

JRPP NO:	2010HCC012
DA NO:	38591/2010 Part 1
PROPOSED DEVELOPMENT:	Designated and Integrated Development. Re-subdivision from 4 Lots into 3 Lots with one (1) Dwelling House on each Lot on LOT: 5-8 DP: 843831, 339-379 Avoca Drive GREEN POINT
APPLICANT:	Highlight Consulting
REPORT BY:	Fred Dobbs

Assessment Report and Recommendation

The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979.

EXECUTIVE SUMMARY

Reason for Referral to Joint Regional Planning Panel (JRPP)

The proposal is designated development under Clause 13B(1)(e) of SEPP (Major Projects) Amendment (Joint Regional Planning Panels) 2009

Assessing Officer

F W Dobbs

Reviewing By

Independent Development & Environment Panel (IDEP)
Director Environment and Planning
General Manager

Date Application Received

23/04/2010

Proposal

Designated and Integrated Development. Re-subdivision from 4 Lots into 3 Lots with one (1) Dwelling House on each Lot.

Zone

Conservation 7(a)-IDO122

Area

5.032ha

City Vision 2025

Although not a statutory Plan, the proposal is consistent with the City Vision.

Public Submissions

One (1)

Pre-DA Meeting

Not Held

Relevant Statutory Provisions

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 State Environmental Planning Policy (Major Development) 2005
- 4 SEPP 19 – Bushland in Urban Areas
- 5 State Environmental Planning Policy 71 - Coastal Development
- 6 Draft Gosford Local Environment Plan 2009
- 7 IDO 122 - Clauses 5, 20, 22, 27,28,29 and 30
- 8 Rural Fires Act 1997
- 9 DCP 128 - Public Notification of Development Applications
- 10 DCP 130 - Subdivision of Rural and Non-Urban Land
- 11 DCP 155 - Single Dwellings and Ancillary Structures
- 12 DCP 159 - Character

Key Issues

- 1 Interim Development Order No 122
 - Objectives of Zone
 - Character
 - Common Ownership - Clause 22
 - Permissibility - Clauses 18 and 20
- 2 Draft Gosford Local Environment Plan 2009
- 3 Climate Change and Sea Level Rise
- 4 SEPP 1 - Development Standards
- 5 SEPP 71 - Coastal Protection
- 6 SEPP 14 - Wetlands
- 7 Engineering Comments
- 8 Comments from Council's Environmental Officer
- 9 Comments from Council's Tree Management Officer
- 10 Provision of DCP 130 - Subdivision of Rural & Non-Urban Land
- 11 Provisions of DCP 155 - Single Dwellings and Ancillary Structures
- 12 Comments from Rural Fire Service
- 13 Public Submission

Recommendation

Approval – Deferred Commencement

REPORT

Background

A previous application DA 21549/2003 proposing a boundary realignment and dwelling house on each of the four (4) lots was submitted on 09/09/03. . Assessment of that application was completed and the application recommended for refusal by assessment staff for a number of reasons including non-compliance with the objectives of the 7(a) zone, insufficient information to

make an accurate environmental assessment under s79C of the EP & A Act 1979, inadequately addressing SEPP 19 - Bushland in Urban Areas and adverse visual impact on scenic quality and the landscape character of the locality. That application was subsequently withdrawn prior to determination.

On 22/12/09 DA 37181/2009 was submitted. This application proposed a re-subdivision of the current lot layout from four (4) lots into three (3) lots. This application was invalidated by Council as it was incorrectly submitted, inaccurate, incomplete and did not contain enough information to assess the proposal.

On 23/04/2010 the current application, DA 38591/2010 was submitted and accepted by Council notwithstanding that the application was incomplete in that environmental issues particularly in relation to tree removal remained insufficiently addressed. The applicant has subsequently submitted amended plans and additional information in relation to environmental and other issues to facilitate assessment of the application..

The Site

The site consists of four (4) lots located on the southern side of Avoca Drive approximately 200m west of Davistown Road, Green Point. The existing lots are as follows:

Existing Lot	Existing Area
5	1.9150ha
6	1.4590ha
7	0.8686ha
8	0.7890ha
TOTAL	5.032ha

The existing lots fall from Avoca Drive towards the adjoining public land in the ownership of the Department of Planning at the rear of the site. The site also has cross-fall from Elphin Hill Rd to the east. The site is largely covered with native vegetation including a number of large mature Eucalypts. With the assistance of Council staff the applicant has submitted an amended plan that now forms this application which locates proposed dwellings and the proposed sewer line in areas of least impact such as existing cleared areas away from large trees where possible.

The Proposal

The proposal is as follows:

- 1 Re-subdivision of the existing four (4) lots into 3 new lots as follows:

Proposed Lot	Proposed Area
51	2.031ha
52	2.212ha
53	0.789ha
TOTAL	5.032ha

- 2 Construction of one (1) dwelling house on each new lot
- 3 Connection of all three lots to the sewer main in Pixie Avenue via an easement to be created over the public land to the south.

Assessment

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports approval by deferred commencement of the

application and has identified the following key issues which are elaborated upon for Council's information.

Interim Development Order 122

a Objectives Of Zone

Clause 5(3) of Interim Development Order No 122 stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

In this instance, it is considered that the proposal is consistent with the stated objectives of the Conservation 7(a)-IDO122 Zone as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993.

b Character

Clause 5(4) of Interim Development Order No 122 stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

The site is located within the Scenic Conservation 14 : Green Point character locality under the provisions of DCP 159 - Character. The main attributes of desired character with regard to the proposal are as follows:

- These landmark reserves should remain near-natural buffers between residential areas, where active environmental management conserves the ecological and scenic qualities of Gosford City's unique forested hillsides and ridgetops.
- Conserve the natural qualities of hillside and ridgetop reserves by preventing further clearing of bushland, and avoid any land-management activity that would compromise the long-term diversity, vigour and habitat value of natural plant communities occurring in these reserves.
- Control any infestations of noxious or environmental weeds, and progressively repair any disturbance to landforms or natural vegetation using bush-regeneration techniques.
- Employ ecological best practice for bushfire hazard reduction, for example mosaic burns, in order to strike a balance between conservation, scenic quality and public safety.
- Where recreational or infrastructure works are necessary, ensure that natural landscape settings are not dominated by the size, siting, design or construction of new structures.
- Avoid disturbing natural slopes and bushland by locating works or structures primarily within existing cleared areas. Where there is no reasonable alternative, allow minor clearings in locations that have a lesser ecological value, where effective long-term management of bushland ecology would not be compromised and where the extent of scenic bushland backdrops that are visible from major roads, waterways or surrounding neighbourhoods would not be interrupted.
- In sloping areas and close to bushland, very-low impact construction such as light-weight framed structures with suspended floors and decks should be used, and cut-and-fill techniques should be avoided.

The subdivision proposal creates a positive environmental effect in that the wetland areas at the eastern end of the site will be retained in their natural state. The proposed dwellings and the proposed sewer line are located on each of the proposed new lots such that tree removal is minimised. Each dwelling is designed to minimise cut/fill by using "drop edge" beam construction and suspended floors and decks. Clearing for APZ's will be minimal and is

generally restricted to understorey with most large trees being retained. The current subdivision proposal and location of building footprints and the sewer line has been prepared in consultation with Council Officers and environmental and tree management impacts are minimised. Both Council's Senior Environmental Officer and Tree Management Officer have no objection to the proposal.

Sufficient vegetation will be retained to minimise the visual impact and appropriately screen the three (3) proposed dwelling houses when viewed from Avoca Drive. In this instance, the proposal therefore does not detract from the character of the immediate locality.

c Common Ownership - Clause 22

All existing lots are adjoining and were held in the same ownership on 18 February 1977. Under the provisions of Clause 22 of IDO 122, the land therefore has one (1) building entitlement subject to consolidation of the lots unless an application is submitted as designated development for erection of a dwelling house on each lot.

The eastern portion of the site (part of existing lot 5 DP 843831) contains SEPP 14 Wetlands. The application therefore includes a re-subdivision of the land from four (4) lots into three (3) lots which enables location of one (1) dwelling house on each lot in areas of the site that will have the least environmental impact and result in minimal tree removal.

d Permissibility - Clauses 18 and 20

Clause 18(3)(a) of IDO 122 requires a minimum area of 40 hectares for new lots.

Clause 20(1)(c) of IDO 122 permits subdivision for the purpose of enlarging the area of any allotment without reducing the area of any other. The proposal complies with this requirement by reducing the number of lots to three (3) and areas remaining the same in the case of proposed lot 53 or being increased in the case of proposed lots 51 and 52.

e Building Height - Clause 29

Clause 29(1) requires that the height of a building shall not exceed 8 metres. The proposed dwelling on proposed Lot 53 has a maximum height of 8.4 metres. This building height is in accordance with Clause 29(2) which allows a minor departure from the maximum height.

Draft Gosford Local Environmental Plan 2009

The application has been assessed under the provisions of Draft Gosford Local Environmental Plan 2009 in respect to zoning, development standards and special provisions. The proposed zoning under Draft Gosford LEP is E2 Environmental Conservation. The assessment concluded the proposal is consistent with the Draft Plan.

Climate change and sea level rise

Climate change and sea level rise have been considered in the assessment of this application.

Climate change and sea level rise will be felt through:

- increases in intensity and frequency of storms, storm surges and coastal flooding;
- increased salinity of rivers, bays and coastal aquifers resulting from saline intrusion;
- increased coastal erosion;
- inundation of low-lying coastal communities and critical infrastructure;
- loss of important mangroves and other wetlands (the exact response will depend on the balance between sedimentation and sea level change); and
- impacts on marine ecosystems.

Internationally there is a lack of knowledge on the specifics of climate change and the likely impact it will have on the subject development. Government action may mitigate the impact of climate change and the question of sea-level rise may be able to be addressed through the construction of containment works or through Council's policies that may be developed over time.

In the absence of any detailed information at the present however, refusal of this application is not warranted.

SEPP 71

The provisions of State Environmental Planning Policy (SEPP) No 71- Coastal Protection requires Council consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the Department of Planning NSW. The subject property falls within the Coastal Zone.

The Aims and Objectives and the matters listed under Clause 8 have been considered and the application complies with the provisions of the SEPP.

Engineering Comments

Council's Senior Development Engineer provides the following comments:

"ROADWORKS, ACCESS, AND TRAFFIC"

The existing lots have a frontage to Avoca Drive. Avoca Drive has kerb and gutter and a guard rail across the frontage of the site with these works being constructed when this section of Avoca Drive was upgraded to 4 lanes (2 lanes each direction separated by a central median). There are breaks in the guard rail where vehicular laybacks were provided for each of the existing 4 lots for access. The proposed re-subdivision proposes to utilise the existing access points for access to the proposed lots. There are "No Stopping" restrictions across the frontage of the site in Avoca Drive.

Road works

No road pavement works are required in conjunction with this development for either the re-subdivision or construction of the dwellings.

Access

Although the access points were established with the previous RTA works with existing laybacks, vehicular access crossings are to be approved with the future dwellings. The RTA requires that these be reconstructed to a minimum of width of 6m (see RTA comments below for requirements). With due consideration to the central median in Avoca Drive, traffic movements for these lots are restricted to left in / left out only.

Internal accesses are to be constructed in conjunction with the future dwellings on lot 51, 52, and 53, and are required to comply with Australian Standard AS2890 and the requirements of section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

Traffic

Avoca Drive has the capacity to accommodate the traffic generated by the three proposed dwellings.

Roads & Traffic Authority

The site has a frontage to Avoca Drive that is a State road. On this basis the application was referred to the RTA, who responded in their correspondence dated 28/5/2010 as follows:

The RTA is in receipt of Council's correspondence dated 6 May 2010 regarding the subject development application. The RTA has no current proposals that require any part of the property.

The RTA's primary interests are in the road network, traffic and broader transport issues, particularly in relation to the efficiency and safety of the classified road system, the security of property assets and the integration of land use and transport.

In accordance with the Roads Act 1993, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. RTA concurrence is required for works, structures, and disturbances to, in, on, under or over classified roads, under section 138 of the Act, with Council consent. Council is the roads authority for all roads in the area.

The RTA raises no objections to the current proposal subject to the following conditions, which should be incorporated within any future development consent issued by Council.

Development Engineer's Comment

This information is noted.

RTA comment

So as to minimise the numbers of driveway locations, consideration should be given to consolidating the proposed driveways to Lots 51 and 52.

Development Engineer's response

This has been considered however it would be better to provide each lot with a separate access as these access points have already been established with the previous RTA works.

RTA comment

The largest design vehicle must be able to enter and exit the site from the kerbside lane on Avoca Drive.

Development Engineer's response

This will be appropriately conditioned.
(Refer conditions 2.3a)

RTA comment

All driveways are to be a minimum of 6.0m wide at the kerb face and a minimum of 5.5m at the property boundary. Driveway longitudinal grades are to rise at a rate of 2% from the kerb line towards the property for a minimum distance of 3.5m. They then may be transitioned into the property. The driveways are to be sealed for a minimum of 6.0m behind the kerb face. Alterations to the existing guardrail will be required to accommodate these changes.

Development Engineer's response

The existing laybacks are only 4.5m, 4.9m, and 5m wide. Therefore, they will be appropriately conditioned to comply with the RTA's requirements. These works will also require adjustments to the existing guardrail.

(Refer condition 2.3)

RTA comment

Appropriate site works are to be constructed across the street frontage so as to comply with the minimum sight distance requirements and minimum sight lines for pedestrian safety set out in the RTA publication "Guide to Traffic Generating Developments" (1993) and AS/NZS 2890.1:2004 Part I: "Off-Street Car Parking".

Development Engineer's response

This will be appropriately conditioned.

(Refer condition 4.8)

RTA comment

In order to minimise impacts on the stormwater drainage system, including associated flooding behaviour and water quality impacts, stormwater generated from the development site must be managed so as to attenuate post-development flows to predevelopment flows for a full range of design rainfall events. The principles of Water Sensitive Urban Design may be applied in order to achieve this goal.

Development Engineer's response

The site does not drain towards Avoca Drive therefore this condition is not applicable to this development. Appropriate conditions related to DCP165 - Water Cycle Management and water sensitive urban design principles associated with the construction of the dwellings have been included.

(Refer condition 5.4)

RTA comment

The works referred to above are to be undertaken at no cost to the RTA.

Development Engineer's response

This is appropriately conditioned.

(Refer condition 4.9)

RTA comment

It is requested that the consent authority advise the applicant that the conditions of development consent set by Gosford City Council do not guarantee the RTA's final concurrence to the specific road work, traffic control facilities and other structures on the classified road network. The RTA must provide a final consent for each specific change to the state road network prior to the commencement of any work.

Development Engineer's response

This standard RTA advice will be included in the advice section of the consent.

(Refer condition 8.5)

RTA comment

Sediment control measures, in accordance with the RTA Road Design Guide (Section 8), the NSW Department of Housing publication "Managing Urban Stormwater - Soils and Construction" or Council's internal policy documents should be incorporated in any future consent.

Development Engineer's response

Council's standard condition in relation to erosion and sedimentation control are included in the consent.

(Refer condition 4.2)

RTA comment

The following additional comment is also provided for Council's consideration and for issuing advice to the applicant.

The proposed development should be designed such that the road traffic noise from Classified roads is mitigated by durable materials, in accordance with EPA criteria for new residential developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Where the EPA external noise criteria would not feasibly or reasonably be met, the RTA recommends that Council apply the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia:

- All habitable rooms other than sleeping rooms: 45 dB(A) $L_{eq(15hr)}$ and 40 dB(A) $L_{eq(9hr)}$, and*
- Sleeping rooms: 35 dB(A) $L_{eq(9hr)}$*

Development Engineer's response

This is provided in the advice accompanying the consent.

(Refer condition 8.4)

RTA comment

Upon Council's determination of this matter, it would be appreciated if Council could forward a copy of the determination to the RTA for record purposes.

Development Engineer's response

A copy of the determination will be forwarded to the RTA.

FLOODING & DRAINAGE

Council's records indicate that (existing) lots 5 & 6 are affected by flooding from Brisbane Water and that development would need to comply with Council's DCP 115 - Flood Liable Areas Building. As a result of the re-subdivision, the areas that are affected by flooding are contained within lots 51 and 52. It is recommended that the flooding messages on existing lots 5 & 6 (i.e. message no's 5793, 4180, 4525) be carried over to lots 51 and 52 of the proposed development.

The flood level for this site associated with Brisbane Water is RL 1.95m AHD.

The proposed building envelopes are outside of the flood liable areas with a minimum level of RL 4.0m AHD which is above the minimum floor level requirement (RL 2.45m AHD) and although not in Council policy as yet would also comply with an additional 0.9m associated with the Council adopted potential sea level rise by 2100.

The internal drainage systems would need to comply with DCP165 - Water Cycle Management and is addressed in the conditions.

(Refer condition 5.4)

WATER & SEWER

The application was referred to Council's Water & Sewer Directorate who advised that:

- *Water is available to the site.*
- *A section 307 certificate under the Water Management Act 2000 would be required.*
- *The site is not connected to sewer. Should the site be connected to sewer then additional conditions would be applicable.*

The site is proposed to be serviced by sewer on the basis of a private pump station on each of lot 51 and 52 to then connect to a gravity main through lots 52, 53 and lot 1 DP 658216. Council's Water and sewer have raised no objections to this concept subject to conditions and applicable contributions.

In relation to connecting to Council's sewer system, the sewer connection would need to be made with the inclusion of works over lot 1 DP 658216 that is in the ownership of the Department of Planning - Parramatta. A letter from the Department of Planning dated 2 July 2003 submitted with the application indicates concurrence to the creation of an easement to drain sewer subject to conditions and compensation. It is recommended that a deferred commencement be issued on the basis of the creation of the required easement.

Development Engineers Conclusion and Recommendation

No objections are raised to the proposed development subject to the following:

A *The engineering conditions indicated below being included in a consent issued in relation to the assessed proposal.*

i Deferred commencement condition

- 1. Registration of an easement to drain sewer over lot 1 DP658216 to benefit lots 5, 6, 7, 8 DP 843831.*

(Refer Recommendation A)

ii Operative consent conditions below.

B *Certificate Message no's 5793, 4180, 4525 be carried over to the s149 certificates for lots 51 and 52 of the proposed development to provide notification of the flooding associated with these lots."*

(Refer recommendation C)

Comments from Council's Senior Environmental Officer

Council's Senior Environment Officer provides the following comments:

"This assessment has been undertaken following a number of site meetings and discussions with Council's Senior Town Planner, Tree Assessment Officer and the applicant. These meeting and consultation resulted in a number of changes on the positioning of the proposed dwellings, bushfire APZ's and the proposed gravity sewer main.

Section 5A

All works and disturbance of habitat are clearly restricted to proposed dwelling footprints, bushfire asset protection zones and easement for sewer connection as shown on the plans by Bannister & Hunter Pty Ltd 9/11/2010. These areas have been modified from the original lodged proposal so as to maximise the usage of previously cleared / disturbed land and thus minimising impacts on treed and vegetated areas. This has greatly reduced potential impacts on threatened species, populations, ecological communities and their habitats.

Section 5A assessments for listed threatened species, populations, ecological communities and their habitats have been provided in the updated Flora and Fauna Assessment report (Ecological Surveys and Management, December 2009). These assessments have concluded that the proposal is not likely to lead to any significant impacts.

A Vegetation Management Plan will be prepared and implemented that will maintain and improve retained habitat for threatened species and the endangered ecological community listed as Swamp Sclerophyll Forest on Coastal Floodplain.

SEPP 14 – Coastal Wetland

SEPP 14 Wetland No. 935 is located within the eastern portions of proposed Lots 51 & 52 and is associated with Egan Creek. The reconfiguration of the existing four lots into the proposed 3 lots has been primarily done so as to avoid any direct or indirect impacts of this SEPP 14 wetland. The current positioning of the proposal dwelling and associated bushfire asset protection zone on Lot 52 provides a >40m buffer to the SEPP 14 wetland.

Given this, I am satisfied that the current proposal will not result in the clearing of SEPP 14 vegetation or construct a levee on that land, drain that land, or fill that land. Further and given the implementation of a VMP any indirect impact will be avoided.

SEPP 19 – Bushland in Urban Areas

The subject land adjoins vegetated public open space land along the southern and eastern boundaries. Given this, Clause 9 of SEPP 19 applies to this application. In regard to the aims and objectives of this SEPP weed management is the key issue associated with this application.

*In respect to weed management it is acknowledged that the site in its current state exhibits a relatively large amount of weeds due to historic land use and disturbances. The Flora & Fauna Assessment has recommended that a **Vegetation Management Plan** be formulated and implemented to control weed infestations within the site. A condition of development consent will be attached to address this issue.*

(Refer condition 2.6)

Zoning Objectives

Ecological objectives have been discussed in the context of Section 5A, SEPP 14 and SEPP 19 issues.

In regards to scenic protection the Vegetation Management Plan (VMP) shall provide details on a planting schedule for a 5m strip along the northern boundaries of proposed Lots 51, 52 & 53 adjacent to Avoca Drive. This area shall be planted with native ground, mid and upper stratum species to ensure scenic protection values are maintained from Avoca Drive.

In addition, the VMP shall also provide details on a planting schedule for a 5m vegetation strip along the western boundary of proposed lot 53 to maintain privacy and scenic protection values to adjoining existing residential properties.

(Refer condition 2.6)

Tree Removal

Tree removal has been quantified based on a review of Arboricultural Impact Assessment by R Kingdom 22/11/10 and as shown in red on the plans by Bannister & Hunter Pty Ltd 9/11/2010.

Vegetation Management Plan

The following 149 message is to be generated in respect to the Vegetation Management Plan;

'A Vegetation Management Plan applies to this property under DA38591. This message is to be transferred to Lots 51, 52 & 53 upon notification to Council of the registration of the linen plan of subdivision.'

(Refer recommendation D)

Conclusion

The objectives of the relevant policies, zoning objectives and potential environmental impacts associated with the proposal have been considered. No objection is raised to the proposal subject to the attached conditions being included within any consent granted."

Comments from Council's Tree Management Officer

Council's Tree Management Officer provides the following advice:

"The subject application has been considered with the recent Arboricultural Impact Assessment by R Kingdom 22/11/10. The report has nominated the removal of up to 70 trees, mostly consisting of smaller Cheese tree and Blackbutt in areas of proposed works.

The current proposal is a result of several onsite meetings with the applicants consultants and is considered as a reasonably sympathetic approach to tree removal for the development of this 7a zoned property.

It was noted that some works will occur close to several trees not nominated for removal. This is acceptable on this occasion as it has been conditioned that the arborist is to be present at the time of works near trees. Although not expected, if it is found during the works that further trees may require removal, this can be considered between the arborist and Council's Tree Assessment Officer.

I have no objection to the tree removal as nominated within the Arboricultural Impact Assessment by R Kingdom 22/11/10 and accept the tree protection measures as detailed in that report. It should be noted that I have given the applicant the option in the conditions of using a simpler tree protection fence due to the length required for the sewer construction."

Provision of DCP 130 - Subdivision of Rural & Non-Urban Land

DCP 130 - Subdivision of Rural and Non-Urban land is applicable in assessment of the application. The objectives of DCP 130 are as follows:

- 1) To ensure that lots created avoid, or make provision to minimise, the likely affect of natural hazards relevant to the locality, which could be detrimental to the proper use and enjoyment of the land.
- 2) To ensure that the size, shape, and characteristics of new lots are appropriate to the zoning and the possible range of uses.

- 3) To protect the scenic value and natural habitats of rural land.
- 4) To ensure that new lots are in character with the locality and the specific landform, vegetation, soils and geology of the site.
- 5) To ensure the economic utilisation of land resources in the area.
- 6) To ensure the provision of an adequate building area, vehicular access and services on the site.

The proposal is consistent with the above objectives of DCP 130 and all relevant issues have been considered in the relevant sections of this report.

Provisions of DCP 155 - Single Dwellings and Ancillary Structures

DCP 155 - Single Dwellings and Ancillary Structures is applicable in assessment of the application. The proposed three (3) dwelling houses generally comply with the objectives and requirements of DCP 155 with the exception of the following:

Building Line

Clause 9.3.1 of DCP 155 requires all buildings and structures to be located a minimum of thirty (30) metres distance from any public road adjoining the allotment, unless environmental considerations warrant a lesser distance. The proposed dwelling houses on proposed Lot 52 & 53 will have a setback in excess of 30m and are compliant. The proposed dwelling house on proposed Lot 51 will have a setback of 28m from Avoca Drive but is supported with the reduced setback for the following reasons:

- 1) The reduced setback will allow the retention of a significantly large area of vegetation at the rear of proposed lot 52.
- 2) The reduced setback will allow a larger separation between the dwelling houses on proposed Lots 51 & 52.
- 3) The reduced setback provides no greater impact on visual amenity of the proposed dwelling house when viewed from Avoca Drive.
- 4) The Vegetation Management Plan requires provision of a 5m vegetated strip along the boundary adjacent to the Avoca Drive road frontage to ensure scenic protection and amenity is maintained.
(Refer condition 2.6)
- 5) The variation sought is minimal at 2m or 6%.
- 6) The reduced setback complies generally with the objectives of the minimum setback requirement of Clause 9.1 of DCP 155 which are as follows:
 - a) To standardise the building line applicable to properties in the City
 - b) To provide a consistent view along the street frontage and water frontage to promote a more open streetscape and waterscape.
 - c) To provide for the construction of car accommodation with due reference to building lines.
 - d) To ensure that buildings, particularly dwelling houses, constructed in the relevant rural zones and other environmentally sensitive areas are so located and designed so as to minimise any adverse effect on the existing natural environment.

Comments from Rural Fire Service

The site is located within a bushfire prone area. As subdivision is proposed a bushfire safety authority is required from the NSW Rural Fire Service under s100B of the Rural Fires Act 1997.

The RFS have issued the required bush fire safety authority by letter dated 10 January 2010 subject to a number of conditions.

(Refer condition 7.1)

Public Submission

One public submission was received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submission is detailed hereunder.

- 1 The proposed house on Lot 51 is not sufficiently set back from the conservation zone in the same way the other tow house are which is strange as there seems to be plenty of area further back on the site without impeding its utility.**

Comment

The issue of building setback has been assessed above under Provisions of DCP 155 - Building Line. The minor variation to the required 30m setback (the proposed setback is 28m on proposed Lot 51) is supported for the reasons stated above.

The eastern end of proposed Lot 51 is environmentally sensitive containing SEPP 14 Wetlands, mangroves and swamp mahoganies. To minimise environmental impacts any proposed dwelling house on proposed Lot 51 therefore must be located at the western end of proposed Lot 51. The location of the building footprint is the best location to minimise impacts.

- 2 The south west of lot 51 and the conservation zone is at present successfully fostering a considerable population of breeding bellbirds, rosellas, the occasional king parrot, wild ducks, bandicoots, brush turkeys, large lizards and a bower bird. Building construction may directly impact and harm these populations.**

Comment

Building footprints and the sewer line on all three (3) proposed lots are located to minimise vegetation removal. Council's Environmental Assessment Officer has assessed all information provided by the applicant including the Flora & Fauna Assessment and has no objection to the proposal subject to specific conditions which include submission of a Vegetation Management Plan requiring weed management and additional planting along the northern and western boundaries.

Conclusion

Following is a summary of relevant issues:

- 1 Zone Objectives** - The proposal is consistent with the stated objectives of the Conservation 7(a) Zone.

- 2 **Character** - The proposed subdivision itself provides no impact. The proposed dwelling houses on each of the proposed three (3) lots are located to minimise vegetation removal and create the least impact on the wetlands located on proposed Lot 52. Proposed dwellings will utilise drop edge beam construction minimising cut/fill. Generally the proposal has been designed to minimise the environmental impacts associated with development of a Conservation 7(a) zoned site.
- 3 **Common Ownership / Permissibility** - The proposed subdivision is permissible under the provisions of Clause 18(3)(a) of IDO 122 as the area of the existing lots is not reduced. The proposed dwellings are designated development and it has been established that the site is capable of sustaining three (3) dwelling houses as proposed. The proposal is an improved environmental outcome over the existing four lots due mainly to the provision of sewer to each of the lots thereby minimising tree removal.
- 4 **Draft Gosford LEP 2009** - The proposal is consistent with the requirements of the Draft Plan.
- 5 **Access** - Existing access points from Avoca Drive are to be utilised however these have been required by the RTA to be reconstructed to a minimum width of 6m. The internal accesses to the proposed dwelling houses on each proposed lot are required to be constructed to comply with AS2890 and the requirements of section 4.1.3(2) of 'Planning for Bushfire Protection'.
- 6 **Sewer** - Each proposed dwelling house is to be connected to Councils sewer main in Pixie Avenue. The provision of sewer negates the requirement for effluent disposal areas normally associated with on-site disposal of effluent and therefore further minimises tree removal required.
- 7 **Bushfire** - The RFS have advised there is no objection to the proposal subject to a number of conditions which are included in the consent.
- 8 **Environmental & Tree Management Issues** - The proposal will involve the removal of up to 70 trees, mostly consisting of smaller Cheese tree and Blackbutt in areas of proposed works. Direct impacts on the Wetlands will be avoided. A Vegetation Management Plan (VMP) will control weed infestations on the site. Privacy and scenic protection values will be maintained by vegetated planting required under the Vegetation Management Plan along the northern and western boundaries.
- 9 **Public Submissions** – Issues raised in the public submissions including building setback and impact on flora and fauna have been assessed and the proposal is considered acceptable in the circumstances of this case subject to conditions.

With appropriate conditioning as outlined above the proposal will achieve the best environmental outcome when weighed against the permissible development potential of the property. All relevant matters under Section 79C of the EP & A Act 197, Section 89 of the Local Government Act, the objectives of the zoning and the principles of ecologically sustainable development have been considered and approval is recommended.

Attachments	1	Aerial Photograph
	2	Zoning Map
	3	Draft LEP Zoning map
	4	Plans (Subdivision, APZ's, Tree Removal, Dwelling House Plans)

Tabled Items: Nil

RECOMMENDATION

- A In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, the Joint Regional Planning Panel grant a deferred commencement consent to Development Application No. 38591 for Designated and Integrated Development being a Re-subdivision from 4 Lots into 3 Lots with one (1) Dwelling House on each of proposed Lot 51, 52 and 53 in subdivision of LOTS 5-8 DP: 843831, 339-379 Avoca Drive GREEN POINT subject to the following conditions being met to the satisfaction of Council within forty-eight (48) months from the date of this consent. Such satisfaction will be achieved by:
- i Registration of an easement to drain sewer over Lot 1 DP 658216 to benefit lots 5, 6, 7 and 8 DP 843831.
- B Upon compliance with the conditions of deferred commencement and written notification by Council, the consent shall become operative subject to the attached conditions.
- C Section 149 Certificate Message no's 5793, 4180, 4525 be carried over to the s149 certificates for lots 51 and 52 of the proposed development to provide notification of the flooding associated with these lots.
- D The following s149 Certificate Message be generated in respect to the Vegetation Management Plan:
- “A Vegetation Management Plan applies to this property under DA38591. This message is to be transferred to Lots 51, 52 & 53 upon notification to Council of the registration of the linen plan of subdivision.”
- E The applicant is advised of Council's decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.
- F The objectors are notified of Council's decision.
- G The External Authorities be notified of the Joint Regional Planning Panel decision.
- H The external authorities including the Rural Fire Service and the RTA be notified of the determination.

CONDITIONS

DEFERRED COMMENCEMENT

- A This consent shall not operate until the following have been satisfied
- i Registration of an easement to drain sewer over Lot 1 DP 658216 to benefit lots 5, 6, 7 and 8 DP 843831.
- Evidence must be produced to the consent authority sufficient to enable it to be satisfied that above conditions have been complied within forty-eight (48) months of the date of this approval, otherwise this consent will lapse.
- B Upon compliance with the conditions of deferred commencement Council will issue an operative consent (including stamped plans) that is subject to the attached conditions:

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

The development shall be implemented substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

Subdivision Plans by **Bannister & Hunter Pty Ltd**
Architectural Plans by **LAW Building Design (Louise Williams)**

Drawing	Description	Sheets	Issue	Date
53714	Proposed Subdivision (S08)	1	Rev C	11/11/2010
53714	Proposed Subdivision(S04) Tree, Sewer, APZ's, etc	2	Rev 12	16/09/12
57314	Proposed Subdivision (S11) including tree removal plan on Proposed Lot 51	3	Rev B	9/11/2010
57314	Proposed Subdivision (S10) including tree removal plan on Proposed Lot 52	4		9/11/2010
57314	Proposed Subdivision (S09) including tree removal plan on Proposed Lot 53	5		9/11/2010
101006B	Proposed new residence A	2	NA	Nov 2010
101006B	Proposed new residence B	3	NA	Nov 2010
101006B	Proposed new residence C	4	NA	Nov 2010

Supporting Documentation

Document	Title	Date
8947423	Environmental Impact Statement	Nov 2010
9158323	Bushfire Hazard Assessment Report	18 Nov 2010
8947423	Arboricultural Impact Assessment	22 Nov 2010

1.2 Building Code of Australia

All building works must be carried out in accordance with the Building Code of Australia.

2. PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

2.1 No activity is to be carried out on site until a Construction Certificate has been issued. Other than:

- a Site investigation for the preparation of the construction, and/or
- b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.

2.2 The finished surface material, colours and texture of any building and/or hard paved areas reflect the hues of the surrounding natural environment. The details of the materials are to be submitted to and approved by Council prior to the issue of a Construction Certificate.

- 2.3 All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's "Civil Construction Specification", "GCC Design Specification for Survey, Road and Drainage Works" and "Policy 'D6.46 Erosion Sedimentation Control'".

The required works to be designed are as follows:

- a. All three vehicular access crossings are to be a minimum of 6.0m wide at the kerb face and a minimum of 5.5m at the property boundary. Driveway longitudinal grades are to rise at a rate of 2% from the kerb line towards the property for a minimum distance of 3.5m. They then may be transitioned into the property. The driveways are to be sealed for a minimum of 6.0m behind the kerb face. All vehicular access crossings shall be constructed with 150mm thick concrete reinforced with SL72 steel fabric. All three vehicular access crossings shall be designed to ensure the largest design vehicle required to access these lots is able to enter and exit the site from the kerbside lane on Avoca Drive.
- b. Alterations to the existing guardrail to accommodate the required amendments to existing vehicular laybacks.

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate for the building works required under this consent.

- 2.4 Design of the following engineering works within private property:
- a. Driveways and car parking areas for each dwelling must be designed according to the requirements of the current Planning for Bushfire Protection and Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.

The design of these details and any associated reports shall be included in the construction certificate.

2.5 A Subdivision Certificate for the subdivision must be obtained prior to the issue of a construction certificate for the building works.

Prior to the issue of a Subdivision Certificate the following must be undertaken:

- (a) Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision Certificate. Contributions may be applicable to the Section 307 Certificate.

Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.

- (b) The developer shall erect a sign in a prominent position prior to the commencement of any construction showing the name and details of the developer, contractor and person/s in charge of the work site including a telephone number/s at which that person/s may be contacted during and after hours and for emergencies arising.
- (c) Connection of the proposed lots 51, 52, & 53 to Council's sewer.

- (d) Prior to the issue of a Subdivision Certificate the plan of subdivision and section 88B instrument under the Conveyancing Act 1919 must establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision
 - a To create a 'Restriction as to User' for the purpose of a Bushland Management Plan in the area shown hatched red on the approved plan.
 - b To prohibit any development within the flood liable land on proposed lots 51 & 52.
- (e) A Section 88E instrument under the Conveyancing Act 1919 must establish the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. The covenant must be prepared by Council's Solicitor at the owner's cost prior to the issue of a Subdivision Certificate.
 - a To require the implementation of the Bushland Management Plan. The covenant shall permit Council or its nominee to enter and inspect the site. In the event the owner has failed to implement the Bushland Management Plan then Council will authorize any required work at the owners cost.
- (f) A Subdivision Certificate must be issued for the subdivision prior to the registration of the final plan of subdivision and Section 88B Instrument.

Payment of a Subdivision Certificate fee must be made at time of lodgement of the subdivision plan with Council. The fee may be obtained from Council's Customer Service Unit on 4325 8222 or from Council's website <http://www.gosford.nsw.gov.au>.

- (g) Submission to Council of documentary evidence of the registration of the Subdivision Certificate.

- 2.6 Prior to the issue of a Construction Certificate, a Vegetation Management Plan is to be submitted to and approved by Certifying Authority for the management of those lands outside the proposed bushfire APZ as shown on the approved plans.

The Vegetation Management Plan must be prepared by an appropriately qualified professional. The plan must be in accordance with the Australian Association of Bushland Generators (AABG) - Bringing the Bush Back to Western Sydney – Best Practise Guidelines for Bush Regeneration on the Cumberland Plain or NSW TAFE – Buchanan, R.A. (1989) Bush Regeneration – Recovering Australian Landscapes, TAFE NSW, Sydney.

The primary objective of the plan is weed management, regeneration of the native vegetation and supplementary native plantings.

The secondary objective of the plan is to provide details on planting schedule for a 5m vegetation strip along the northern boundaries of proposed Lots 51, 52 & 53 and 5m strip along the western boundary of Lot 53. This 5m vegetation strip is to be designed to ensure scenic protection amenity is maintained and improved. Plantings are to comprise of native ground, mid and upper stratum species.

- 2.7 Construction Certificates for the three (3) dwelling houses must not be issued until evidence is submitted to Council that the Subdivision Certificate associated with DA 38591/2010 has been registered at the Land & Property Information (LAPI) Office of NSW.**

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 A construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a principal certifying authority prior to the commencement of any building works.

The principal certifying authority (if not the Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than 2 days before the building work commences.

- 3.2 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 3.3 Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.
- 3.4 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:
- a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
 - c) That unauthorised entry to the work site is prohibited.

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

- 3.5 Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.
- 3.6 Separate application for a vehicular access crossing, accompanied by the current fee as prescribed in Council's Schedule of Fees and Charges shall be submitted to Council. The application form can be obtained by contacting Council's Customer Service Staff or visit Council's web site www.gosford.nsw.gov.au
- 3.7 The Principal Certifying Authority must ensure that all parties/trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.8 Tree Protection Zones are to be in accordance with the recommendations of the Arboricultural Impact Assessment by R Kingdom 22/11/10.

Due to the length of the sewer line, the developer may choose to erect a simpler TPZ fence than that stipulated in the report. E.g. A barrier fence consisting of star pickets connected by two strands of tensioned wire to support webbing or mesh and shall remain intact until construction is completed.

Fences around Tree Protection Zones must be sign posted to warn of its purpose.

4. DURING WORKS

- 4.1 Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

- Saturdays when a public holiday is adjacent to that weekend.
- Construction industry awarded rostered days off.
- Construction industry shutdown long weekends.

Clause b does not apply to works of a domestic residential nature as below:

- i Minor renovation or refurbishments to single dwelling construction.
- ii Owner occupied renovations or refurbishments to single dwelling construction.
- iii Owner builder construction of single dwelling construction; and/or
- iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.

- 4.2 Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.
- 4.3 Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.4 This development is subject to Council's DCP106 – Controls for Site Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.
- 4.5 No fill permitted beyond the footprint of the building with the exception of vehicular access and any areas so marked on the stamped and approved plans.
- 4.6 The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.7 The engineering works within private property that formed part of the Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.8 Appropriate site works are to be constructed across the street frontage so as to comply with the minimum sight distance requirements and minimum sight lines for pedestrian safety set out in the RTA publication "Guide to Traffic Generating Developments" (1993) and AS/NZS 2890.1:2004 Part I: "Off-Street Car Parking".
- 4.9 All works to be undertaken at no cost to the RTA.
- 4.10 To minimize the potential for erosion and sedimentation, fuel management must only remove the aerial parts of plants; roots of all plants must remain so that soil is

undisturbed. This constraint will require that this work be undertaken manually in this sensitive zone (ie: Brush Cutter, Chain Saw etc).

- 4.11 Plant species used for landscaping must be restricted to locally native species appropriate to the locality and/or those introduced species that do not have known potential to become environmental weeds.
- 4.12 Stockpile of building materials, parking of vehicles / machinery or the storing of any materials shall be located away from those areas subject to the approved Vegetation Management Plan.
- 4.13 Trees to be removed are to be those as shown in red on the plans by Bannister & Hunter Pty Ltd 9/11/2010 within the Arboricultural Impact Assessment by R Kingdom 22/11/10. Those trees must be removed in a manner so as to prevent damage to those trees that are to be retained.
- 4.14 A qualified Arborist is to be in attendance to supervise tree works on site during critical stages of construction, particularly when excavation is occurring near trees nominated for retention.

5 PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

- 5.1 Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2 The premises not being occupied until an occupation certificate has been issued.
- 5.3 The requirements of BASIX certificates 300935S, 300936S and 300937S for development and shown on the approved plans must be complied with prior to the issue of an occupation certificate.
- 5.4 The development shall incorporate a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 165 -Water Cycle Management) with a minimum total capacity of 10,000 litres, capturing water from at least 90% of the total roof area. The water collected is to be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s). Overflow from the rainwater tanks and/or stormwater tanks are to be directed by a piped drainage line to the street kerb outlet / an interallotment drainage line / an infiltration trench.
Note:
Internal stormwater infiltration trench details are to be designed by a practising engineer experienced in hydraulics. The design details are to cater for a 1 in 20 year AEP storm event.
- 5.5 The rainwater tank and/or stormwater tank are to be located a minimum distance of 450mm from any boundary and the support structure for the tank is to be installed in accordance with the manufacturer's specification or a design by a qualified practicing structural engineer.
- 5.6 Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of an Occupation Certificate for each dwelling.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

- 5.7 The internal engineering works within private property that formed part of the Construction Certificate shall be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', prior to the issue of an Occupation Certificate.

6. ONGOING OPERATION

- 6.1 Vegetation Management Plan must be implemented and progress reports are to be submitted to Council at intervals after initial works have been commenced, 1 year, 2 years, 5 years and 10 years.

7. OTHER APPROVALS

7.1 Rural Fire Service Conditions

Asset Protection Zones

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

1. At the issue of the subdivision certificate and in perpetuity asset protection zones shall be established as identified on the drawing prepared by Bannister & Hunter Pty. Ltd. numbered 53714 Revision C dated 09-11-2010 and maintained as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to 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. To achieve this, the following conditions shall apply:

2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

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. To achieve this, the following conditions shall apply:

3. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

Design and Construction

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

4. New construction of the eastern and southern elevations on the proposed dwelling on Lot 51, the eastern, southern and western elevations on the proposed dwelling on Lot 52 and the eastern and southern elevations on the proposed dwelling on Lot 53 shall comply with section 9 (BAL FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted.
5. Windows assemblies for the eastern and southern elevations on the proposed dwelling on Lot 51, the eastern, southern and western elevations on the proposed dwelling on Lot 52 and the eastern and southern elevations on the proposed dwelling on Lot 53 shall comply with modified Section 9 of AS3959 (as above) or the following:
 - i. They shall be completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS3959 excluding parts (e) &(f);

And

- ii. They shall comply with the following:
 - a) Window frames and hardware shall be metal;
 - b) Glazing shall be toughened glass, minimum 5mm;
 - c) Seals to stiles, head and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5;
 - d) The openable portion of the window shall be screened internally or externally with a mesh with a maximum aperture of 2mm, made from corrosion resistant steel or bronze. The frame supporting the mesh shall be metal.
6. External Doors (not including garage doors) for the eastern and southern elevations on the proposed dwelling on Lot 51, the eastern, southern and western elevations on the proposed dwelling on Lot 52 and the eastern and southern elevations on the proposed dwelling on Lot 53 shall comply with modified Section 9 of AS3959 (as above) or the following:
 - i. They shall be completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS3959 excluding parts (e) &(f);

And

- ii. They shall comply with the following:
 - a) Doors shall be non-combustible;
 - b) Externally fitted hardware that supports the panel in its function of opening and closing shall be metal;
 - c) Where doors incorporate glazing, the glazing shall be toughened glass minimum 6mm;
 - d) Seals to stiles, head and sills or thresholds shall be manufactured from silicone;
 - e) Doorframes Shall be metal;
 - f) Doors shall be tight fitting to the doorframe or an abutting door;
 - g) Weather strips, draught excluders or draught seals shall be installed if applicable.
7. New construction of the northern and western elevations on the proposed dwelling on Lot 51, the northern elevation of the proposed dwelling on Lot 52 and the

northern and western elevations on the proposed dwelling on Lot 53 shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

Landscaping

8. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

8 ADVICE

- 8.1 The public authorities may have separate requirements and should be consulted in the following aspects:
 - a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
 - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
 - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 8.2 All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 8.3 Separate application is to be made for connection to Council's sewerage system.
- 8.4 The proposed development should be designed such that the road traffic noise from Classified roads is mitigated by durable materials, in accordance with EPA criteria for new residential developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Where the EPA external noise criteria would not feasibly or reasonably be met, the RTA recommends that Council apply the following internal noise objectives for all habitable rooms under ventilated conditions complying with the requirements of the Building Code of Australia:

- All habitable rooms other than sleeping rooms: 45 dB(A) $L_{eq(15hr)}$ and 40 dB(A) $L_{eq(9hr)}$, and
 - Sleeping rooms: 35 dB(A) $L_{eq(9hr)}$.
- 8.5 The conditions of development consent set by Gosford City Council do not guarantee the RTA's final concurrence to the specific road work, traffic control facilities and other structures on the classified road network. The RTA must provide a final consent for each specific change to the state road network prior to the commencement of any work.

9. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a ***criminal offence***. Failure to comply with other environmental laws may also be a ***criminal offence***.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

10. RIGHT OF APPEAL

10.1 Sections 96(6) or 97 of the Act, where applicable, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 60 days or 12 months respectively, from the date of determination.

10.2 To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

