland; and • constructing a 770 metre long swale along the eastern edge of the development to distribute flow to the buffer area and existing wetland.
	• Protects areas of Aboriginal cultural heritage value (as agreed by DEC).	Areas of Aboriginal cultural heritage value, identified in the Aboriginal assessment, will be protected by implementation of the following measures: • provision of a 10m wide buffer around midden Riverside_01; • a management plan will be developed in consultation with the local Aboriginal community to consider its significance and treatment within the site; • monitoring of clearing and initial excavation works across the whole site should be undertaken by the Karuah LALC; • if during clearing or construction works Aboriginal artefacts are recovered an immediate stop work protocol should be in place in the immediate vicinity of the artefact. A qualified archaeologist should at this time be contacted and the site recorded. Once recording has occurred any salvage can be undertaken and works (with minimal disruption) can continue; and • a suitable area should be set aside for the possible containment of

Suggested Threshold Sustainability Criteria for defining potential development boundaries	Measurable explanation of criteria	Comment
		any cultural heritage material that is uncovered during the construction works. This dedicated 'keeping place' would only be required in the event that material is uncovered and would be under the care and control of the local Aboriginal community.
8. QUALITY AND EQUITY IN SERVICES		
Quality health, education, legal, recreational, cultural and community development and other government services are accessible.	• Available and accessible services. • Do adequate services exist? • Are they at capacity or is some capacity available? • Has Government planned and budgeted for further service provision? • Developer funding for required service upgrade/access is available.	Riverside at Tea Gardens is well served by education and medical facilities and has access to public transport and employment areas. The development offers the opportunity to significantly enhance the services and community facilities in Tea Gardens, which will build on the enhancement of services already delivered by the existing Riverside commercial centre. Development contributions will be made in accordance with Schedule 1 – Contributions Schedule in the Voluntary Planning Agreement between Crighton Properties Pty Ltd and Great Lakes Council and includes contributions that relate to open space, a new community centre, arterial roads, cycle ways, signages etc ; and timing and method of provisions such as payment or material public benefit or a combination of each.

Table 4 Compliance with Development Control Plan 22- Myall Quays Estate

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
SECTION 1 GENERAL OBJECTIVES OF THE PLAN		
• To provide a framework for controlling and co-ordinating tourist and residential development on the land the subject of this plan; • To provide an opportunity to develop residential lots, with particular aesthetic values such as water views, park views or golf course views which supplement rather than compete with the market for conventional lots; • To provide an opportunity for tourist facilities to be developed in conjunction with residential development; • To ensure that commercial and retail facilities on the site are limited to those needed to serve the minor convenience needs of the residents and day and over-night visitors; • To ensure the most appropriate and efficient use or management of land and natural resources, including for the protection of biodiversity, including threatened species and their habitats; • To ensure that the appearance of development is in keeping with the low-key natural coastal resort character of the Tea Gardens/Hawks Nest urban area; • To maximise efficiency in the provision of utility, transport, retail and other services;	Partial	The proposed development will consist of residential dwellings, a tourist precinct and areas of open space, wildlife corridors and conservation areas. This will ensure that the ecological values of the site are retained and protected whilst providing for a mix of low and medium density development supported by commercial and recreational facilities. The proposed development has undergone design changes to meet the requirements of Council's revised draft Housing Strategy. The design has therefore moved away from the intended use envisaged by DCP 22 which included provision for a golf course development. The golf course element of the design has been removed. The community focus is intended to be the commercial/business district adjoining Myall Street (which connects to the existing commercial area within Myall Quays subdivision) and the open space areas and community buildings provided throughout the estate. The business precinct has been designed to meet not only the needs of the development (which will have over 1000 dwellings), but also the

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
• To encourage adoption of land management practices which are sustainable over long periods of time without degradation of natural environmental systems or depletion of natural resources; and • To provide adequate protection for the community from environmental hazards including flooding, soil erosion, bushfires, and pollution.		retail and commercial needs of surrounding areas. Another focus of the development is the lake system which is supported by open space corridors throughout the development and has linkages to the Myall River. The provision of views of the golf course can not be achieved since a golf course no longer forms part of the design. The aesthetic values of the Myall River and SEPP 14 Wetland will be maintained, with the wetland buffer and foreshore park preventing development encroachment and ensuring the values of these areas are conserved. Commercial and retail facilities limited to those needed to serve the minor convenience needs of the residents and day and over-night visitors is no longer realistic with the inclusion of additional lots which need to be serviced by a more formal business district. The remaining objectives are still relevant to the proposal and have been achieved within Riverside. These objectives are discussed in more detail in the sections below.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
SECTION 2 MANAGEMENT PRINCIPLES AND ACTIONS		
2.2 Conservation of wetland and native vegetation associations		
2.2.1 Objective To conserve the long term sustainability of the SEPP 14 Wetland No.746 and the associated vegetation, including the adjoining Habitat Conservation Precinct, and ensure that these are not adversely impacted upon by any proposed development.	Y	The Habitat Conservation Precinct indicated on the DCP 22 map will largely be preserved and protected as a result of the proposed development. An extension to an existing channel (within 2(f) and 7(a) zoned land) connecting the lake to the Myall River will be occur with the habitat conservation precinct which will require approximately 150 m² of vegetation to be cleared. Mitigation and rehabilitation measures are proposed to ensure the Habitat Conservation Area is not adversely impacted by the proposed development. The SEPP 14 Wetland will be fully protected. A management plan for groundwater has been prepared by Coffey Geotechnics and is contained within *Volume 3* to provide quality controls for groundwater. An Integrated Water Cycle Management Plan has also been prepared by Cardno Willing and is contained within *Volume 3* which details the management of surface water quality entering the SEPP 14 Wetlands. These management plans include monitoring programs and base line data taken during site surveys to support the management of the SEPP 14 Wetlands. Along the Habitat Conservation Precinct an APZ (road and swale) corridor has been established as a buffer between the subdivision

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		and the conservation area. This buffer zone is shown on the architectural drawings R.C -01, R.C -02 and R.C -03 contained within *Volume 2*. An Ecological Site Management Strategy (ESMS) has been prepared by Conacher Environmental Group to provide a range of ecological management strategies in protecting the long term environmental and ecological values of lands within Riverside. The Ecological Site Management Strategy is provided in *Appendix 4* of the Ecological Site Assessment (see *Volume 3)*. The actions specifically related to the SEPP 14 wetland area and adjacent 7(b) conservation lands include: • preparation and implementation of a wetland management plan; • preparation and implementation of a vegetation management plan; • implementation of weed removal programs; • rehabilitation of disturbed areas; • monitoring of bush fire risk; • restriction on vehicular access; • feral animal pest control; • monitoring of fauna (including threatened species);

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		• vegetation condition monitoring; • monitoring of weeds, rubbish and pest species; • erect interpretive signage and prohibited use signage; and • erect protective fencing. The Environmental Assessment has been prepared in accordance with the Director Generals Environmental Assessment Requirements (DGR's) prepared under Part 3A of the *Environmental Planning and Assessment Act 1979* and detailed within *Section 1.6* of the Environmental Assessment Report.
2.2.2 Objective Provide a buffer area of 150 metres wide along the Myall River frontage that is to be managed for the purpose of public recreation and nature conservation. The principle functions of the buffer are to protect the Myall River from the pressure of development for recreational purposes, secure native vegetation and habitat for native species and to provide for a visual corridor of natural appearance along the river bank.	Y	The buffer has been retained so it can fulfil the purpose it was created for. No development is proposed within the 150 metre buffer with the exception of a foreshore park which will provide public recreation and itself essentially act as a buffer between the Myall River and residential development. The foreshore park will contain linkages with open space corridors through the development and provide pedestrian and fauna movement to the Myall River. The creation of the foreshore park within this area is identified in DCP 22. The foreshore park is consistent with this objective, being a buffer for the purposes of public recreation and nature conservation. In

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		addition. a swale corridor which also acts as part of the APZ has been provided along the edge of the 7(b) Wetland zone to ensure sufficient separation between the native vegetation within the 7(b) zone and future dwellings.
2.2.3 Objective To preserve elements of native vegetation and fauna habitat within that part of the 2 (f) Zone shown cross-hatched on the DCP map.	Y	The site analysis plan has identified native vegetation for preservation within the 2(f) zone. Buffer areas have been designed surrounding the estate as well as a habitat corridor linking the remnant vegetation to the Habitat Conservation Zone adjoining the SEPP 14 Wetland.
2.2.4 Objective Provide for an east-west movement corridor(s) for use by wildlife, including flora and fauna from the Myall River and SEPP 14 Wetland No.746 to the east, across the site to link with the area zoned 6(a) at Lot 9, DP 733241, Toonang Road. The primary objective is to maintain a corridor of high ecological value and integrity, for use by wildlife for dispersion across the site and for the enhancement of remnant vegetation and habitat values on the site.	Y	Conacher Environmental Group has prepared an Environmental Management Plan for the site which includes the corridor connecting the 6(a) land adjoining Toonang Drive to the SEPP 14 Wetlands. The management plan has identified the threatened flora and fauna species and their habitats to be protected and maintained within the wildlife corridor. The architectural plans also identify the wildlife movement corridor.
2.2.5 Objective Minimise adverse impact on seagrass beds in the lower Myall Estuary.	Y	No development will occur within 150 metres of the Myall River, with the exception of the creation of a foreshore park, which itself will provide a buffer and the extension of an existing drainage channel linking the lake to the Myall River. Any potential indirect

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		impacts on the seagrass beds are associated with construction activities and future use and access by residents of this area. These indirect impacts will be managed by: • a Construction Environmental Management Plan which will detail all appropriate mitigation measures, including erosion and sediment control, to be implemented during construction activities; • the design of the development incorporates extensive pedestrian and cycleway linkages to facilitate community use and access across the site. These formed pathways and cycleways will provide controlled access across the site, thereby limiting disturbance along the Myall River, SEPP 14 wetland and conservation areas.
2.3 Earthworks, hydraulic assessment and waterbodies *2.3.1 Objective* To prevent flooding and adverse impacts on water quality through changes to surface hydrology and potential acid sulfate soils.	Y	Geotechnical investigations including ASS testing were undertaken by Coffey Geotechnics. An ASS Management Plan has been prepared to address the ASS present on the site. The Management Plan aims to manage the site preparation, all earthworks proposed and the requirements for excavation and development within ASS. The soil and water management measures proposed are in accordance with the requirements specified within the DGRs

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		prepared for the Part 3A application.
2.4 Water Quality		
2.4.1 Objectives The standard of discharge of water from the site to the Myall River is to meet primary contact recreation requirements. The principle function of the water quality treatment system is to detain stormwater runoff and provide a water quality control system. The stormwater detention system may also provide aesthetic value and opportunities for secondary contact recreation.	Y	An Integrated Water Management Plan has been prepared in accordance with the DRGs and is contained within *Volume 3*. The Integrated Water Management Assessment states that proposed partial extension of the existing brackish water lake is not the only measure proposed to mitigate the impacts of planned development and to protect the receiving waters. The water management scheme includes a series of freshwater lakes, swales, local ponds and wetlands basins in addition to the partial extension of the detention lake. It was concluded from lake modelling that under developed conditions the freshwater lakes and the partially extended detention lake will continue to deliver water quality comparable to existing lake water quality. The installation of ancillary local ponds or local wetlands (without any change in the tidal flushing regime) is necessary to manage the water quality in the freshwater lakes and would further improve the water quality in the extended lake (Cardno Willing, 2007.p xii)
2.5 Infrastructure		

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.5.1 Objective To provide for the health and amenity of the community through the provision of a clean, healthy and reliable water supply.	Y	Consultation with Mid-Coast Water has been undertaken to determine the servicing requirements for Riverside. An appropriate servicing strategy will be developed and implemented in accordance with the requirements of Mid-Coast Water.
2.5.2 Objective To ensure the health of the community through environmentally responsible collection and disposal of water-borne wastes.	Y	Areas to the south of the site are already serviced by a reticulated gravity sewer system. Mid Coast Water has recently constructed a 'state of the art' vacuum sewer pumping station, which is sited within the Myall River Downs Estate, west of Myall Street. It has been specifically sized to provide services for the Riverside development. The Director General's Requirements (DGRs) state that the proposal is to provide a risk assessment for effluent disposal including the potential impacts and relevant mitigation measure in the event that a failure of the effluent disposal system occurs through flooding or other events. Coffey Geotechnics Groundwater Assessment Report has supported the reuse of effluent as wastewater for irrigation purposes, subject to groundwater conditions and a reduction in nitrogen concentrations.
2.5.3 Objective To ensure that traffic within and generated by development on the site is managed effectively in terms of amenity and the capacity of the existing road	Y	A Traffic Assessment has been prepared in support of the road network depicted within the engineering drawings contained in *Volume 2*. Myall Street is to function as a main entry to Riverside. Entry from the Shearwater Estate to the north is identified as a

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
system.		possible future link road. A Voluntary Planning Agreement (VPA) has been prepared in consultation with Great Lakes Council. The VPA details the contribution to be made to the road network and upgrades required to the existing road network to service Riverside. The VPA has been incorporated within *Appendix E* to *Volume 1*.
2.5.4 Objective To ensure services are provided and constructed in a co-ordinated manner.	Y	Consultation has occurred with Telstra and Country Energy regarding service provision. The location of existing electrical and communication infrastructure and the proposed servicing strategy is illustrated in the Tattersall, 2007 report submitted within *Volume 3*.
2.6 Open Space and Conservation Area		
2.6.1 Objective To ensure an adequate level of environmental protection and residential amenity by provision of an open space system catering for structured and unstructured recreational activity consistent with the principles of ecological sustainability.	Y	Section 93 and Section 94A of the EP&A Act provide greater flexibility for levying development contributions. A Voluntary Planning Agreement (VPA) has been prepared which details the contributions to be made towards environmental protection and open space for recreation purposes. The VPA includes the dedication of land for a major sporting complex and monetary contributions toward the embellishment of this future sporting complex. The timing and commitment to the provision of contributions is detailed within the VPA.
2.7 Community and Recreation Facilities		

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.7.1 Objective To ensure that appropriate sites are reserved and facilities constructed to adequately service the social and recreational needs of the community.	Y	The sites nominated as recreation areas have been identified in consultation with the community at the Design Forum held in 2006 and have been extensively discussed with Great Lakes Council.
2.8 Archaeology		
2.8.1 Objective To protect sites of archaeological value.	Y	The previously recorded aboriginal site (Brayshaw 1988) located within the SEPP 14 Wetland will not be disturbed as part of the Riverside development. A recent archaeological and aboriginal heritage assessment has been undertaken which identified an additional site located within the proposed tourist precinct. The concept plan for the tourist precinct has been modified to ensure that the midden site and a 10 metre buffer around the midden is protected from the development. The Assessment concluded that the subdivision would not have any adverse impact on identified heritage items and recommended a number of mitigation measures to limit potential environmental impacts. If additional heritage items are discovered during the construction phase appropriate measures have been identified for the management of discovered items of heritage significance. These measures are detailed within *Section 4.10*.
2.9 Bushfire Protection		

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.9.1 Objective • to minimise risk to residents from bushfire	Y	Bushfire Prone Land in the Great Lakes Council Bushfire Prone Land Mapping and *Planning for Bushfire Protection, 2006* were consulted to determine appropriate asset protection zones (APZ). The proposal incorporates a range of bushfire mitigation measures, including APZs which were determined in accordance with NSW Rural Fire Service guidelines, building construction standards, etc. The Bushfire Assessment prepared by Conacher Environmental Group is contained within *Volume 3*.
2.10 Building Guidelines		
2.10.1 Requirements • Policies relate to the appearance of development, building design and form.	Y	An open space network plan has been prepared as part of the project identifying the landscape masterplan for the subdivision. The plan includes natural open space corridors for wildlife movement and formal recreation areas for public use. Architectural Guidelines have been prepared which provide parameters for building design and materials to conform to the natural setting of Riverside and the coastal landscape of Hawks Nest and Tea Gardens.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.11 Tourist uses – the preferred location of recreational facilities for the use of the general community and tourists is shown on the Development Control Map.	Y	The architectural drawings identify a low density tourist residential development within the location specified on the DCP map. Recreational facilities will be provided throughout the estate.
2.12 Development below Mean High Water Mark (MHWM) – Any development below MHWM requires the consent of Council.	N/A	The project forms a Part 3A application and therefore the Minister for Planning will be the consent authority. Development limited to the extension of the existing drainage channel linking the lake to the Myall River will occur below mean High Water Mark. This will necessitate approximately 150 m² of vegetation to be cleared in an area outside the SEPP No 14 Wetlands. Mitigation measures to reduce the impact of these works will be documented in the Wetland Management Plan which is to be prepared.
SECTION 3 – DEVELOPMENT STRUCTURE		
The Development Plan and desired character are defined for the various precincts.	Partial	Three precincts will cover the project application area as detailed in drawing R.C -10 within *Volume 2*. The project has been designed to achieve the desired character for the Residential Precinct "1" (refer to R.C -11) with setbacks to the Habitat Conservation Zone and a density of residential development consistent with that proposed in the Housing Strategy. All residential areas will have access to open space areas, including those surrounding the detention lake system. The Housing Strategy prepared by Great Lakes Council seeks to increase the residential density within Riverside to cater for the

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		expected population growth within the Tea Gardens/ Hawks Nest area. The proposed layout incorporates the buffer to the Habitat Conservation Precinct and allows for open spaces corridors to function as wildlife movement and recreational areas. The DCP22 map cross-hatched area contains natural bushland areas which have been identified within the concept plan for retention due to its conservation value. A future motel has been earmarked within Precinct "3" which will be surrounded by medium density permanent residents as well as commercial and community facilities. (refer to drawing R.C -13 within *Volume 2*). Local Business District – the DCP identifies the local business district as a convenience centre with a gross floor area of 3,00m² and with a maximum height of 3 storeys. It should be noted that this gross floor area was initiated at the time when residential release areas (and the associated shopping precinct) were identified for Hawks Nest and not Tea Gardens as Hawks Nest was expected to be the release area. However this is no longer the case as Tea Gardens is now recognised in local and regional plans and policies as the major growth area on the northern foreshores of Port Stephens. In order to support the increased density of development required by the Housing Strategy, the local business district has been expanded as it

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		is required to exceed the convenience centre proposed by the DCP. Wetland Precinct- the SEPP 14 Wetland area is to be conserved as part of the Riverside project. The Habitat Conservation Precinct is to be set aside. A Threatened Species Assessment and an assessment of national listed threatened species and ecological communities including RAMSAR Wetlands has been prepared taking into account the requirements of the *Environment Protection and Biodiversity Conservation Act, (1999)*. These assessments are provided within the Ecological Site Assessment prepared by Conacher Environmental Group contained within *Volume 3*.
SECTION 4 – SUBDIVISION AND BUILDING		
4.1 Subdivision Guidelines	N/A	The project is to be managed under a community title scheme. The community title scheme will be assessed as a Part 3A application.

Table 5 Compliance with Development Control Plan 31 – Subdivision

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
SECTION 2 GENERAL REQUIREMENTS FOR SUBDIVISION IN ALL ZONES		
2.2 SITE CONSIDERATIONS		
• The matters that may be taken into account when determining the suitability or otherwise of a site for subdivision.	Y	The design and layout of Riverside at Tea Gardens was determined through an analysis of the opportunities and constraints of the site to determine the development footprint, overall building envelope and the character of the residential areas and open space network. The elements that guided the formulation of the design include: • the surrounding wetland; • the presence of the Wallum Froglet and its habitat; • visual impact and vistas from key vantage points; • the integration of adjoining developed areas; • traffic and access considerations; • the stand of mature vegetation to the north of the site; • the topography of the land and the existing drainage network; • areas of cultural significance; and • bushfire potential and geotechnical conditions. A series of technical reports have been prepared to support the proposal. They demonstrate how the features of the site and surrounds have shaped the proposal (refer to *Volume 3*).

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.3 SITE HAZARDS		
2.3.2 Controls and Design Principles Proposed allotments in urban areas (excluding corner allotments) will not be permitted to have frontages to more than one public road.	Partial	Proposed multiple dwelling lots and allotments between 337m² - 437m² within Precinct 2 have frontages to more than one public road and are not corner allotments. Allotments proposed between 450m²- 550m² and 550m²-650m² within Precinct 3 have frontages to more than one public road. Precinct 2 - The multiple dwelling allotments have dual street frontages to reduce the bulk of the built form presented by dual garages and dwellings. The ability for multiple dwelling lots to present to both streets frontages provides for greater flexibility in design. This multiple dwelling lot designs are shown in Drawing No. R.C. -12 contained within *Volume 2*. Allotments between 337m²- 437m² have access to a rear laneway. These lots are smaller than the majority of lots to provide housing choice with potential terrace style housing. These lots also front open space areas. The reduced width of these lots would create an undesirable streetscape if driveways were provided side-by-side in close proximity to the adjoining public open space. Therefore to provide amenity to the streetscape rear laneways have been provided to achieve sufficient on–site parking. The use of rear laneways and access ways is shown in Drawing No. R.C. -12 within *Volume 2*. Precinct Three –Myall Street functions as the main entrance to the site off the Pacific Highway. Myall Street acts as a connector road and therefore the urban design of the street and the street parking proposed restricts driveway access to lots fronting Myall Street. Drawing No. R.C. -13 Revision C contained within *Volume 2* shows the restricted access to Myall Street. In order to provide on site parking rear lane access has been provided.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
Effluent disposal Subdivision in unsewered areas may be permitted only where allotment sizes and layouts are adequate to allow on site disposal of effluent.	N/A	The strategy for servicing the development includes a sewer system that connects to the recently constructed Mid Coast Water vacuum sewer pumping station, which is sited within the Myall River Downs Estate, west of Myall Street (refer to Tattersalls Report within *Volume 3*). There will therefore be no unsewered areas within the Riverside estate.
Threatened species In order to determine whether the subdivision will be likely to have an impact on any rare, endangered or threatened flora or fauna species, an eight part test carried out under the provisions of Part 5A of the *Environmental Planning and Assessment Act* 1979 (as amended) must accompany any Development Application. Where an eight-part test reveals that a subdivision is likely to have a significant impact upon threatened species; a Species Impact Statement must accompany the Development Application.	N/A	This clause does not apply to Part 3A applications. Nonetheless an ecological assessment of the potential for threatened species on the site was completed. It concluded that: • The retention of large areas of native foreshore and swamp vegetation along the riverbank is expected to act as a natural buffer between the proposed development and the river. Therefore it is considered that the proposed development is not likely to have any detrimental impact on the Myall Lakes Wetlands of International Significance located upstream of the site. • There is suitable habitat on site for the majority of the threatened species potentially occurring. However, the proposed development is not considered to have a significant impact on these species as it is expected that these species will use the wider locality for foraging and not the site exclusively. A comprehensive Ecological Site Management Strategy (ESMS) has been prepared which provides a range of management strategies to protect the long term environmental and ecological values of land within the proposed development site. The ESMS was prepared by Conacher Environmental Group 2007 (see *Volume 3*).

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
Flooding and inundation The design and extent of development is to take into account the likelihood of flooding in the locality. Where information is unavailable in relation to flooding, the applicant may have to undertake a Flood Study, at their own expense. Subdivision layouts shall be based on a strategy for surface water drainage that minimises the incidence of nuisance flooding.	Y	An Integrated Water Management Plan has been prepared by Cardno Willing (NSW) Pty Ltd (Cardno). It considers flooding and drainage, water quality and maintenance activities, monitoring and management. Four main drainage lines have been identified within the development footprint. Runoff from up to the 100 year ARI event from the upper catchment areas is to be directed east along one of the drainage lines, which is incorporated into the proposed open space and wildlife movement corridor along the north boundary. Runoff will then be directed to reduce the concentration of runoff into the buffer zone and the SEPP 14 wetland. The proposed development south of the wildlife movement corridor will drain southwards towards the proposed extended detention lake. A major retarding basin is proposed within this open space corridor as well as a local basin to reduce 100 yr ARI peak flows from the development to the Myall River and the wetland.
Unstable ground conditions In areas suspected of being subject to subsidence, landslide or any other potentially hazardous ground conditions; Council may require the completion of a geotechnical assessment prior to considering an application to subdivide.	Y	A Geotechnical Engineering Report has been prepared by Coffey Geotechnics (Coffey). It considers the ground conditions for subdivision, development of the road network and the potential for ASS. Appendix C of the Coffey report provides an ASS Management Plan which outlines recommendation for future earthworks within the site and soil preparation requirements for the development of future infrastructure and services including the development of the road network and pavements. Excavation, reuse of materials and filling of the site is also assessed with respect to the impact on ASS. The Geotechnical Report provides further detail within *Volume 3*.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
Coastal hazards Subdivision design shall take into account the likelihood of short and long term coastal recession, and dune transmigration. Council may require the carrying out of a Coastal Hazards Risk Assessment, by a suitably qualified person.	N/A	The site is not affected by coastal recession or dune transmigration. A Coastal Hazard Risk Assessment is therefore not required.
Erosion and sediment control Appropriate measures are required to avoid soil erosion and sedimentation in accordance with *Managing Urban Stormwater – Soils and Construction* issued by the NSW Department of Housing. In this regard, subdivision layouts that minimise the need for cut and fill are preferred.	Y	A Construction Environmental Management Plan (CEMP) was prepared and is contained within *Volume 3*. The Statement of Commitments detailed within the EA notes that a stormwater and sediment management plan will be prepared as part of the project. The management plan will be prepared in accordance with *Managing Urban Stormwater – Soils and Construction* issued by the NSW Department of Housing.
Bushfire In areas subject to significant bushfire risk subdivision will need to take into account the recommendations of any bushfire risk assessments. The provision of fire radiation zones and construction of bushfire trails may be required.	Y	Part of the site is mapped as Bushfire Prone Land. The land is categorised as having a Forest Fire Danger Index (FDI) of 80 and therefore Table A3.4 of *Planning for Bushfire Protection, 2006* was used to determine appropriate assets protection zones. The potential bushfire threat was identified from Dry Sclerophyll Forest vegetation to the north of the site. A reduced risk is present to the east of the site comprising the Forested Wetlands and Saline Wetlands. A greatly reduced risk is present from the west and south-west as a result of cleared grass land, scattered trees, industrial land use and existing residential development (Conacher 2007). The proposal incorporates a range of bushfire mitigation measures, including Asset Protection Zones (APZs), which were determined in accordance with NSW Rural Fire Service guidelines and building construction standards.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
Site contamination In areas suspected to contain contaminated soil Council may require the completion of hazards assessment prior to considering an application to subdivide for any purpose.	Y	Previous uses of the site do not suggest that the soil is contaminated. The site was previously a pine plantation. No industry or intensive agricultural activities have been undertaken on the site.
Acid sulphate soils Should Council suspect the presence of actual or potential acid sulphate conditions, details of testing will be required to be submitted with the development application. Testing procedures are contained within the *Acid Sulphate Soil Manual,* produced by the Acid Sulphate Soils Management Advisory Committee (NSW Agriculture).	Y	A geotechnical assessment of the site investigated the potential for acid sulphate soils. Results from laboratory testing indicated that 13 of the 19 samples tested, exceeded the Acid Sulphate Soil Management Advisory Committee action criteria. Therefore, an Acid Sulphate Soils Management Plan has been prepared as part of the Coffey 2007 report, and relates to future earth works at Riverside. The plan will inform all lot purchasers and contractors required to work on the site.
2.4 ROAD DESIGN AND CONSTRUCTION		
2.4.2 Controls and Design Principles – Road Network DESIGN OF NEW ROADS Where subdivision involves the construction of new roads, the road network to be established shall be designed in such a manner so that each lot can be developed and accessed in a practical and feasible manner. The developer shall be responsible for connecting new to existing road construction. The configuration and design of roads shall be in accordance with Council's *Design Specifications*.	Y	The engineering plans prepared by Tattersall Surveyors accompanying the EA details the road network proposed. The subdivision plans submitted with the EA also propose on site parking for each allotment which is feasible and practical within either a communal car park for multiple dwellings or individual garages for dual and single dwelling allotments. The Traffic Assessment Report prepared by Mark Waugh Pty Limited outlines the staging of works to the existing road network to service the proposed development. The road configuration varies from Council road network. Section 4.20 details the variation and justification for the departure.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
EXISTING ROAD FRONTAGES Where a subdivision adjoins an existing road, the road infrastructure may be required to be upgraded. This may include the construction of kerb and guttering, pavement widening and sealing, ancillary drainage and footpaths.	Y	The Traffic Assessment has identified upgrading works required to Myall Quays Boulevard and Myall Street. Recommended upgrades include access lanes to Myall Street and the development of roundabouts on Myall Quays Boulevard and Myall Street. The Statement of Commitments identifies that all roadwork shall be undertaken and the associated timing of the construction of these works.
2.4.3 Road Dedication Council, except for Community Titles subdivision, will require the dedication of all roads and pathways constructed to public road standards. The dedication of roads within Community Titles subdivisions will be considered on a case-by-case basis. Street name signs shall be erected at the junction of all roads in the subdivision. Proposed street names shall be submitted for approval by Council's Engineering Services Division. Signage shall conform to and be located according to Councils standard drawings.	Partial	The subdivision is proposed within a Community Title subdivision, however all roads are proposed to be dedicated as public roads. The Traffic Impact Assessment concluded that Myall Street and Myall Quays Boulevard would have capacity to service the proposed development and future development options within the adjoining Myall River Downs site, subject to the upgrading of existing intersections. Toonang Drive was also identified as having capacity to service the proposed subdivision. It was concluded that the proposed development would not unduly impact on existing road networks and that upgrading to these existing networks would meet the requirements of the proposed development and future development of the Myall River Downs site.
2.5 LANDSCAPING AND SITE DESIGN		
2.5.2 Controls and Design Principles Site works and landscaping shall be designed to enhance the natural features of the site and adjoining areas. Existing landscape elements such as rock formations, vegetation or watercourses should be preserved. In established areas, landscaping shall relate to the scale of other elements of the streetscape and the landscaping of adjoining	Y	The project seeks to upgrade Myall Quays Boulevard and Myall Street as the main thoroughfare to the site. The treatment of arterial and connector roads will include median strip planting and landscaping of the pedestrian footpaths to enhance and maintain the existing streetscape character. The inclusion of roundabouts will also define vehicle speed and vehicle interaction with pedestrians. Main street planting will be spaced so as to

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
development. Where possible, landscaped areas shall adjoin the landscaped areas of adjacent allotments. All Cabbage Tree Palms that will be affected by subdivision works are to be relocated to another site on the land or to a public reserve. A plan is to be submitted showing the location of any existing Cabbage Tree Palms so that a decision can be made as to whether these should be relocated or should remain. Where trees are to be relocated, a bond will be payable depending upon the size and number of trees to be relocated. Council prefers street tree planting to be undertaken by the developer once the subdivision is at an advanced stage; when roads and main service lines are in place and the location of footpaths and driveway crossings identified. Additional plantings may be required adjacent to public roads where access is to be restricted.		provide shade, wind and weather protection in conjunction with ground level awnings. The proposed local street network including laneways and access ways include street tree landscaping to enhance the local amenity. The treatment of the road network is detail within the drawing no. R.C. 36-42 within *Volume*. A total of approximately 29 hectares of wetland (zoned 7(a) Wetlands and Littoral Rainforest) will be retained and a 21 hectare buffer (zoned 7(b) Conservation) will separate the residential area from these wetland areas. The design of the open space areas will enhance the connection between the subdivision and the natural environment. A series of landscaped parks and access ways will connect the open space network. The open space area will be enhanced with community facilities providing passive and active recreation facilities. The use of landscaping within the open space areas will contribute to the total water cycle management provided by the detention basins. The design and landscape treatment of the proposed open space areas is detailed in Drawing No. R.C. 16- 21 in *Volume 2*.
2.5.3 Filling and Levelling Site works are to be planned to allow topsoil to be stripped, stockpiled and reused on the site. The stockpiling of soil is to occur without the killing of the "seed-bank" and "soil microhiziz" (soil bacteria/fungi). No soil is to be removed from the site without consent. The quality, laying and compaction of fill will be required to meet Council's *Design Specifications*. Geotechnical certification will be required to indicate		The Statement of Commitments identify that all earthworks will be completed in accordance with the Acid Sulphate Management Plan included as Annex C in the *Proposed Subdivision – Riverside Estate Project Application and Masterplan Area* prepared by Coffey, 2008. Due to the location of ASS the removal, stockpiling and re-use of topsoil will need to be managed to mitigate any potential environmental impacts

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
compliance with Council's *Design Specifications* and Australian Standard AS 2870 (Residential Slabs and Footings). Filling and leveling shall not adversely affect adjoining land. Levels shall be adjusted so that allotments drain to the street and/or the stormwater drainage system. Siteworks shall be designed and constructed to prevent ponding of stormwater or intensification of runoff to adjacent land.		associated with the proposed development. To mitigate any potential environmental impacts to the existing drainage system commitments have been made within the EA to design and install water quality control measures and monitoring program in accordance with the *Integrated Water Management Strategy* dated 2008, prepared by Cardno Willing. *Cut and fill requirements across the site are detailed within Sheet 69 within* Volume 2. The bulk earthworks required in the development of the site will result in approximately 460,200m^{3}of material being excavated, of which approximately 422,200m^3 of the excavated soil will be utilised on site as detailed within the Bulk Earthworks Plan (Sheet 11, *Volume 2*). There will be approximately 38,000 m^3 of excess topsoil. This excess topsoil is proposed to be stockpiled for reuse at the proposed sporting complex on the western side of the Myall Way.
Erosion and Sediment Control Erosion control and sediment control principles shall be designed to be in accordance with *Managing Urban Stormwater – Soils and Construction* (NSW Department of Housing). For subdivisions involving an area of more than 2 hectares of land, plans lodged with the development application shall be clearly notated to indicate the proposed staging of works.	Y	The Construction Environmental Management Plan (CEMP) submitted with the EA outlines the requirements for a Stormwater Management Plan to address erosion and sediment control. The management plan is to be prepared prior to the commencement of work in accordance with the relevant guidelines and policies. This action is contained within the Statement of Commitments. The engineering plan (sheet 67) identifies the staging of works which corresponds with Drawing No. R.C. -08 Staging Plan, both of which are contained within *Volume 2*.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
2.6 SERVICES		
2.6.2 Controls and Design Principles Where available, satisfactory arrangements shall be made with the appropriate authority for the provision of utility services to each allotment in the subdivision.	Y	Tattersall Surveyors (2008) prepared a strategy for servicing the proposed development. Investigations into the capacity of existing infrastructure to accommodate the proposal were completed in consultation with the relevant service providers including Mid Coast Water, Country Energy and Telstra.
Water supply In areas where reticulated water supply is available, applicants are required to provide water supply mains and service conduits to each allotment in the subdivision. An adequate reticulated water supply system is to be provided for domestic supply and fire fighting purposes.	Y	Reticulated water supplies are available to the existing development area, south of the site. Mid Coast Water has completed the upgrade and augmentation of potable water storages at the Viney Creek Road Reservoirs. An 8.1ML reservoir has recently been commissioned and will provide sufficient capacity to meet the potable water needs of various potential developments in the area in the immediate future (Tattersall, 2008).
Sewerage In areas where sewerage service is available, applicants are required to provide sewerage reticulation to each allotment in the subdivision. Sewerage reticulation is to be arranged where possible to allow the whole of each new allotment to be serviced by gravity drainage.	Y	Areas to the south of the site are already serviced by a reticulated gravity sewer system. Mid Coast Water has recently constructed a sewer pumping station within the Myall River Downs Estate, west of Myall Street (refer to Tattersalls report contained within *Volume 3*). It has been specifically sized to provide services for the Riverside development.
Electricity For subdivision requiring a new low voltage electricity supply, reticulation is to be via an underground supply system unless Council determines the ground conditions to be unsuitable for extensive underground infrastructure.	Y	Country Energy is proposing to relocate and upgrade its electrical supply network. The proposed electrical services will extend from existing services. Crighton Properties has provided Country Energy with the proposed subdivision layout so that they can commence designing for major new links from the existing overhead supplies.
Telstra An underground service shall be provided to each allotment in the subdivision. The positioning of services shall conform to Council's	Y	Existing communication infrastructure, which incorporates fibre optic technology, is available along Myall Street and Toonang Drive. Telstra has already upgraded its services to Tea Gardens, which includes a 'fibre to the

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
approved standards.		node' for The Hermitage and has offered via its Smart Communities program, the provision of services to Riverside.
Shared trenching Where possible, compatible public utility services shall be coordinated in common trenching to maximum cost effect.	Y	This matter shall be addressed in consultation with the relevant service providers.
Reforming Areas affected by construction works are to be reformed to appropriate grades, covered with 100mm of topsoil and then grassed.	Y	This work will be undertaken as required by the DCP (following consultation with the relevant service providers).
Easements Easements are to be provided in accordance with authority requirements for each service. Easements to drain sewage shall be created in favour of MidCoast Water, over existing sewer mains and over sewer mains laid within proposed allotments.	Y	Easements will be created following consultation with the relevant service providers.
Restoration Any trenching is to be rendered erosion resistant by turfing/mulching or otherwise suitably stabilised within a period of three (3) days of completion of trenching works.	Y	This work will be undertaken as required in the DCP following consultation with the relevant service providers.
2.7 DRAINAGE		
2.7.2 Controls and Design Principles Drainage system design The drainage system shall be designed in accordance with Council's *Design Specifications* and *Construction Specifications.* Allotment drainage shall discharge to the roadway gutter wherever possible. Inter-allotment drainage (including the creation of easements to drain water) will be	Y	The planned development will increase the rate of local runoff and peak flows. A number of basins have been sized to ensure that the post development peak flows in the 100yr ARI event is no greater than under existing conditions.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
required where discharge to the street for all lots is not possible. ***On site detention/infiltration*** Applicants may be required to provide on site detention to maintain flows no greater than the undeveloped rate of flow, both within and downstream from the development area. Advice should be sought from Council's Engineering Services Division to determine if this is required.		It is proposed to direct runoff in events up to the 100 yr ARI event from the upper catchment areas east along the proposed open space corridor located on the northern boundary of the development and then south east to a swale located on the eastern boundary of the site. This swale is intended to distribute runoff along the western boundary of the buffer zone to reduce the concentration of runoff into the buffer zone and the SEPP14 wetland. With the exception of limited areas of planned development on the eastern boundary of the site that will drain to the buffer zone, the planned development located south of the open space corridor will drain southwards towards the proposed extended detention lake.
Water quality, erosion and sedimentation Water quality control measures must be provided on-site, where subdivisions have the potential to drain either directly or indirectly into natural waterways. Therefore, careful consideration must be given to the impact of the development on erosion, pollution and sediment loading. Water quality control measures will be required to meet the requirements outlined in *Managing Urban Stormwater – Soils and Construction* (NSW Department of Housing), the *Constructed Wetlands Manual* [Vol 1 & 2] (Department of Land and Water Conservation [NSW]), and any adopted Stormwater Management Plans.	Y	The engineering plans prepared by Tattersall Surveyors Drawing No. 5-9 detail the proposed drainage channels from the allotments to the roadway which is then directed to pre-treatment basins where flows are to be treated prior to discharge to the proposed detention lake system. The Integrated Water Management Plan identifies the water quality management system proposed to handle stormwater flows. The report includes stormwater treatment and water quality management guidelines to manage the flows directed through the proposed development. A combination of rainwater tanks, wetlands and swales will manage stormwater runoff. Sediment and erosion control measures will be implemented in the construction phases in accordance with the requirements of the current edition of the *Managing Urban Stormwater – Soils and Construction (Blue Book)* released by the NSW Department of Housing as detailed within the Statement of Commitments.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
Easements Easements shall be created over drainage systems, including piped stormwater lines and open drainage channels. Widths of required easements shall depend upon the circumstances.		Easements will be created as required by the relevant service providers.
Flood prone land Consideration will be given to the likely effects of flooding in determining any application (see Clause 25 of *Great Lakes Local Environmental Plan 1996*). Land will generally be required to be filled to ensure that the development will conform to Councils flood management policy and particular flood management plans, where relevant.		The Integrated Water Management Plan contained within *Volume 3* assesses the flooding impact of the proposed development. The report concluded from water quality monitoring, data analysis and consultation with the Department of Planning that the partial extension of the existing detention lake (with increased tidal flushing) and constructing additional freshwater lakes, ponds and/or wetlands, swales and a biofilter as appropriate is the preferred option for integrated water management.
Works as executed drawings Works as executed drawings are to be supplied upon completion of works (copies are also to be supplied in electronic format).	Y	Work as executed drawings will be provided to service providers.
2.8 EXISTING DEVELOPMENT AND HERITAGE		
2.8.2 Controls and Design Principles Where subdivision affects heritage items, Council may require the submission of a Heritage Impact Statement prior to consideration of the application. The impact of any subdivision on the curtilage or immediate context of a heritage item must be evaluated in this Statement.	Y	• An Aboriginal Heritage Assessment (the Assessment) was undertaken by ERM (2008), which addressed the DECC Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation. The Heritage Assessment included a consultation process consistent with DECC's Interim Community Consultation Requirements Guideline (2004) for Aboriginal consultation. The assessment involved a review of the environmental, historical and archaeological context of the Riverside at Tea Gardens site, consultation with the Aboriginal community and field investigations of the survey area in April 2008 in conjunction with

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		members of the Aboriginal community. • A midden site previously identified by Brayshaw McDonald Pty Ltd (1988) was not relocated during the April 2008 survey due to access limitations and very low visibility associated with the inundation of the SEPP 14 wetland and surrounds. However this site, previously recorded within the SEPP 14 wetland, will not be impacted by the proposed development. The adjacent 7(b) Conservation lands provide additional buffer to the SEPP 14 wetland. • The April 2008 survey identified a new midden site (Riverside_01) within the proposed tourist precinct. The concept plan has been amended to ensure that it is protected by a minimum 10 metre buffer on all sides. Neither the newly identified midden nor that previously recorded by Brayshaw McDonald (1988) will be directly impacted by the proposed development, however ancillary or indirect impacts may occue. To ensure that indirect impacts do not damage the middens (in particular the recently identified midden located within the proposed tourist precinct, 'Riverside_01'), a number of mitigation measures will be implemented on site, inlcuding: • Riverside_01 is to be protected on all sides by a minimum 10 metre buffer. No construction/excavation works, including the storage of machinery can impinge on this buffer zone; • a management plan will be developed in consultation with the local Aboriginal community to ensure the long-term protection of the middens. This management plan will consider the use of fencing, designated

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		walkways and interpretive signage at Riverside_01 as an educational resource; • if the current development plan is amended, further subsurface investigation may be required to further assess the significance of the sites; • monitoring of clearing and initial excavation works across the whole site should be undertaken by the Karuah LALC; • if during clearing or construction works Aboriginal artefacts are recovered an immediate stop work protocol should be in place in the immediate vicinity of the artefact. A qualified archaeologist should at this time be contacted and the site recorded. Once recording has occurred any salvage can be undertaken and works (with minimal disruption) can continue; and • in the unlikely event of discovery of skeletal material all works should cease, and the police, relevant local Aboriginal community groups and a suitably experienced archaeologist or physical anthropologist should be contacted to assess the material before determining the correct management action.
2.9 ENVIRONMENTAL PROTECTION		
2.9.2 Controls and Design Principles Consultation with Council is advisable to determine whether subdivision will constitute "integrated development" or "designated development" and whether an Environmental Impact Statement is required. Council	N/A	The proposed development falls under Part 3A of the *Environmental Planning and Assessment Act 1979* (NSW) therefore an Environmental Impact Statement (EIS) is not required. An Environmental Assessment (EA) has been prepared as part of the Part 3A process. Consideration has been given to the following

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
may require the submission of specialist reports prepared by suitably qualified persons where it considers there may be a risk to the environment.		within the EA: • *Threatened flora and fauna species and/or their habitats* – Section 3.2.5 and Section 4.12; • *Wetlands* – Section 4.5; • *Littoral rain forest* – Section 3.2.2 and Section 4.12; and • *Fisheries* – Section 3.2.6 and Section 4.9.
SECTION 3 CONTROLS FOR RESIDENTIAL SUBDIVISION		
3.2 ALLOTMENT ORIENTATION		
3.2.2 Controls and Design Principles	Y	A site analysis plan has been prepared for the site which identified significant site features including the wetland areas to the east, the vegetation corridor to the north and Myall River to the east. Given the location of these natural features on site the subdivision has been designed to minimise the impact on these features and provide an open space corridor to link these natural environments.
Staggering of allotments and extensive use of landscaping are encouraged to reduce adverse wind impacts and achieve maximum exposure to cooling breezes in summer, and create streetscape variety and interest.		To take advantage of these features allotments abut open space corridors along the wetland zones to provide separation between the natural and built environment to allow pedestrian access along the fringe of the wetland zone.
Allotment orientation shall take into account the various types of dwellings that may be constructed on them. Ensure that potential indoor living and related private open space areas of future dwellings can be oriented to the north.		The architectural plans submitted with the EA (specifically Drawing No. R.C.- 43-48) show the orientation of the various allotment types to take advantage of solar access to private open spaces. The location of laneways to the south allows maximum solar access into the private open space areas.
Consider the possible overshadowing impact of and on existing or future adjoining buildings.		
Consideration of road orientation is an important factor in influencing allotment orientation to achieve an energy efficient subdivision.		
Roads running close to east west provide for good		Drawing No. R.C. – 43-48 submitted with the EA show allotment orientation

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
orientation of allotments for solar access to dwellings and private open space, while maintaining a narrow allotment frontage. On roads running north south, allotments may need to be widened to provide for solar access and prevent overshadowing of dwellings and private open space.		to the north. The subdivision pattern includes various types of dwelling including standard allotments with private open spaces located at the rear of the site and multiple dwelling and corner allotments which have the built form orientated to the street to provide sufficient solar access to the private open space areas located at the centre of the lots. Side, rear and front boundary setback have been incorporated into the built form envelopes to provide separation between buildings to reduce the impact of overshadowing. Second storey developments are located closer to the street to reduce the impact of overshadowing on the rear of adjoining allotments, thereby maintaining solar access to rear private open space areas. Precinct 1 has open space corridors running along the eastern and western boundaries to provide amenity and solar access and provide open space frontage to all allotments. The majority of the connector road network for Precinct 2 runs in a east-west direction, allowing solar access to allotments. The main connector road bisecting the centre of the precinct contains an open space corridor which the allotments along the north-south access have direct access to. The use of pocket parks within the subdivision also provides separation between allotments especially between the terrace style allotments which directly front the pocket parks to allow greater daylight access and amenity to future residents. Precinct 3 proposes medium density and commercial/business developments which act as the central service hub of the estate. The increased density of development has been off-set by the inclusion of a formal foreshore park and lake system to the east. The foreshore park provides active recreation areas.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		Pedestrian and cycleway paths around the lake system also connect with the open space areas contained with the other precincts.
3.3 ALLOTMENT DIMENSIONS		
3.3.2 Controls and Design Principles	Partial	The EA identifies Riverside as providing a combination of traditional housing lots and smaller lots, with at least ten percent of the lots less than 450 square metres in area. The development will achieve a net density of at least 13 dwellings per hectare across the site, in accordance with Council's adopted Housing Strategy.
Site frontage		
Site frontage shall be sufficient to permit vehicular and pedestrian access to the site, with landscaping to provide visual relief to development, and privacy for its inhabitants.		In line with Council's Housing Strategy, the majority of buildings will be low density, detached or semi detached and restricted to a maximum height of 9 metres. These building controls combined with streetscape planting will create a low impact, natural coastal living environment.
Allotment proportions		
Each allotment should have a depth to frontage ratio sufficient to avoid the possibility of "gun barrel" development and permit development to respond to particular site circumstances such as orientation, topography etc.		Street frontages - The Architectural Drawings No. R.C. 36-48 submitted with the EA detail the street types and allotment styles. The plans depict sufficient street frontage for vehicular access and pedestrian access with streetscape landscaping to soften the built form and provide amenity to the street and future residents.
Building setbacks from roads need to be considered when formulating allotment dimensions in order to ensure that a dwelling can be situated on an allotment.		Allotment proportions - the street hierarchy does not depict any 'gun-barrel' design. The various types of allotment sizes proposed allow for variation to the built form.
Residential lots less than 450m²		
Allotments less than 450m² in area will only be permitted where those allotments are:		The building setbacks proposed are shown in the Architectural drawings contained within *Volume 2*. The building setbacks shown to the Collector Road are not 6 metres as specified by the DCP. The building setbacks range
Incorporated within an integrated housing development; or		
Created via subdivision of an approved existing multiple dwelling development.		

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
In determining the suitability or otherwise of any subdivision application for small lots (less than 450m²), the following matters will be taken into account: • Cost of providing services and the capacity of existing services; • The advantages of building to a boundary and using attached and semi-detached forms of housing; • That adequate visual and aural privacy can be assured for each proposed dwelling; and • That adequate provision is made for access to the sun and natural light for each proposed dwelling. ***Residential lots greater than 450m²*** Lots with an area greater than 450m² shall be capable of containing a rectangle suitable for building purposes measuring 8m x 20m or 10m x 16m behind the building line and a private open space area of 40m² with a minimum dimension of 4m. ***Corner lots*** Special consideration needs to be given to the creation of private outdoor spaces in relationship to building setbacks and sight distance requirements on corner lots.		between no setback and 4.5 metres. The nil front boundary setbacks are located within the high density precinct. The streetscape has been designed to provide amenity by including a 1.55 metre wide landscaped median, 4.0 metre verge width and 4.0 metre footpath width. This 8 metre setback between the built form and the road provides sufficient area for pedestrian movement and street tree planting. Residential lots less than 450m²- The allotments are proposed within an integrated housing development. The provision of services will be managed for the entire subdivision not just the allotments less than 450m². The advantages are the provision of housing choice. The amenity of these dwellings is not diminished since these allotments will front onto open spaces and have dual street frontage for on-site vehicular access. Access to daylight is also provided by the setbacks created via the adjoining open spaces (pocket parks). Residential lots greater than 450m² – the allotments greater than 450m² comply with the dimensions for building purposes and private open space. Corner lots- the Architectural drawings no. R.C. – 43-44 contained within *Volume 2* show that multiple dwellings and single dwelling developments can occur on corner allotment with street setbacks and adequate private open space which have separation from the street to maintain privacy.
3.4 Road Network ***3.4.1 Road Hierarchy*** ***Refer to Appendix No. 3 for an excerpt of minimum road widths.*** Within the internal road network of a residential estate, up to five	Y	The road network is based on the *RTA Guide to Traffic Generating Developments*. A traffic impact assessment which investigated traffic flow and intersection capacity was completed by Mark Waugh Pty Ltd (2008) for the development of the concept plan and project application (it is contained

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
distinct levels of roads may be provided. They are: _ Shareway _ Access Place (Cul-de-sac) _ Local Street _ Collector Road _ Distributor Road Please consult Council's *Design Specifications* for definitions of these streets/roads. Larger subdivisions, or those which require direct access to distributors or the external road network, are subject to negotiation with Council. Where large lots for future development are created, potential traffic generation from these lots should be taken into account when determining road characteristics.		within *Volume 3*). The street network supports the provision of a public transport route with the main street having sufficient pavement width to cater for buses and the layout allowing buses to service the site. The road network also incorporates the varying levels of road hierarchy including distributor road, collector road, local roads and laneways. The engineering drawing and architectural drawings of the street types clearly identify the different capacities of the roadways and their interaction with pedestrians and cyclists through the use of median strips and increased footpaths and landscaped verges.
3.4.3 Controls and Design Principles - Road Network The road network shall conform to a structure plan for the area (where such plan exists) showing an existing and proposed major road network above the level of collector which satisfies projected district and regional travel. The road network shall provide for access to bus routes within acceptable walking distance from all dwellings (400m).	Partial	The road network proposed differs from the structure plan produced by Council. The alternate design however adequately manages the existing and predicted traffic volumes, provides public transport routes and connects to surrounding developments including Shearwater Estate to the north, Myall Quays to the south and the future development of Myall River Downs to the west. The alternate design is supported by a Traffic Assessment prepared by Mark Waugh Pty Ltd contained within *Volume 3*.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		Architectural Drawing No. R.C – 04 contained with *Volume 2* identifies the transport and access plan for the Riverside development. The plan shows that access to the bus route is provided to all dwellings based on the 400m criteria.
3.5 ROAD DESIGN AND CONSTRUCTION		
3.5.2 Controls - General The design of roads and streets including kerb and gutter shall be in accordance with Council's *Design Specifications.* If an application fails to meet the requirements of Council's *Design Specifications*, but does meet the objectives stated in Section 3.5.1 of this DCP, it may be considered for approval.	Y	The design of the kerb and guttering is shown in the engineering plans prepared by Tattersall Surveyors contained within *Volume 2*. These objectives have been captured within the proposed design. A focus of the road network is on the amenity, safety and useability of the network by pedestrians and cyclists within dedicated cycleway and landscaped pedestrian footpaths. This integration of transport modes create residential amenity by promoting alternative means of transport for residents.
3.5.3 Controls and Design Principles – Target Vehicle Speeds A combination of measures may be required to limit design speeds by: • limiting street length; • introducing bends; and • introducing slow points, bends and other traffic management measures such as constriction of carriageway width, speed humps etc. Consult Council's *Design Specifications* for details. Designs shall conform to Council's *Design Specifications*	Y	The proposed development includes traffic calming measures including round-a-bouts proposed along Myall Street and Myall Quays Boulevard. The traffic calming measures are indicated on the engineering drawings (see *Volume 2*).

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
3.5.4 Controls and Design Principles – road reserves Minimum carriageway, verge and road reserve widths shall be in accordance with Council's *Design Specifications.*	Partial	Engineering plans and a Traffic Assessment have been prepared for the Riverside development. The road network has therefore been designed to cater for the existing and predicted traffic volumes. Traffic calming devices and street landscaping has also been proposed to manage the traffic to be generated from the subdivision. The development proposes an alternative road network which achieves the aims and objectives of Council's DCP.
3.5.5 Controls and Design Principles – Pedestrian/Cyclist Facilities A road serving more than 50 allotments shall be provided with a minimum of one 1.2m wide paved footpath. Where an approved strategy exists, pedestrian and cyclist paths shall be provided.	Y	The arterial, collector, link roads, local streets and one way streets all provide footpaths for pedestrian movement. The laneways which service less than 50 allotments do not provide footpaths since they function for vehicular access to on–site garages and car spaces.
3.6 PUBLIC OPEN SPACE		
3.6.2 Controls Open space shall be provided within the particular subdivision, generally at the rate of 2.83 ha per 1000 population (28.3m²/person). Population rates are to be calculated on the basis of 3.3 persons per dwelling allotment. Where it is proposed to provide open space off-site, justification is to be provided via an open space strategy prepared at the cost of the applicant. Where Council determines that the public open space component of a subdivision shall be located elsewhere, a contribution will be required for acquiring and/or improving more suitable open space in the vicinity in accordance with Council's current contribution rate. Public open space and reserves shall be suitably landscaped and embellished with play equipment or sports equipment.	Y	The proposed development incorporates open space corridors which link existing natural environments including the stand of vegetation to the north of the site and the wetland zones located along the eastern boundary adjoining the Myall River. These open spaces also provide valuable habitat corridors for natural flora and fauna through the estate. The open space network includes active and passive recreation areas which are supported by community facilities including club houses and organised recreation areas including tennis courts and swimming pools. The recreation areas are connected via overland bridges, cycleway and pedestrian networks to allow access through the entire open space network. The open space areas are detailed within the architectural drawings no. R.C. - 25-31 contained in *Volume 2*.

DCP Requirement	Compliance Yes / No / Partial / N/A	Comment
		The only open space area to be dedicated to Council is the recreation area and facilities proposed within the Myall River Downs site to the west of the site. The embellishment of this recreation area and its dedication to Council has been agreed to and is documented within the Voluntary Planning Agreement (VPA) contained in *Volume 1*.

Volume 1:

Annex I: Correspondence

Great Lakes
COUNCIL

Breese Parade Forster
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15 APR 2008

Tattersall Surveyors Pty Ltd
PO Box 54
RAYMOND TERRACE NSW 2324

Our Reference: MP06-0010
Your Reference: DH:PS

Contact: Mr Dean Hartmann
Telephone: 6591 7361

11 April 2008

ATTENTION: Bob Lander

Dear Bob

Re: Riverside, Tea Gardens – Street Hierarchy Plans

I write in response to the meeting between yourself, Council's Director Engineering Services - Mr Ron Hartley, Manager Transport Assets - Mr Greg Pitt and myself on 28 March 2008 in relation to the variations from Council's Design Specification of the proposed road hierarchy.

I advise that the road hierarchy plans submitted are adequate for further consideration, however it is imperative to note that any acceptance of the proposed road hierarchy is subject to inclusion of water sensitive urban design principles, which achieve no net increase in pollution and ensures the frequency of stormwater discharge from the site is consistent with current discharge frequency on average.

Yours faithfully

DEAN HARTMANN
Engineering Development Officer

Great Lakes
COUNCIL

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RECEIVED
31 JUL 2008
BY:

Mr Peter Childs
Crighton Properties Pty Ltd
PO Box 3369
TUGGERAH NSW 2259

Our Reference:
Your Reference: DB:KK

Contact: David Bortfeld
Telephone: 6591 7360

29 July 2008

Dear Peter

Re: Access Requirements to Pony Club Site - Tea Gardens

I refer to your letter received at Council on 3 June 2008 regarding the proposal to place a road on the boundary of the "Pony Club" site and your Riverside development.

Firstly please accept my apologies for the delay in responding, however your proposal has been the subject of discussion with other sections of Council.

Your most recent correspondence addresses Council's initial concerns however please note that any expenses incurred as a result of your proposal will have to be bourn by Creighton Properties Group Pty Ltd. Please keep in mind the area is zoned 2(f) and potential boundary adjustments will need to be documented. In addition, could you please advise me if this area is to be covered by "community title". If yes, then there are implications with regard to future responsibilities.

In the interim, should you require further information regarding this matter please contact me on 65917360.

Yours faithfully

DAVID BORTFELD
Manager Parks & Recreation

MIDCOAST WATER
ABN 33 274 464 218

Forster Office:
16 Breese Parade
Locked Bag 4000
Forster NSW 2428
Ph: (02) 6591 7543
Fax: (02) 6591 7555

23 April 2008
Ref: 178424

Tattersall Surveyors
PO Box 54
Raymond Terrace NSW 2324

Attn: Mr Bob Lander

RE: RIVERSIDE DEVELOPMENT – TEA GARDENS

Dear Bob,

In reply to your email of 21 April 2008 regarding a MidCoast Water response to the "issues paper" and "adequacy test" applied by the Department of Planning for the Riverside Application at Tea Gardens. MidCoast Water makes the following comments:

MidCoast Water requires the preparation of Water Supply & Sewerage Strategies to demonstrate how the proposed development can be provided with reticulated water and sewer services in accordance with our requirements, these strategies are to nominate any required extensions or upgrades to MidCoast Water infrastructure. In the absence of such strategies, MidCoast Water can only confirm that the Riverside development is proposed on land identified as future service area within our current servicing strategies.

As detailed in the MidCoast Water Sewerage Servicing Strategy (January 2003) the Hawks Nest Waste Water Treatment Plant (WWTP) is upgradeable to 16,000 Equivalent Population (EP) for the ultimate development of Tea Gardens/Hawks Nest, including North Hawks Nest. The ultimate development case includes an allocation of 960 Equivalent Tenements (ET) for the Riverside (Myall Quays) development. The ultimate loads from infill development within Tea Gardens/Hawks Nest as well as the known future growth areas were allocated within this existing strategy and are summarised below, note that the existing strategy does not include the connection of the North Port Stevens villages. Refer Doc: EKA-061/7, Appendix A: Table A2 for full details of load allocations.

	Existing Peak Load (2003)		Fully Developed Peak Load	
	ET	EP	ET	EP
Hawks Nest	1292	4245	1558	5724
Tea Gardens	862	2444	1174	3830
North Hawks Nest	0		400	1000
Myall Quays (Riverside)	0		960	2592
Myall River Downs	0		800	2160
Shearwater & Industrial	0		320	672
TOTALS	**2154**	**6689**	**5212**	**15978**

Under the existing Sewerage Servicing Strategy, MidCoast Water can only confirm that there is sufficient capacity in the Hawks Nest WWTP to cater for up to 960 ET within the Riverside development. The Equivalent Tenement allocation includes commercial & non-residential components in the total allocation.

MidCoast Water requires the preparation of an Integrated Water Cycle Management plan (IWCM) for the site. This plan would consider the water cycle and identify appropriate measures and end uses for the water resources available. One of the areas expected to be investigated is the use of reticulated recycled water for non-potable uses within residential premises. This investigation may identify alternate sources for effluent disposal that could relieve pressures on the WWTP and yield additional capacity within the WWTP. In the absence of an accepted IWCM, MidCoast Water is unable to make any comment "as to whether services for the use of reclaimed water will be provided".

Please contact me should you have any questions or to discuss the progression of an Integrated Water Cycle Management plan for the proposed development.

Yours faithfully

DAVID MCKELLAR
Development Engineer

Volume 1:

Annex J: Solar Access

The lots are predominantly orientated so that one axis is within 30 degrees east or 20 degrees west of true north and within 20 to 30 degrees from the east – west axis (refer to *Figure 4.2* of the EAR).

Lots outside the preferred axis orientation are identified in *Tables J.1* and *J.2. Table J.3* provides a summary of the total lots outside the preferred axis orientation. The proposal includes only eight lots with an area less than 400 square metres, being Lots 221 to 224 and Lots 227 to 230. These lots are along the east west orientation and therefore provide opportunities for future development to maximise solar access on the smaller allotments.

The lots which have an axis outside the preferred orientation in Precinct 2 are lots with a frontage to face Link Road 2, which extends north east / south west (refer to R.C. - 5 within *Volume 2*) and lots 52 to 57 and 63 and 64. In Precinct 1, Lots 321 to 324 are outside the preferred orientation. These lots are conventional in size with areas of at least 518 square metres, depths of approximately 32 metres to 37.1 metres and widths of at least 15 metres. This provides sufficient area for dwellings to be sited in a manner that allows for solar access to rear private open space.

In Precinct 2 Lots 67 to 70 have areas less than 450 square metres and are on an axis outside the preferred orientation. These lots however have a depth of 38 metres and are adjacent to a park to the north-west. As they are adjacent to an open space there is no potential for overshadowing to occur from that direction (refer to RC -12 within *Volume 2*).

Table J.1 Lots outside Preferred Axis Orientation – Precinct 1

Lot number	Size	Lot number	Size
320	*705*	324	*595*
321	*632*	326	*591*
322	*595*	327	*606*
323	*595*		

Table J.2 Lots outside Preferred Axis Orientation – Precinct 2

Lot Number	*Lot Size*	*Lot Number*	*Lot Size*
38	*755*	92	*532*
39	*578*	93	*551*
40	*578*	106	*833*
41	*755*	107	*602*
42	*557*	108	*710*
43	*568*	121	*634*
44	*568*	122	*672*
45	*568*	123	*624*

Lot Number	*Lot Size*	*Lot Number*	*Lot Size*
46	*568*	124	*606*
47	*568*	125	*712*
48	*668*	126	*710*
49	*512*	127	*530*
50	*512*	128	*518*
51	*668*	129	*643*
52	*568*	139	*643*
53	*568*	140	*586*
54	*568*	173	*594*
55	*568*	174	*573*
56	*568*	175	*515*
57	*557*	178	*528*
58	*790*	179	*515*
59	*613*	180	*554*
60	*613*	185	*559*
61	*790*	186	*550*
62	*790*	187	*563*
63	*613*	189	*551*
64	*613*	191	*519*
65	*790*	192	*506*
66	*562*	193	*514*
67	*437*	232	*539*
68	*437*	233	*583*
69	*437*	234	*573*
70	*437*	235	*826*
71	*562*	236	*557*
72	*653*	237	*539*
73	*660*	238	*779*
78	*621*	239	*569*
79	*634*	242	*606*
80	*641*	243	*776*
81	*613*	244	*570*
82	*602*	245	*710*
83	*528*		
84	*532*		

Table J.3 Summary of Lots outside Preferred Axis Orientation

Total lots outside preferred axis	91
Total lots in project plan	348
Percentage of lots outside preferred axis	26%

Siting of Dwelling

Lot orientation is only one of the tools to design for solar access. The other key element is dwelling placement.

As a guide, by applying the tools set out in *Solar Access for Lots Guidelines for Residential Subdivision in NSW* (NSW Sustainable Energy Development Authority), it is evident that the lots outside the orientation in *Figure 4.2* can accommodate minimum solar access zones and allow solar access to glazing. The SEDA guide incorporates two solar access zones, the flexible solar access zone (FSAZ) and the minimum solar access zone (MSAZ).

The FSAZ is the part of the lot that may not be built on, there by allowing solar access to glazing and private open space. The MSAZ is the minimum area of the FSAZ that may not be built on. Once the MSAZ and the dwelling have been sited the FSAZ no longer applies.

The FSAZ and the MSAZ areas are located at the rear of dwellings. *Table J.4* sets out the dimensions of the FSAZ and MSAZ.

Table J.4 Dimensions of Solar Access Zones

Storey height to North	Minimum depth of FSAZ	Minimum width of FSAZ	Minimum width of MSAZ
0-5% slope to the south single storey to the north	20m	3.3m	8m
0-5% slope to the south double storey to the north	20m	6.9m	8m

(Source: SEDA)

The lots fronting Link Road 2 are sufficiently deep and wide enough to easily accommodate the minimum solar access zone, which would be 3.3m x 8m for future single storey dwellings or 6.9m x 8m for two storey dwellings. The lots are also wide enough to allow the siting of a dwelling on the lot to accommodate the FSAZ.

Drawings R.C. - 43 to R.C. - 48 provided in *Volume 2* show that future dwellings can be sited so that primary open space areas have good solar access. In addition, the plans show the first floor components of each dwelling type is located to minimise overshadowing of the private open space on the lot or adjoining lots.

Volume 1:

Annex K: Cost Estimates

TATTERSALL SURVEYORS

13th November 2008

OUR REF: 201479-L009013

Director of Planning
Crighton Properties Pty Ltd
DX 7215
Gosford

Attention: Peter Childs

RE: RIVERSIDE CONCEPT AND PROJECT APPLICATION COSTINGS

Further to your request for an estimate on the Riverside Concept and Project Application costings, please find attached the following detailed analysis of the estimated costs for the development.

In this regard the following qualifications are made:-

1. The attached sheets have been prepared by Tattersall Surveyors Engineering Section and specific costs are current as at today.

2. Details of overall measurements have been made from the current design sheets forwarded with the Application.

3. Costings are compliant with the current designed plans as prepared by Tattersall Surveyors and or are costings that could be reasonably be expected for items that have yet to be designed (i.e. water and sewer designs).

4. Estimates of costs have been based on our long term local knowledge, generally in Tea Gardens and specifically in residential and commercial development at Riverside.

Should you require any further information please do not hesitate to contact this office.

Kind regards
TATTERSALL SURVEYORS PTY LTD

Bob Lander
Project Manager

encl.

DEVELOPMENT CONSULTANTS IN ENGINEERING, SURVEYING AND PLANNING

Tattersall Surveyors Pty Limited ABN 41 003 509 215
2 Bourke Street, RAYMOND TERRACE 2324 **All mail to**: PO Box 54
Telephone: (02) 4987 1500 **Fax**: (02) 4987 1733 **Email**: attat@hotkey.net.au
DX 21403 RAYMOND TERRACE

TATTERSALL SURVEYORS

Item	Quantity	Unit	Rate $	Total
Riverside Project Application - 381 Lots				
Roads	11,200	m	890	9,968,000
Bulk Earthworks Cut	460,200	m3	9	4,141,800
Bulk Earthworks Fill	422,200	m3	9	3,799,800
Drainage	6,530	m	340	2,220,200
Drainage Pits	315	unit	1560	491,400
Gravity Sewer	4,000	m	250	1,000,000
Vacuum Sewer	6,800	m	320	2,176,000
Water Supply	11,200	m	380	4,256,000
Electrical	381	Unit	3750	1,428,750
Landscaping	1	Unit	1,800,000	1,800,000
			Total =	**31,281,950**
Residue Riverside - 599 Lots				
Roads	8,850	m	790	6,991,500
Bulk Earthworks Cut	13,400	m3	9	120,600
Bulk Earthworks Fill	159,300	m3	9	1,433,700
Drainage	5,250	m	340	1,785,000
Drainage Pits	255	unit	1560	397,800
Gravity Sewer	3,800	m	250	950,000
Vacuum Sewer	6,400	m	320	2,048,000
Water Supply	8,850	m	380	3,363,000
Electrical	599	Unit	3750	2,246,250
Landscaping	1	Unit	1,500,000	1,500,000
			Total =	**20,835,850**
Eco-Tourist Village - 65 Lots				
Roads	4,780	m	790	3,776,200
Bulk Earthworks Cut	31,400	m3	9	282,600
Bulk Earthworks Fill	48,500	m3	9	436,500
Drainage	2,800	m	340	952,000
Drainage Pits	135	unit	1560	210,600
Gravity Sewer	2,400	m	250	600,000
Vacuum Sewer	4,100	m	320	1,312,000
Water Supply	4,780	m	380	1,816,400
Electrical	65	Unit	3750	243,750
Landscaping	1	Unit	1,500,000	1,500,000
			Total =	**11,130,050**
			Overall Civil Construction Total :	**63,247,850**
Additional Works				
Clubhouse No 1				2,000,000
Clubhouse No 2				3,000,000
Clubhouse No 3				2,450,000
Clubhouse No 4				2,450,000
			Total Application costs=	**73,147,850**

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