



MINUTES OF THE DEVELOPMENT CONTROL UNIT MEETING

HELD AT COUNCIL CHAMBERS, BREESE PARADE, FORSTER

ON THURSDAY, 24 SEPTEMBER 2009

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Minutes of the Development Control Unit Meeting of the Great Lakes Council held at the Council Chambers, Breese Parade, Forster on 24 September 2009 commencing at 2pm.

PRESENT

L. Vaughan (Chairperson), Director Planning & Environmental Services - Glenn Handford, Director Engineering Services - Ron Hartley, Manager Development Assessments - Wayne Burgess, Senior District Building Surveyor - Bruce Arkle.

IN ATTENDANCE

Admin Officer - Yvette Ellis (Minute Taker).

APOLOGIES

Clr Jan McWilliams - Mayor; and Manager Building Assessments - Gary Mead.

46 RESOLUTION

That the apologies from Clr Jan McWilliams - Mayor, and Manager Building Assessments - Gary Mead be accepted.

ADOPTION OF MINUTES OF MEETING

47 RESOLUTION

That the Minutes of the Development Control Unit Meeting of 10 September 2009, copies of which were distributed among the Committee members, be taken as read and confirmed as a true record of proceedings subject to the following amendments:

Recommendation for Item 5 on page 2 (Minute No. 41) be amended to read:

That delegated authority be given to the General Manager to approve the development application subject to submission of amended specifications showing brick walls, and a roof of material consistent with the existing dwelling on site.

Recommendation for Item 1 on page 7 (Minute No. 43) be amended to read:

C. That a penalty infringement notice be served on the owner of the premises for carrying out building work without the prior approval of Council.

DECLARATIONS OF PECUNIARY & NON-PECUNIARY CONFLICTS OF INTEREST

Nil.

PUBLIC ADDRESSES

Item 3 - Proposed Tourist Facility and Dwelling - D371/2005 - Lot 1 DP 1014442 Bombah Point Road, Bombah Point

Public Address No. 1 Mr David Young

Mr David Young (Objector/Adjoining Property Owner) addressed the committee raising concerns in relation to access and loss of amenity.

Public Address No. 2 Mr Tony Fish

Mr Tony Fish on behalf of Geolyse Pty Ltd (Applicant) and Mr F Bourke (Owner) addressed the committee in support of the application and requested that consideration be given to incorporating the deferred commencement conditions into the overall approval.

CONSIDERATION OF OFFICERS' REPORTS:

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

3 PES - Proposed Tourist Facility and Dwelling - D371/2005 - Lot 1 DP 1014442 Bombah Point Road, Bombah Point

Index: DA 371/2005 & PK25789

Author: Senior Development Assessment Planner - Alan Bawden

DCU Meeting: 24 September 2009

Manager Development Assessments clarified that shops and convenience stores are prohibited within a 7(b) zone.

RECOMMENDATION:

It is recommended that:

- A. Deferred commencement consent be granted under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application 371/05 for the construction of a tourist facility at Lot 1 DP 1014442, Bombah Point Road, Bombah Point subject to the following deferred commencement conditions:

DEFERRED COMMENCEMENT CONDITIONS

The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by consent authority and written notice given under Section 100(4)(b) of the Environmental Planning and Assessment Regulation 2000 that the deferred commencement conditions have been satisfied and the date from which the consent operates:-

- A1. The applicant shall submit and receive approval from Council, a final landscape plan(s), prepared by a qualified landscape architect, that shall contain the following information:
- Detailed plans of landscaping works for the curtilage of each building and the tennis court and pool;
 - Details of earthworks including mounding, filling and retaining walls;

- Detailed plans of landscaping for the on-site effluent disposal area;
- The location of roads, driveways, fire-trails, tracks, parking and storage areas and the type of material to be used for sealing these areas;
- The complete list of flora species to be used in landscaping including common and scientific names and potential height and spread at maturity;
- Details of the quantities and densities of plant stock to be used in the landscaping program;
- Complete details of planting procedure, maintenance, replacement and nurturing;
- Details that indicate that all landscaping shall be Australian native flora species from all vegetative layers and predominantly formed of local native flora that naturally occur in the Bulahdelah locality, including rainforest species;
- At least some use of flora species of known value as a foraging resource for known and expected threatened species of the land, including but not limited to Eucalyptus microcorys, Eucalyptus tereticornis, Corymbia intermedia and Eucalyptus robusta. Revegetation and landscaping, including streetscaping, shall encourage some continued visitation of the developed site for foraging purposes by threatened species;
- Details of the compensatory replanting of native eucalypts such that there is no net loss of native trees as a consequence of this approved development from the land; and
- Details of the types and quantities of topsoil and mulch for landscaping purposes.

A2. The registered proprietor of the land shall commission a Level 5 qualified arborist to prepare and submit to Council for review and approval, a Tree Management Plan. For the purpose of the Tree Management Plan, trees shall be remnant native vegetation and hence be those trees that contain a trunk diameter in excess of 25cm at breast height over bark. The plan shall clearly and at an appropriate scale:

- Identify and specify all trees that are to be retained and all trees that are to be removed for the approved development. Trees are to be specifically identified to species level and trunk diameter at breast height over bark;
- Be accompanied by a site tree marking program involving the clear physical marking of trees to be removed from the site for the development.
- Identify that tree removal for all aspects of the development would be strictly minimised;
- Detail the methods to be utilised to remove trees from the land;
- Detail the nature of the protective measures to be deployed on the land to protect all trees that are to be retained during site works and clearly specify those techniques to be employed on the land to adequately and effectively protect such trees from direct and indirect harm during construction. This may require the erection and maintenance of temporary fencing or other methods;
- Detail the type and nature of any lopping required to ensure the safe and useful retention of the any trees that are to be retained on the land during and after construction;
- Assess and report on the safe and useful life expectancy of trees to be retained and identify any maintenance and management issues associated with such; and
- Clearly identify if any hollow-bearing trees or trees containing cavities, fissures, splits or openings that may be useable by native vertebrate fauna species are to be removed from the land for the approved development and specifying the location, species, trunk diameter and details of hollows of such affected trees.

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

B. Delegation be given to the Director, Planning and Environmental Services to determine satisfactory compliance with the above deferred commencement conditions, and to make the consent to Development Application No. 371/05 for the construction of a tourist facility at Lot 1 DP 1014442, Bombah Point Road, Bombah Point, operational under Section 100(4)(b) of the Environmental Planning and Assessment Regulation, subject to the following conditions under Section 80A of the Environmental Planning and Assessment Act, 1979, as amended:

DEVELOPMENT CONSENT CONDITIONS

1. The development must be in accordance with the stamped plans [Rennie Golledge P/L modified by Orogen P/L on 19 March 2009 for report 403008_REO_001_v2], the application form and on any supporting information received with the application, except as may be amended by the following conditions.

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:

2. There is to be no lighting of the tennis court or swimming pool without further development approval from Council.
3. Sale of goods from the kiosk shall be to registered guests only.
4. A further development application is required for any on-site business advertising sign.
5. No sale of liquor is permitted from the land.
6. 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.
7. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia. Inspections shall be carried out as required by Section 162A of the EP&A Regulation 2000.
8. 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).
9. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. 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.
 - b) Footings of the proposed structure.
 - c) Structural steel beams/columns.
10. Disabled access and facilities are to be provided to one of the accommodation cabins and all ancillary building and facilities in accordance with AS1428.1. In this regard:
 - An accessible path of travel must be provided between the cabin sites and all community buildings and works.
 - An accessible visitor car parking space is to be provided within the site.Details are to be submitted and approved by the Certifying Authority prior to the issue of any building Construction Certificate.
11. Prior to issue of a Construction Certificate, a 'Waste Management Plan' must be prepared using Council's prescribed format and approved by Council's Waste Management Coordinator.

12. 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:

Contributions Plan	Facility	quantity	unit		rate		amount
Great Lakes Wide	Library Bookstock	8	persons	@	\$66.12	=	\$528.96
Great Lakes Wide	Headquarters Building	8	persons	@	\$198.79	=	\$1,590.32
Great Lakes Wide	Headquarters Building	\$650,000	\$1 non res	@	\$0.001	=	\$650.00
Great Lakes Wide	s94 Admin	8	persons	@	\$63.29	=	\$506.32
Great Lakes Wide	Rural Fire Fighting	8	persons	@	\$565.29	=	\$4,522.32
Rural Roads Bulahdelah	Rural Roads Bulahdelah	8	ETs	@	\$4,475.37	=	\$35,802.96
					Total		\$43,600.88

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.

13. An application to install an on-site sewage management system must be submitted and approved by Great Lakes Council prior to the issue of a Construction Certificate.
14. An approval to operate the on-site sewage management system must be obtained from Great Lakes Council prior to an Occupation Certificate being issued.
15. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the principal certifying authority that they have complied with the applicable requirements of Part 6.
16. Building work that involves residential building work (within the meaning of the Home Building Act, 1989) must not be carried out unless the principal certifying authority:
- a) in the case of work to be done by a licensed contractor:
 - i. has been informed in writing of the licensee's name and contractor number; and
 - ii. is satisfied that the licensee has complied with the requirements of Part 6 of that Act (in relation to insurance policies); or
 - b) in the case of work to be done by any other person:
 - i. has been informed of the person's name and owner-builder permit number; or
 - ii. has been given a declaration, signed by the owner of the land, that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.
17. 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 must be a standard flushing toilet and must be connected to an approved sewerage treatment system; and
 - b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
18. Should any aboriginal site or relic or material considered likely to be an aboriginal site or relic be disturbed or uncovered during the construction of this development, all work shall cease and the Department of Environment and Climate Change shall be consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the *National Parks and Wildlife Act 1974*. With regards to aboriginal sites or relics, all directions of the Department of Environment and Climate Change pertaining to such shall be duly complied with as part of this consent.
19. Compliance with the following Section 100B Bush Fire conditions imposed by the NSW Rural Fire Service

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- a) At the commencement of building works and in perpetuity the property around the tourist buildings to a minimum distance of 60 metres, shall be maintained as 40 metres as an inner protection area (IPA) and 20 metres as outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- b) At the commencement of building works and in perpetuity the property around the residential dwelling to a minimum distance of 40 metres, 20 metres shall be maintained as an inner protection area (IPA) and 20 metres as outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- c) A Bush Fire Management Plan is to be prepared that addresses the following requirements:
 - i. Contact person / department and details.
 - ii. Schedule & description of works for the construction of Asset Protection Zones and their continued maintenance.
 - iii. Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary.
 - iv. Details of access through any gate / fire trail system for remnant bushland areas.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- d) 16.4. In recognition of no reticulated water supply the proposed tourist cabins shall have a minimum of 3kW (5hp) petrol or diesel powered pump and a minimum 100,000 litre water supply tank dedicated solely for fire fighting. The tank/s shall be positioned no closer than 10 metres and no further than 20 metres from the cabins. A 65mm Storz fitting and lever action ball valve shall be installed in the tank. Suitable access to within 6 metres of the dedicated water supply for a Category 1 heavy bushfire tanker shall also be provided.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- e) 16.5. Access is to comply with Section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

- f) 16.6. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

- g) 16.7. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 1.
- h) 16.8. Roofing shall be gutterless or have leafless guttering and valleys are to be screened, to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.

Landscaping

- i) 16.9. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

17. Compliance with the following Food Premises Construction and Fit-Out requirements:

- a) The food premises shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standard 4674 - 2004 Design, construction and fit-out of food premises.
- b) Walls of the kiosk shall be of solid construction. 'Solid Construction' is defined as brick, concrete, concrete blocks, structural fibrous cement or other similar homogeneous material. Cavity walls cannot be used to construct the kiosk.
- c) A hand washing basin that is of an adequate size to allow hands and arms to be easily cleaned must be installed in the kiosk. Small domestic type hand wash basins are not adequate in commercial situations. The hand wash basin must be in addition to any wash-up sinks.
- d) Hot and cold water to the hand washing basin shall be delivered through a hands free mixer tap. The hand basin shall be provided with liquid soap and single-use towels at all times.
- e) A minimum of a single bowl sink and a commercial grade dishwasher or double bowl sink shall be provided and shall be connected to a continuous supply of hot and cold water. The pot size of the sink must be adequate in size to effectively clean and sanitise the largest item of equipment.
- f) All cupboards, benches and shelving must be constructed of materials that are smooth, impervious to moisture and able to be easily cleaned. Note: Particular attention must be made to the underside of the benches to ensure that they are constructed so they are impervious and can be easily cleaned.
- g) Ceiling, wall and floor finishes in the food premises shall comply with AS 4674-2004 Design, construction and fit-out of food premises.

- h) Ceiling lights shall be either installed flush with the ceiling surface or designed free from any features (such as ledges) that would harbour dirt, dust or insects or make the fitting difficult to clean.
- i) Coving shall be installed at the intersection of floors with walls in the food premises in accordance with Australian Standard 4674-2004 Design, construction and fit out of food premises. Coving shall be integral to the surface finish of both floor and wall and installed in such a manner as to form a continuous uninterrupted surface.
- j) Either a floor waste with a solids trap and stand alone tap or a cleaners sink (sluice sink) is to be provided. The sink is to be provided with an adequate supply of hot and cold water and is to be located away from the food preparation area.
- k) A certificate from a mechanical ventilation engineer stating that the exhaust system complies with Australian/New Zealand Standard AS/NZS 1668.1 and Australian Standard AS 1668.2 must be provided to Council prior to the issuing of a Construction Certificate.
- l) Prior to the issue of an Occupation Certificate, a food notification must be completed. This can be done either through Council or on the Internet at www.foodnotify.nsw.gov.au.

18. Compliance with the following Private Water Supply requirements:

- a) The water supplied to the entire tourist facility must consistently meet the requirements of the National Health and Medical Research Council – ‘Australian Drinking Water Guidelines’ (2004).
- b) A water supply management plan in accordance with the NSW Department of Health ‘Private Water Supply Guidelines’ (2008) and the National Health and Medical Research Council – ‘Australian Drinking Water Guidelines’ (2004) prepared by a suitably qualified person who has experience in water treatment must be submitted to Council for approval prior to the issue of a Construction Certificate. The plan shall include but not be limited to maintenance and inspection regimes, disinfection procedures and details of any barriers implemented to protect raw and stored water.
- c) The microbial quality of the water provided to all areas of the tourist facility must be monitored at least monthly by testing for the organism Escherichia coli (E. coli). Water samples must be tested at a laboratory accredited by the National Association of Testing Authorities (NATA) and records kept at the premises.
- d) The chemical and physical quality of the water must be tested at least annually. Water samples must be tested at a laboratory accredited by the National Association of Testing Authorities (NATA) and records kept at the premises.

19. Compliance with the following Swimming Pool requirements:

- a) The swimming pool must be installed, operated and maintained in accordance with the New South Wales Health Department ‘Public Swimming Pool and Spa Guidelines’ 1996.
- b) The swimming pool shall be equipped with –
 - An effective water circulation system;
 - A filter that must run 24 hours a day (except when backwashing); and
 - An automatic continuous disinfectant dosing control system (this is a metering device which feeds the chemical at a relatively constant rate).
- c) Certification from an appropriately qualified person stating the turnover rates for pool complies with the New South Wales Health Department ‘Public Swimming Pool and Spa Guidelines’ 1996 must be submitted to Council at the completion of the pool and prior to the issue of an Occupation Certificate.
- d) The proprietor of the swimming pool must ensure that the pool is disinfected so that the following concentrations are consistently maintained throughout the pool water-
 - Swimming Pool (outdoor)
 - Minimum free chlorine concentration- 1.0mg/L
 - Maximum total chlorine – 10.0mg/L
 - Maximum combined chlorine concentration – 1.0mg/L
 - pH – between 7.2 to 7.8 pH units
 - Alkalinity – between 80mg/L to 200mg/L

- e) The proprietor must provide and maintain on the pool premises, pool testing equipment that is capable of accurately measuring the required concentration of the disinfectant in use and the pH level. Pool testing equipment must be either –
 - A colorimetric comparison method based on DPD reagents using standards capable of measuring to 0.2 mg/L units within the required disinfectant range; or
 - A photometric method based on DPD reagents using standards capable of measuring to 0.2 mg/L units within the required disinfectant range.
 - f) Sampling must be undertaken in accordance with the New South Wales Health Department Public Swimming Pool and Spa Guidelines 1996, and results gained must be registered in a logbook that is kept on the premises.
 - g) A contamination management procedure list shall be formulated and placed with the result logbook, to be used in emergency situations.
20. Noise associated with the premises must not be a source of 'offensive noise' at the nearest affected residential premises:
- "offensive noise" means noise:
- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
 - b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.
21. A final inspection of the tourist facility must be undertaken by Council's Environmental Health Officer prior to the issue of an Occupation Certificate or utilisation of the premises for public use.
22. 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 upslope 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.
23. Stormwater from roof areas shall be linked to a Council approved disposal system immediately before placement of any roofing materials. Stormwater from roof areas shall be conveyed to on-site storage with overflow to either:
- a) Rubble trenches situated at least 3m from any building and constructed in a manner so as not to create erosion, siltation or topsoil removal from the site;

- b) A detention basin, settling pond or contour drain in such a way as to prevent sediments and other material being eroded from the site.
24. Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Vehicular access paths shall be stabilised with compacted gravel.

All disturbed areas shall be rendered erosion-resistant by turfing, mulching, paving or otherwise suitably stabilised within 7 days of completion. Details are to be submitted with the Erosion and Sediment Control Plan.

25. All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.
26. 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) construction of an Austroads Type "BAL" intersection at the entrance to the development
 - b) 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.
27. Payment of the following fees, charges and/or bonds with the application for a construction certificate:
- 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 \$2700. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. One 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.
 - b) 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.
 - c) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.
28. Submission of a Damage Bond Application Form and payment of a bond in the amount of \$6,500, 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 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) \$325 - (Rate of 0.05% of the value of developments exceeding \$400,000 – Note that the minimum fee is \$200).
29. In the event that emergency vehicular egress is proposed through Lot 4 DP 1014442 verification is required that the existing track on Lot 4 DP 1014442 is located within the legal road reserve. Where the existing road deviates outside the legal road reserve, that land is to be dedicated as public road and the original road reserve closed.
30. The development shall comply with the General Terms of Approval issued by the Department of Water and Energy (DWE) as provided in Annexure 'A' to this consent. Prior to the issue of any Construction Certificate, documentary evidence shall be provided to the certifying authority that a permit has been granted by DWE under Section 91 of the Water Management Act 2000.
31. In order to protect the natural environment and the habitats and lifecycles of threatened species, the registered proprietor of the subject land shall ensure that:
- a) All land outside the approved accessways and the APZ that encloses the tourist buildings and the dwelling shall be protected from direct and indirect harm associated with any aspect of the approved development.
 - b) The following activities shall not be permitted and shall be effectively prohibited from that part of the land outside the approved accessways and the APZ that encloses the tourist buildings and the dwelling unless they are required by law or carried out in accordance with the written consent of the Council of the Great Lakes:
 - Development (as defined by the Environmental Planning and Assessment Act 1979)
 - Clearing (as defined by the Native Vegetation Act 2003), destruction, removal of or injury to any local native trees, plants or grasses
 - Planting of any trees, grasses or plants except local native flora
 - Carrying out of any act which may adversely affect any populations of local native flora or local native fauna or their related habitats
 - Entry of livestock
 - Release or wilful introduction of any animal (but excluding an assistance animal as defined by the Companion Animals Act 1998), including any cat, dog or other domestic animal
 - Establishment of any transmission lines or other telecommunication cables
 - Removal, introduction or disturbance of any soil, rocks, or other minerals or the construction of channels, drains or dams
 - The accumulation of rubbish or the storage of any materials
 - Removal of any timber including fallen timber
 - The establishment of any asset protection zone for bushfire protection.
32. No cats or dogs shall be introduced to or kept on the land or at the tourist facility at any time.
33. Prior to the issuing of the first Construction Certificate, the registered proprietor or their agents, shall:
- a) Accurately survey and plot the external façade of the approved tourist buildings and the dwelling and survey the extent of the required APZ from the façade of those dwellings such that the APZ is clearly identified in the field. In this regard, the APZ as shown on the plan of Rennie Golledge, dated 16/11/07 and included in the Statement of Environmental Effects submitted with the DA as Appendix A is not accurately depicted as the APZ width is not measured from the external façade of the relevant building);

- b) Establish clear marker posts (permanent vertical posts not less than 1.5-metres high) and not greater than 20-metres apart that delineate the required APZ around the approved development. These marker posts shall be erected so as not to remove or harm any native trees.
34. All landscaping works in the final landscaping plan as approved by the satisfaction of the Deferred Commencement Condition A1 shall be implemented on the land as part of the first stage of the works following the issuing of the first Construction Certificate. A qualified landscape architect shall be retained for the duration of the construction of the development. The first Occupation Certificate shall not be issued until such time as the landscaping works required in the approved final landscaping plans have been appropriately established. The landscape consultant shall submit to Council a Certificate of Practical Completion stating that the landscaping work has been carried out in accordance with the approved final landscape plans and that a maintenance program has been established. All landscaping shall be maintained, nurtured and replaced if lost for the duration of the approved development.
35. All works required in the approved tree management plan, as approved by the satisfaction of the Deferred Commencement Condition A2 shall be implemented on the land as part of the first stage of the works following the issuing of the first Construction Certificate. A level 5 arborist shall be retained for the duration of the tree removal works associated with the approved development. The arborist shall submit to Council a Certificate of Practical Completion stating that the arboricultural work has been carried out in accordance with the approved tree management plan. Management of risks associated with trees on this development site shall remain at all times the responsibility of the registered proprietor of the land.
36. If there is to be any removal of hollow-bearing trees on the land for any aspect of the approved development, the following methods shall be adopted by suitably qualified and experienced personnel engaged by the registered proprietor of the land.

Removal of the identified habitat tree(s) shall be conducted by qualified arborists with an appropriately trained and vaccinated ecologist in attendance, who shall inspect the hollows and recover any injured or displaced native fauna. Council's Senior Ecologist shall be informed prior to the removal operation. The trees shall be felled sensitively using top-down techniques or other appropriate techniques to minimise mortality and injury risks to resident fauna and the arborists shall inspect each hollow progressively and thoroughly. The ecologist shall provide a report to Council's Senior Ecologist within one-week of the tree-clearing operation. This report shall outline the results of the fauna recovery operation including details of the hollows removed (number, entrance diameter, cavity length, cavity dimension), fauna species affected (including number, sex, breeding status) and evidence of former species presence. Any native fauna species collected during the felling process shall be captured, if possible. If demonstrably unharmed, such fauna shall be re-released in an area of suitable habitat away from the clearing works. If injured, the animal shall be transported to a vet or appropriate wildlife carer. Exotic vertebrate fauna collected shall be humanely and appropriately euthanized. Immediately following the removal of hollow-bearing trees, the registered proprietor shall establish a sufficient number of artificial nesting boxes on the land so that there is not a net loss of hollows as a consequence of the development.

37. During all general habitat and vegetation removal, and in addition to the required supervision of the felling of habitat trees, machinery operators shall inspect the crown, foliage and trunks of trees that require removal immediately prior to any felling to investigate the presence of koalas or other native vertebrate non-flying fauna. If such wildlife is detected, the tree shall not be cleared until the animal has dispersed of its own free will from the area.
38. During the construction, only those trees specified in the approved tree management plan provided for in these conditions that are identified for removal shall be removed, harmed or affected by the works. All other native vegetation on the land shall be protected from harm.

Tree removal shall be conducted by dismantling or selective directional felling only away from areas of natural vegetation and those trees to be retained on the land.

39. Trees and vegetation cleared from the site to facilitate the proposed development shall not be disposed of by burning. All useable trees and shrubs shall be salvaged for re-use either in log form or as woodchip mulch for landscaping, erosion control, humic layers in restoration or replanting areas or in bushland rehabilitation. Non-salvageable material, such as roots and stumps, may be disposed of by the applicant in an approved form at sites nominated by Council.
40. No barbed wire fencing shall be erected anywhere on the subject land.

Advisory Note

The Applicant shall obtain development consent or a property vegetation management plan pursuant to the Native Vegetation Act 2003 for the clearing of native vegetation on the site or written confirmation that there is no statutory need for such from the Hunter/ Central Rivers Catchment Management Authority.

The applicant will not be relieved of compliance with either the approval pursuant to the Native Vegetation Act 2003 or this consent in the event of any inconsistencies between the this consent and approval to clear granted under the Native Vegetation Act 2003. If there is a need for the applicant to be relieved on an aspect of either approval, the applicant must seek the modification of the relevant approval to achieve consistency with both approvals.

48 RESOLUTION

That the above recommendation be adopted with the following amendments:

- Delete A and B, and incorporate deferred commencement conditions A1 and A2 into the development consent conditions, and requiring the details to be provided prior to the issue of the Construction Certificate.

2 PES - Proposed Two Lot Subdivision - DA570/2009 - 9 Carmona Drive, Forster

Index: DA570/2009 & PK20880

Author: Development Assessment Planner – Joanne Dunkerley

DCU Meeting: 24 September 2009

RECOMMENDATION:

That the application for a two lot subdivision at Lot 2 DP 248203, 9 Carmona Drive Forster be approved subject to the following conditions.

1. The development is to be in accordance with the plans numbered 4076 sheet 1 prepared by Wade Roberts and dated 19/03/2009, the application form and on any supporting information received with the application, except as may be amended by the following conditions.

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:

2. The applicant shall submit to and have approved by the certifying authority, the following details for the internal driveway to service the development:-
-

- A plan of the driveway and details showing a minimum 3.0 metres sealed (concrete or equivalent) width and its compliance with Section 4.3.2(b) of "Planning for Bushfire Protection 2006" and Council requirements.
 - A longitudinal section of the driveway, such that it has a maximum gradient of 1 in 4 (25%) with suitable transitions in accordance with Council's Steep Driveway Policy and AS 2890.1.
3. To minimise soil erosion, the following measures shall be implemented in the sequence outlined:
- a) Approved runoff 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.
 - f) The stormwater pollution prevention works shall be done in accordance with Landcom's "Soils and Construction Volume 1 Manual, 4th Edition, March 2004 Managing Urban Stormwater" (Blue Book)

The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to the satisfaction of Council.

4. 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.
5. There shall be no clearing, harm, removal or damage to any trees (as defined by Clause 10 of the Great Lakes LEP 1996) including cabbage tree palms, for any aspect of the registration or formation of the approved subdivision.
6. All Lantana, Bitou Bush, Camphor Laurel, Wild Tobacco Bush and other weeds of national significance and noxious weeds shall be continuously controlled, suppressed and eradicated from the approved Lots 21 and 22. These species shall be controlled using appropriate techniques and in a manner that does not harm or affect native flora species.
7. 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 Subdivision 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	2.4	persons	@	\$66.12	=	\$158.69
GLW-07	Great Lakes Wide	Headquarters Building	2.4	persons	@	\$198.79	=	\$477.10
GLW-05	Great Lakes Wide	s94 Admin	2.4	persons	@	\$63.29	=	\$151.90
FD04	Forster District	Major Roads Inner Zone	9	one way trips	@	\$481.60	=	\$4,334.40
FD03	Forster District	Aquatic Centre	2.4	persons	@	\$137.37	=	\$329.69
FD01	Forster District	Surf Life Saving	2.4	persons	@	\$69.61	=	\$167.06
FOS-01	Forster District	Open Space	2.4	persons	@	\$1,246.01	=	\$2,990.42
FD07	Forster District	Library Facility	2.4	persons	@	\$431.14	=	\$1,034.74
FD11	Forster District	Community Facilities	2.4	persons	@	\$470.61	=	\$1,129.46
						Total		\$10,773.46

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 Contribution Plans 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.

8. **Prior to the submission of the subdivision certificate**, a Driveway Application is to be submitted to Great Lakes Council for the works listed below. All work is to be at the developer's expense and completed in accordance with the Driveway Levels issued by Great Lakes Council and the following:
- Construct a concrete dish gutter crossing across the existing driveway.
 - Alterations and reconstruction works to the existing concrete driveway as required, (Note that the driveway is to conform to Council's road design standard and standard drawing STD 26 V).
 - Erect two white posts with reflectors at the driveway entrance.
 - Raise the water service meter/valve cock and Telstra service box located in the nature reserve/footpath area of Carmona Drive (adjacent to the north western corner of the development site) to surface level and fill and turf the area to suit.

All works shall be completed prior to the release of the subdivision linen plans.

9. **Prior to the issue of the Subdivision Certificate**, the internal driveway shall be sealed from the front boundary to the existing garage of the dwelling within proposed Lot 22 and in accordance with the approved driveway plan, associated details and longitudinal section.

10. **Prior to the issue of a Subdivision Certificate** a Certificate of Compliance from Telstra Australia is to be submitted to the Certifying Authority to verify that satisfactory arrangements have been made and all payments have been finalised for the supply of telephone services to the development.
11. **Prior to the issue of a Subdivision Certificate**, a Certificate of Compliance from Country Energy is to be submitted to the Certifying Authority 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.
12. **Prior to the issue of a Subdivision Certificate**, a Certificate of Compliance is to be submitted to the Certifying Authority from MidCoast Water prior to the release of this 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.
13. **Prior to the issue of a Subdivision Certificate**, the applicant shall submit details of an suitable piped interallotment drainage system for proposed Lot 22 over proposed Lot 21. The pipeline class must be capable of vehicle loadings.
14. **Prior to the issue of a Subdivision Certificate**, certification from a registered Surveyor shall be submitted to Council stating that services or public utilities connected to the existing building/s within proposed Lot 22, are located within the created easements.
15. **Prior to the issue of a Subdivision Certificate**, the Applicant shall engage an ecologist to prepare and submit to the Council a Habitat Management Plan ("the Plan") for that part of the land of proposed Lots 21 and 22 comprising the area generally shown as "remnant vegetation" on the plan of "Proposed Subdivision at 9 Carmona Drive, Forster", drawn by Wade Roberts, sheet 1 of 1, dated 19/03/09.

The Plan shall be prepared to the written satisfaction of and approval by Council's Senior Ecologist with the over-riding principles and targeted outputs, as a minimum, of protecting and preserving the ecological integrity of the littoral rainforest and enhancing and embellishing the natural function, evolutionary development and succession of this vegetation. The Plan, shall contain maps, plans and information pertaining to issues, actions, responsibilities and timing with respect of the following:

- i) the means to protect, where possible, the littoral rainforest from any bushfire event,
- ii) the appropriate eradication, control, suppression, removal and monitoring of noxious weeds and weeds of national significance,
- iii) the appropriate control of any exotic fauna or grazing stock,
- iv) annexure of the details of the restrictions on use and public positive covenant,
- v) the means by which access shall be suitably managed and controlled, and
- vi) the means with which boundaries shall be identified without the use of fencing.

The registered proprietor(s) of the land shall carry out the necessary works referred to in the Habitat Management Plan. All works are to be completed to the satisfaction of Council's Director of Planning and Environmental Services.

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. The registered proprietors of the lands shall have registered by the Registrar-General a plan as a deposited plan showing that part of the land of proposed Lots 21 and 22 comprising the area generally shown as "remnant vegetation" on the plan of "Proposed Subdivision at 9 Carmona Drive, Forster", drawn by Wade Roberts, sheet 1 of 1, dated 19/03/09 and which plan is to identify the area affected by the restrictions on use and public positive covenant such that on its registration, the restrictions on the use of land and public positive covenant set out in the conditions above are entered on the appropriate title(s). The final location of the boundary shall be determined by Council's Senior Ecologist.
18. No dwelling is to be erected on the land outside the building envelope as shown in the Plan of "Proposed Subdivision at 9 Carmona Drive, Forster", as prepared by Wade Roberts, dated 19/03/09. Details of the above are to be indicated on the final subdivision plan and copies of any respective Section 88B Instrument are to be submitted with the application for a subdivision certificate.
19. 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) Appropriate easement/s for any utility services to service proposed Lot 22.
 - c) A minimum 1.0 metre wide easement to drain water over the approved interallotment drainage system that has constructed within Lot 21 to service proposed Lot 22.
 - d) A minimum 6.0 metres wide easement for access over the resultant driveway that provides access to proposed lot 22 where it burdens proposed Lot 21. The easement for access shall benefit lot 22 and increased in width where there is a vehicle passing bay.

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.

20. In respect of proposed Lots 21 and 22 and **prior to the issue of the Subdivision Certificate:**

20.1 The Applicants are to take all necessary steps to ensure restrictions on the use of land pursuant to the provisions of Section 88B as well as public positive covenants pursuant to the provisions of Section 88E of the Conveyancing Act 1919 to the following effect, are recorded in the Register kept under the Real Property Act 1900:

- (1) No development shall be carried out on, in, over or under that part of the land generally shown as "remnant vegetation" on the plan of "Proposed Subdivision at 9 Carmona Drive, Forster", drawn by Wade Roberts, sheet 1 of 1, dated 19/03/09 and shown in the plan registered with the instrument creating this restriction.

The final location of the western edge of this restriction shall be specifically identified in the field and marked by Council's Senior Ecologist and then surveyed by a Registered Surveyor prior to any registration of the subdivision or finalisation of the Section 88B/E instrument required in this condition.

"Development" in this restriction has the same meaning as that word in the Environmental Planning and Assessment Act 1979.

"Land" means proposed Lots 21 and 22 and are the lots burdened.

In the above restriction:

- (i) a reference to a statute or regulation includes a reference to a statute or regulation that amends or replaces the statute or regulation, and

- (ii) if the meaning of a word or expression is defined by a provision of a statute or regulation, and the meaning needs to be understood by reference to words in the provision that are elsewhere defined in that legislation, then that reference may be made.

The Council of Great Lakes shall have the following powers for the purposes of this restriction:

- (a) for the purpose of ensuring observance of the restriction the Council may, by its employees, agents contractors, or persons authorized either by it or its General Manager, enter upon the lots burdened after giving reasonable notice to the registered proprietor of the lots burdened or its officer, agent or representative, and view the condition of the land and anything upon it;
 - (b) where there has been a failure of the registered proprietor to observe the restriction, the Council may, by its employees, agents, contractors or persons authorized by it or its General Manager, remedy the failure (and if necessary to do so, enter upon the lots burdened) provided:
 - (i) it has beforehand given written notice to the registered proprietor of the land of the failure that is the basis for the proposed exercise of the power and requiring the registered proprietor within 42 days to remedy the failure at no expense to the Council, and
 - (ii) the registered proprietor has not, in the opinion of the General Manager of the Council adequately and sufficiently remedied that breach in that period as required, provided however in an emergency, the period in (i) may be such period as is reasonable in the circumstances.
 - (c) the Council may recover from the registered proprietor in a court of competent jurisdiction, any expense reasonably incurred by it in exercising any power and doing any act authorized by (a) or (b) above.
- (2) No harm shall be caused to any part of the Natural Heritage and/ or Cultural Heritage on the land of proposed Lots 21 and 22 comprising the area generally shown as "remnant vegetation" on the plan of "Proposed Subdivision at 9 Carmona Drive, Forster", drawn by Wade Roberts, sheet 1 of 1, dated 19/03/09 and the following activities, namely the:
- (a) clearing, destruction, removal of or injury to any local native trees, plants or grasses on the area,
 - (b) planting of any trees, grasses or plants except Local Native Flora on the area,
 - (c) carrying out of any act which may significantly adversely affect any Local Native Flora or any Local Native Fauna or their related habitats on the area,
 - (d) wilful degradation of the natural state of or in the flow, supply, quantity, or quality of, any body of water on the area,
 - (e) entry of livestock to the area,
 - (f) release or wilful introduction of any animal (but excluding an assistance animal), including any cat, dog or other domestic animal, other than Local Native Fauna in the area,
 - (g) exploration or mining extraction or production of gas, petroleum, minerals or other substances on the area,
 - (h) establishment of any transmission lines or other services or works on the area,

- (i) removal, introduction or disturbance of any soil, rocks, or other minerals or the construction of channels, drains or dams on the area,
- (j) operation of any trade, industry or business, the recreational use of trail bikes or four wheel drive vehicles, the accumulation of rubbish or the storage of any materials other than materials being used or intended to be used by the registered proprietor on the lot burdened, or any other activities not consistent with the objectives of this restriction in the area,
- (k) removal of any timber including fallen timber from the area,
- (l) access by an unauthorised person to the area,
- (m) erection, installation or display of any notice except for the purpose of advising the restrictions set out in this restriction on the area,
- (n) the establishment of any asset protection zone for bushfire protection on the area for any proposed or future development that is located on adjoining land,
- (o) the construction, erection and maintenance of any boundary, dividing or internal fence or the clearing of local native flora for the purpose of boundary survey or the establishment of any fence on the area are prohibited unless:
 - required by law, in which case the registered proprietor shall notify the Council immediately in writing of any such proposed activity and refrain from giving any consent until approved by the Council; or
 - the same is carried out in accordance with the development consent granted by a consent authority; or
 - in accordance with the written consent of the Council of Great Lakes.

In relation to this restriction:

“Animal” has the meaning given under the National Parks and Wildlife Act (NSW) 1974

“Assistance animal” has the same meaning as given in the Companion Animals Act 1998

“Clearing” has the meaning given in the Native Vegetation Act (NSW) 2003

“Consent authority” has the same meaning as in the Environmental Planning and Assessment Act 1979 as amended

“Council” means Council of Great Lakes or its successor

“Cultural Heritage” means in relation to land, places, objects and features of cultural value in the landscape including places, objects and features of significance to Aboriginal people

“Dealing” in relation to the land includes a sale, transfer, assignment, lease, mortgage or charge encumbrance

“Development” has the same meaning as in Section 4 of the Environmental Planning and Assessment Act 1979 but also includes the acts and omissions proscribed by paragraphs (a) to (m) inclusive in the restrictive covenant above

“Land” means proposed Lots 11 and 12 and are the lots burdened

“Law” or “legislation” includes any requirement of any Commonwealth or New South Wales statute, rule, regulation, proclamation, ordinance or by law, present or future, or common law or equity

“Local Native Fauna” means any animal, mammal, bird, reptile or amphibian that is native to New South Wales and which is naturally occurring within a 50-kilometre radius of the lot burdened

“Local Native Flora” means any plant life that is native to New South Wales and which is naturally occurring within a 50-kilometre radius of the lot burdened and includes trees

“Natural Heritage” includes the following:

- (a) Ecosystems and ecosystem processes,
- (b) Biological diversity (within the meaning of the Threatened Species Conservation Act 1995 (NSW)),
- (c) Landforms of significance (for example, caves of scientific significance),
- (d) Geological features and processes.

“Parties” means the registered proprietor of the lot(s) burdened and the Council.

“Unauthorised” means not authorised by the registered proprietor of the lot burdened or the Council.

Unless the context requires otherwise, in this restriction:

- (a) the singular includes the plural and conversely;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (e) a reference to a clause or schedule is a reference to a clause of, or a schedule to, this covenant;
- (f) a reference to a deed or document (including a reference to this covenant) is to the deed or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this covenant or that other deed or document;
- (g) a reference to a party to this covenant or other deed or document includes the parties' successors, permitted substitutes and permitted assigns (and, where applicable, the parties' legal personal representatives);
- (h) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (i) if a party consists of two or more persons the covenant binds each of them separately and any two or more of them jointly.
- (j) a reference to a statute or regulation includes a reference to a statute or regulation that amends or replaces the former with a similar provision;
- (k) if the meaning of a word or expression is defined by a provision of a statute or regulation, and the meaning needs to be understood by reference to words in the provision that are elsewhere defined in that legislation, then that reference may be made.

The Council of Great Lakes shall have the following powers for the purposes of this restriction:

- (a) for the purpose of ensuring observance of the restriction the Council may, by its employees, agents contractors, or persons authorized either by it or its General Manager, enter upon the lots burdened after giving reasonable notice to the registered proprietor of the lots burdened or its officer, agent or representative, and view the condition of the land and anything upon it;
- (b) where there has been a failure of the registered proprietor to observe the restriction, the Council may, by its employees, agents, contractors or persons authorized by it or its General Manager, remedy the failure (and if necessary to do so, enter upon the lots burdened) provided:
 - (i) it has beforehand given written notice to the registered proprietor of the land of the failure that is the basis for the proposed exercise of the power and requiring the registered proprietor within 42 days to remedy the failure at no expense to the Council, and
 - (ii) the registered proprietor has not, in the opinion of the General Manager of the Council adequately and sufficiently remedied that breach in that period as required, provided however in an emergency, the period in (i) may be such period as is reasonable in the circumstances.
- (c) the Council may recover from the registered proprietor in a court of competent jurisdiction, any expense reasonably incurred by it in exercising any power and doing any act authorised by (a) or (b) above.

20.2. The land burdened by the restrictions on use and public positive covenant referred to above are parts of the proposed Lots 21 and 22 of DA 570/2009.

The Council of Great Lakes is the prescribed authority for the purposes of Division 4, Part 6 of the Conveyancing Act 1919, and is to have the benefit of the restrictions and the public positive covenants.

49 RESOLUTION

That the above recommendation be adopted.

1 PES - Proposed Dwelling - DA30/2010 - 4 Sinclair Drive, Tea Gardens

Index: DA30/2010 & PK 31585
Author: District Building Surveyor - Nick Green
DCU Meeting: 24 September 2009

RECOMMENDATION:

It is recommended that the application to construct a dwelling at Lot 549 DP 1051765, 4 Sinclair Drive, Tea Gardens, be approved with a finished floor level of RL2.70m AHD and be subject to the following conditions:-

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.
-

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:

2. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia, at not less than the following stages prior to proceeding to the subsequent stages of construction:
 - a) Pier holes before they are filled with concrete.
 - b) Steel reinforcement.
 - c) Framework including floor, wall and roof framing prior to fixing of internal lining.
 - d) Stormwater drains.
 - e) When drainage lines are laid in position and prior to covering in.
 - f) Wet area flashing prior to covering in.
 - g) Final.
3. 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.
4. Development must be completed in accordance with Basix Certificate No 254605S unless otherwise amended prior to the issue of a final Occupation Certificate.
5. 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).
6. Submission of a Damage Bond Application Form and payment of a bond in the amount of \$1,150, 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 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:

\$110.00 for 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.
7. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the principal certifying authority that they have complied with the applicable requirements of Part 6.
8. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. 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.
- b) Footings of the proposed structure.
- c) Structural steel beams/columns.

Where it is proposed to use driven timber piles as part of any building footing system, the following certification from a professional engineer shall be provided prior to a footing inspection:

- i) The durability class (and/or chemical treatment grade) of all piles used within the footing system; and
 - ii) That the driven piles have achieved the required bearing capacity.
9. Retaining walls or other approved methods of preventing movement of the soil must be provided if the soil conditions require it and adequate provisions made for drainage. Where retaining walls exceed one (1) metre in height, Engineers details must be submitted to and approved by the Principal Certifying Authority.
 10. 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 must be a standard flushing toilet and must be connected to MidCoast Water's sewer; and
 - b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
 11. The development is not to be used or occupied until it is completed in accordance with the approved plans and conditions of development consent.
 12. Roof material shall be of a subdued low-reflective colour installed in accordance with the manufacturer's details. The colour of the roofing material is to be approved by Council prior to the issue of any Construction Certificate (unpainted metal, zincalume, white or off-white materials are not acceptable).
 13. The developer submitting a Driveway Application to Great Lakes Council prior to the issue of a Construction Certificate.

All work is to be at the developer's expense and completed in accordance with the Driveway Levels issued by Great Lakes Council, and the following:

- a) Driveways being constructed in concrete over the footpath, at right angles to the kerb and gutter.
- b) Existing driveways and laybacks, which are not approved as being required for the development, are to be removed and the footpath and kerb reinstated.
- c) Footpath crossings shall be:
 - located 1 metre from the southern property boundary;
 - minimum 3 metres at the kerb
 - minimum 3.5 metres at the property boundary
- d) Any landscaping works, fences or screens etc. adjacent to the exit driveway shall be generally a maximum 500 mm high. The area that this is to apply to is within a line taken from the following points:-
 - the first 2.5 metres from the boundary.
 - extending 2.0 metres either side of the driveway along the site frontage.
This condition is to help drivers of vehicles exiting the site obtain a 2.0 metres sight distance of pedestrians along the footpath from within the site.

- e) Driveways to meet Great Lakes Council standards issued prior to release of the Damage Bond.
15. The finished floor level of the dwelling shall be 2.70m AHD and shall be verified by the submission of a Surveyor's Report to the principal certifying authority prior to pouring of concrete.
16. All electrical installations on sites on flood liable land shall comply with the requirements of Country Energy. In this regard, the applicant shall submit to Council documentary evidence from a licensed electrician indicating that the proposed electrical installations comply with this Authority's requirements for sites/lots in flood affected areas prior to issue of an occupation certificate.
17. The applicant must meet the full cost for any utility services (eg. Telstra, Optus, Country Energy or MidCoast Water etc) to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.
18. A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.

Note that this condition has been applied so that the applicant/contractors are aware of and take measures to protect the utility services within and adjacent to the site during the construction and excavation works.

19. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name, address and telephone number of the principal certifying authority for the work; and
 - (c) showing the name of the principal contractor and a telephone number at which that person may be contacted outside of working hours.

Any such sign is to be removed when the work has been completed.

20. 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.
21. Construction must comply with **AS3959-1999 level 1** 'Construction of Buildings in Bushfire prone areas'. Details are to be submitted as to compliance before issue of Construction Certificate.
22. The entire property shall be managed as an 'Inner Protection Area' as outlined within section 3.1 in Planning for Bushfire Protection 2006.
23. A tank with a capacity of 5000 litres for a dedicated fire fighting supply shall be provided. A 65mm or 38mm storz fitting and ball gate valve shall be installed in the tank.

The following condition/s have been applied to ensure that reasonable levels of health, safety and amenity for the occupants of the building, neighbouring properties and the locality are maintained after the erection of the proposed building:

24. Building materials, sand or waste materials shall not be placed on the footway or road reserve at any time.

25. Premises to be used as a single residential dwelling only at all times and shall not be used or adapted for separate use or occupation as multiple dwellings without the prior consent of Council.
26. There is to be no construction and/or demolition works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 6.00 pm Saturday, and prior to 9.00 am and after 4.00 pm Sunday.
27. Discharge of the stormwater to the kerb and gutter being in accordance with Council's standards. Stormwater from paved areas is not to be discharged across the footpath.

Where the slope of the pavement area is such that it drains towards the footpath, either:-

- a. Connection to the kerb by a rigid kerb adaptor.
- b. The driveway sloped onto and over an adjacent landscaping area within the site so that oils and greases within the stormwater runoff can be removed prior to the stormwater discharging to Council's stormwater system.

The following conditions 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:

28. External paths and ground surfaces are to be graded and drained away from the building and adjoining premises in such a manner so as not to result in the entry of water into a building or cause a nuisance.

The following condition/s have been applied to ensure compliance with Council's Erosion and Sediment Control Policy:

29. To minimise soil erosion, the following measures shall be implemented in the sequence outlined:
 - a) Approved runoff 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 upslope 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.
 - f) The stormwater pollution prevention works shall be done in accordance with Landcom's "Soils and Construction Volume 1 Manual, 4th Edition, March 2004 Managing Urban Stormwater" (Blue Book)
30. 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.
31. Measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development. Details are to be submitted with the application for a construction certificate.

32. The site shall be landscaped with all disturbed ground being stabilised against erosion to Council's satisfaction within 30 days of completion of building works.

50 RESOLUTION

That the above recommendation be adopted.

4 PES - Proposed Stainless Steel Rail Carriage to be Used as a Home or Moveable Dwelling and Steel Sheds (All Unauthorised Works) - DA18/2009- 1284 Minimbah Road, Nabiac

Index: DA18/2009 & PK17792

Author: District Building Surveyor - James Muller

DCU Meeting: 24 September 2009

The committee considered a letter tabled at the meeting from Mr Sam Ekermawi (Applicant) dated 22 September 2009.

RECOMMENDATION:

In accordance with the provisions of the environmental planning and assessment act and regulations thereunder the application is recommended for refusal due to insufficient information.

It is recommended that Attachment B be classified as Confidential in accordance with Section 10A(2) of the Local Government Act 1993 as it has been previously decided that it remain confidential:

- A. It is recommended that that application to retain and convert the unauthorised installed rail carriage be refused for the following reasons.
1. Insufficient information provided to allow proper assessment of the application in terms of;
 - a. the ecological assessment submitted with the DA is inadequate and limited in its scope. It is also based on limited field survey intensity (2 days and 2 nights), was conducted outside the appropriate season (October – April inclusive) and was undertaken shortly after a wildfire event had affected the subject lands, thus affecting the adequacy of the field survey methods deployed on the land.
 - b. inadequately addressed access to the site.
 - c. failure to address the aims and matters for consideration under State Environmental Planning Policy number 71.
- and;
- B. It is further recommended that Council give notice to serve Order number 2 under section 121B of the Environmental Planning and Assessment Regulation 2000 to have the rail carriage and other structures removed.
- C. A penalty infringement notice be given to the applicant for undertaking development without consent where consent would have been necessary.

51 RESOLUTION

That the above recommendation be adopted.

MEETING CLOSURE

The meeting closed at 2.50pm

CHAIRPERSON