

**JOINT REGIONAL PLANNING PANEL
(Hunter & Central Coast)**

JRPP No	JRPP Reference Number 2013HCC008
DA Number	323/2013
Local Government Area	MidCoast (Forster)
Proposed Development	174 lot residential subdivision, including the construction of associated infrastructure, roads and drainage reserves on Lot 6180 DP 1151512, The Southern Parkway, Forster. The development application also includes land management works upon Lot 6179 DP 1151512, The Southern Parkway, Forster
Street Address	The Southern Parkway, Forster
Applicant/Owner	RCL Forster Pty Ltd
Number of Submissions	One (1)
Recommendation	Approval with Conditions
Report by	Robyn Shelley Senior Development Assessment Planner

Assessment Report and Recommendation

DETAILS:

Date Received: 7 May 2013

Applicant: RCL Forster Pty Ltd

Owner: RCL Forster Pty Ltd

Land: Lots 6179 & 6180 DP 1151512, The Southern Parkway, Forster

Area: Lot 6179 – 8.796 ha
Lot 6180 – 19.89 ha

Property Key: 36920 & 36919 respectively

Zoning: Lot 6179, 6(a) Open Space & Recreation & Lot 6180
2(a) Lot Density Residential , GLLEP 1996.

Zoning under GLLEP 2014 Lot 6179 RE1 Public
Recreation & Lot 6180 R2 Low Density Residential.

SUMMARY OF REPORT:

- The application proposes a torrens title subdivision of the subject site into 174 allotments.
- The application is classed as Integrated Development and requires the following approvals from the following authorities
 - The NSW Office of Water under the Water Management Act 2000, in respect to a controlled activity.
 - The Office of Environment & Heritage, under Section 90 of the National parks and Wildlife Act 1974, in respect to Aboriginal Heritage.
 - The NSW Rural Fire Service, in respect to Section 100B of the Rural Fires Act 1997.
- The Minister has waived the master plan requirement pursuant to Clause 18(2) of State Environmental Planning Policy No. 71.
- One (1) submission was received during the public exhibition period.
- The proposal complies with the requirements of relevant legislation and conditions have been proposed which will ensure that the proposal will not have a significant detrimental impact on the surrounding environment.

SUMMARY OF RECOMMENDATION:

Approval subject to conditions.

LIST OF ATTACHMENTS:

- A: Plans of the proposed subdivision
B: Identified Aboriginal heritage object
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BACKGROUND:

On 13 May 2011, Great Lakes Local Environmental Plan 1996 (amendment No 36) was published. The LEP amendment rezoned part Lot 6177 DP 1099599, The Southern Parkway, Forster from 1(c) (Future Urban Investigation Zone) to part Zone No 2(a) (Low Density Residential Zone) and part Zone No 6(a) (Open Space and Recreation Zone), under the provisions of Great Lakes Local Environmental Plan 1996. Since the lodgement of the development application Council has adopted the Standard Instrument known as Great Lakes Local Environmental Plan 2014 (GLLEP 2014). The land is now zoned R2 (Low Density Residential) and RE1 (Public Recreation) under the provisions of GLLEP 2014. The RU2 zone is an equivalent zone to the 2(a) zone and the RE1 zone is an equivalent zone to the 6(a), under the provisions of GLLEP 1996.

A Planning Agreement (PA) was entered into between Council and the proponent as the legal mechanism to give effect to a transfer of approximately 8.8ha of land for the purposes of open space and recreation in accordance with the Environmental Planning and Assessment Act, 1979 (EP & A Act). The PA also refers to Drainage covenants including developer contributions comprising monetary payments to Council for the purchase of monitoring and maintenance of the original stormwater management system, as detailed in a Water cycle Management Strategy from April 2008. The Planning Agreement also clarifies benefits to be taken into account under Section 94 of the EP & A Act. The Planning Agreement has been executed by all parties. The 8.8ha of land has been transferred to Council.

During the assessment of this Development Application it was found that the Planning Agreement was no longer adequate for the stormwater/drainage component of the site, especially in relation to the payment of monitoring and maintenance of water quality. The original stormwater management concept was substantially altered as a result of the Water Sensitive Design Strategy, lodged with the Development Application the subject of this report. Due to this new strategy the necessity for the downstream verification monitoring and maintenance work changed. The new water sensitive design strategy is based on a reduced number of lots, uses more advanced modeling and subsequently can achieve the site water quality objectives with a reduced amount of bioretention. The water quality measures are contained wholly within the site.

Council is undergoing the process of revoking the Planning Agreement as the commitment relating to the dedication of land to Council has been fulfilled and the remaining commitments relating to water quality treatment can be addressed by conditions of development consent.

Council also adopted a Development Control Plan in relation to the land, which provides guidelines and objectives for future subdivision and other development of the land. The aim of the plan is to guide development so that it is undertaken in an ecologically sustainable manner.

This development application was lodged with Council on 30 April 2013 and was registered with the Joint Regional Planning Panel (JRPP) on the 7 May 2013.

The application was referred to required external organisations and various departments within Council on 14 May 2013. Public exhibition of the application occurred between the 23 May 2013 and 22 June 2013. One (1) submission was received during the exhibition period.

Further information was required to be submitted by the applicant after preliminary assessment and referral of the application. Protracted discussions have been held between

the applicant, Council and the NSW Office of Water. The last of the information required to be submitted by the applicant was received by Council on 21 January 2015.

The NSW Office of Water issued their General Terms of Approval on 12 November 2015.

Council and the applicant have since receiving the Office of Water GTAs, been involved in protracted discussions in relation to the Planning Agreement and how it relates to today's practices in relation to water quality management. This has recently resulted in the revocation of the planning agreement as previously discussed.

SITE DESCRIPTION:

The site is located on the eastern side of The Southern Parkway, Forster. The site has an irregular shape and is accessed via both The Southern Parkway and Kentia Drive. It is proposed to link the development with Akala Avenue which is located on the south eastern side of the subject site.

The northern portion of the site is on the southern and east facing slopes of a hill. The southern portion of the site is comprised mostly of low lying flat land. A drainage channel traverses the low lying land.

The site is vegetated with a mixture of closed and open forest vegetation communities open woodland and cleared grassland.

PROPOSAL:

Development Application No. 323/2013 was lodged with Council on 7 May 2013. The applicant seeks consent for a 174 lot residential subdivision (inclusive of a residue allotment). The application includes the construction of associated infrastructure, roads and drainage reserves. The proposed subdivision is contained on Lot 6180 DP 1151512, The Southern Parkway, Forster. The development application also includes minor land management works upon adjoining Lot 6179 DP 1151512 (owned by Council).

The proposal includes some filling of the lower-lying parts of the site, related infrastructure, such as roads, services, utilities, water quality devices and drainage reserves..

The Hunter and Central Coast Joint Regional Planning Panel (JRPP) is the determining authority for the proposal.

The application is also classed as Integrated Development and requires approvals from the following authorities:

- The NSW Office of Water under the Water Management Act 2000, in respect to a controlled activity.
- The Office of Environment & Heritage, under Section 90 of the National Parks and Wildlife Act 1974, in respect to Aboriginal Heritage.
- The NSW Rural Fire Service, in respect to Section 100B of the Rural Fires Act 1997.

Subdivision Staging

It is proposed that the subdivision will be undertaken in eight (8) stages:

Stage 1:

- 41 lots - Lots 1-41

Stage 2A:

- 22 lots - Lots 42-61; Lots 90-91

Stage 2B

- 15 lots - Lots 62-76

Stage 2C

- 21 lots - Lots 77- 89; Lots 131-183

Stage 3A:

- 25 lots - Lots 92 - 116

Stage 3B:

- 14 lots - Lots 117-130

Stage 4A:

- 17 lots - Lots 140-156

Stage 4B:

- 19 lots - Lot 139; Lots 157-174 (inclusive of residue lot).

The lots range in size between 450m² to 4,000 m². There are a total of 174 allotments inclusive of one residue lot.

The approximate dwelling yield for the proposal is 207.

The subdivision includes a road which will be an extension of Kentia Drive (at the north) and Akala Avenue (at the south east). A new intersection will be constructed on the Southern Parkway (at the south western end of the site).

The application includes part of the required asset protection zone (APZ) for proposed lots 131-138 within the public reserve. Other works in the public reserve include weed control, installation of nesting boxes and tree plantings.

Plans of the proposed development are contained in Attachment 'A' to this report.

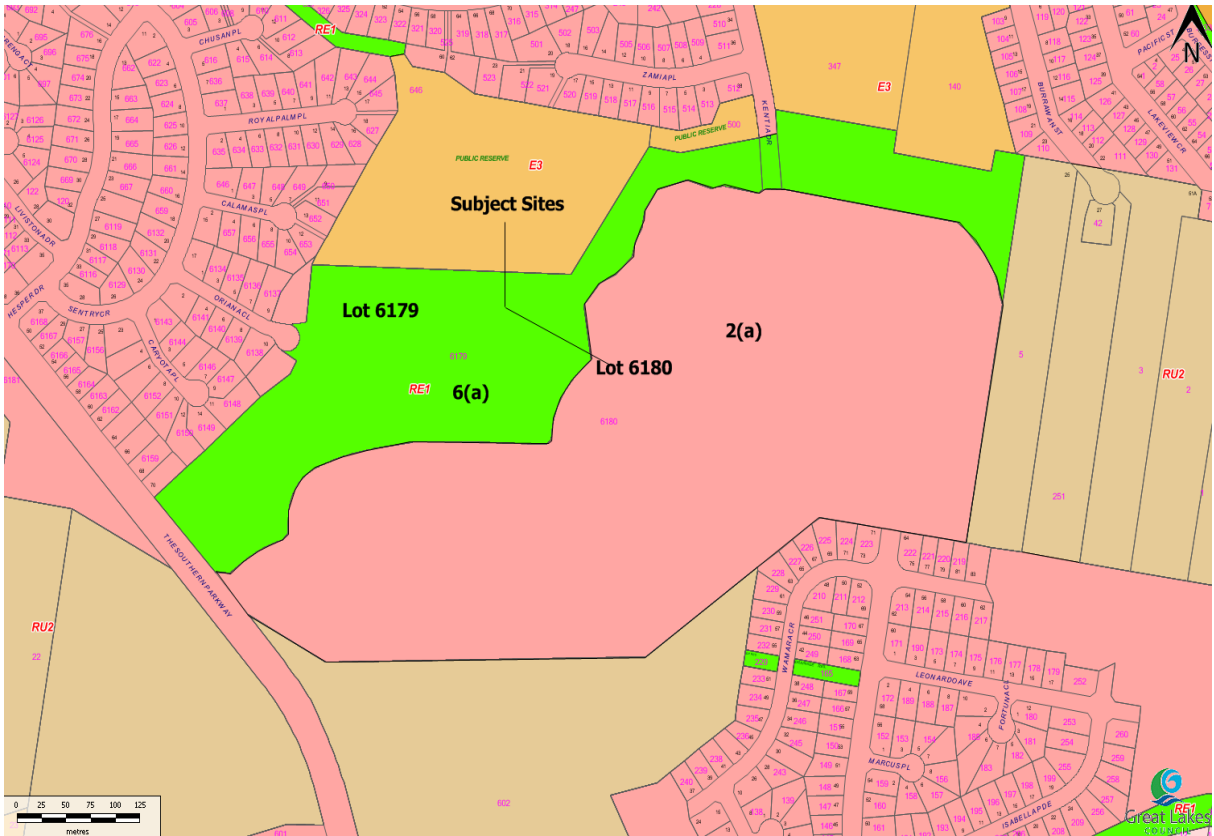


Figure 1: GLLEP 1996 Subject site, Locality and Zoning

REPORT:

Section 79C – Matters for Consideration

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.

4.1.1 Environmental Planning Instruments

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP State and Regional Development)

SEPP State and Regional Development aims to identify classes of regional development to be determined by joint regional planning panels.

Clause 20 of SEPP State and Regional Development applies to development of a class or description included in Schedule 4A to the Environmental Planning and Assessment Act, 1979.

In accordance with Schedule 4A, Clause 9(c)(ii) subdivision of land for residential purposes into more than 100 lots, if the land is not in the metropolitan coastal zone, the Hunter Central Coast Joint Regional Planning Panel is the consent authority responsible for determining the application.

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

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. An ecological assessment of the site has been undertaken and concluded that these Schedule 2 species do not occur in sufficient density to satisfy the definition of potential koala habitat (as they do not comprise at least 15% of the tree component of these parts of the land). No evidence of koala habitation was identified within the development site. Core Koala Habitat as defined by SEPP44 does not therefore occur. A Koala Plan of Management prepared pursuant to SEPP44 is not deemed to be required for this Development Application.

Council's Senior Ecologist has reviewed the proposal and concurs with the submitted ecological assessment.

State Environmental Planning Policy No. 71 – Coastal Development (SEPP 71)

SEPP 71 applies to all land within the coastal zone as defined in the *Coastal Protection Act* 1979 and accordingly applies to the subject site to the extent of requiring Council to consider the matters listed in Clause 8, 16 and 18 of the Policy. The site is also within the coastal zone. The proposal is considered to be consistent with the aims of the Policy and the matters for consideration under Clause 8 for the following reasons:

- The proposal does not impact on existing or potential public access to a coastal foreshore.
- The proposed subdivision is considered to have been designed to suit the site and surrounding development.
- The proposal will not impact on a coastal foreshore and is not visible from a coastal foreshore.
- Approximately 8.8ha of land has been dedicated for use as an open space and recreation zone. The dedicated land will conserve native vegetation, protects the scenic qualities of the area and allows for the preservation of animals, plants and their habitats. Further, an area of approximately 2.83-hectares of native vegetation exists within a large area of drainage reserve in the east of the subject land. This area contains Swamp Sclerophyll Forest. The conservation and drainage reserves contain the highest quality areas of native vegetation on the subject land and there is significant scope to implement restorative and regenerative actions on the protected native vegetation as part of this proposal, principally through weed control and reinstatement of natural processes.
- Aboriginal cultural heritage and archaeological values of the site were previously assessed by Forster Local Aboriginal Land Council (1999) and more recently by ERM (2006) during the preparation of a *Part 3A Project Application Environmental Assessment Report* for a previous development on the site. An updated Aboriginal Heritage Assessment for the Project was undertaken by ERM (2012) under Part 4 of the EP & A Act to accompany the Statement of Environmental Effects for the proposed subdivision the subject of this report. At the conclusion of the fieldwork, the Regional Aboriginal Parties felt there was some potential for artefacts to be present on the ridges and vegetated slopes. These area will be retained as part of the regional habitat corridor and not impacted as a result of the proposed subdivision. The development application was referred to Office of Environment & Heritage (OEH), under Section 90 of the National Parks and Wildlife Act 1974, in respect to Aboriginal Heritage. Conditions have been imposed by OEH and have been included in the recommendation to this report.
- The site is located in an area that will not be affected by flooding or erosion as a result of coastal processes, including the predicted impacts associated with climate change.
- The proposal will not conflict with water-based coastal activities.
- The inclusion of bio-retention stormwater treatment devices will ensure that stormwater run-off from the development site will not impact on the water quality of coastal waterbodies.
- The proposed development will not contribute to a detrimental cumulative impact on the environment.

Clause 16 of the Policy requires that consent cannot be granted to a development if the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform. An extensive stormwater quality treatment regime has been prepared for the site. Accordingly, Clause 16 is considered to be satisfied.

Clause 18 of the Policy requires that consent cannot be granted to a development for the subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location unless the Minister has waived the need for a master plan to be adopted because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reasons as the Minister considers sufficient.

The Minister's delegate has waived the master plan requirement pursuant to Clause 18(2) of SEPP 71. The waiver was granted as the proposed subdivision is considered to be a

development of minor nature, for which the existing planning controls are considered adequate.

Water Management Act 2000 (WMA)

In accordance with the WMA the subject development is a 'controlled activity' given the proximity of the works to a drainage line that flows into Pipers Creek.

The application was referred to the NSW Office of Water who have issued their General Terms of Agreement (GTAs). The GTAs have been included in the recommendation to this report.

National Parks & Wildlife Act 1979 (NPWA)

The study area had been assessed by Forster Local Aboriginal Land Council (1999) and by ERM (2006) during the preparation of a Part 3A Project Application Environmental Assessment Report for the same development as currently proposed.

Since the original assessment, OEH issued guidelines that define a 'due diligence' approach to Aboriginal Heritage. The report submitted with the Development Application, the subject of this report, is compliant with the *Due Diligence Guidelines* and the *Code of Practice* requirements.

The Aboriginal Community consultation for the Project has been carried out in accordance with the OEH guidelines.

Annexure 'N' to the Statement of Environmental Effects relates to Aboriginal Heritage Assessment. The study concludes:

"A review of the environmental context of the study area demonstrates that the area contains (and would have contained in the past) a range of resources that were used by Aboriginal people. Fresh water would have been available in the low-lying areas in the south of the study area. This area would also have attracted a range of animals and vegetation communities used by Aboriginal people. The level of disturbance within the study area is variable, most apparent within the cleared areas on the low-lying flats."

During the fieldwork, representatives of the Aboriginal Community noted that the area *"had low potential to contain Aboriginal cultural heritage"*. However, they also stated at the conclusion of the fieldwork that *"there was some potential for artefacts to be present on the ridges and vegetated slopes."* These areas will be retained as part of the regional habitat corridor and not impacted as a result of the proposed development."

The report further notes that *"However, in order to foster relationships with the local Aboriginal community it is recommended that the client consider the abovementioned recommendations and that any monitoring works is limited to the base of the steep slopes for the purpose of collecting any low density artefacts that may have been redeposited in this area."*

The proposed development has the potential to damage or destroy at least one Aboriginal heritage object (plan Attachment 'B'). The Statement of Environmental Effects notes that the artefact that was identified during a previous survey by ERM (2006), despite considerable survey effort, was not relocated due to the level of vegetation coverage and the lack of exposures. Section 87 of the NPWA requires a permit to disturb or excavate land for the

purpose of discovering an Aboriginal object. Section 90 of the NPWA requires consent to destroy an Aboriginal object.

The development application was referred to the NSW Office of Environment and Heritage (OEH). OEH have acknowledged that the development application proposes to impact or harm Aboriginal objects located in the project area.

The OEH have issued 'General Terms of Approval for Aboriginal Cultural Heritage Values' (GTA). A condition has been included in the Recommendation to this report referencing the GTA conditions.

Great Lakes Local Environmental Plan 1996 (GLLEP 1996)

The development application was lodged with Council prior to the Gazettal of Great Lakes Local Environmental Plan 2014 and as such is assessed under GLLEP1996.

The land, where the subdivision is proposed is zoned 2(a) Low Density Residential under the provisions of GLLEP1996.

"(a) Objective (a) to enable residential development so that buildings within the zone will consist primarily of housing that generally does not exceed a height of 2 storeys and has private gardens.

(b) Objective (b) to enable other development which:

- (i) is compatible with a low density residential environment, and*
- (ii) affords services to residents at a local level, and*
- (iii) is unlikely to adversely affect the amenity of residential development within the zone, and*
- (iv) is unlikely to place demands on services beyond the level reasonably required for low-scale housing development."*

The proposed development is considered to be consistent with the objectives of the zone. The proposed development is considered to be compatible with a low density residential environment, is unlikely to adversely affect the amenity of residential development within the zone, and is unlikely to place demands on services beyond the level reasonable required for low-scale housing development.

Great Lakes Local Environmental Plan 2014

The development site is zoned R2 Low Density Residential under the provisions of GLLEP2014. Mapping indicates that there is a minimum lot size of 450m². The objectives of the R2 zone are:

- *"To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents."*

The proposed subdivision is permitted with consent and is considered to be consistent with the objectives of the zone in that the proposal will provide for the housing needs of the community within a low density residential environment.

The land where a part of the Asset Protection Zone for lots 131-138, the nesting boxes, weed control and tree planting is proposed is zoned 6(a) (Open Space and Recreation Zone) under

the provisions of GLLEP1996. This land is now zoned RE1 (Public Recreation) under the provisions of GLLEP2014.

The proposed works are of a minor nature, are permissible with consent and consistent with the objectives of both the 6(a) and RE1 zone.

GLLEP 2014 includes a savings provision that, where an application is lodged prior to the commencement of the Plan and the application has not been finally determined, the application must be determined as if the Plan had not commenced. In this regard, Council must give weight to the draft Plan and the level of weight will depend on the imminence and certainty of the relevant provisions in the instrument. While significant weight can be given to its provisions in this case, the proposal is permissible development. It is also necessary to consider the aims and objectives of GLLEP 2014 to ensure that the proposal is consistent with the later provisions and does not raise any public interest matters under Section 79C(1)(e) of the EP&A Act. In this regard, it is considered that the proposal, will not be inconsistent with the objectives of the Low Density Residential Zone, the Public Recreation Zone, or the aims of the Plan itself and does not raise any issues of public interest.

Development Control Plans

Development Control Plan No. 31 Subdivision

The Plan was applicable at the time of lodgement of the subject development application and is applicable to the assessment of the proposed development. DCP 31 has been superseded by Development Control Plan 2014 (DCP 2014).

The relevant aims and objectives of DCP 31 are:-

- Protect and enhance the environment;
- Protect the amenity of existing development by ensuring a high standard of design and construction in new subdivisions;
- Provide an appropriate level of amenity for existing residential areas;

The proposed subdivision complies with the relevant general requirements of DCP 31. The proposed subdivision also complies with the relevant general requirements of DCP2014

Development Control Plan No. 36 South Forster (DCP36)

DCP 36 came into force on 30 June 2010 and applies to the land. The purpose and objectives of the plan is to provide guidelines and objectives for future subdivision and other development of the land. The aim of the plan is to guide development of the land so that it is undertaken in an ecologically sustainable manner.

To achieve the goals of the plan, a set of development standards has been included against which development proposals are required to be complied with or addressed.

DCP 36 has been superseded by Development Control Plan 2014 (DCP 2014). There are no changes to DCP 36 where it has been superseded by DCP 2014.

The proposal complies with the provisions of DCP 36 with the exception of the following:

Part 2.4.2 Road Network and Access which states:

"Where the extension of Kentia Drive adjoins the proposed Neighbourhood Park the carriageway is to be reduced to no more than 6 metres in width to promote low vehicles speeds."

The 6m wide road width is also addressed in Part 3.2.1 Roads Kills of DCP 36. The reason for the 6m road width is to promote low vehicle speeds. The part also includes a requirement to include the planting of large trees close to the carriageway.

The plans lodged with the development application detail an 8 metre wide formed road.

The applicant has stated the following justification for the 8m wide road in this location:

"Alternate speed limiting designs will be applied, so as to maintain compliance with the objective of reducing speed while at the same time as allowing buses to utilise this route. The Landscape Plan has been designed to be sympathetic to local flora and fauna communities, and with reference to the environmental factors of the site including drainage and hydrology, topography, soil structure and the local climate. Large trees would be planted along both sides of Kentia Drive."

It is considered that this minor departure from the DCP is acceptable. The proposed development includes a necking treatment where the proposed road abuts the existing Kentia Drive. The necking will act as a traffic calming device. The 8m road width is also in accordance with the requirements of "Planning for Bushfire Protection 2006".

NSW Coastal Policy 1997

The Coastal Policy applies to the coastal zone as defined in the Coastal Protection Act and is a 'prescribed matter' under Section 79C(1)(a)(iv) of the EP & A Act. The Coastal Policy contains a detailed range of objectives and strategic actions for coastal zone planning and management, although there are no specific provisions that would apply to the proposal. The development is considered to be consistent with the principles of the Policy for the following reasons:

- As part of this concept, as an offset to the proposed clearing on the subject site, an 8.8-hectare Council Reserve has been established which contains Swamp Oak Forest, Littoral Rainforest, Spotted Gum/Ironbark Forest and Swamp Sclerophyll Forest types. Further, an area of approximately 2.83-hectares of native vegetation exists within a large area of drainage reserve in the east of the subject land. This area contains Swamp Sclerophyll Forest. As such, 11.63-hectares of native vegetation is being retained and can be enhanced through the development proposal.
- The proposed development takes into consideration the value of natural systems for the treatment of stormwater to reduce the impacts of the stormwater on the surrounding natural environment.

Coastal Design Guidelines for NSW

The NSW Coastal Design Guidelines compliments the Coastal Policy and SEPP 71 and is based on the principle of ecologically sustainable development. The Guidelines aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines set out detailed 'Desired Future Character' statements for various categories of settlement ranging from hamlets to cities. The proposal is considered to be consistent with the 'desired future character' guidelines for coastal towns as it accommodates growth predominantly within the towns boundaries without compromising ecosystem functions and biodiversity values.

Mid North Coast Regional Strategy

The site is identified in the Mid North Coast Regional Strategy as a proposed future urban release area. The Mid North Coast Regional Strategy was prepared to guide the sustainable development of the Mid North Coast Region over a 25 year period.

The proposed subdivision is considered to be consistent with the relevant aims and planning principles of the Mid North Coast Regional Strategy as the site underwent extensive studies to enable the rezoning of the land and the preparation of a site specific DCP. The aim of the DCP is to guide development of the land so that it is undertaken in an ecologically sustainable manner.

Council Plans

The site has been identified in Council's *Forster/Tuncurry Conservation & Development Strategy*. The site has been identified as being potentially suitable for urban development and conservation.

The site has been identified in the '*Great Lakes Council South Forster Structure Plan*' for low density housing. The proposed development is consistent with the Plan.

Section 94 Contributions

Great Lakes Wide and Forster District Section 94 contributions are applicable to the proposed subdivision.

The section 94 contributions include a credit for public open space that was dedicated to Council. The applicable contributions have been included in the recommendation to this report.

The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The proposed subdivision was subject to a Local Environmental Plan amendment and a site specific Development Control Plan. The DCP ensures the proposal is in keeping with the character of the area and the existing environment. The proposal provides the final link between Kentia Drive and the Southern Parkway.

The proposed development is considered satisfactory having regard to the site's context and location and compliance with the site specific DCP.

Site Design and Internal Layout

The design of the development is considered to relate positively with the environmental conditions and the site attributes. The layout of the subdivision is considered functional, providing future occupants with a reasonable level of residential amenity.

Views

The proposal will not create an unreasonable impact on views or outlooks.

Visual Impact

A landscape plan was submitted with the development application. The landscape plan includes a schedule outlining plant species and is considered to be sympathetic to local flora and fauna communities.

Access, Transport and Traffic

Access to proposed Stage 1 is from The Southern Parkway which has a 13m wide bitumen seal with kerb and guttering and a 2.5m wide cycleway on the development side of the road. Stage 2B includes connection to Kentia Drive to the north, which has an 11m wide bitumen seal with kerb and gutter. Stage 4A includes connection to Akala Avenue to the east of the site, which has an 11m wide bitumen seal with kerb and gutter.

Council's cycleway strategy identifies provision of a 2m wide cycleway on the full length of the extension of Kentia Drive to link with The Southern Parkway. There is a proposed 2m wide cycleway link identified between The Southern Parkway and the extension of Akala Avenue. Although the footpath strategy identifies provision of concrete footpaths within the proposed estate, there is a warrant requirement of 50 lots triggering the provision of same. The revised layout does not contain any streets containing 50 lots and therefore the warrant is not triggered in this instance.

Both the public road and fire trail systems are to comply with the NSW Rural Fire Service documentation "Planning for Bushfire Protection 2006". It is noted that a necking treatment is proposed at the northern connection to Kentia Drive whereby the pavement width has been reduced to 8m. which complies with the above documentation. All perimeter roads are to be constructed to an 8m formation width to comply with the Rural Fire Service bush fire safety letter dated 15 January 2016. The Rural Fire Service require a temporary minimum 12m outer radius turning circle to be provided at the termination of public roads in each stage of the development where the road does not connect to through traffic.

Utilities

All utilities are available to the site.

Drainage

A stormwater strategy incorporating detention and water sensitive urban design principles has been submitted for the site. An operation and maintenance plan for the final approved stormwater management system is required to be submitted to Council prior to the issue of a construction certificate for each stage of the development.

Flooding

The development site is partly located within the 2100 1% flood level (RL2.7mAHD). Filling is to be undertaken to a minimum RL 2.7m where required.

Flora and Fauna

The Statement of Environmental Effects (SEE) includes an assessment of compliance with ecological matters within the adopted site-specific DCP, which applies to the subject land. In regards to the Open Space/ Conservation Corridor, the SEE notes compliance with the documented standards by:

- Vegetation within the 6(a) zone is not cleared except for Council-approved fire management purposes;
- 80 trees are proposed to be planted in an area specified by the DCP;
- Lighting types will be specified within separate Construction Certificate applications for the subdivision. A condition of consent was considered feasible; and
- Landscaping is proposed and detailed via a Landscape Plan.

The SEE also includes an Ecological Assessment (Travers Bushfire & Ecology 2013).

Historically, the subject land was investigated for the rezoning during a fauna investigation of Kendall & Kendall (2000) and flora investigation by Greg Elks (2000). Key findings of these studies included:

- In relation to threatened fauna: two Ospreys were observed over the subject land. The Little Bentwing-bat, Eastern Bentwing-bat and possibly the Greater Broadnosed-bat and Southern Myotis were also recorded.
- The subject land contained five (5) vegetation community types, namely: Drypetes-Acronychia-Cassine-Podocarpus Closed Forest, Brushbox/ Cabbage Tree Palm Closed Forest, Spotted Gum/ Ironbark Tall Open Forest, Swamp Oak Open Woodland and Derived/ exotic Grassland.
- The study identified the presence of *Lindernia alsinoides* in the Swamp Oak Open Woodland community. The species was not recognised as being listed on the Threatened Species Conservation Act at the time and no details of the location and population of this species was documented in the report.

It is considered that the development proposal would not cause significant harm or loss of habitat to any local populations of threatened biodiversity.

Cumulative Impacts

The proposal, subject to the recommended conditions, is considered to be satisfactory having regard to the potential to create or contribute to undesirable cumulative impacts.

The Suitability of Site for the Development

The site is identified in Council's *Forster/Tuncurry Conservation & Development Strategy* as a 'Category 1' area. Category 1 areas have been "*identified as being potentially suitable for urban development and conservation purposes.*"

The site is located in an area surrounded by similar lot sizes and both dual occupancy and single dwelling development.

Development Control Plan No. 36 also applies to the site. The proposal complies with the DCP with the exception of a road width as discussed in this report.

The site is considered suitable for the proposed development.

Any Submissions Made in Accordance with the Act or Regulations

The application was advertised and notified to adjoining owners for a period of 30 days from 23 May 2013 and one (1) submission was received. The submission referred to the following issues:-

1. Will a fire trail be in-situ in case of fire outbreak.

Comment:

There is no change to the Council reserve immediately adjoining the property of the writer of the submission. There is a Council maintained Asset Protection Zone that runs along the boundary of the houses adjoining the reserve on Kentia Drive. The proposed subdivision has been assessed by the NSW Rural Fire Service who have imposed conditions of consent.

2. Trim overhang on reserve in Kentia Drive. Will the reserve be fenced and garbage bin placed in car park for rubbish. Give way sign should be placed in Zamia Place as the surface of the brick is slippery.

Comment:

The trees on the Kentia Drive reserve are not a part of this development application. This matter should be reported to Council separately.

The matter of whether the reserve will be fenced and provided with garbage bins will be assessed when the subdivision in that area has been finalised.

Give Way signs are only provided where the layout is such that it is not clear how or whether the T-intersection rule would operate. The alignment and road paving of Zamia Place clearly defines who has priority at the intersection, and as such Council will not be installing a Give Way sign at this location.

3. Foresee many accidents due to resident's habits in Zamia Place. The 8m width of the road should be further along Kentia Drive to reduce speed from the new subdivision.

Comment:

It is not intended to alter the width of the existing Kentia Drive roadway. There is no evidence that new subdivisions, though certainly creating more traffic, have the result of more accidents.

4. Stage 4 could alter wetland in the public reserve by draining water retention in this area.

Comment:

The Office of Water, Council and the applicant have been involved in protracted discussions in relation to the matter of the wetland. In response to the requirements of the Office of Water the applicant has altered their design to enable concurrence to be granted to the development application.

5. Will the developer provide a round-a-bout into the Southern Parkway.

Comment:

There is no requirement for the developer to construct a round-a-bout at the Southern Parkway as this was not identified as being necessary in the traffic studies for the rezoning and development of the land.

The Public Interest

The public interest has been considered throughout the assessment of this application and it is considered that the approval of this application is not against the public interest.

The proposal will provide additional housing stock in the Forster and Great Lakes Local Government area.

CONCLUSION:

The proposal, subject to the recommended conditions, is considered to be satisfactory having regard to the potential to create or contribute to undesirable cumulative impacts.

As the matter of the revocation of the Planning Agreement has not been finalised, the recommendation to this report includes a deferred commencement condition that the Planning Agreement is to be revoked prior to the consent becoming active. The revocation of the Planning Agreement has been presented to Council and is currently on advertisement.

RECOMMENDATION:

It is recommended that Development Application No. 323/2013 for a 174 lot residential subdivision (inclusive of a residue allotment), including the construction of associated infrastructure, roads and drainage reserves on Lot 6180 DP 1151512, The Southern Parkway, Forster be approved as follows:

DEFERRED COMMENCEMENT CONDITION

A. In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this is a deferred commencement consent. The consent will not operate until evidence, as specified in the following deferred commencement conditions, has been submitted to and approved by the 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:

- a) The Planning Agreement entered into between Council and the Developer being revoked in the manner prescribed under the *Environmental Planning and Assessment Regulation, 2000*.

Reason: To enable the development to be completed in accordance with current practices.

Evidence required to satisfy the above deferred commencement condition/s 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.

Under Section 80A of the Environmental Planning and Assessment Act 1979, the following conditions will apply, following written notice given under Section 100(4)(b) of Environmental Planning and Assessment Regulation 2000 and subject to any further conditions reasonably arising from compliance to the terms of the deferred commencement condition/s.

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented generally in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Preliminary Road & Drainage Design	3104S5B E - Sheet 1 of 7	Lidbury, Summers & Whiteman	19/02/16

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. APZ for Residential Subdivision to be confined to Residential-zoned Land unless otherwise approved by Council

Any bushfire asset protection zone (APZ) for the approved residential subdivision shall always be confined to the area of land that is zoned for residential purposes. No APZ for

the residential subdivision, except for those APZs shown in Deposited Plan 1151512 (and any development approved thereon) shall extend beyond the residential zoned land unless that APZ is minimised and is identified in a Council-approved Bushfire Management Plan.

Reason: To protect ecologically significant lands from the burdens associated with bushfire APZ for residential development.

3. Dedication of water quality management structure and drainage land

The registered proprietor of the land shall dedicate each bioretention basin (total footprint including access maintenance and landscaped perimeter), detention basin and drainage pathways to Council as drainage reserve at no cost to Council. The dedication shall take place at the time of registration of the Final Plan for the associated stage containing the bioretention basin and drainage system.

Reason: To ensure stormwater management measures installed on the site can be adequately maintained.

4. Installation and inspection of stormwater treatment measures (Bioretention Basins)

The stormwater management system must be constructed consistent with that detailed in the Water Sensitive Design Strategy (Prepared by LSW, September 2015 and as amended February 2016), the approved detailed design and all other consent conditions.

The bio-retention filter media shall be installed consistent with Water Sensitive Urban Design (WSUD) Engineering Procedures (Melbourne Water, 2005).

During construction a suitably qualified person (such as the designer of the bio-retention systems) is to undertake inspections to verify compliance with the approved plans. Inspections must be carried out and verified in accordance with the sign off forms in *'Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands' Healthy Waterways, 2010* and include but not be limited to:

- a) Earthworks and functional (hydraulic) structures and under drainage prior to covering in.
- b) Filter media including NATA test results and verification through field tests of bioretention basin infiltration rates within 10% of the rates of the design parameters.
- c) Finished levels
- d) Landscape installation and establishment

Signed inspection forms, photographs and NATA test results confirming that the asset has been constructed to comply with development consent conditions must be provided to Council as part of asset handover determination.

Reason: To ensure that the stormwater treatment system is constructed in accordance with approved plans, designs and conditions of consent.

5. Adjustment to utility services

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Reason: To ensure utility services remain in serviceable.

PRIOR TO THE ISSUE OF A SUBDIVISION CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any subdivision construction certificate

6. Engineering construction plans

Prior to the issue of a subdivision construction certificate **for each stage**, engineering construction plans and specifications must be submitted to and approved by the certifying authority. The plans must include details of the works listed in the table below in accordance with MidCoast Council (Forster) design and construction specifications. All works must include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Required work	Specification of work
Full width road construction	Full width road and drainage construction for all proposed roads on the approved plan.
Cycleway construction Kentia Drive (Stages 1,2A & 2B)	A 2 metre wide concrete footpath from The Southern Parkway to the end of the existing road formation of Kentia Drive in accordance with Council Standard No.165.
Service conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements for Telecommunications, Electricity supply and National Broadband Network.
Street lighting	Street lighting must be provided to the requirements of the energy supply authority and <i>Australian Standard AS/NZS 1158: Lighting for roads and public spaces</i> .
Stripping and stockpiling	Stripping and stockpiling of existing topsoil on site, prior to commencement of earthworks, and the subsequent re-spreading of this material together with a sufficient quantity of imported topsoil so as to provide a minimum thickness of 80mm over the allotments and footpaths, upon completion of the development works.
Inter-allotment drainage	An inter-allotment drainage system to an approved public drainage system for each of the proposed new lots where it is not possible to provide a gravity connection for stormwater runoff from future development on the lot to the kerb and gutter.
On-site stormwater detention	Stormwater must be discharged via an on-site stormwater detention system that is to be designed to ensure that peak flow rates for the 1% AEP storm event exiting the subdivision do not exceed that occurring in the pre-development state. The Design must be in accordance with The Institution of Engineers, Australia (1987), <i>Australian Rainfall and Runoff</i> .
Access to stormwater structures	A bitumen or concrete vehicle access must be provided to detention ponds and bio retention wetland areas for access by Council for maintenance purposes.
Filling to above flood Level	Filling of lots with clean suitable material to a minimum RL 2.7m AHD being a level equivalent to the 2100 1% AEP flood level. The allotments to be filled must have a minimum longitudinal fall of 1%, to either the proposed internal road(s) and or proposed inter-allotment piped drains. Details must be provided of the haulage routes for the importation of fill agreed by Council's Authorised Officer.

Tree disposal	Details of the means of tree disposal are to be submitted for Council's approval prior to the commencement of subdivision works.
Stage 2C fire trail	The access is to be suitable for two (2) wheel drive vehicles with a 4m wide gravel formation within a 6m wide corridor. A lockable chain gate is to be provided at each end with appropriate signs to indicate location of the trail.

Reason: To ensure works within Council's Road Reserve are constructed to a suitable standard for public safety.

7. MidCoast Water approval

Prior to the issue of a subdivision construction certificate for each stage, a Certificate of Compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

8. Traffic management plan

Prior to the issue of a subdivision construction certificate for each stage, a traffic management plan including measures to be employed to control traffic (inclusive of construction vehicles) during construction of the subdivision must be submitted to and approved by the certifying authority. The traffic control plan must be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard AS 1742.3: *Manual of uniform traffic control devices - Traffic control for works on roads*.

The plan must incorporate measures to ensure that motorists using the road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites manual*.

The approved Construction traffic management plan must be implemented prior to the commencement of work.

Reason: To ensure public safety during the construction of the development.

9. Electricity substation

Prior to the issue of a subdivision construction certificate for each stage, preliminary plans detailing the location of the required electricity substation within the site must be submitted to and approved by the certifying authority. The substation must be located in accordance with the requirements of the electricity supply authority.

Reason: To ensure the development has an adequate and safe electricity supply.

10. Bond required to guarantee against damage to public land

Prior to the issue of a subdivision construction certificate for each stage, a Damage Bond Application form together with payment of the bond must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council

assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
- b) following issue of a subdivision certificate.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

11. Water Sensitive Design Maintenance Plan

Prior to issue of a subdivision construction certificate for each stage of the subdivision, an operation and maintenance plan (WSUD Operations and Maintenance Manual) for the final approved stormwater management system detailed in the Water Sensitive Design Strategy, (Prepared by LSW September 2015 and as amended February 2016) and final approved engineering plans is required to be submitted and approved by the Certifying Authority. The maintenance plan must include but not be limited to:

- a) details of the location and nature of stormwater management structures such as pits, pipes, the bioretention basin and other drainage works.
- b) identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures including the frequency of such activities including a reporting protocol and checklists (refer to Councils example maintenance plan for bioretention systems).

Reason: To ensure water quality measures installed on the site can be adequately maintained.

12. Erosion and sediment control plan

Prior to the issue of a subdivision construction certificate for each stage, Soil and Water Management Plan (SWMP) prepared by a suitably qualified person in accordance with "*The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction*" (LandCom) must be submitted to and approved by the certifying authority.

The approved SWMP showing detailed runoff and erosion control measures (both temporary and permanent) shall be implemented on the subject site prior to the construction of the approved development. The SWMP shall be implemented to the satisfaction of the Certifying Authority prior to the commencement of works, and during construction. The plan must incorporate (without being limited to):

- minimise disturbance of existing stabilised land or areas of vegetation outside of the limits of the development,
 - upslope interception of uncontaminated stormwater run-off with diversion drains/bunds around disturbed areas;
 - appropriate sediment interception measures (catch drains, contour banks, detention basins, settling ponds, straw bale or gabion barriers, sediment traps, sediment fences etc), sufficient to prevent sediments, contaminants, and other debris leaving the site or entering downstream drainage lines;
 - procedures for the operation and maintenance of pollution control equipment/works must be noted;
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- regular maintenance of erosion control works and sediment control measures;
- satisfactory disposal of intercepted sediments and other contaminants.

The applicant shall also submit with the SWMP, a Statement of Compliance, stating that:

- The Plan has been developed by an appropriately qualified professional in erosion and sediment control, or similar;
- The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of Total Suspended Solids (TSS) and Managing Urban Stormwater – Soils and Construction. Landcom, 2004.

Please note: The *Protection of the Environment Operations Act 1997* makes it an offence to allow sediments to enter, or be placed, into any waters or drain used to receive or pass rainwater. Severe penalties exist for offences against the Act, including on-the-spot fines of up to \$1,500 for individuals and \$3,000 for Corporations. Non-compliance with the conditions of Development Consent is a breach of the *Environmental Planning and Assessment Act 1979* and may attract fines.

Reason: To protect the environment from the effects of erosion and sedimentation.

13. Landscaping Master Plan Set to be Updated

Prior to the issuing of the first Subdivision Construction Certificate, the Registered Proprietor shall engage a qualified Landscape Architect to prepare and submit to MidCoast Council for review and approval an amended Stage 5B Forster Palms Estate Landscape Master Plan Set. This shall amend and update the details provided in the "*Stage 5B Forster Palms Estate Landscape Master Plan Set*" prepared by Pamela Fletcher, sheet no's 0802/ 1 to 7 and dated March 2008.

The Landscaping Master Plan Set shall demonstrate that subdivision landscaping (including street tree planting) shall enhance biodiversity through plantings of indigenous species, incorporate fire resistant species and ensure vegetation management on residential allotments in compliance with bushfire protection requirements (as required by Great Lakes DCP 2014).

The Landscaping Master Plan Set shall identify the plantings and other habitat features to assist facilitate safe wildlife corridor movements across Kentia Drive at the Open Space reserve as well as the additional traffic calming devices to be established at this location.

Reason: To identify appropriate landscaping for the approved subdivision.

14. Street Lighting Plan to be Prepared

Prior to the issuing of the relevant Subdivision Construction Certificate for each development stage, the Registered Proprietor shall prepare and submit to MidCoast Council for review and approval a Preliminary Roadside Lighting Strategy. This Strategy shall identify the locations, types and details of all roadside or public lighting. The public lighting shall demonstrably minimise light intrusion or spill within natural areas within open space or drainage reserve areas.

Reason: To identify appropriate public lighting in a manner that does not cause harm or nuisance to native wildlife or natural habitat areas.

15. Details of the fencing of the shared boundary of the approved subdivision and the Open Space and Drainage Reserves Land

For each development stage, the Registered Proprietor shall submit to MidCoast Council for review and approval details of the proposed style of fencing that is to be erected on the shared boundary of the approved subdivision or roads and its interface with the Open Space and Drainage Reserve lands.

The fence shall be of a timber bollard and steel cable design or similar to prevent vehicle access to the Open Space and Drainage Reserve areas.

The Plan of Location of Required Vehicle Fence, dated 30/03/2016 (and attached to this Consent) identifies the alignment of the required fence.

Reason: To protect the environmental areas with fencing of an appropriate style.

16. Nesting Boxes to be Erected

Prior to the issuing of the Subdivision Certificate for Stage 1, the Registered Proprietor shall engage an Ecologist to source and install not less than twelve (12) nesting boxes of a size suitable for use by Squirrel Glider. The boxes shall be installed in the adjacent Open Space Reserve. Not more than one box shall be installed on an individual tree and the host tree shall be a mature tree, but without natural hollows. Boxes shall be installed not lower than 4-metres to the ground surface and on a sheltered aspect.

Reason: To offset the removal of natural hollows from the land for the approved development.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT **The following conditions must be satisfied prior to the commencement of any building construction or subdivision work.**

17. Controlled Activity Approval

Prior to the commencement of any work or activity on waterfront land, the applicant must apply (to Department of Primary Industries, Water) for a controlled activity approval.

Reason: To ensure compliance with relevant legislation.

18. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and the adjoining property while the development is being constructed. Public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

Reason: To ensure public health and safety during the construction of the development.

19. Site access

Public access to the site, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied. The public safety provisions must be in place prior to the commencement of any excavation or building works and be maintained throughout construction.

Reason: To ensure public health and safety during the construction of the development.

20. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

21. Waste management plan

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of MidCoast Council (Forster) Waste Management Policy must be submitted to and approved by the certifying authority.

Reason: To ensure adequate and appropriate management of waste and recycling.

22. Pollution prevention sign

Council's "PREVENT POLLUTION" sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council's PREVENT POLLUTION sign can be purchased at Council's Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work.

23. Clearing Areas to be Minimised and Managed

During each relevant development stage to form the approved subdivision, the Registered Proprietor, and their agents, shall use their best endeavours to minimise the clearing, harm and removal of remnant native trees from the subject land.

In this regard, for each development stage, prior to the commencement of clearing work:

- A Registered Surveyor shall identify the footprint of the development stage and shall mark this footprint with clearly identified stakes or flagging
- Clearing for the purpose of the construction of each development stage shall be strictly minimised
- Prior to any work, the Registered Proprietor shall erect orange safety mesh or similar barrier or safety fencing around the works footprint to protect adjacent areas from accidental or associated disturbance
- Stockpiles, site offices and storage areas shall be confined to already cleared areas

During the physical removal of trees within the approved clearing footprints for each development stage, the following shall be adopted at all times:

- Machinery or tree felling operators shall inspect the crown, foliage and trunks of trees that require removal immediately prior to any felling to investigate the presence of koalas. If a Koala is detected, the tree and no other surrounding trees shall be cleared until the animal has dispersed of its own free will from the area
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- Removal of approved trees shall be conducted using directional felling away from trees that are to be retained
- Removal of trees shall be conducted in a manner that avoids the movement of heavy machinery in the root zones of trees that are to be retained
- Trees and shrubs removed from the study area shall be commercially recovered (logs) or used in site landscaping in log form or mulch (as edging or cover for terrestrial fauna).
- Windrowing and pile-burning shall be avoided, except with the consent of the Rural Fire Service
- Areas of noxious and invasive weeds shall be treated prior to clearing works or shall be separately physically removed and disposed of at an approved landfill facility

For the removal of hollow-bearing trees, the following procedures shall be adopted during each relevant development stage:

- Council's Senior Ecologist shall be informed prior to the removal operation of the date and time of the removal operation
- Removal of the identified hollow-bearing trees shall be conducted by qualified contractors with an appropriately trained Ecologist in attendance, who shall inspect the hollows and recover any injured or displaced native fauna. The trees shall be felled sensitively using top-down techniques to minimise mortality and injury risks to resident fauna and the arborists shall inspect the hollows progressively as they work
- Any salvageable hollows from felled trees shall be harvested and placed on the adjacent reserve as cover for terrestrial fauna species
- Log sections harvested from hollow-bearing trees shall be cut into 4-metre lengths and placed into the adjacent reserve
- The Ecologist shall provide a report to Council's Senior Ecologist within one-week of the hollow 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

Hollow-bearing trees are those identified as Habitat Trees (to be removed) on Figure 3 Significant Trees to be Retained and Removed in *South Forster Stage 5B Construction Environmental Management Plan* (ERM 2013).

Reason: To protect significant trees and minimise the impacts of the development on native vegetation.

24. Minimising the Risk of Introducing Diseases or Pathogens during Site Work

All site machinery introduced to the subject land for any purpose associated with the formation or construction of the approved subdivision shall be adequately washed down prior to their introduction to the subject land. Such machinery shall be demonstrably free of soil and vegetative material prior to their introduction to the subject land.

Reason: To protect the native vegetation of the land from the risks associated with importation of plant diseases or pathogens to the site

25. Site Landscaping

The Registered Proprietor shall engage a suitably qualified Landscape Architect to supervise and coordinate the establishment and maintenance of landscaping associated with each development stage, including street trees, in accordance with the details provided within the Landscaping Master Plan Set approved by MidCoast Council in accordance with these Conditions.

Reason: To establish landscaping on the site for amenity and habitat

26. Fencing of the shared boundary of the approved subdivision and the Open Space and Drainage Reserve Land

For each development stage, the Registered Proprietor shall engage a suitably qualified Fencing Contractor to establish a permanent fence in a style approved by Council in accordance with these Conditions along the shared boundary of the approved subdivision (including roadways) and the Open Space and Drainage Reserve land. The fence shall be erected as part of the subdivision construction work.

Reason: To protect the habitats of the Open Space and Drainage Reserve Land.

27. Street Lighting for each Stage to be in accordance with Council Approved Lighting

For each development stage, the Registered Proprietor shall establish street and public lighting in a manner approved by Council as per these Conditions.

Reason: To protect the habitats from excessive or nuisance light spill

28. Removal of Noxious Weeds from the Drainage Reserve

As part of the work associated with construction of Stage 4A, the Registered Proprietor shall engage a suitably qualified Bushland Regenerator to undertake a primary control of the land of the Drainage Reserve to treat/remove noxious weeds from the land. The control activities are to be targeted and best-practice, involving hand removal, foliar herbicide application and cut/paint methods.

Reason: To remove noxious weeds from the Drainage Reserve prior to dedication to Council

29. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

30. Construction dust suppression

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

- a) restricting topsoil removal;
- b) regularly and lightly watering dust prone areas
- c) alter or cease construction work during periods of high wind;

Reason: To maintain amenity during construction of the development.

31. Maintenance of erosion and sediment control measures in accordance with approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

32. Compliance with Waste Management Plan

During construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions must be satisfied prior to the issue of a subdivision certificate

33. Bank Guarantee for construction and maintenance of Stormwater system

Prior to release of the final plan of subdivision for each stage that contains and drains to a bioretention basin, a bank guarantee agreed between Council and the developer must be submitted to Council representing the value of 1.5 times the value of:

- conversion from the sacrificial turf layer including final planting of the bioretention basin and batter landscaping based on \$38/m² filter media.
- establishment maintenance of the bioretention plantings for 2 years based on \$10/m²/year filter media.
- Maintenance of the bioretention basin for 3 years post the establishment period based on \$5/m²/year filter media.

The bank guarantee may be proportionally released once each component is completed to the satisfaction of Council.

Contribution rates are subject to indexation after 30 June each year.

Reason: To ensure that the bioretention basins are installed, established and maintained.

34. Detailed Design of Stormwater Quality Management Measures

Prior to the issue of a subdivision construction certificate, final engineering plans and specifications for the stormwater management system including the bioretention basins and the drainage system must be submitted to and approved by the Certifying Authority.

The bioretention basins must be designed to meet the following criteria and the Water Sensitive Design Strategy (Prepared by LSW September 2015 and as amended February 2016):

- The plans shall detail the design of the water quality treatment facilities initially as a sediment basin and in the final form as a bioretention basin.
- Be designed in accordance with Water by Design (2006), 'Water Sensitive Urban Design – Technical Design Guidelines for South East Queensland', South East Queensland Healthy Waterways Partnership.
- Batters up to and including 1:3 to be stabilised with planting. Batters steeper than 1:3 require rock-lining or alternate stabilisation measures to geotechnical design and Council approval.
- Be designed to have suitable access arrangements for operation and maintenance.
- Have 50% of the raingarden area planted with a minimum of four (4) species of plants from Great Lakes Council's Fact Sheet 15 'Local Plant Selection for Raingardens, Guidance for Water Sensitive Provisions of the Great Lakes Development Control Plan' (April 2014), at densities indicated in the fact sheet.
- Contain 400mm of filter media consistent with the specifications contained in Great Lakes Council's Fact Sheet 16 'Filter Media for Raingardens: Guidance for Water Sensitive Provisions of the Great Lakes Development Control Plan' (April 2014).
- Be protected by sediment and erosion control measures during construction and be connected only after all hardstand areas have been paved or sealed and cleaned.
- Be designed to be permanently protected from vehicular damage by bollards, fences or similar structures.

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan are met.

35. Eighty Native Trees to be Established in the Open Space Reserve

Prior to the issuing of the Subdivision Certificate For Stage 2B, the Registered Proprietor shall engage a qualified and experienced Bushland Regenerator to source, plant and maintain eighty (80) native trees within the area of the Open Space Reserve as identified in s16.7 of the Great Lakes DCP 2014.

Prior to any planting, the project Bushland Regenerator shall identify to MidCoast Council the species to be used in the plantings and the proposed planting locations. Planting shall not commence until Council has approved the species and locations of the plantings. The species to be used in planting shall be of demonstrated foraging value to the Squirrel Glider.

A Bond or Bank Guarantee of \$2,000 will be required to be lodged with Council as part of any subdivision consent, to ensure the plantings are successful, which will be released upon achieving a 90% survival rate (of establishment of planted trees) at the end of 24 months.

Reason: To offset the loss of trees for the establishment of the approved subdivision and to meet DCP requirements.

36. Public Positive Covenants for ecological purposes

In respect of certain nominated residential lots approved in this consent and prior to the issuing of the Subdivision Certificate for Stage 2C:

A: The Registered Proprietor is to take all necessary steps to public positive covenants pursuant to the provisions of s88E of the *Conveyancing Act 1919* to the following effect, are recorded in the Register kept under the *Real Property Act 1900*:

- (1) Prior to the issuing of any Dwelling Construction Certificate for the land of Lots 131 - 138, the Registered Proprietor of each affected Lot must erect a rear or

side fence on the property boundary adjoining the approved firetrail. The fence shall be not less than 1.5-metres tall. Once installed, the fence shall be maintained.

The land burdened by the public positive covenants referred to above is the relevant parts of Lot 6180 DP1151512.

MidCoast Council 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.

The Registered Proprietor of the land shall have registered by the Registrar-General a plan as a deposited plan showing that part of the land of Lot 6180 DP1151512 and which plan is to identify the area affected by the public positive covenants required in these conditions such that on its registration, the public positive covenant set out in the conditions above are entered on the appropriate title(s).

Reason: To require a boundary fence on Lots that front the Open Space Reserve

37. Practical Completion of Site Landscaping for each Development Stage

A Subdivision Certificate for each stage of the approved development shall not be issued until such time as a Landscape Architect has provided Council with a written certification that the landscaping required in these Conditions for the appropriate development stage has been planted in accordance with the approved Landscaping Plan.

Reason: To establish landscaping on the site at each development stage for amenity and habitat

38. Plan of subdivision

An application for a subdivision certificate for each stage must be made on the approved form and must be accompanied by the subdivision certificate fees, in accordance with Council's adopted schedule of fees and charges. Seven (7) copies of the plan of subdivision must be submitted with the application for a subdivision certificate.

Reason: To ensure adequate identification of boundaries and the location of structures.

39. Street name application

Prior to the issue of a subdivision certificate for each stage, an application for the naming of each new road must be submitted on Council's 'New Roads Name Application' form, together with payment of all associated fees. The street names must be approved by Council and shown on the plans submitted with the application for subdivision certificate.

Reason: To ensure adequate identification of new streets.

40. Erection of street signs

Prior to the issue of a subdivision certificate for each stage, street signs for the approved street names must be installed at no cost to Council.

Reason: To ensure properties can be easily identified.

41. Plan of subdivision and Section 88B Instrument

An instrument created under Section 88B of the *Conveyancing Act 1919* must be submitted with the application for a subdivision certificate. The final plan of subdivision and

accompanying Section 88B Instrument must provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Dedicated public road access	Dedication of suitable public road accesses to all proposed allotments.
Dedicated corner splays	Dedication of corner splays at all street junctions and intersections.
Inter-allotment drainage easements	The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments.
Drainage easements	The creation of easements for drainage of water over all drainage pipelines and structures located within the proposed allotments in accordance with Council's policy.
Drainage reserve	The dedication of a drainage reserve over the drainage treatment devices and constructed access.
Easement for access	The creation of an easement for access burdening the residue in Stage 4B covering the temporary turning head at the end of Stage 4B (Road No. 15) and benefiting Council, and with Council being nominated as the sole authority to release, vary or modify.
Sewer easements	The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with MidCoast Council (Forster) policy.
Easement for electricity	The creation of any necessary easements for electricity purposes as required by the electricity supply authority.
Drainage reserve	The dedication of a public drainage reserve containing the stormwater management/treatment devices and natural flow pathways.
Water Sensitive Design Measures	<p>Each allotment is to have the required components of the approved stormwater strategy (Water Sensitive Design Strategy, September 2015) identified, with maintenance to be the responsibility of the individual land owner. Components include:</p> <ul style="list-style-type: none"> • 5,000L rainwater tank for re-use capturing 100% of the roof area, utilising a sealed downpipe system or two separate tanks if required, for the purpose of indoor (plumbed to toilets and cold water laundry) and outdoor re-use. • Any overtopping of this captured roof water will discharge to either the inter-allotment or roadside drainage system.

Reason: To ensure the proper management of land.

42. Completion of works

Prior to the issue of a subdivision certificate for each stage, all roads, drainage and civil works, required by this development consent and associated construction certificate, must be completed, except those works bonded as agreed with Council. Works must include the restoration, replacement and/or reconstruction of any damage caused to surrounding public

infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

Reason: To ensure civil works are appropriately constructed.

43. Inspections of engineering work

Prior to the issue of a subdivision certificate for each stage, all engineering work must comply with MidCoast Council (Forster) engineering guidelines, specifications and standards and must be inspected in accordance with Council's holding points. Upon completion of the public works a final inspection must be arranged with Council and a Certificate of Practical Completion must be issued by Council.

Reason: To ensure compliance with Council's specification for engineering works.

44. Works-as-executed plans

Prior to the issue of a subdivision certificate for each stage, works-as-executed plans, certified by a suitably qualified engineer or a registered surveyor, must be submitted to Council. Where the design is carried out utilising computer aided design (CAD), all CAD computer files must be provided on compact disc (CD) with the final drawings. The CAD files must include all lot and road boundaries, lot numbers and easements. The data must be supplied in accordance with the requirements of Council's GIS Officer.

Where development involves filling of flood prone land, an additional copy of the works-as-executed plan relating to earthworks and final plan of subdivision must be submitted detailing the 1% annual exceedence probability (AEP) flood contour.

Reason: To provide Council with accurate records of civil works.

45. Electricity supply certificate

Prior to the issue of a subdivision certificate for each stage, a certificate of compliance from the electricity supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

46. Telecommunications

Prior to the issue of a subdivision certificate for each stage, a certificate of compliance from the relevant telecommunications authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

47. Water and sewer supply certificate

Prior to the issue of a subdivision certificate for each stage, a certificate of attainment from MidCoast Water must be submitted to Council stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development.

Reason: To ensure that utility services have been provided to the newly created lots.

48. Street tree planting

Prior to the issue of a subdivision certificate for each stage, street tree planting must be installed in accordance with the following schedule:

- a) be protected by a suitable tree guard,
- b) provided with slow release fertiliser,
- c) be mulched with 100mm of native tree mulch.

Reason: To maintain environmental and streetscape amenity

49. Defects liability bond for civil works

Prior to the issue of a subdivision certificate for each stage, a defects liability bond, being 5% of the value of all public engineering works associated with the development, must be paid to Council. This bond will be lodged in a Council trust fund to cover any defects in the works subsequent to their acceptance by Council. Two (2) years after the acceptance of these works by Council or release of the subdivision plan, whichever is later, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

Please note that the defects liability bond is reviewed periodically and may change prior to the release of the subdivision. The applicable bond and maintenance period must be determined from Council's current requirements at the time of the subdivision release.

Reason: To ensure civil works are constructed in accordance with the approved plans and Council specifications and repaired when damaged.

50. Haulage Levy

Prior to the issue of a subdivision certificate for each stage, details of the amount of fill that has been imported to the site or the material that has been excavated and removed from the site must be submitted to Council for the purpose of calculating the haulage levy. The haulage levy is required to be paid in accordance with the Great Lakes Wide Development Contributions Plan 2014, as may be updated from time to time. The haulage levy must be paid to Council prior to the issue of a subdivision certificate.

Reason: Maintenance and repair of public assets.

51. Geotechnical report - site classification

Prior to the issue of a subdivision certificate for each stage, the classification of the soil type by a qualified professional geotechnical engineer, in accordance with the requirements of Australian Standard AS 2870: *Residential slabs and footings* must be submitted to the certifying authority.

Reason: To ensure that compliance with relevant standards.

52. Section 94 contributions

Prior to the issue of a subdivision certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*. 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:

Stage 1 (1 Credit for existing lot and credit for public open space 2,000m²)

Code	Contributions Plan	Facility	quantity	unit	rate	amount
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GLW-04	Great Lakes Wide	Library Bookstock	96	persons	@	\$77.60	=	\$7,449.60
GLW-07	Great Lakes Wide	Headquarters Building	96	persons	@	\$465.93	=	\$44,729.28
GLW-05	Great Lakes Wide	s94 Admin	96	persons	@	\$213.77	=	\$20,521.92
FD04	Forster District	Major Roads Inner Zone	360	1-way trips	@	\$674.34	=	\$242,763.84
FD03	Forster District	Aquatic Centre	96	persons	@	\$305.66	=	\$29,342.98
FD01	Forster District	Surf Life Saving	96	persons	@	\$90.15	=	\$8,654.02
FOS-01	Forster District	Open Space	96	persons	@	\$1,461.77	=	\$37,024.62
FD07	Forster District	Library Facility	96	persons	@	\$505.79	=	\$48,555.84
FD11	Forster District	Community Facilities	96	persons	@	\$552.10	=	\$53,001.60
						Total	=	\$595,349.00

Stage 2A

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	52.8	persons	@	\$77.60	=	\$4,097.28
GLW-07	Great Lakes Wide	Headquarters Building	52.8	persons	@	\$465.93	=	\$24,601.10
GLW-05	Great Lakes Wide	s94 Admin	52.8	persons	@	\$213.77	=	\$11,287.06
FD04	Forster District	Major Roads Inner Zone	198	1-way trips	@	\$674.34	=	\$133,520.11
FD03	Forster District	Aquatic Centre	52.8	persons	@	\$305.66	=	\$16,138.64
FD01	Forster District	Surf Life Saving	52.8	persons	@	\$90.15	=	\$4,759.71
FOS-01	Forster District	Open Space	52.8	persons	@	\$1,461.77	=	\$77,181.46
FD07	Forster District	Library Facility	52.8	persons	@	\$505.79	=	\$26,705.71
FD11	Forster District	Community Facilities	52.8	persons	@	\$552.10	=	\$29,150.88
						Total	=	\$327,441.95

Stage 2B

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	36	persons	@	\$77.60	=	\$2,793.60

GLW-07	Great Lakes Wide	Headquarters Building	36	persons	@	\$465.93	=	\$16,773.48
GLW-05	Great Lakes Wide	s94 Admin	36	persons	@	\$213.77	=	\$7,695.72
FD04	Forster District	Major Roads Inner Zone	135	1-way trips	@	\$674.34	=	\$91,036.44
FD03	Forster District	Aquatic Centre	36	persons	@	\$305.66	=	\$11,003.62
FD01	Forster District	Surf Life Saving	36	persons	@	\$90.15	=	\$3,245.26
FOS-01	Forster District	Open Space	36	persons	@	\$1,461.77	=	\$52,623.72
FD07	Forster District	Library Facility	36	persons	@	\$505.79	=	\$18,208.44
FD11	Forster District	Community Facilities	36	persons	@	\$552.10	=	\$19,875.60
						Total	=	\$223,255.88

Stage 2C

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	50.4	persons	@	\$77.60	=	\$3,911.04
GLW-07	Great Lakes Wide	Headquarters Building	50.4	persons	@	\$465.93	=	\$23,482.87
GLW-05	Great Lakes Wide	s94 Admin	50.4	persons	@	\$213.77	=	\$10,774.01
FD04	Forster District	Major Roads Inner Zone	189	1-way trips	@	\$674.34	=	\$127,451.02
FD03	Forster District	Aquatic Centre	50.4	persons	@	\$305.66	=	\$15,405.06
FD01	Forster District	Surf Life Saving	50.4	persons	@	\$90.15	=	\$4,543.36
FOS-01	Forster District	Open Space	50.4	persons	@	\$1,461.77	=	\$73,673.21
FD07	Forster District	Library Facility	50.4	persons	@	\$505.79	=	\$25,491.82
FD11	Forster District	Community Facilities	50.4	persons	@	\$552.10	=	\$27,825.84
						Total	=	\$312,558.23

Stage 3A

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	60	persons	@	\$77.60	=	\$4,656.00
GLW-07	Great Lakes Wide	Headquarters Building	60	persons	@	\$465.93	=	\$27,955.80

GLW-05	Great Lakes Wide	s94 Admin	60	persons	@	\$213.77	=	\$12,826.20
FD04	Forster District	Major Roads Inner Zone	225	1-way trips	@	\$674.34	=	\$151,727.40
FD03	Forster District	Aquatic Centre	60	persons	@	\$305.66	=	\$18,339.36
FD01	Forster District	Surf Life Saving	60	persons	@	\$90.15	=	\$5,408.76
FOS-01	Forster District	Open Space	60	persons	@	\$1,461.77	=	\$87,706.20
FD07	Forster District	Library Facility	60	persons	@	\$505.79	=	\$30,347.40
FD11	Forster District	Community Facilities	60	persons	@	\$552.10	=	\$33,126.00
						Total	=	\$372,093.12

Stage 3B

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	33.6	persons	@	\$77.60	=	\$2,607.36
GLW-07	Great Lakes Wide	Headquarters Building	33.6	persons	@	\$465.93	=	\$15,655.25
GLW-05	Great Lakes Wide	s94 Admin	33.6	persons	@	\$213.77	=	\$7,182.67
FD04	Forster District	Major Roads Inner Zone	126	1-way trips	@	\$674.34	=	\$84,967.34
FD03	Forster District	Aquatic Centre	33.6	persons	@	\$305.66	=	\$10,270.04
FD01	Forster District	Surf Life Saving	33.6	persons	@	\$90.15	=	\$3,028.91
FOS-01	Forster District	Open Space	33.6	persons	@	\$1,461.77	=	\$49,115.47
FD07	Forster District	Library Facility	33.6	persons	@	\$505.79	=	\$16,994.54
FD11	Forster District	Community Facilities	33.6	persons	@	\$552.10	=	\$18,550.56
						Total	=	\$208,372.14

Stage 4A

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	40.8	persons	@	\$77.60	=	\$3,166.08
GLW-07	Great Lakes Wide	Headquarters Building	40.8	persons	@	\$465.93	=	\$19,009.94

GLW-05	Great Lakes Wide	s94 Admin	40.8	persons	@	\$213.77	=	\$8,721.82
FD04	Forster District	Major Roads Inner Zone	153	1-way trips	@	\$674.34	=	\$103,174.63
FD03	Forster District	Aquatic Centre	40.8	persons	@	\$305.66	=	\$12,470.76
FD01	Forster District	Surf Life Saving	40.8	persons	@	\$90.15	=	\$3,677.96
FOS-01	Forster District	Open Space	40.8	persons	@	\$1,461.77	=	\$59,640.22
FD07	Forster District	Library Facility	40.8	persons	@	\$505.79	=	\$20,636.23
FD11	Forster District	Community Facilities	40.8	persons	@	\$552.10	=	\$22,525.68
						Total	=	\$253,023.32

Stage 4B

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	45.6	persons	@	\$77.60	=	\$3,538.56
GLW-07	Great Lakes Wide	Headquarters Building	45.6	persons	@	\$465.93	=	\$21,246.41
GLW-05	Great Lakes Wide	s94 Admin	45.6	persons	@	\$213.77	=	\$9,747.91
FD04	Forster District	Major Roads Inner Zone	171	1-way trips	@	\$674.34	=	\$115,312.82
FD03	Forster District	Aquatic Centre	45.6	persons	@	\$305.66	=	\$13,937.91
FD01	Forster District	Surf Life Saving	45.6	persons	@	\$90.15	=	\$4,110.66
FOS-01	Forster District	Open Space	45.6	persons	@	\$1,461.77	=	\$66,656.71
FD07	Forster District	Library Facility	45.6	persons	@	\$505.79	=	\$23,064.02
FD11	Forster District	Community Facilities	45.6	persons	@	\$552.10	=	\$25,175.76
						Total	=	\$282,790.76

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](#) or at Council's offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of amenities and services.

ONGOING USE

The following conditions must be satisfied during the ongoing use of the development.

53. Maintenance of stormwater treatment measures

The registered proprietor of the land shall undertake all stormwater management and bioretention establishment works including landscaping of the bioretention basin perimeters, removal of noxious and priority environmental weeds and maintain the facilities (bioretention basins, sediment forebays, inspection pipes, detention basin, drainage pathways) for a period of five years (two years during the establishment period once the final planting is undertaken and a further three years post establishment) from the date that Council certifies that 80% of the dwellings within each contributing sub-catchment are constructed.

During the establishment phase, the bioretention plants are to be maintained with regular irrigation and monitoring to ensure vegetation survival and maturity.

A report detailing maintenance activity for each bioretention basin is to be provided to Council prior to hand over at the end of the maintenance period.

Stormwater treatment measures for Stage 1 are to be maintained by the developer for a period of five years from the date that Council certifies that all subdivision works and 80% of the dwellings within the contributing catchment of the stormwater treatment measure has been completed. **At the end of this five year maintenance period, the bank guarantee referred to in Condition 33 will be refunded if, at an inspection arranged by the applicant, no defects are apparent.**

Reason: To ensure the stormwater treatment system is appropriately established and maintained during the initial establishment phase so that the development complies with water quality objectives.

54. Maintenance of street trees

Street tree planting must be maintained for an 18 month period incorporating at least 2 summer periods.

Reason: To maintain environmental amenity.

OTHER AGENCY CONDITIONS

55. Office of Environment & Heritage (OEH) requirements

The development must be carried out in compliance with the following conditions detailed in the General Terms of Approval for Aboriginal Cultural Heritage Values, reference No. DOC13/22806, FIL12/3155, dated 6 June 2013.

- a) The applicant must comply with Part 6 of the National Parks & Wildlife Act 1974 (NPW Act), prior to commencing any ground disturbance or development works and during development works which is the subject of the development.
 - b) In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeological specialist and the representatives of the local Aboriginal community must be contacted to determine the significance of the
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object(s) and to develop an appropriate management strategy. The management strategy must comply with the provisions of the NPW Act. This may include avoiding impact, additional investigations and/or the submission of an Aboriginal Heritage Impact Permit application. The site is to be registered in the Aboriginal Heritage Information Management System (managed by OEH) and the management outcome for the site included in the information provided.

- c) If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEH's environment Line on 131555 and representatives of the local Aboriginal community. No works are to continue until OEH provides written notification to the applicant.
- d) An Aboriginal Cultural Heritage Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the representatives of the local Aboriginal community.

A copy of the Aboriginal Cultural Heritage Education Program must be submitted to the certifying authority prior to the issue of the subdivision Certificate

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

56. NSW Rural Fire Service requirements

The development must be carried out in compliance with the following conditions detailed in the bush fire safety authority, reference No. D1/1021 DA13052187509PC, dated 15 January 2016.

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:

- a) At the issue of subdivision certificate for each Stage and in perpetuity, the entire area of each new residential lot shall be managed as an inner protection area (IPA) 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) The proposed bio-retention basins and the full width of the public road reserves shall be managed as an inner protection area (IPA) 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) Prior to the issue of subdivision certificate for Stage 1 Council's Bushfire Management Plan applying to Lot 6179 DP 1151521 shall be amended and adopted by Council to include the area over the western portion of Lot 6179 DP 1151521 as shown on the plan prepared by Travers Bushfire and Ecology numbered A 15122_BF001, dated 8 October 2015 (Issues 7). This area shall be managed as an inner protection area 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
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for asset protection zones' and shall be established prior to the issue of subdivision certificate for Stage 1.

- d) Prior to the issue of subdivision certificate for Stage 2 Council's Bushfire Management Plan applying to Lot 6179 DP 1151521 shall be amended and adopted by Council to include the area to the north of proposed Lot 138 as shown on the plan prepared by Travers Bushfire and Ecology numbered A 15122_BF001, dated 8 October 2015 (Issues 7). This area shall be managed as an inner protection area for a minimum distance of 10 metres from proposed Lot 138 and as an outer protection area for the remainder 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' and shall be established prior to the issue of subdivision certificate for Stage 2.
- e) Prior to the issue of subdivision certificate for Stage 2 Council's Bushfire Management Plan applying to Lot 6179 DP 1151521 shall be amended and adopted by Council to include the area to the west of proposed Lots 131 to 137 as shown on the plan prepared by Travers Bushfire and Ecology numbered A 15122_BF001, dated 8 October 2015 (Issues 7). This area shall be managed as an inner protection area 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' and shall be established prior to the issue of subdivision certificate for Stage 2.
- f) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the residue lot at the issue of subdivision certificate for Stage 1 for a temporary asset protection zone as follows:

- east of Lots 13, 14 and 41 for a distance of 21 metres;
- south of Lots 26 to 30 and 39 to 41 for a distance of 21 metres; and
- south of Lots 31 to 38 for a distance of 10 metres

The temporary asset protection zone shall be managed as an inner protection area (IPA) 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' and may be removed upon development of the adjoining land.

- g) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the residue lot at the issue of subdivision certificate for Stage 2 for a temporary asset protection zone as follows:

- south of Lots 42 - 48 for a distance of 21 metres

The temporary asset protection zone shall be managed as an inner protection area (IPA) 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' and may be removed upon development of the adjoining land.

- h) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the eastern portion of proposed Lots 66 - 69 requiring any habitable building to be setback a minimum 28 metres from the eastern edge of the road reserve (the edge of the bush fire hazard).

- i) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the following lots at the issue of subdivision certificate for Stage 3 for a temporary asset protection zone as follows:
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- 10 metres wide along the southern boundary of Lots 92, 105-116 and 124-130; and
- 10 metres wide along the south-western boundary of Lot 92.

The temporary asset protection zone shall be managed as an inner protection area (IPA) 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' and may be removed upon development of the adjoining land.

- j) A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the residue land at the issue of subdivision certificate for Stage 4 for a temporary asset protection zone 10 metres wide along the eastern boundary. The temporary asset protection zone shall be managed as an inner protection area (IPA) 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' and may be removed upon development of the adjoining land.

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:

- k) 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 public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- l) Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- m) A temporary minimum 12 metre outer radius turning circle shall be provided at the termination of public roads in each stage of development.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

- n) Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.
- o) 15. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed over the fire trail requiring the fire trail to be maintained in accordance with section 4.1.3 (3) of 'Planning for Bushfire Protection 2006'.

Landscaping

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

Details from an appropriately qualified Bushfire consultant (BPAD) accredited with the Fire Protection Association of Australia or a Building Certifier accredited with the Building Professionals Board demonstrating compliance with these conditions, must be submitted to the certifying authority prior to the issue of the subdivision Certificate.

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

57. Department of Primary Industries (Water) requirements

The development must be carried out in compliance with the following conditions detailed in the General Terms of Approval for work requiring a controlled activity approval under Section 91 of the Water Management Act 2000, reference No. ERM 2013/0437.

a) These General terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 323/2013 and provided by Council to DPI Water:

(i) Plans titled 'Preliminary Road & Drainage Design of Forster Palms Estate - Stage 5B The Southern Parkway, Forster' (file 3104S58, sheets 1 to 7) prepared by Lidbury, Summers & Whiteman dated 30 September 2015.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.

b) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

c) The consent holder must prepare or commission the preparation of:

- (i) Vegetation Management Plan
- (ii) Works Schedule
- (iii) Erosion and Sediment Control Plan
- (iv) Soil and Water Management Plan

d) All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals.

- (i) Vegetation Management Plans
- (ii) Laying pipes and cables in watercourses
- (iii) Riparian Corridors
- (iv) In-stream works
- (v) Outlet structures
- (vi) Watercourse crossings

e) The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.

f) The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.

- g) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.

Reporting requirements

- h) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.

Security Deposits

- i) The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.

Access-ways

- j) The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by DPI Water.

- k) The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.

Bridge, causeway, culverts and crossing

- l) The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by DPI Water.

- m) The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by DPI Water.

Disposal

- n) The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.

Drainage and Stormwater

- o) The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.

- p) The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.

Erosion control

- q) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

Excavation

r) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.

River bed and bank protection

s) The consent holder must establish a riparian corridor along Creek Name in accordance with a plan approved by DPI Water.

Groundwater

t) The consent holder must ensure that any construction below ground level does not result in the need for permanent dewatering, other than in accordance with licence conditions approved by DPI Water.

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

ANNEXURES:

A: <<Insert Annexure as a .tif file or via link and give it the same name as in "List of Annexures".>>

B: <<Insert Annexure as a .tif file or via link and give it the same name as in "List of Annexures".>>