

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven

TRIM REFERENCE: DA/229/2010/B - D03339675

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Mark Greer; Senior Development Planner

SUMMARY

An application has been received for modification to an approved residential subdivision at Blue Haven. The application has been examined having regard to the matters for consideration detailed in section 96 (1A) of the Environmental Planning and Assessment Act (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Darkinjung Local Aboriginal Land Council c/- ADW Johnson
Owner	Darkinjung Local Aboriginal Land Council
Application No	229/2010/B
Description of Land	Lot 562 DP 1010370 (No. 80) Pacific Highway, Blue Haven
Proposed Development	110 lot subdivision
Site Area	8.697 hectares
Zoning	2(e) Urban Release Zone

RECOMMENDATION

That Council modify Development Consent No 229/2010 having regard to the matters for consideration detailed in Section 96(1A) of the Environmental Planning and Assessment Act and other relevant issues, subject to the conditions detailed in the schedule attached to the report.

PRECIS

- Approval granted in 2011 for 110 Lot Subdivision.
- Modification seeks amendment in respect to tree protection and allocation of pedestrian pathways.

INTRODUCTION

The Site

The subject site comprises a large triangular parcel of land with an area of 8.697 hectares. The site is located on the western side of the Pacific Highway just north of the signalled intersection of Pacific Highway, Goorama Avenue and Bokhara Avenue.

The land is bounded to the north and west by the residential estate of Blue Haven.

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)



Aerial view of site – Blue Haven estate to left and Pacific Highway to right of view

The Proposed Development

Development consent 229/2010 was granted for a 110 lot staged residential subdivision at Blue Haven. The land forms part of the Blue Haven urban release estate progressively developed from the older established areas of Birdwood Drive adjacent to Wallarah Creek through to the Pacific Highway and Roper Road. The subject site is the last major land holding to be developed within the Blue Haven estate.

Approval was granted for a three stage development. Stage 1 involves 44 lots and includes all those allotments that front Roper Road and the extension of Menindee Avenue, Stage 2 represents a total of 34 lots and is the extension of Colorado Drive while Stage 3 is for 31 lots and extends from Belyando Crescent and Mogo Close. There are sub-stages within each stage.

The applicant seeks to amend the development consent in the following manner:

- Delete certain requirements for tree management under condition 6
- Delete pathway requirements under condition 24

Council at its meeting held on 23 February 2011 determined the application. The conditions were an additional requirement imposed in granting the consent and accordingly, the modifications sought are submitted to full Council for further consideration.

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)

HISTORY

The subject land, (lot 562) was created by subdivision approved on 10 February 2000 for the purpose of severing the land to establish a road reservation. Lot 561 was subsequently developed as the western leg of the signalised intersection of the Pacific Highway.

In 1996, "Landcom" applied for approval for a residential subdivision (166 lots) over the subject land in conjunction with neighbouring properties under DA 337/1996. Due to unresolved Aboriginal land claims at the time, lot 56 (which became lot 562) was eventually removed from the application to be considered for subdivision at a later stage.

On 23 February 2011, development consent was granted to DA 229/2010 for a 110 lot subdivision and subsequently amended under version "A" in September 2012. This amendment related to the inclusion of new stages into the subdivision layout.

VARIATIONS TO POLICIES

Nil

PERMISSIBILITY

Environmental Planning and Assessment Act 1979

Section 79C

The application is subject to the heads of consideration under Section 79C of the Environmental Planning and Assessment Act.

Section 96(1A)

The applicant seeks amendments to DA 229/2010/A under the provisions of Section 96(1A) of EP& A Act 1979.

The modification sought does not alter the lot yield or lot layout and there are no implications to the amenity of local residents.

Having regard to the provisions of Section 96 (1A) of the EP& A Act 1979, it is considered that the amended proposal is substantially the same development originally approved by Council.

The requirements for an application for modification of development consent are contained within Section 115(1)(a) – (i) of the "*Environmental Planning and Assessment Regulation*" 2000. In this regard the application comprises owner's authority (to submit the application), description of the modification and likely impacts thereof in addition to supporting documentation. It is considered that the information accompanying the application satisfies the requirements of the Regulations.

Council considers the proposal to be minor in nature and substantially the same development as that originally approved, and therefore has assessed the application pursuant to Section 96 (1A).

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)

REFERRALS

The original application was defined as “Integrated Development” under the provisions of Section 91 of the EP & A Act and was referred to the Mines Subsidence Board (MSB) from which general terms of approval (GTA’s) were received.

Given that the application does not propose any significant changes to the approved subdivision, Mines Subsidence Board (MSB) and NSW Rural Fire Service (RFS) approvals were not required for the Section 96 (1A) application. Both MSB and the RFS advised that the GTA’s granted for the DA 229/2010/A remain valid.

The Roads and Maritime Services (RMS) were originally advised of the proposal as the adjoining land owner. No objection was raised by the RMS.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act and other statutory requirements and Council’s policies, the assessment has identified the following key issues, which are elaborated upon for Council’s consideration.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

Assessment of Section 96(1A) Application

The application involves the modification of conditions 6 and 24 of DA 229/2010. The following is an assessment of the applicant’s submission in respect of the modifications being sought.

Condition No 6 – Ecological Matters

Condition No 6 references ecological requirements and states:

“6 Prior to the issue of any Construction Certificate, the following protocols are to be implemented in relation to tree and vegetation protection:

- ***Trees and native vegetation proposed for retention (ie within Lot 110 buffer zone) are to be clearly identified on all the final approved engineering plans. The location of any threatened species or threatened species (ie Squirrel Glider) is to be marked on all plans.***
- ***Trees and vegetation within Lot 110 (buffer zone) are to be protected by the erection of 1.8 metre-high man-proof fencing as per the consulting arborist and ecologist’s direction and maintained in good working order for the duration of the works.***

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)

- ***Erection of tree protection fencing is to be confirmed to Council's Development Ecologist in writing by the consultant arborist/ecologist prior to the issue of a Construction Certificate.***
- ***All fenced tree protection areas and are to be clearly marked as "No Go Area" on all final approved engineering plans.***
- ***All fenced tree protection areas and are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas.***
- ***The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors.***
- ***The consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements."***

Comment

The applicant requests amendment to the second and third dot points specifically noting, correctly, that each requirement is in effect work undertaken after the issue of the Construction Certificate and not beforehand. Subject to the requirements imposed by dot points 2 and 3 of condition No 6 above being included on the consent but part issue of a Construction Certificate, no objection is raised to the amendments sought.

Accordingly, it is recommended that Condition No 6 be modified in the manner sought by the Applicant by deleting dot requirements 2 and 3. Both of these points are conditioned in "Prior to Commencement of Works" ie, Conditions 35 and 37.

Condition No 24 - Subdivision Requirements

Condition No 24 requires deleting the proposed pathways identified on the submitted plan of subdivision. Condition 24 states

"24 The deletion of the north/south pathways extending from Roper Road to Mogo Close. An amended layout for allotments adjoining the pathways is to be submitted prior to the issue of the Construction Certificate."

Comment

A series of pedestrian pathways were originally proposed between Roper Road, Menindee Avenue, Mogo Close and Colorado Drive. The pathways were designed to cater for pedestrian access throughout the subdivision enabling easy travel to bus stop locations in Roper Road or Colorado Drive. Development Control Plan - Chapter 54 "Blue Haven" (adopted in 1992, now repealed) required opportunities for pedestrian linkage throughout the estate. Accordingly pathways had been strategically located through the estate providing ease of access to transport and sporting facilities.

Notwithstanding the practical advantages of the pathways, based on safer-by-design principles (Crime Prevention through Environmental Design- CPTED) recent design trends

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)

for residential subdivisions avoid pathways between local streets citing potential lack of surveillance and access control problems. These issues are genuine concerns which are based on past poor design practices where pathways linking streets were excessive in length or had a distorted alignment, creating blind spots with obstructed vision from end to end. It was on this basis that Council chose to delete the pathways from the approved plan at the time of the original approval. Council imposed condition 24 to delete the north/south pathways from Roper Road to Mogo Close.

The applicant requests that the pathways remain as part of the approved subdivision layout suggesting that the location of the paths are strategically designed to ensure safe movement with good surveillance and access control and quality landscaping adjacent to the concrete surface.

There are good examples within the Blue Haven estate of strategically designed pathway links at Roper Road and the existing section of Colorado Drive. Similarly the proposed pathway links are relatively short with a straight horizontal and vertical alignment ensuring minimal safety concerns.



Examples of strategically designed pathway links in the Blue Haven estate at Roper Road (left image) and Colorado Drive (right image). Both locations are nearby the subject site

Furthermore the pathways are generally located at topographic low points providing an unobstructed overland flow path for stormwater during major storm events. In their absence, drainage unable to be accommodated in the pipe system would surcharge through private allotments presumably via an easement. Overland flow for stormwater runoff though private land irrespective of legal easement restrictions can be constrained in a practical sense by uncontrolled maintenance (overgrown vegetation) and poorly positioned built form (garden sheds, children play facilities) structures by private land holders.

As such it is suggested that the best practice for conveyance of a surcharge situation is to provide a public pathway through the low points in the stormwater design. The engineering design places the pathways over the low point with the piped infrastructure connecting drainage from inter-lot and street systems.

2.1 DA 229/2010/b Section 96 (1a) Application to Proposed 110 Lot Residential Subdivision at Blue Haven (contd)



Pathway from Roper Road to Menindee Avenue

The pathways have been designed with due regard to the safer-by-design principles, each situation offers direct travel with good visual control and given that the pathways provide two important functions - easier pedestrian access to transport and overland flow. It is recommended that the paths be permitted to remain as part of the approved subdivision layout and that Condition No 24 be deleted accordingly.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Given that the modification does not change the lot layout or road configuration to that originally approved, the application was not advertised in accordance with minor amendments as noted in DCP 2005 Chapter 70 - Notification of Development Proposals.

CONCLUSION

Having regard to the provisions of Section 96 (1A) of the EP& A Act 1979, it is considered that the amended proposal is substantially the same development as that originally approved by Council. The proposed changes to the approval are considered to be relatively minor. It is recommended that Development Consent No 229/2010 be amended by modifying Condition No 6 in the manner sought by the Applicant and deleting Condition No 24.

ATTACHMENTS

- | | | |
|---|--------------------------|-----------|
| 1 | Draft Amended Conditions | D03328220 |
| 2 | Development Plans | D03331887 |

DRAFT PROPOSED CONDITIONS – DA 229/2010/B**Residential subdivision of 109 lots and 1 buffer lot in three stages.(Amended application)**

- 1 The development taking place in accordance with the approved development plans reference number 180098, sheets 1 to 9, prepared by ADW Johnson, dated 17 December 2009, and plan reference 238532(6) super lots dated 30 August 2012, except as modified by any conditions of this consent, and any amendments in red.
 - Stage 1 (A – C) = Lots 1 – 37; and 103 – 109
 - Stage 2 (A – B) = Lots 38 – 40; 59 – 63; and 77 – 102
 - Stage 3 (A – B) = Lots 41 – 58; and 64 – 76

Construction and Subdivision Certificates are to be issued and developer contributions paid appropriate to each stage of the development.
- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 A Subdivision Certificate is to be issued by the Certifying Authority prior to the registration of the plan of subdivision. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.

Prior to Release of Construction Certificate:

The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

Dilapidation

- 4 The applicant must supply the Consent Authority with a dilapidation report for the adjoining properties, which documents and photographs the condition of buildings and improvements. The report must be submitted to the Consent Authority prior to issue of a Construction Certificate and will be made available by the Consent Authority in any private dispute between the neighbours regarding damage arising from site and construction works.

Ecology/Trees

- 5 Prior to the issue of any Construction Certificate, the applicant is to engage a suitably qualified and experienced consulting ecologist, arborist and soil erosion consultant to supervise the construction of each stage of the development that directly adjoins Lot 110, the vegetation buffer zone. The engaged specialists are to ensure and certify to Council's Development Ecologist that the trees and vegetation are adequately retained and protected during construction. Evidence of this engagement is to be forwarded to Council's Development Ecologist prior to the issue of a Construction Certificate. The consultant ecologist and arborist are to provide reports to Council's Development Ecologist for review certifying how the proposal is meeting tree retention and protection requirements following completion of the following stages of development:
- Following erection of required tree protection fencing (and prior to the issue of a Construction Certificate/Commencement of Works)
 - Following induction of each civil contractor and subcontractor
 - Following initial clearing and excavation/filling of the site
 - Following provision of services
 - Following completion of each construction phase (and prior to the issue of a Subdivision Certificate/Occupation Certificate/Final Certificate/Practical Completion).
- 6 Prior to the issue of any Construction Certificate, the following protocols are to be implemented in relation to tree and vegetation protection:
- Trees and native vegetation proposed for retention (ie within Lot 110 buffer zone) are to be clearly identified on all the final approved engineering plans. The location of any threatened species or threatened species (ie Squirrel Glider) is to be marked on all plans.
 - Trees and vegetation within Lot 110 (buffer zone) are to be protected by the erection of 1.8 metre-high man-proof fencing as per the consulting arborist and ecologist's direction and maintained in good working order for the duration of the works.
 - All fenced tree protection areas are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas.
 - The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors.
 - The consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements.

- 7 Prior to the issue of any Construction Certificate/Commencement of Works the applicant is to prepare and submit to Council's Development Ecologist for approval a Habitat Restoration Plan (HRP) for Lot 110 (vegetation buffer zone). The HRP is to be prepared by a suitably qualified and experienced ecologist and will integrate with the required Landscape Plan and Erosion Control Plans. The applicant is to demonstrate to Council's Development Ecologist's satisfaction how this integration has occurred. In preparing the HRP the applicant is to have due regard to the following specific and required components of the HRP:
- A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the Habitat Restoration Plan.
 - The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate 2 in Bushland Regeneration and two years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Bushland Regeneration and one year demonstrated experience (for other personnel). In addition the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).
 - The mulch/tubgrindings generated from the removal and thinning of native trees associated with the development (ie Lots 1 to 109) is/are to be re-used in restoring the habitat protection areas (ie Lot 110) as required. The amount of mulch/tubgrindings re-used must not suppress naturally occurring nativespecies from regenerating and must not be stockpiled with Lot 110.
 - Any natural hollows removed by the development (ie from Lots 1 to 109) are to be placed wherever possible as ground hollows within retained bushland (ie Lot 110) under the supervision of the consulting ecologist.
 - Restoration areas (ie Lot 110 vegetation buffer zone) are to be maintained for a minimum of three (3) years. Reports are to be submitted to Council detailing the progress of the bush regeneration works twice per year, with a final report certifying the completion of the works at the end of the three year period.
 - Any plant stock used in revegetation (if required) will be supplied from provenance specific seed/material collected from within the Tuggerah Lakes catchment area. Non-provenance specific material is prohibited.

- 8 Prior to the issue of any Construction Certificate a detailed hollow-bearing tree survey and mapping is to be undertaken by the applicant as outlined in Wyong Shire Council's Squirrel Glider Conservation Management Plan (Smitgh 2002). All trees with visible hollows greater than 5 cm diameter are to be mapped. In order to assess the extent of anticipated hollow tree loss across the site and identify a suitable array of nest boxes to replace the loss of hollows on a 1 for 1 basis, the following characteristics must be recorded in a tree schedule: tree species, hollow types (ie dimensions, height, location on tree) and health of trees.

The hollow-bearing tree schedule and map will then be used by the applicant to order the number and type of nest boxes required to replace lost hollows. Council's Development Ecologist is to approve the proposed number and type of nest boxes prior to the applicant ordering them. The applicant must engage a suitably qualified ecologist to install the nest boxes via spikeless tree climbing techniques within Lot 110 (the retained vegetation zone) at least one month prior to tree removal. The hollow-bearing tree schedule and map must be included in the Wildlife Management Strategy.

- 9 Prior to release of any Construction Certificate for each stage, the applicant is to engage a consultant ecologist to prepare and submit to Council's Development Ecologist for approval a Wildlife Management Strategy (WMS) to show how mitigation against native animal welfare issues will be achieved. The WMS is to include the following protocols:
- Prior to vegetation clearing, the applicant is to engage a qualified ecologist to implement a Squirrel Glider trapping program to trap Squirrel Gliders on site and translocate them to a suitable recipient site. The program is to be undertaken in consultation with the Office of Environment and Heritage (OEH) and Wyong Shire Council. The applicant should consider funding a program to monitor the translocated Squirrel Gliders for a period of time (eg via radio-tracking and/or PIT-tagging) to determine the success of the translocation;
 - The consultant ecologist must be able to demonstrate to Council's Development Ecologist experience in native fauna rescue and relocation;
 - The consultant ecologist is to identify other fauna likely to occur on site and advise on management actions to mitigate any native animal welfare issues;
 - Clearing to be done in accordance with the Clearing in Squirrel Glider Habitat procedure as detailed in Council's Squirrel Glider Conservation Management Plan;

- The consultant ecologist (or qualified tree climber in the presence of the consultant ecologist) is to inspect all potential habitat trees prior to removal and identify evidence of fauna use. All hollow-bearing trees are to be climbed (where safe, and by a qualified climber) and hollows inspected for fauna. All clearing of habitat trees is to be done under the direct supervision of a consulting ecologist. When fauna are present, the animals are to be removed and relocated to the adjacent bushland/nest boxes/recipient site prior to felling or the tree shall be sectionally dismantled under the supervision of the ecologist or wildlife carer before relocating animals to the adjacent bushland/nest boxes/recipient site;
- Any Squirrel Gliders located during vegetation removal should be relocated in consultation with the OEH and Wyong Shire Council.
- Clearing will commence with the most distant vegetation from secure habitat and progressively work toward any retained bushland in order to allow fauna to disperse;
- Trees should be slowly lowered or sectionally dismantled using an excavator or similar technique;
- Any natural hollows within retained bushland under the supervision of the consulting ecologist;
- Replacement hollows are to be provided on a 1:1 basis for each hollow to be lost by the development. Nest boxes are to be erected at least one month prior to any clearing occurring on the development site.

A range of suitable nest box types are to be provided on a one for one basis for any natural hollow removed by the development and are to be constructed of appropriate durable materials (painted marine ply or similar) and fixed to recipient trees with stainless steel screws, wire or similar. A suitable recipient site(s) for the nest boxes and any fauna to be relocated is to be provided by the applicant. All nest boxes are to be erected prior to the issue of a Construction Certificate and at least one month prior to vegetation clearance on the site. The monitoring of nest boxes to determine their usage and to carry out repairs or replacement (as required) every six (6) months for a minimum period of three (3) years following erection. Monitoring reports are to be forwarded to Council after each monitoring event.

- 10 Prior to the issue of a Construction Certificate for each stage, the applicant is to submit to and gain approval from Council for appropriate methods of disposing of timber, tree waste and other vegetative matter removed through the development activity. Millable timber is to be recycled for use in construction, furniture or fencing or similar or through local saw mills or sawyers. Other tree waste must be woodchip or tub ground or used for firewood. Tree stumps that cannot be reasonably tub ground may be disposed of to a Council approved site. Unless otherwise approved, the resultant materials must be used in final landscape works for soil stabilisation, improvements and rehabilitation. It is not permitted to dispose of vegetated matter removed through development activity by burning and the NSW Rural Fire Services is unable to provide a permit to dispose of such material in this manner.

Erosion and Sediment Control – Building Sites

- 11 Prior to the issue of a Construction Certificate, the submission to the Principal Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites or "Soils and Construction – Managing Urban Stormwater" (Blue Book) The design plans must be approved by the Principal Certifying Authority or an appropriately Accredited Certifier prior to issue of the Construction Certificate.

Filling and Haulage

- 12 Prior to the issue of a Construction Certificate, the submission to and approval by Council of details for the disposal of any spoil gained from the site and / or details of the source of fill, heavy construction materials and proposed routes to and from the site.

Landscaping

- 13 The submission of a Category 3 Landscape design plan and report prepared by a design consultant in accordance with Council Policy L1 – *Landscape Design* prior to the issue of the Construction Certificate.
- 14 The landscape plan and report submitted with a development application is to be supplemented with a more concise design for the regeneration and maintenance of the proposed Lot 110, the landscape buffer adjacent to the Pacific Highway. Details are to include extent of works required, nomination of planting species, protection of works and maintenance periods.

Roads

- 15 Separate approval from the Roads Authority must be obtained under the Roads Act 1993 prior to the issue of a Construction Certificate for any works within a Council road reserve. Design plans must be submitted to and approved by the Roads Authority prior to issue of the Construction Certificate.
- 16 The provision of temporary and permanent bus servicing facilities throughout the development in accordance with Development Control Plan 2005 Chapter 54 - Blue Haven Urban Release Area and Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. The design plans must be approved by the Principal Certifying Authority/appropriately Accredited Certifier prior to the issue of a Construction Certificate.
- 17 The provision at no cost to Council of kerb and guttering, road construction, street lighting and associated stormwater systems for all roads within the development in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development. The design shall include;
 - a Half road construction for the full Roper Road frontage

- b Full road construction for the extensions of Menindee Avenue, Mogo Close and Belyando Crescent
 - c Speed cushions in Colorado Drive south of Menindee Avenue and south of Belyando Crescent
 - d Contrasting pavement in Menindee Avenue and Belyando Crescent, at their intersection with Colorado Drive
 - e Concrete median in Colorado Drive at the the intersection with Roper Road
 - f Temporary vehicular turning heads where required for individual stages of the subdivision.
 - g Confirmation that the stormwater conveyance capacity of the existing secondary flow along Menindee Avenue to Colorado Drive is adequate to accept the proposed additional flow.
 - h The design plans must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate
- 18 The provision at no cost to Council of concrete concrete foot paving to all streets within the subdivision in accordance with Council's Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development. The design plans shall detail;
- a 1.2 metre wide concrete footpath on one side of Belyado Crescent, Mogo Close and Menindee Avenue
 - b 1.2 metre wide concrete footpath on Roper Road
 - c 2.5 metre wide concrete shared path on the eastern side of Colorado Drive, and
 - d 1.2 metre wide concrete footpath on the western side of Colorado Drive
 - e A pedestrian refuge in Colorado Drive south of Roper Road
 - f A pedestrian refuge in Bokhara Avenue south of Colorado Drive;
- The footpath design shall be 100mm thick with SL72 reinforcement and is to be constructed on 75mm compacted road base and on compacted sub grade, with Waranga Engineered Solutions Pty Ltd or approved equivalent kerb adaptor and the footpath width crossing of a galvanized RHS 0.15 x 0.075 x 0.004m.
- 19 The provision of additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development at no cost to Council. Design plans are to be approved by the Roads Authority prior to the issue of a Construction Certificate.
- 20 The submission of a plan of management to Council for approval under the Roads Act/Local Government Act for any works for the development that impact on any public roads or public land for the construction phase of the development, prior to that section of work commencing. The plan is to include a Traffic Control Plan and/or a Work Method Statement for any works or deliveries that impact the normal travel paths of vehicles, pedestrians or cyclists or where any materials are lifted over public areas. This plan must be certified by an appropriately accredited/qualified person.
- 21 The submission of a comprehensive road signage and pavement marking plan identifying parking restrictions, accesses and traffic management facilities to Council for approval by the Local Traffic Committee prior to issue of the Construction Certificate.

- 22 The submission to Council and approval of the proposed names for the roads under the Road Act 1993 prior to issue of a Construction Certificate.

Stormwater

- 23 Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate. All works are to be designed and constructed in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Design plans must be approved by Council prior to issue of a Construction Certificate.

Subdivision

- 24 Deleted
- 25 The design and construction of all subdivision works in accordance with Council's Development Control Plan 2005, Chapter 54 – Blue Haven Urban Release Area and Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development, which are prescribed at the time of commencement of engineering works. The design plans, including an overlay of the vegetation plan identifying trees to be retained as per the approved development plans, and any trees to be removed must be approved by the Consent Authority prior to issue of a Construction Certificate.

Water and Sewer Services/Infrastructure

- 26 All water and sewer services/infrastructure necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development, AS/NZS3500 and Council's rainwater harvesting requirements. The design plans must be approved by Council as the Water Supply Authority under the Water Management Act prior to the issue of a Construction Certificate.

Prior to Commencement of Works:

The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

Approved Plans

- 27 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Aboriginal Relics

- 28 If Aboriginal engravings or relics are unearthed during construction, all work is to cease immediately and the National Parks and Wildlife Service must be notified. Works may only recommence following endorsement for such from the Department of Environment and Climate Change.

Staff note: Application on sites containing some or all of the following:

- estuarine foreshore;
- a creekline/drainage line with sandstone base;
- sandstone exposures at ground level which are larger than 5m² in area; or
- sandstone cliff line or isolated boulder higher than 2m

Acoustic

- 29 Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

Dilapidation

- 30 A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.

Dust Control

- 31 Appropriate measures shall be employed by the applicant/owner during demolition, excavation and construction works to minimise the emission of dust and other impurities into the surrounding environment to the satisfaction of Council.

Ecology/Trees

- 32 No tree (or other vegetation) other than those specifically notated on the approved plan(s) as "tree to be removed" shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without consent of Council.
- 33 Prior to the start of works the tree exclusion zone for Lot 110 must be constructed and administered to the satisfaction of the Consent Authority in accordance with the endorsed plans.
- 34 Council's Development Ecologist is to be notified as soon as practicable (and not more than 24 hours after) if a breach of these ecological protection conditions occurs.

- 35 Trees and native vegetation proposed for retention are to be clearly identified on all the final approved engineering plans. All construction contractors and personnel are to be advised of the importance of conserving these No Go Areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage of vehicles, fill or materials or access is to occur within retained areas.
- 36 The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors. In addition the consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements.
- 37 The protection of trees retained on site by fencing or other accepted protection method in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development. Such protection measures must be installed prior to commencement of any works and maintained in good order for the duration of the works. No cement wastings, materials or vehicles are to be stored within the protective fence area.
- 38 All services, including water and electricity, must be located, designed and installed to minimise or prevent root damage to retained trees. Methods for the installation of services within the tree's canopy perimeter are contained within Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development and include under boring and excavation by hand.

Erosion and Sediment Control

- 39 The provision of soil erosion and silt controls on the site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – Engineering Requirements for Development and the approved development plans prior to any works commencing on the site. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**
- 40 Sand and other materials that could potentially be washed off the site during rain periods are to be stored behind the silt control barrier. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**
- 41 The provision of a metal groyne/s or kerb inlet trap/s to the downstream drainage pit/s of the street drainage system to prevent any silt that may have left the site from entering the drainage system. The build up of silt and debris must be removed from the site on a daily basis. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**

- 42 The display of an appropriate sign to promote the awareness of the importance of the maintenance of sediment control techniques on the most prominent sediment fence or erosion control device, for the duration of the project. **Note: On-the-spot fines may be imposed by Council for non-compliance with this condition.**

General

- 43 The developer is responsible for any costs relating to alterations and extensions of existing roads, drainage, Council services and other services for the purposes of the development.

Other Authorities

- 44 Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;
 - AGL Sydney Limited for any change or alteration to gas line infrastructure;
 - Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
 - Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

Site Requirements

- 45 Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
- a be a standard flushing toilet connected to a public sewer; or
 - b have an on-site effluent disposal system approved under the LGA 1993, or be a temporary chemical closet approved under the LGA 1993 supplied by a licensed contractor.
- 46 In accordance with the requirements of Council's Development Control Plan 2005, Chapter 69 - Controls for Site Waste Management, an on site storage area for reuse, recycling and disposal of materials is to be provided during construction. Concrete, brick, tile and excavation material is to be given first priority for reuse and recycling.

Englobo

- 47 No dwelling is to be connected to Council's future sewer main until Council's Development Construction Engineer has formally accepted the main. A pre-requisite for acceptance will be to successfully comply with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development for air testing, visual inspection, manhole lid seal and the level of the lid 25-50mm above the proposed finished surface level. The manhole must be protected during dwelling construction by erecting a barrier around the manhole. Any alterations to the finished surface level requiring the raising or lowering of the manhole will require Council's approval.

No dwelling is to be connected to Council's future water main until Council's Development Construction Engineer has formally accepted the main. A pre-requisite for acceptance will be to successfully comply with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development for pressure testing of the main, hydrants and valves at the correct height in relation to the finished footpath and markers placed. The hydrant, valves and markers must be protected during dwelling construction by erecting a barrier. Hydrant, valves and markers are to be clearly visible at the completion of the dwelling landscape works. Water meters will not be connected until the mains are accepted. Application can be made to Council's Development Engineer for a temporary water supply once the main is accepted.

Prior to Release of Subdivision Certificate:

The following conditions must be satisfied prior to the release of an Subdivision Certificate.

Contributions

- 49 Prior to the issue of a Subdivision Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act and Council's Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Acoustic Requirements

- 50 The provision of a lapped and capped treated timber fence with a height of 1.80 metres for noise attenuation located on the rear boundary of Lots 82 – 85, 86, 88 – 107 and 109 and across the eastern boundary of the road reserve of "Road No 1". Works to be undertaken appropriate for each stage of development.

Dilapidation

- 51 Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation/Subdivision Certificate.

Filling and Haulage

- 52 The making good to the satisfaction of Council, or payment of the costs incurred by Council in making good, any pavement damage or structural deterioration caused to Council's roads by the use of such roads as haulage routes for materials used in construction or the operation of the approved development, prior to issue of the Occupation/Subdivision Certificate.

Landscaping

- 53 To ensure landscaping works are properly completed, the landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan, prior to issue of an Occupation Certificate. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.
- 54 Landscape requirements are to be completed as part of the issue of the Subdivision Certificate for each stage. Where necessary, protection of completed works (most notably for Lot 110) would be required for each stage of the subdivision.

Other Authorities

- 55 Compliance with the General Terms of Approval of NSW Rural Fire Service as outlined in their correspondence dated 1 April 2010 (copy attached), subject to correlation of advised lot layout and lot numbers.
- 56 Compliance with the General Terms of Approval of Mine Subsidence Board as outlined in their correspondence dated 30 March 2010 (copy attached), subject to correlation of advised lot layout and lot numbers.

Roads

- 57 All additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council prior to issue of the Occupation/Subdivision Certificate.
- 58 All works requiring Council's approval as the Roads Authority under Section 138 of the Roads Act 1993 must be approved by Council prior to issue of an Occupation/Subdivision Certificate. All details are to be in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development.
- 59 Legal and physical access to the subdivision is to be provided to Council's satisfaction prior to issue of the Subdivision Certificate.
- 60 Temporary vehicular turning heads are to be provided for individual stages of the subdivision where directed by Council upon review of the engineering design plans.

Stormwater

- 61 The stormwater system with water quality control facilities to treat stormwater runoff from the development discharging into Council's system or public land must be approved by Council under Section 68 of the Local Government Act prior to issue of the Occupation/Subdivision Certificate.

Subdivision Works

- 62 The provision of a report to Council by a consulting engineer classifying each lot being created in accordance with AS2870-1996 - Residential Slabs and Footings, prior to issue of a Subdivision Certificate.
- 63 The certification by a Registered Surveyor, prior to issue of a Subdivision Certificate that all services domestic, drainage lines and accesses are wholly contained within the respective lots and easements.
- 64 The provision of Works as Executed information as identified in Council's Development Control Plan 67 - Engineering Requirements for Development prior to issue of the Subdivision Certificate. The information is to be submitted in hard copy and in electronic format in accordance with Council's "CADCHECK" requirements. This information is to be approved by Council prior to issue of the Subdivision Certificate.
- 65 All subdivision works must be approved by Council prior to the issue of a Subdivision Certificate.
- 66 The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release, vary or modify these covenants. Wherever possible, the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- Prohibiting direct vehicular or pedestrian access including gateway access to and from buffer zone Lot 110 for proposed Lots 82 – 85, 86, 88 – 107 and 109;
 - Prohibiting direct vehicular access to Colorado Drive for proposed Lot 82;
 - Future residential development on Lots 82 – 109 that proposed a building with upper floors beyond a ground floor is to be designed with regard to acoustic legislative guidelines for residential development adjacent to a major roadway such as the publication of the Department of Environmental, Climate Change and Water (DECCW) "*Environmental Criteria for Road Traffic Noise (May 1999)*" or that which is applicable at the time of development. Residential dwelling design on these allotments must be certified at the application stage by a qualified person that the building satisfies the acoustic criteria;

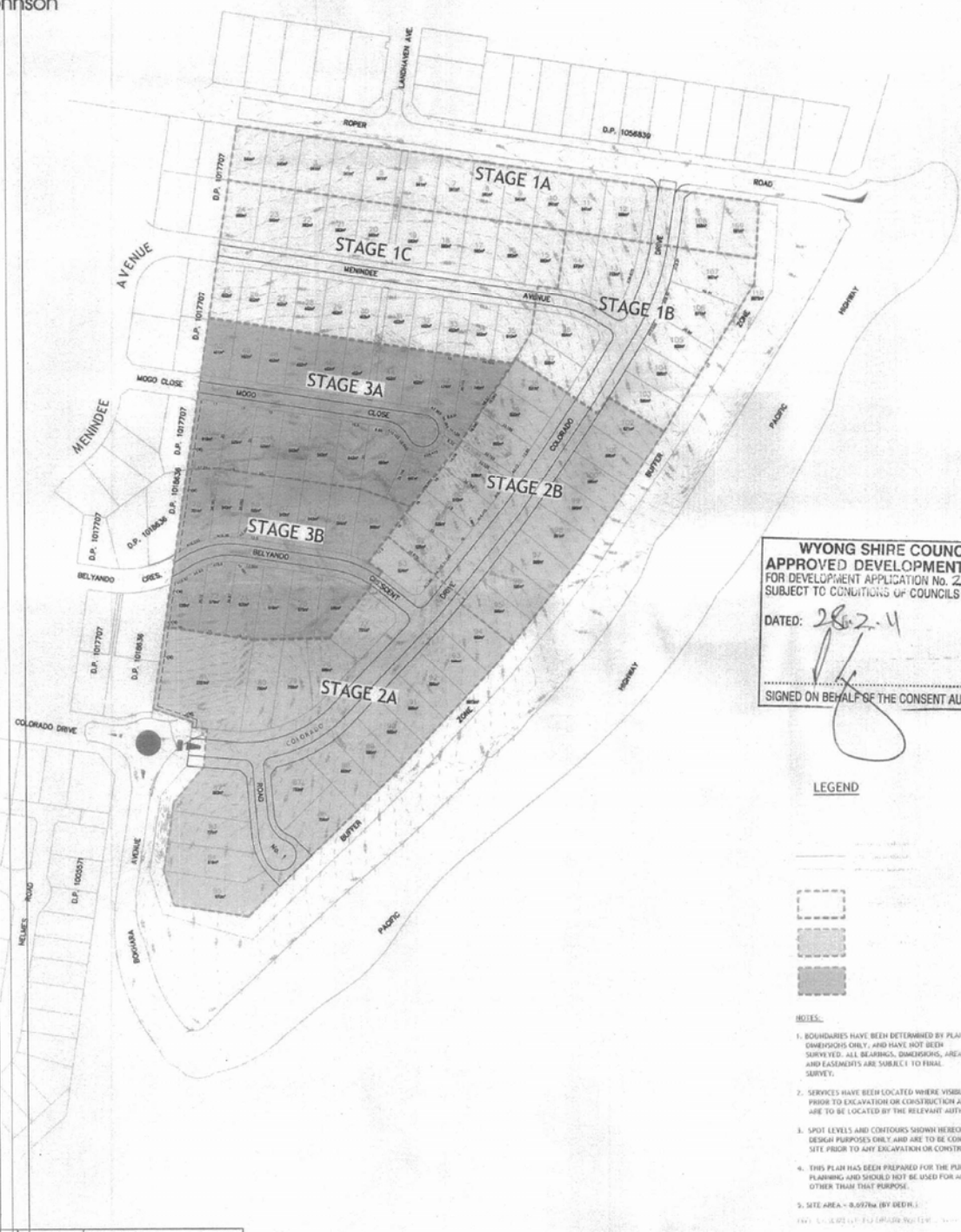
- Lots burdened by the acoustic attenuation fence requirements for development noted as Lots 82 – 85, 86, 88 – 107 and 109 shall properly maintain but alter the noise barrier fence which is to stand on their respective property boundary;
 - All necessary right(s) of carriageway and easement(s) for services are to be approved by Council prior to issue of the Subdivision Certificate and registered with the plan of subdivision.
 - Super lots 15 -21 are restricted to development in accordance only with the approved subdivision layout for Stages 1B, 1C, 2A, 2B, 3A and 3B of Development Consent No 229/2010/A.
- 67 The landscape buffer identified as Lot 110 adjacent to the Pacific Highway is to be transferred to Council at no cost to Council as part of the issue of the Subdivision Certificate for corresponding stages 1A, 1B, 2A and 2B.

Ongoing Operation:

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

No Conditions

Plan of: Proposed Staging Plan over Lot 562, D.P. 1010370	Location: Pacific Highway Blue Haven	Datum: MGA Origin: PM: 37705 Projection: AHD Origin: PM: 37705 North Direction: Grid Contour Interval: 0.5m	Date: 17th Dec. 2009 Sheet: 8 of 9 Plan By: GE Project Manager: TS Office: Central Coast Plan Purpose: Planning	Version: B (3rd August 2010) Client: Darkinjung L.A.L.C. Survey: S\1180098 Survey AutoCAD: S\1180098-DA-207-B Our Ref: 180098
Council: Wyong				



**WYONG SHIRE COUNCIL
APPROVED DEVELOPMENT PLAN**
FOR DEVELOPMENT APPLICATION No. 229/12...
SUBJECT TO CONDITIONS OF COUNCILS CONSENT

DATED: 28.2.11

SIGNED ON BEHALF OF THE CONSENT AUTHORITY

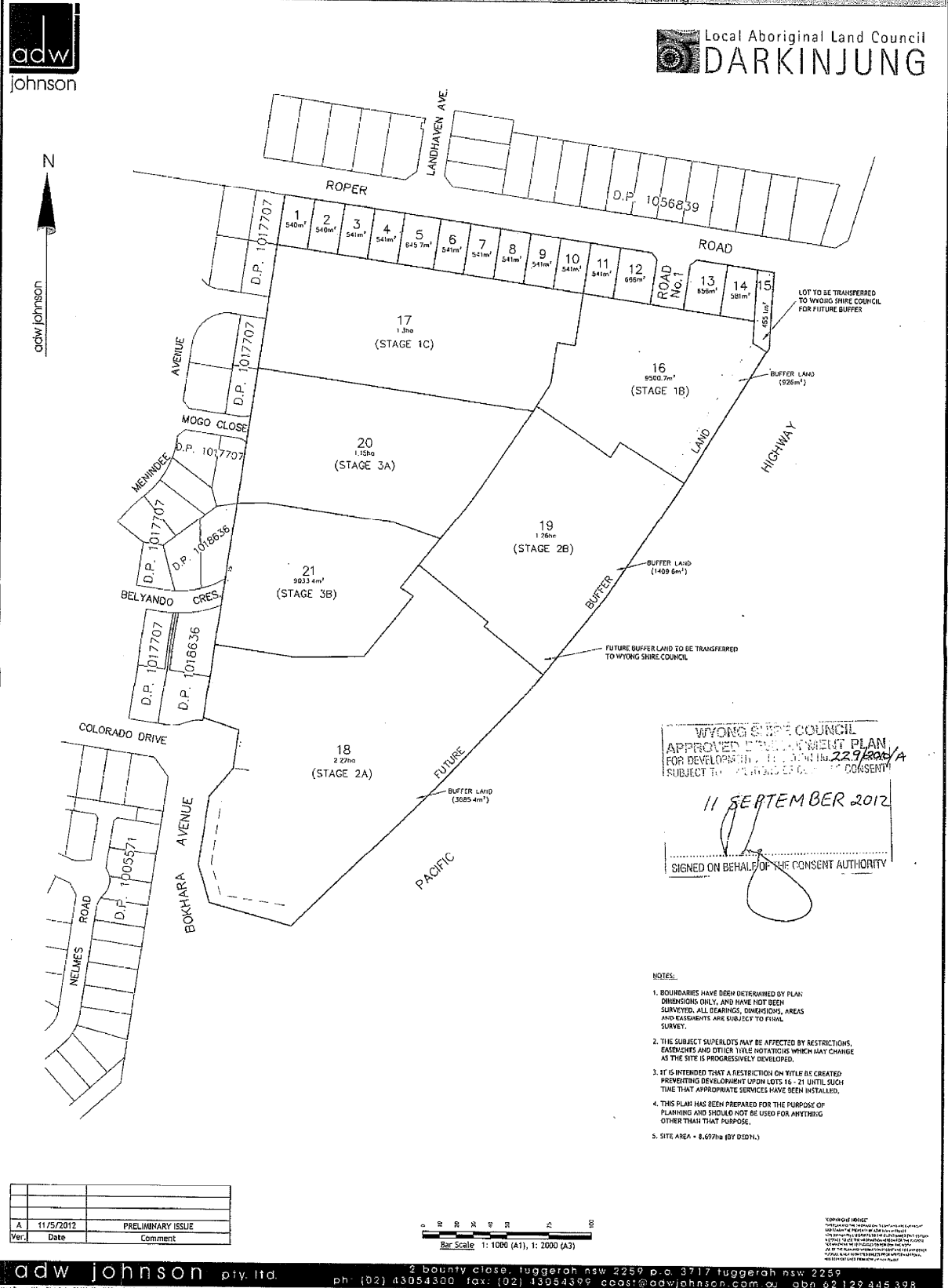
LEGEND

- 1. BOUNDARIES HAVE BEEN DETERMINED BY PLAN DIMENSIONS ONLY, AND HAVE NOT BEEN SURVEYED. ALL SEARCHES, DIMENSIONS, AREAS AND EASEMENTS ARE SUBJECT TO FINAL SURVEY.
- 2. SERVICES HAVE BEEN LOCATED WHERE VISIBLE ONLY. PRIOR TO EXCAVATION OR CONSTRUCTION ALL SERVICES ARE TO BE LOCATED BY THE RELEVANT AUTHORITY.
- 3. SPOT LEVELS AND CONTOURS SHOWN HEREON ARE FOR DESIGN PURPOSES ONLY AND ARE TO BE CORRECTED ON SITE PRIOR TO ANY EXCAVATION OR CONSTRUCTION.
- 4. THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE OF PLANNING AND SHOULD NOT BE USED FOR ANYTHING OTHER THAN THAT PURPOSE.
- 5. SITE AREA - 8.697ha (BY DEED).

Rev.	Date	Comment
B	4/8/2010	COUNCIL COMMENTS
A	12/1/2010	PRELIMINARY ISSUE



Plan of: Proposed Superlot Layout over Lot 562, D.P. 1010370	Location: Pacific Highway Blue Haven	Datum: MGA Origin: PM 37705 Projection: AHD Origin: PM 37705 North Direction: Grid Contour Interval: N/A	Date: 30th August 2012 Sheet: 1 of 10 Plan by: S Project Manager: CS Office: Central Coast Planning Plan Purpose: Planning	Version: A1 (14th July 2009) Client: Darkinjung L.A. C. Survey: N/A AutoCAD: S:\2008532(6)HDA_001.D Our Ref: 238532(6)
Council: Wyong				



Ver.	Date	Comment
A	11/5/2012	PRELIMINARY ISSUE

adw johnson pty. ltd.

2 bounty close, tuggerah nsw 2259 p.o. 3717 tuggerah nsw 2259
 ph (02) 43054300 fax: (02) 43054399 email: adw@adwjohnson.com.au abn 62 129 448 398

Printed by: scottl Date: 10/09/12 - 10:30 C:\6746_5\238532(6)HDA_001.D\Blue Haven\New\maps\REL\070512\238532(6)_HDA_001.Dwg

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park

TRIM REFERENCE: DA/1087/2012 - D03343863

MANAGER: Peter Fryar, Manager Development Assessment

AUTHOR: Emily Goodworth; Team Coordinator, Applications

SUMMARY

A development application has been received for the construction of a large scale commercial premises in the Tuggerah Business Park. The application has been examined having regard to the matters for consideration detailed in section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Redeye Constructions P/L
Owner	Central Coast Group Training (CCGT)
Application No	1087/2012
Description of Land	Lot 2073 DP 1052715, No 3 Bounty Close Tuggerah
Proposed Development	Large scale commercial premises
Site Area	3622m ² (from the DP)
Zoning	4(c) Business Park
Existing Use	Vacant land
Employment Generation	35 (fully operational)
Estimated Value	\$1,328,642.00

RECOMMENDATIONS

- 1 ***That Council grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.***
- 2 ***That Council vary Development Control Plan 2005 Chapter 80 –Tuggerah Precinct in regard to front and side setbacks to permit the development.***
- 3 ***That Council vary Development Control Plan 2005 Chapter 50 –Advertising Signs in regard to a proposed freestanding sign to permit the development.***
- 4 ***That Council send a copy of the Determination to the NSW Office of Water for information.***

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

PRECIS

- The proposal is for the construction and use of a building as a large scale commercial premises.
- The proposed development will be built in three stages.
- The completed development will employ 35 staff.
- The development proposes a variation to the front and side setbacks required under Development Control Plan (DCP) 2005 Chapter 80-Tuggerah Precinct.
- The development proposes a variation under DCP 2005 Chapter 50-Advertising Signs for the area of the freestanding sign.
- The application was not required to be advertised in accordance with Clause 2.4 of DCP 2005 Chapter 70-Notification of Development Proposals.
- The application is recommended for approval.

INTRODUCTION

Site and Locality

The subject site is Lot 2073 DP 1052715, No 3 Bounty Close Tuggerah. The site is rectangular in shape and has an area of 3622m² with a frontage of approximately 53m to Bounty Close. Lot 2073 is currently vacant with a few scattered trees along the western boundary of the site. A flood levee exists along the southern boundary which is adjacent to land adjoining Ourimbah Creek. The subject site is located in the Tuggerah Business Park (TBP). The TBP accommodates a range of business, industrial, warehousing and high technology activities. Surrounding development comprises such uses.



Figure 1: Subject site highlighted in yellow.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

The proposed development

The proposal is for a “large scale commercial premises” to be developed in three (3) stages. No specific end user has been nominated to occupy the building. The development will comprise a building with a total Gross Floor Area (GFA) of 1480m² and a total site coverage of 41%. The total number of car parking spaces to be provided on site is 37 spaces.

The staging of the development is as follows:

- Stage 1 - 724m² total GFA
- 24 car parking spaces (inclusive of accessible parking space)
- 20% site coverage
- landscaping along the frontage of the site adjacent to Bounty Close
- erection of a free standing sign
- Stage 2 - 289m² GFA (total 1013m²)
- 11 additional car parking spaces (total 35 spaces)
- Additional 8% site coverage (total 28% site coverage)
- Stage 3 - 467m² GFA (total 1480m²)
- 1 additional car parking space
- Additional 13% site coverage (total 41% site coverage)

The business will employ up to 35 staff once fully operational and will operate during normal business hours.

Summary

During the assessment process Council requested clarification on a number of issues in relation to proposed modifications to the existing flood levee, internal sewer grades, vehicular access, manoeuvring of vehicles, internal drainage and signage. Additional information was submitted by the applicant which addressed these issues and the proposal is considered satisfactory having regard for the information and amended plans provided.

VARIATIONS TO POLICIES

Clause	6.2.10.6
Standard	Minimum front setback of 10m
LEP/DCP	DCP 2005 Chapter 80-Tuggerah Precinct
Departure basis	2.6m or 26%

Clause	10.2.3
Standard	Minimum 5m setback to side boundary fronting Ourimbah Creek
LEP/DCP	DCP 2005 Chapter 80-Tuggerah Precinct
Departure basis	2.531m or 50.62%

Clause	5.4
Standard	Face of sign not to exceed 8 m ²
LEP/DCP	DCP 2005 Chapter 50-Advertising Signs
Departure basis	15m ² or 46%

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

HISTORY

Lot 2073 was created from the plan of subdivision of Lot 207 in DP 873983 which was registered on 29 September 2003. A pre-lodgment meeting was held with the owner and the applicant to discuss the proposed development.

PERMISSIBILITY

The subject site is zoned 4 (c) Business Park under Wyong Local Environmental Plan (WLEP) 1991. A large scale commercial premises is permissible in the zone with development consent and is defined as follows:

large scale commercial premises means a building or place, or part of a building or place, which has a minimum gross floor area of 200m² and is used for the purposes of an office or other business or commercial purposes by a single occupancy, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

The proposed development is considered to meet the definition of a “large scale commercial premises”. Under Clause 10 of WLEP, Council must not grant consent to the carrying out of development on land unless the proposed development is considered compatible with the objectives of the zone within which the development is proposed to be carried out. The objectives of the 4 (c) Business Park zone are as follows:

- (a) to provide for the integrated development of an industrial business park, and
- (b) to allow for large scale commercial development which is not in conflict with sustaining and developing commercial zones, and
- (c) to encourage development appropriate to an industrial business park which generates multi-sector employment, and
- (d) to enable the Council to provide more detailed guidelines about industrial development in a development control plan.

It is considered the proposed development complies with the objectives of the zone as it is providing a large scale commercial development which will not conflict with the existing commercial zone at Westfield Tuggerah or the Business Support zone located along the “Tuggerah Straight precinct” or Bryant Drive. The proposed development is an appropriate use for the Tuggerah Business Park and will provide employment opportunities for Central Coast residents.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy No 64-Advertising and Signage
- State Environmental Planning Policy No 71 –Coastal Protection
- Wyong Local Environmental Plan 1991
- Draft Wyong Local Environmental Plan 2012
- Development Control Plan 2005
 - Chapter 50-Advertising Signs
 - Chapter 67-Engineering Requirements for Developments
 - Chapter 70-Notification of Development Proposals

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

- Wyong /Tuggerah Planning Strategy
- Section 94A

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Bush fire

The subject site is affected by the bush fire buffer zone and directly adjoins Category 1 bushfire vegetation. It is considered that the proposed design and construction of the building is satisfactory, particularly given a setback of approximately 10m has been provided from the southern boundary (where Category 1 vegetation exists) to the building line. The proposal is considered satisfactory having regard for the aims and objectives of Planning for Bushfire Protection 2006 in that appropriate separation has been provided between the building and the hazard, adequate setbacks have been provided between the boundaries of the subject site and proposed building footprint that can be used for defendable space, and the design of the development will afford occupants adequate protection from exposure to a bush fire and will allow for ongoing management and maintenance of bush fire protection measures.

Flooding

The subject site is affected by the 1% AEP flood level. The building has been designed with the appropriate minimum floor levels to satisfy Council's flooding requirements.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act* 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

State Environmental Planning Policy (SEPP) No 71-Coastal Protection

State Environmental Planning Policy (SEPP) No.71 -Coastal Protection applies to the development. The site is located within the coastal protection zone under the SEPP and in accordance with Clause 7, the proposal has been assessed within the context of the matters for consideration outlined under Clause 8 and under Part 4 and found to be satisfactory in respect of the matters for consideration. The proposal is also considered consistent with the aims of the policy.

State Environmental Planning Policy No. 64 – Advertising and Signage

The provisions of State Environmental Planning Policy No.64 - Advertising and Signage apply to the proposal. In accordance with Clause 8 of the SEPP, the signage is considered consistent with the objectives of the policy and satisfies the assessment criteria outlined under Schedule 1 of the instrument. Specific consideration was given to the illumination section outlined within Schedule 1 which asks the following questions:

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

It is proposed to erect one(1) illuminated freestanding sign at the frontage of the site that is six (6) metres high above ground level and three (3) metres wide with the face of the sign being 15m². Having regard to the above questions it is considered that the proposed illuminated sign will not result in unacceptable glare, will not affect safety and given its location (in a business park) will not be subject to a curfew nor will it detract from the amenity of the area.

Wyong Local Environmental Plan (WLEP) 1991

Clause 10

The subject site is zoned 4(c) Business Park under the WLEP 1991. A large scale commercial premises is permissible with development consent and is considered consistent with the 4(c) zone objectives. The issue of permissibility was discussed previously in the report.

Clause 15 - Acid Sulphate Soils

Clause 15 requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as being Class 4 on the Acid Sulphate Soils (ASS) Planning Map. Under Clause 15(2), works in Class 4 soils that are beyond two metres below the natural ground surface, or works which are likely to lower the watertable beyond two metres below the natural ground surface, require the submission of a preliminary ASS assessment. In this instance a preliminary assessment is not required as there are no works proposed beyond two metres below the natural ground surface or likely to lower the watertable.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

Clause 28 – Tree Management

One (1) tree will be affected by the proposed development. This tree has been identified as a *Eucalyptus microcorys* which is considered to be in good health and condition and worthy of retention. The applicant has amended their site plan to move the proposed driveway to the south to allow for the retention of this tree with only minor pruning works required. The *Eucalyptus microcorys* is semi mature and the root plate will expand over time therefore the design and construction of the driveway should minimise damage to the tree. A raised slab on ground or similar method of construction will be conditioned for the vehicular access crossing to accommodate the tree.

Clause 29-Services

The proposed development can be satisfactorily serviced with water and sewer.

Draft Wyong Local Environmental Plan 2012

Draft Wyong Local Environmental Plan (WLEP) 2012 has recently been on public exhibition with all public submissions currently being considered by Council. The current zoning of the subject site is proposed to be converted to B7 (Business Park) under the Draft WLEP 2012 with an “office premises” being a permissible land use in the zone.

Under the Draft WLEP an office premises is defined as follows:

Office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Development Control Plan (DCP) 2005

Chapter 50-Advertising Signs

A freestanding advertising sign was proposed with the application. Under Clause 5.4, a freestanding sign can include a pylon and pole sign, advertising panels and flagpoles containing advertising material and is subject to the following criteria:

- Face of sign not to exceed 8 square metres
- Overall height not to exceed 7 metres above ground level
- Generally only one freestanding sign will be permitted for each business/occupancy on each street frontage

One (1) freestanding sign is proposed to be erected at the frontage of the site that is six (6) metres high above ground level and three (3) metres wide. The face of the sign is 15m² which is a significant departure from the 8m² permitted in Chapter 50. The applicant has provided justification for the variation which is outlined below.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

Applicant's submission

The extra 7m² is in keeping with the area for the following reasons:

- The proposal is compatible with the existing character of the area and is consistent with other outdoor advertising in the area.*
- The proposal does not obscure or compromise any important views nor does it dominate the skyline, reduce the quality of vistas and the proposed sign respects the viewing rights of other advertisers.*
- The scale, proportion and form of the sign is appropriate for the streetscape, setting and landscape.*
- The proposed sign is compatible with the scale, proportion and other characteristics of the proposed commercial building.*
- The sign will be illuminated however being at the end of the cul-de-sac this will not result in unacceptable glare and will not affect pedestrians or traffic.*

Comment

It is considered that the additional area on the face of the sign is not warranted, particularly given there is only one (1) tenancy proposed in the building. Due regard has been given to the objectives of Chapter 50 in the assessment of the signage. The objectives of Chapter 50 are to encourage high quality advertising signs that:

- are properly designed, located and maintained;
- preserve the amenity of a locality and are in keeping with the scale and character of surrounding buildings and structures; and
- respect the advertising rights of others.

As the subject site is located in a business park and not a commercial zone, where larger signs are more characteristic of the area, it is considered the size of the sign is inappropriate for the locality and is not consistent with other signage in the area or the scale and character of the proposed development and other surrounding buildings and structures. The objectives of Chapter 50 are considered reasonable, particularly the preservation of the amenity of the locality. The majority of freestanding signs existing in the area incorporate the business names of multiple tenancies within a development. The proposed sign will only be for the advertisement of one occupant.

Having regard for the above, a condition of consent is recommended that requires the face of the sign to be a maximum of 8m² which is consistent with the DCP controls.

Chapter 61 –Parking and Access

Under Clause 3.2 of Chapter 61, the following car parking requirements are applicable to the proposed large scale commercial premises:

Parking Requirements (Office Premises):

1 space per 40m² GFA except in major centres

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

Service Requirements:

Up to 200m² GFA - 1 space

The completed development will have a total GFA of 1480m² which will require the provision of 37 car parking spaces. The proposal complies with the number of car parking for stages 1 and 3 however; there will be a shortfall of one (1) space upon completion of stage 2 to cater for the provision of the temporary storage area of refuse bins in the south western corner of the parking area. This is considered acceptable as the variation is minor and should not impact on the operation of the development or provision of car parking spaces for employees. This variation will be rectified upon completion of stage 3 with the completed development complying with Council's car parking requirements.

Chapter 80-Tuggerah Precinct

The subject site is located within Area D, Business Park precinct. The Precinct Plan provisions contained with Chapter 80 provide generic controls applicable to the whole precinct with reference to the identified vision and supporting guiding principles. The proposal is consistent with Chapter 80 requirements other than those discussed below.

Signs for the business park

Clause 10.1.9 refers to Appendix 5 of Chapter 80 which provides style guidelines for the design and placement of signs in the Business Park. The guidelines detail individual corporate signage as being 3m in height and 1.8m in width with the inclusion of the street number and TBP logo. Signs are required to be located 2 metres from the front boundary and positioned to maintain sight lines for vehicles utilizing the access and double sided signs are to be orientated at 90 degrees to the street. Chapter 80 provides for different signage requirements to that of Chapter 50.

Other than height, width and setback, no other details have been provided in relation to the proposed sign. The sign will be setback approximately 1.5m from the Bounty Close property boundary which is considered reasonable as it should still allow for appropriate sight lines to Bounty Close given the subject site is located at the end of a cul-de-sac.

The proposed sign exceeds the 5.4m² for corporate signage permitted in Appendix 5 of Chapter 80. Whilst the area of 15m² for the face of the sign is not supported, Council is satisfied that an area of 8m² (required under Chapter 50) is more reasonable having regard for other signage in the area, the scale and character of surrounding development and the location of the subject site at the end of the cul-de-sac.

The other requirements detailed within the guidelines relating to the incorporation of the TBP logo, street number and location and materials are imposed as conditions of consent.

Setbacks

The setbacks applicable to the proposed development are as follows:

- Front - a minimum of 10m to any internal road.
 - a 5m landscape area must be provided within the above setback, except for vehicle access.
- Side and rear boundaries (where that boundary is not to Wyong Road or the Great Northern Railway) -5m

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

- Zero boundary setbacks may be considered where the applicant demonstrates that a superior urban design, building presentation and site maintenance outcome will be achieved.

Where the site has frontage to land adjoining Ourimbah Creek and/or the SEPP 14 Wetland (the subject site) the setback shall, in addition, satisfy the provisions of Council's Development Control Plan No.30 - Wetland and have regard to the potential for bushfires. The subject site has frontage to land adjoining Ourimbah Creek however the site is not adjacent to mapped Wetlands so the development is only required to be setback 5m from the southern boundary. The assessment of the proposal has considered the potential for bushfires.

The proposed development has included a 2.469m setback from the southern (side) boundary, a 5.05m setback from the western (rear) boundary, 3m setback from the northern (side) boundary and 7.4m setback from the eastern (front) boundary.

A variation to the front and southern boundary setback is proposed. The variation to the front setback is 2.6m or 26% and the variation proposed to the southern boundary adjacent to land adjoining Ourimbah Creek is 2.531m or 50.62%.

Variations can be considered by Council. In determining whether to grant a variation, Council should have regard to:

- The visual impact of the variation;
- The integration of the development; and
- The functioning of the development including traffic manoeuvrability and location of car parking and services areas.

The proposed variations are considered reasonable and warranted in this instance given the location of the subject site is at the end of a cul-de-sac, the orientation of the building on the allotment, the proposed development will integrate well with surrounding development and given the proposed variation to setbacks will not impact on the land adjoining Ourimbah Creek or the building's presentation to Bounty Close. Additionally, the functioning of the development will not be impacted upon.

Floor Space Ratio and Site Coverage

Under Clause 10.2.1, a floor space ratio and site coverage requirement is specified as follows:

- Maximum floor space ratio = 0.8:1
- Maximum site coverage (building only) = 50%

The proposed development complies with these requirements, with the completed development (stage 3) having a floor space ratio of 0.4:1 and an overall site coverage of 41%.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

*The relationship to the regional and local **context and setting**.*

The proposed large scale commercial premises is compatible with other development in and around the Tuggerah Business Park precinct, and more specifically, Bounty Close. The proposed use of the site for the purposes of a large scale commercial premises is considered suitable for the 4(c) Business Park zone.

*The **access, transport and traffic** management measures.*

Access to the proposed development is via Bounty Close which is a Council public road. The road is suitable for the expected increase in traffic. It is considered the development will not create unacceptable traffic generation and there is adequate car parking provided on site to cater for both employees and visitors.

Access to the proposed development will be between the existing street trees and it will be conditioned that these be protected as part of the development. The width of the access to accommodate small rigid vehicles can be narrowed to 6m if required for tree protection. Access works will be conditioned to be completed as part of stage 1 of the development

Car parking

Car parking shall be in accordance with AS/NZS2890.1. A turning area will be required within the car park towards the west end to allow vehicles to turn, and enter and exit in a forward direction. The turning area may also be utilised as a combined short term loading bay for vehicles up to a small rigid vehicle in accordance with AS 2890.2.

A turning area shall be provided as part of all stages with the ultimate design for the car parking utilising identified car spaces 1 and 2 being part of stage 2. Stage 1 shall provide a temporary turning area as part of the car parking construction adjacent to the area identified for temporary refuse.

The existing levee / berm is to be adjusted for the car parking construction and the works are to ensure the integrity of the levee protection is maintained specifically in regard to height and structural stability. Plantings in this area shall be low height plants with minimal invasive roots to protect the levee system. Transition works as part of the staging of the development shall ensure the height and structural stability of the levee.

*The impact on the **public domain** (recreation, public open space, pedestrian links).*

There are no public domain considerations relevant to the proposal that require specific assessment.

*The impact on **utilities** supply.*

The proposed large scale commercial premises will not impact on utilities supply in terms of utility needs or the availability and capacity of utilities.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

*The effect on **heritage** significance.*

There are no heritage considerations relevant to the proposal that require specific assessment.

*Any effect on **other land resources**.*

There are no matters relating to the conservation and use of valuable land resources which require further consideration or discussion.

*Any impact on the conservation of **water**.*

There are no matters relating to the conservation of water resources and the water cycle that require further consideration or discussion.

*Any effect on the conservation of **soils** or acid sulphate soils.*

Given the proposed development will not involve works beyond 2 metres below the natural ground level or lowering the watertable, there are no further matters relating to the conservation of soils or acid sulphate soils that require further consideration.

*Any effect on quality of **air and microclimate conditions**.*

There are no matters relating to air quality and microclimatic conditions that require further consideration or discussion.

*Any effect on the **flora and fauna**.*

There are no matters relating to flora and fauna that require further consideration or discussion.

*The provision of **waste** facilities.*

There will be minimal waste generated by the operation of the large scale commercial premises and the operator will arrange for their own waste servicing. A waste management plan was submitted with the application and considered satisfactory.

*Whether the development will be **energy** efficient.*

The proposed development will be required to satisfy the required energy ratings under Part J of the Building Code of Australia.

*Whether the development will cause **noise and vibration**.*

The construction of the proposed development may cause minimal noise and vibration to surrounding properties but this will only be temporary during the construction period of each stage.

*Any risks from **natural hazards** (flooding, tidal inundation, bushfire, subsidence, slip etc).*

The location of the proposed development within the Tuggerah Business Park is partly protected by the weir system along Ourimbah Creek. The minimum floor level for the site is 5.19m AHD. The applicant is proposing a minimum floor level of 5.55m which is acceptable.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

Flooding requirements will only be related to tank overflows and the like as all other building requirements will be above the 1% AEP flood level.

*Any risks from **technological hazards**.*

There are no matters relating to technological hazards that require further consideration or discussion.

*Whether the development provides **safety, security and crime prevention**.*

The entry to the premises is provided from the car park with shopfront glazing being provided along the frontage of Bounty Close. The design of the development is considered to provide adequate natural surveillance. The regular maintenance of the premises, and the fact that the land will no longer be vacant will reduce the potential for criminal activity and reinforce territoriality.

*Any **social impact** in the locality.*

There are no social impact matters that require further consideration.

*Any **economic impact** in the locality.*

The proposed development will provide another business in the Tuggerah Business Park and will provide employment opportunities for Central Coast residents.

*Any impact of **site design and internal design**.*

Development and Site Design

The development design is sensitive to the site context, surrounding development, environmental conditions and site attributes. The building is positioned on the site to suitably respond to the land adjoining Ourimbah Creek on the southern boundary and Bounty Close.

Accessibility

The development incorporates accessibility provisions in accordance with AS 1428.1 and AS 1428.2. An accessible parking space has been provided in close proximity to the entry to the building. A unisex accessible toilet is provided within the building in every stage of the development.

External finishes

External finishes details have been submitted with the proposal which are considered satisfactory.

*Any impacts of **construction** activities (construction site management, protection measures).*

Any construction impacts will be minimal. Appropriate conditions have been recommended which relate to site construction management.

*Any **cumulative impacts**.*

There are no further matters relating to cumulative impacts to be discussed.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

Whether the proposal fits in the locality/Whether the site attributes are conducive to development.

The site is located on Bounty Close which is within close proximity to Wyong Road, conveniently located for employees of the premises. The surrounding roads are capable of accommodating the additional traffic movements and the site is considered a suitable context for the scale and type of development proposed. The site is relatively cleared so the proposal will not adversely impact upon any existing vegetation.

Although the site is identified as bushfire prone land and is affected by flooding, this has been considered in the siting, design, levels, and layout for the development. The site constraints are not as such that would render the location of the development as unsuitable. The design of the proposed development is in an appropriate form, layout and scale for the Tuggerah Business Park and suitably balances the opportunities and constraints of the site.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was not required to be advertised in accordance with Clause 2.4 of DCP 2005 Chapter 70-Notification of Development Proposals as the proposed development is located in an area that does not adjoin land zoned residential or one of Council's environmental zones.

Any submission from public authorities.

NSW Office of Water (NOW)

The site is located within 40m of the top of the bank of Ourimbah Creek therefore the development constitutes integrated development requiring referral to the NOW in accordance with Section 91 of the *Water Management Act 2000* and Section 91 of the *Environmental Planning and Assessment Act 1979* for their General Terms of Approval. NOW have advised that no controlled activity approval is required for the proposed development therefore no General Terms of Approval (GTA's) were required to be issued.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests.

The proposed development is consistent with the studies that have been undertaken for the area (Wyong-Tuggerah Planning Strategy, Tuggerah Business Park Master plan) and will not conflict with the desired future character and uses proposed under the masterplan.

2.2 DA/1087/2012 - Large Scale Commercial Premises at Tuggerah Business Park (contd)

OTHER MATTERS FOR CONSIDERATION

Section 94A Contributions are applicable to the development and have been levied accordingly.

CONCLUSION

The construction of a large scale commercial premises is considered to be a compatible use in the Tuggerah Business Park and will contribute to the vision of the business park which is the creation of an integrated employment and activity centre that will provide leading edge industry and businesses which demand a high quality and diversified labour force. Variation is being sought under the proposal to two of Council's DCP requirements relating to setbacks and advertising signage under Chapters 50 and 80. However, despite these variations, the development is considered to be consistent with the objectives of the controls and generally consistent with Council's LEP and other DCP requirements. No significant issues are raised in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*, as such, the proposed large scale commercial premises is recommended for approval.

ATTACHMENTS

- | | | |
|---|------------------------|-----------|
| 1 | Draft Conditions | D03345770 |
| 2 | Development Plans (A3) | D03345678 |

DA 1087/2012 - PROPOSED CONDITIONS - 3

Bounty Close, TUGGERAH

ALL STAGES (1 – 3)

Approved Plans

- 1 The development is to be undertaken in accordance with the approved development plans and specifications listed below except as modified by any conditions of consent and any amendments in red made to the approved plans:

Title	Drawing No.	Revision	Date	Drawn By
Proposed Large Scale Commercial Premises – Site Plan Layout	DA01	A	27/11/12	DH
Proposed Large Scale Commercial Premises – Floor Plan Layout	DA02	A	27/11/12	DH
Proposed Large Scale Commercial Premises – Elevations and Section	DA03	A	27/11/12	DH
Stage 1 – Site Plan	DA04	A	27/11/12	DH
Stage 2 – Site Plan	DA05	A	27/11/12	DH
Stage 3 – Site Plan	DA06	A	27/11/12	DH
Stage 1,2,3 Floor Plan	DA07	A	27/11/12	DH
Proposed Large Scale Commercial Premises – Site Analysis Plan	DA08	A	27/11/12	DH
Proposed Large Scale Commercial Premises – Landscape Plan	DA09	A	27/11/12	DH

Certificates – Application and Approval

- 2 A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any construction works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- 3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority.

- 4 Where conditions of this consent require approval from Council under the Roads Act 1993, Local Government Act 1993 or Water Management Act 2000, a completed Subdivision Construction Certificate application form must be lodged with Council and be accompanied by detailed design drawings and supporting information. Upon submission to Council, fees and charges will be calculated in accordance with Council's Management Plan. The fees and charges must be paid prior to Council commencing the design assessment.

Vehicle Access Crossing

- 5 The proposed driveway is to be built to incorporate the root plate of Tree 1 (*Eucalyptus microcorys*). The vehicle access crossing is to be a suspended slab/driveway which extends from Bounty Close to carparking space No 20. The final design of the driveway is to be approved by the principal certifying authority

Prior to Release of Construction Certificate:

The following conditions must be satisfied prior to the release of the Construction Certificate. Conditions may require the submission of additional information with the Construction Certificate Application. Applicants should also familiarise themselves with conditions in subsequent sections and provide plans in accordance with any design requirements contained therein.

STAGE 1

Contribution Payment Requirements

- 6 Prior to the issue of a Construction Certificate, the payment to Council of contributions (as contained in the attached Schedule) under Section 94 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 and Section 94A Contribution Plan. Council's contributions are adjusted on the first day of February, May, August and November. The amount of the contributions will be adjusted to the amount applicable at the date of payment.

Erosion and Sediment Control – Design Requirements

- 7 Prior to the issue of a Construction Certificate, design details for the control of soil erosion from the site must be provided for the approval of the Accredited Certifier. Required design details must comply with the requirements of Council's Policy E1 - Erosion and Sediment Control from Building Sites or 'Soils and Construction – Managing Urban Stormwater' (*Blue Book*).

Landscaping Design Requirements

- 8 Prior to the issue of a Construction Certificate, landscape design drawings, prepared by an approved consultant, must be provided for the approval of the Accredited Certifier. Such landscape design plans must be prepared in accordance with Council's Landscape Policy L1 for a Category 2 development.

Roadworks - Design Requirements

- 9 The provision of a vehicular access crossing in accordance with Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* as part of Stage 1 of the proposed development. Design drawings must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate and shall include:
- A minimum width of 6 metres.
 - Construction techniques considering the protection of the existing street trees.
 - Protection works for the existing street trees for all stages of the proposed development.

Stormwater Drainage - Design Requirements

- 10 The submission to the Accredited Certifier of a detailed stormwater management plan with stormwater disposal to the existing provided outlets within the development site. The plan must be prepared in accordance with the plans prepared by Halcrow and Associates No 12.12.022 A and AS/NZS3500.3:2004, and be approved by the Accredited Certifier prior to issue of the Construction Certificate. Proposed staging of stormwater construction shall be included as part of the approved design to ensure suitable construction with each stage of the development.

Structural Design Requirements

- 11 Prior to the issue of a Construction Certificate, satisfactory plans prepared by a suitably qualified Registered Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- All construction works within the area of the levee covered by easement in favour of Council shall ensure that the structural integrity and height of the levee is maintained. Staging of the proposed developments and associated works shall also be considered within the design to ensure the structural integrity and height of the levee is maintained;
 - Ground slabs, footings and other supporting structural members.

Vehicle Access and Parking - Design Requirements

- 12 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
 - Pavement design able to withstand anticipated vehicle loading.
 - Wheel stops for all parking spaces
 - The carparking shall comply with the requirements of AS/NZS 2890.1 Category 1 carparking.

- The carparking area to the south east of the proposed development identified for a turning area shall be amended to one additional carspace.
- The design shall incorporate staging of the carpark construction and shall include provision of a temporary turning area at the western end of carpark proposed in stage 1.
- The proposed pavement and kerb and guttering for the carparking area that forms part of the amended levee shall be integrated into the existing levee and be designed to ensure the integrity and height of the existing levee is maintained.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

Water and Sewer Services - Design Requirements

- 13 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

STAGE 2

Erosion and Sediment Control – Design Requirements

- 14 Prior to the issue of a Construction Certificate, design details for the control of soil erosion from the site must be provided for the approval of the Accredited Certifier. Required design details must comply with the requirements of Council's Policy E1 - Erosion and Sediment Control from Building Sites or '*Soils and Construction – Managing Urban Stormwater*' (*Blue Book*).

Structural Design Requirements

- 15 Prior to the issue of a Construction Certificate, satisfactory plans prepared by a suitably qualified Registered Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- Ground slabs, footings and other supporting structural members.

Vehicle Access and Parking - Design Requirements

- 16 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.

- Pavement design able to withstand anticipated vehicle loading.
- Wheel stops for all parking spaces
- The carparking shall comply with the requirements of AS/NZS 2890.1 Category 1 carparking.
- Carspaces 1 and 2 shall be amended to provide a vehicle turning area in accordance with AS/NZS 2890.1 and a combined loading area suitable for small rigid vehicles in accordance with AS 2890.2. Suitable pavement marking and signposting of the area shall be provided. These works shall be completed as part of stage 2 of the proposed development.
- The carparking area to the south east of the proposed development identified for a turning area shall be amended to one additional carspace.
- The proposed pavement and kerb and guttering for the carparking area that forms part of the amended levee shall be integrated into the existing levee and be designed to ensure the integrity and height of the existing levee is maintained.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

Water and Sewer Services - Design Requirements

- 17 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

STAGE 3

Erosion and Sediment Control – Design Requirements

- 18 Prior to the issue of a Construction Certificate, design details for the control of soil erosion from the site must be provided for the approval of the Accredited Certifier. Required design details must comply with the requirements of Council's Policy E1 - Erosion and Sediment Control from Building Sites or '*Soils and Construction – Managing Urban Stormwater*' (*Blue Book*).

Roadworks - Design Requirements

- 19 The provision of a vehicular access crossing in accordance with Council's Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* as part of Stage 1 of the proposed development. Design drawings must be approved by Council as the Roads Authority prior to the issue of a Construction Certificate and shall include:

- A minimum width of 6 metres.
- Construction techniques considering the protection of the existing street trees.
- Protection works for the existing street trees for all stages of the proposed development.

Stormwater Drainage - Design Requirements

- 20 The submission to the Accredited Certifier of a detailed stormwater management plan with stormwater disposal to the existing provided outlets within the development site. The plan must be prepared in accordance with the plans prepared by Halcrow and Associates No 12.12.022 A and AS/NZS3500.3:2004, and be approved by the Accredited Certifier prior to issue of the Construction Certificate. Proposed staging of stormwater construction shall be included as part of the approved design to ensure suitable construction with each stage of the development.

Structural Design Requirements

- 21 Prior to the issue of a Construction Certificate, satisfactory plans prepared by a suitably qualified Registered Engineer are to be submitted for the approval of the Accredited Certifier, for the following building elements:
- All construction works within the area of the levee covered by easement in favour of Council shall ensure that the structural integrity and height of the levee is maintained. Staging of the proposed developments and associated works shall also be considered within the design to ensure the structural integrity and height of the levee is maintained;
 - Ground slabs, footings and other supporting structural members.

Vehicle Access and Parking - Design Requirements

- 22 The submission to the Accredited Certifier of a detailed car parking design. The design shall include:
- Pavement marking, appropriate signage and physical controls detailed for the carpark, access driveway and circulation roads.
 - Pavement design able to withstand anticipated vehicle loading.
 - Wheel stops for all parking spaces
 - The carparking shall comply with the requirements of AS/NZS 2890.1 Category 1 carparking.
 - The carparking area to the south east of the proposed development identified for a turning area shall be amended to one additional carspace.
 - The proposed pavement and kerb and guttering for the carparking area that forms part of the amended levee shall be integrated into the existing levee and be designed to ensure the integrity and height of the existing levee is maintained.

The design drawings shall be prepared in accordance with the requirements of AS/NZS 2890 – Parts 1, 2 and 6, and be approved by the Accredited Certifier prior to the issue of a Construction Certificate.

Water and Sewer Services - Design Requirements

- 23 All water and sewer works or works impacting on water and sewer assets must be designed and constructed to the requirements of Council as the Water Supply Authority. The requirements are detailed in the Section 306 Notice of Requirements letter attached to this consent. **Note:** The Section 306 Notice contains requirements associated with the development that must be completed prior to the issue of the Construction Certificate.

Prior to Commencement of Works:

The following conditions must be satisfied prior to the commencement of site works, including any works relating to demolition, excavation or vegetation removal.

STAGE 1

Erosion and Sediment Control Requirements

- 24 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 25 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.

Site Requirements

- 26 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 27 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 28 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.

Filling and Haulage Requirements

- 29 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

Roads - Preconstruction Requirements

- 30 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Traffic Authority (RTA) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.
- 31 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works. A dilapidation report must be produced for each stage of the proposed development.
- 32 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.

Tree Requirements

- 33 Prior to works associated with the development commencing and for the duration of construction works, the following protocols are to be implemented to ensure tree and vegetation protection upon the development site:
- The *Eucalyptus microcorys* is to be protected by the erection of 1.8 metre-high chain wire interlocking fencing as per the engaged Arborist and/or Ecologist's direction, AS/NZS 4970-2009 - *Protection of Trees on Development Sites*. The fencing is to be erected to the proposed kerb facing east and 2m to the proposed driveway entry to the north. The other two sides are to have the fencing 3m from the trunk of the *Eucalyptus microcorys*.
 - Erection of tree protection measures is to be confirmed to Council's Development Ecologist in writing by the Arborist and/or Ecologist prior to commencement of works.
 - The fenced tree protection area is to be clearly marked as a "No Go Area" on the fencing itself.
 - No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within 4 metres of the fenced tree protection area.
 - The *Eucalyptus microcorys* is to be pruned to a maximum of 20% in accordance with AS 4373-2007 to include remedial pruning and removal of all accessible dead wood. All pruning works are to be chipped and removed off site to an approved waste management facility.

STAGE 2

Erosion and Sediment Control Requirements

- 34 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.

Site Requirements

- 35 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.

- 36 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
- be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 37 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.

Filling and Haulage Requirements

- 38 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

Roads - Preconstruction Requirements

- 39 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Maritime Services (RMS) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.
- 40 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.

STAGE 3

Erosion and Sediment Control Requirements

- 41 Prior to works associated with the development commencing, soil erosion and sediment controls measures are to be provided on the development site in accordance with Council's Policy E1 - Erosion and Sediment Control from Building Sites and Development Control Plan 2005, Chapter 67 – *Engineering Requirements for Development* and the approved development plans.
- 42 Prior to works associated with the development commencing, a single all-weather hardstand access, extending from the kerb and gutter/edge of bitumen to the building under construction, is to be installed in order to provide appropriate access to the site during periods of inclement weather.

Site Requirements

- 43 Prior to works associated with the development commencing, the Principal Contractor (or Owner/Builder) is to erect a suitable sign in a prominent position on the development site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder) and stating that unauthorised entry to the site is prohibited. The required sign is to be maintained for the duration of works associated with the development. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated Principal Certifying Authority with respect to the development.
- 44 Prior to works associated with the development commencing, suitable toilet facilities must be available or be provided upon the development site, with the required toilet facility(s) maintained until development works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every twenty (20) persons employed at the site. Each toilet must:
 - be a standard flushing toilet connected to a public sewer system; or
 - have an on-site effluent disposal system approved under the Local Government Act 1993, or be a temporary chemical closet approved under the Local Government Act 1993, supplied by a suitably licensed contractor.
- 45 Prior to works associated with the development commencing, a suitable hoarding or safety fence between the work site and the public place is to be provided in accordance with Work Cover Authority requirements. The required hoarding/fencing is to remain in place during the construction phase of the development. Should the hoarding/fencing be required to be provided within the road reserve area, approval from Council under the Roads Act as the Roads Authority is required to be obtained prior to its erection.

Filling and Haulage Requirements

- 46 Prior to works associated with the development commencing, details for the disposal of any spoil gained from the site and/or details of the source of fill materials to be imported to the site, are to be provided and approved by the Principal Certifying Authority.

Roads - Preconstruction Requirements

- 47 Prior to works associated with the development commencing, a Plan of Management is to be submitted to and approved by Council as the Roads Authority for any works or deliveries that impact on any public roads or public land as a result of the construction of the development. The plan must include a Traffic Control Plan prepared by a person holding Roads and Maritime Services (RMS) accreditation for selecting and modifying traffic control plans. Fees and charges are applicable to the review and approval of the required management plan in accordance with Council's Plan of Management.
- 48 Prior to works associated with development commencing, a dilapidation report must be prepared and submitted to Council as the Roads Authority. The required dilapidation report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development. **Note:** The report will be used by Council to determine the extent of damage arising from site and construction works. A dilapidation report must be produced for each stage of the proposed development.
- 49 Prior to works associated with the development commencing, it is the builder's responsibility to confirm the location and depth of the sewer main and connection point in relation to the floor level, to ensure that appropriate connection to the sewer can be achieved.

During Construction Works:

The following conditions must be satisfied during construction works.

STAGE 1

Approved Plans

- 50 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Erosion and Sediment Control - Construction Requirements

- 51 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.

- 52 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Site Requirements

- 53 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 54 Proposed plantings within the area of the existing levee shall ensure that root systems are minimally invasive and maintain the integrity of the levee structure.
- 55 During the construction phase of the development, downpipes and the associated stormwater disposal system is to be suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Acid Sulphate Soils – Construction Requirements

- 56 Should acid sulphate soils be identified as part of the development works, an Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified consultant and works completed in accordance with this plan.

Earthworks and Haulage - Construction Requirements

- 57 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 58 During construction works, all cut /fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.

STAGE 2

Approved Plans

- 59 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Erosion and Sediment Control - Construction Requirements

- 60 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.

- 61 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Site Requirements

- 62 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 63 Proposed plantings within the area of the existing levee shall ensure that root systems are minimally invasive and maintain the integrity of the levee structure.
- 64 During the construction phase of the development, downpipes and the associated stormwater disposal system is to be suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Acid Sulphate Soils – Construction Requirements

- 65 Should acid sulphate soils be identified as part of the development works, an Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified consultant and works completed in accordance with this plan.

Earthworks and Haulage - Construction Requirements

- 66 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 67 During construction works, all cut /fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.

STAGE 3

Approved Plans

- 68 A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

Erosion and Sediment Control - Construction Requirements

- 69 Sand and other materials associated with the construction of the development that could potentially be washed off the site during rain periods, are to be stored behind a suitable sediment control barrier.
- 70 All sediment and erosion control devices provided with respect to the development are to be periodically cleaned and maintained in an effective state for the duration of works. On the spot fines for non-compliance with this requirement may be issued under the provisions of the *Protection of Environment Operations Act, 2000*.

Site Requirements

- 71 During the construction phase of the development, all building materials, plant and equipment must be placed on the site of the development in order to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure.
- 72 Proposed plantings within the area of the existing levee shall ensure that root systems are minimally invasive and maintain the integrity of the levee structure.
- 73 During the construction phase of the development, downpipes and the associated stormwater disposal system is to be suitably connected to the site stormwater connection point immediately after the roof materials are positioned in order to prevent erosion of the site from roof water run off. The Principal Certifying Authority for the development will not issue a compliance certificate for framing unless connection of the site stormwater (or temporary system) has occurred.

Acid Sulphate Soils – Construction Requirements

- 74 Should acid sulphate soils be identified as part of the development works, an Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified consultant and works completed in accordance with this plan.

Earthworks and Haulage - Construction Requirements

- 75 During construction works, all fill is to be placed on site in such a manner that surface water will not be permanently or temporarily diverted to adjoining land.
- 76 During construction works, all cut /fill is to be constructed in such a manner that surface water will not be permanently or temporarily diverted to adjoining land and so that natural drainage from adjoining land will not be obstructed or affected.

Prior to Release of Occupation Certificate:

The following conditions must be satisfied prior to the release of an Occupation Certificate.

STAGE 1

Building Code of Australia – Compliance Requirements

- 77 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 78 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report for each stage of the development submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the relevant stage of the development and must be rectified at the applicant's expense.

Flooding – Compliance Requirements

- 79 Prior to the issue of an Occupation Certificate, all rainwater storage tanks must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood level of 5.19m AHD. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent back flow in accordance with Council's rainwater tank installation guidelines.

Lighting Requirements

- 80 Prior to the issue of an Occupation Certificate, suitable lighting to the carpark area shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

Plumbing and Drainage - Compliance Requirements

- 81 Prior to the issue of an Occupation Certificate, the provision of a rainwater tank(s), with a minimum capacity of 12,000 litre in accordance with the requirements the National Plumbing and Drainage Code AS/NZS 3500. The rainwater tank(s) must be located in such a position as to maximise rainwater collection and shall include, but not be limited to, the retention of water on-site incorporating first flow diversion devices fixed to all inflows, provided with a functioning pressure pump, and plumbed to service all toilets and at least one outdoor tap for each stage of the development. The tank must be controlled such that supplemental flows from domestic mains do not take place until the tank is at least 80% empty.

Roads – Compliance Requirements

- 82 All works within the public road must be completed in accordance with the approved Civil Works design drawings and Development Control Plan 2005, Chapter 67 - *Engineering Requirements for Development* and be approved by Council as the Roads Authority prior to the issue of any Occupation Certificate.

Stormwater – Compliance Requirements

- 83 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Vehicle Access and Parking – Compliance Requirements

- 84 The construction of the carpark and accesses in accordance with AS/NZS 2890 - Parts 1/2/6 in accordance with the approved staging plan. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 85 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Landscaping Requirements

- 86 Prior to the issue of an Occupation Certificate, landscaping is to be provided to the development site in accordance with Council's Policy Number L1 for a Category 2 development in accordance with Plan reference No DA09 – Issue A. Required landscaping is to be the subject of an appropriate landscape implementation report from the approved landscape consultant submitted to and approved by the Principal Certifying Authority.
- 87 Prior to the issue of an Occupation Certificate, a detailed maintenance schedule for all landscaping areas associated with the development is to be provided to and approved by the Principal Certifying Authority.

STAGE 2

Building Code of Australia – Compliance Requirements

- 88 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 89 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report for each stage of the development submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the relevant stage of the development and must be rectified at the applicant's expense.

Flooding – Compliance Requirements

- 90 Prior to the issue of an Occupation Certificate, all rainwater storage tanks must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood level of 5.19m AHD. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent back flow in accordance with Council's rainwater tank installation guidelines.

Lighting Requirements

- 91 Prior to the issue of an Occupation Certificate, suitable lighting to the carparking area shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

Stormwater – Compliance Requirements

- 92 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Vehicle Access and Parking – Compliance Requirements

- 93 The construction of the carpark and accesses in accordance with AS/NZS 2890 - Parts 1/2/6 in accordance with the approved staging plan. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 94 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Landscaping Requirements

- 95 Prior to the issue of an Occupation Certificate, landscaping is to be provided to the development site in accordance with Council's Policy Number L1 for a Category 2 development in accordance with Plan reference No DA09 – Issue A. Required landscaping is to be the subject of an appropriate landscape implementation report from the approved landscape consultant submitted to and approved by the Principal Certifying Authority.
- 96 Prior to the issue of an Occupation Certificate, a detailed maintenance schedule for all landscaping areas associated with the development is to be provided to and approved by the Principal Certifying Authority.

STAGE 3**Building Code of Australia – Compliance Requirements**

- 97 Prior to the issue of the Occupation Certificate, the building shall be completed in accordance with the relevant provisions and requirements of the Building Code of Australia.

Dilapidation Rectification Requirements

- 98 Prior to the issue of an Occupation Certificate, any damage not shown in the Dilapidation Report for each stage of the development submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the relevant stage of the development and must be rectified at the applicant's expense.

Flooding – Compliance Requirements

- 99 Prior to the issue of an Occupation Certificate, all rainwater storage tanks must be installed with the stormwater inlet and outlets, air gap for mains water top up at a minimum level of 500mm above the 1% AEP flood level of 5.19m AHD. Where the stormwater outlet cannot be located 500mm above the flood level it must be fitted with a non return valve to prevent back flow in accordance with Council's rainwater tank installation guidelines.

Lighting Requirements

- 100 Prior to the issue of an Occupation Certificate, suitable lighting to the carparking area shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.

Plumbing and Drainage - Compliance Requirements

- 101 Prior to the issue of an Occupation Certificate, the provision of a rainwater tank(s), with a minimum capacity of 4,000 litres in accordance with the requirements the National Plumbing and Drainage Code AS/NZS 3500. The rainwater tank(s) must be located in such a position as to maximise rainwater collection and shall include, but not be limited to, the retention of water on-site incorporating first flow diversion devices fixed to all inflows, provided with a functioning pressure pump, and plumbed to service all toilets and at least one outdoor tap for each stage of the development. The tank must be controlled such that supplemental flows from domestic mains do not take place until the tank is at least 80% empty.

Stormwater – Compliance Requirements

- 102 The construction of the stormwater management system in accordance with the approved Stormwater Management Plan and AS/NZS 3500.3-2004. Certification of the construction by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Vehicle Access and Parking – Compliance Requirements

- 103 The construction of the carpark and accesses in accordance with AS/NZS 2890 - Parts 1/2/6 in accordance with the approved staging plan. Certification of the construction of the carpark and associated accesses by a suitably qualified consultant shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Water and Sewer Services/Infrastructure – Compliance Requirements

- 104 The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Wyong Shire Council as the Water Supply Authority prior to issue of the Subdivision/Occupation Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.

Landscaping Requirements

- 105 Prior to the issue of an Occupation Certificate, landscaping is to be provided to the development site in accordance with Council's Policy Number L1 for a Category 2 development in accordance with Plan reference No DA09 – Issue A. Required landscaping is to be the subject of an appropriate landscape implementation report from the approved landscape consultant submitted to and approved by the Principal Certifying Authority.

- 106 Prior to the issue of an Occupation Certificate, a detailed maintenance schedule for all landscaping areas associated with the development is to be provided to and approved by the Principal Certifying Authority.

Ongoing Operation:

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

Lighting Spill Requirements

- 107 All external lighting is to be of a type that minimises overspill into retained vegetated areas.

Stormwater – Ongoing Maintenance Requirements

- 108 All stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective.

Vehicle Access and Parking – Ongoing Requirements

- 109 The largest vehicle permitted to access the development during ordinary business hours, excluding waste collection vehicles, is the small rigid vehicle.
- 110 All on-site vehicle parking areas, markings, driveways and manoeuvring areas are to be maintained for the life of the development.
- 111 The combined loading bay / turning area shall be managed to ensure deliveries and usage outside of peak use times for the general carpark. This shall ensure the area is available for turning movements when required.

Advertising Sign Requirements

- 112 The approved advertising sign must be constructed and maintained in a presentable and satisfactory state of repair for the life of the development.
- 113 The face of the approved free standing sign is not to exceed 8 square metres.
- 114 The approved free standing sign is to incorporate the Tuggerah Business Park Logo and the street number. The approved sign is to be constructed in metal framing with approved metal or polycarbonate surface materials.
- 115 No additional advertising signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior separate consent of Council.

Industrial/Commercial Operational Requirements

- 116 Any security alarm installed on the premises must be fitted with a 'cut-off' device limiting any sounding of the alarm to a maximum duration of ten (10) minutes, with no repeat sounding until manually reset; and or 'silently wired' to a security firm.

SCHEDULE OF CONTRIBUTIONS

Section 94A Levy

\$13,286.42



SITE PLAN LAYOUT

SITE CALCULATIONS	
TOTAL SITE AREA	= 3622m ²
TOTAL BUILDING AREA	= 1480m ²
SITE COVERAGE	= 41%

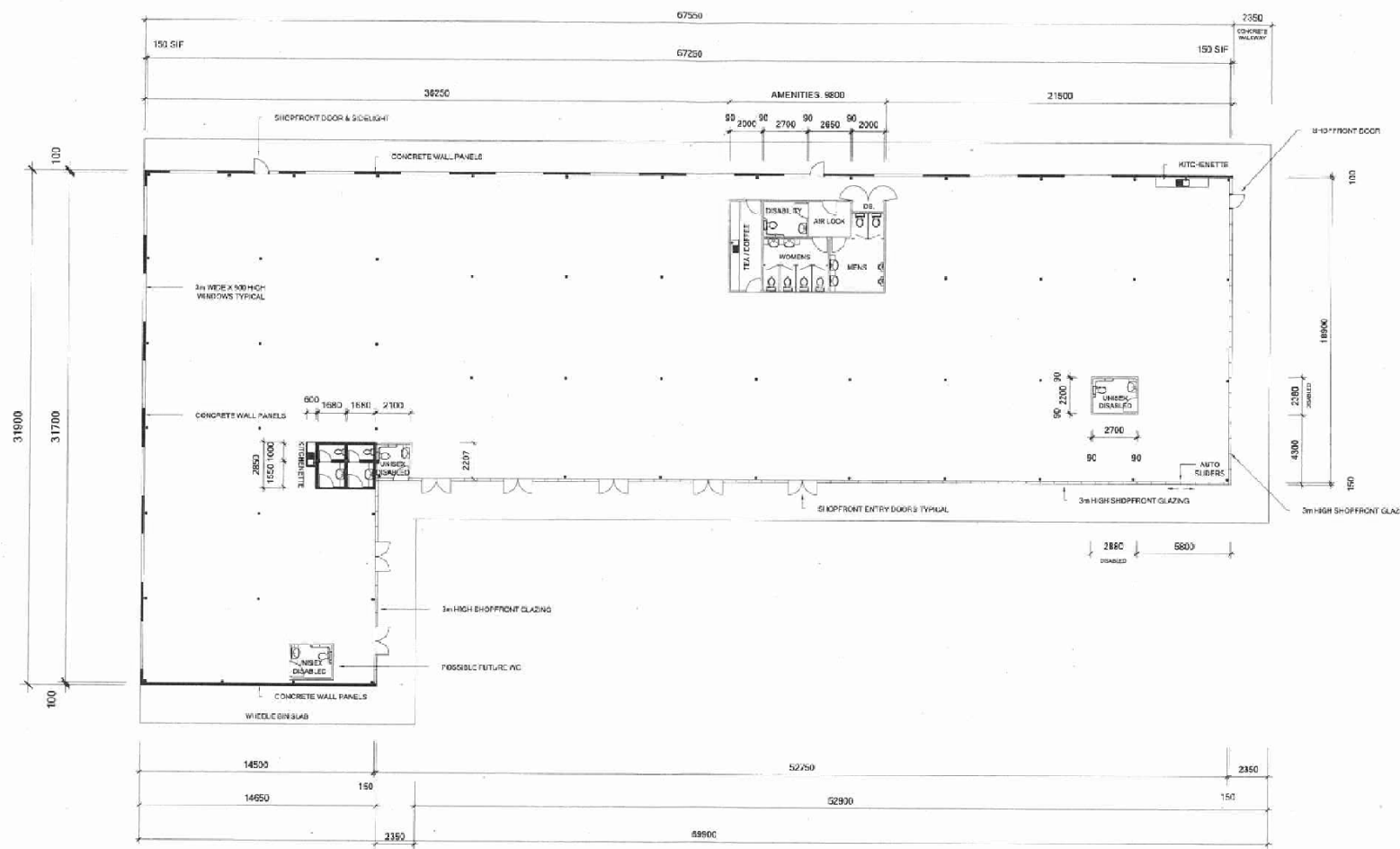
CARPARKING	
TOTAL CARPARKING REQUIRED	1480 ÷ 40 = 37
TOTAL CARPARKING SUPPLIED	= 37

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



PROPOSED LARGE SCALE COMMERCIAL PREMISES - SITE PLAN LAYOUT
 CCGT
 Lot 2073, Bounty Cl Tuggerah

DATE	SCALE
DH 27/11/12	1:400 @ A3
DA01 A	

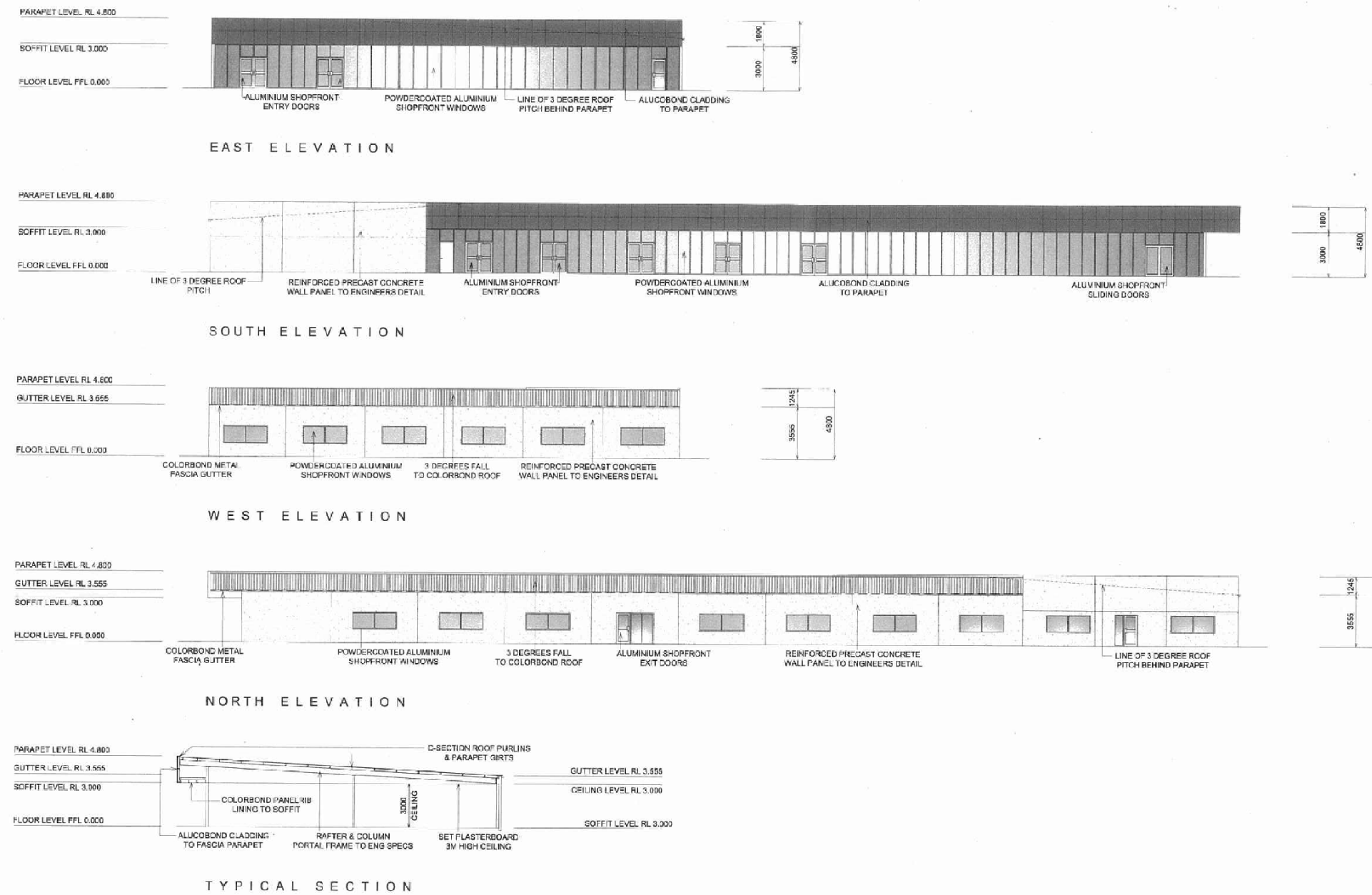


FLOOR PLAN LAYOUT

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



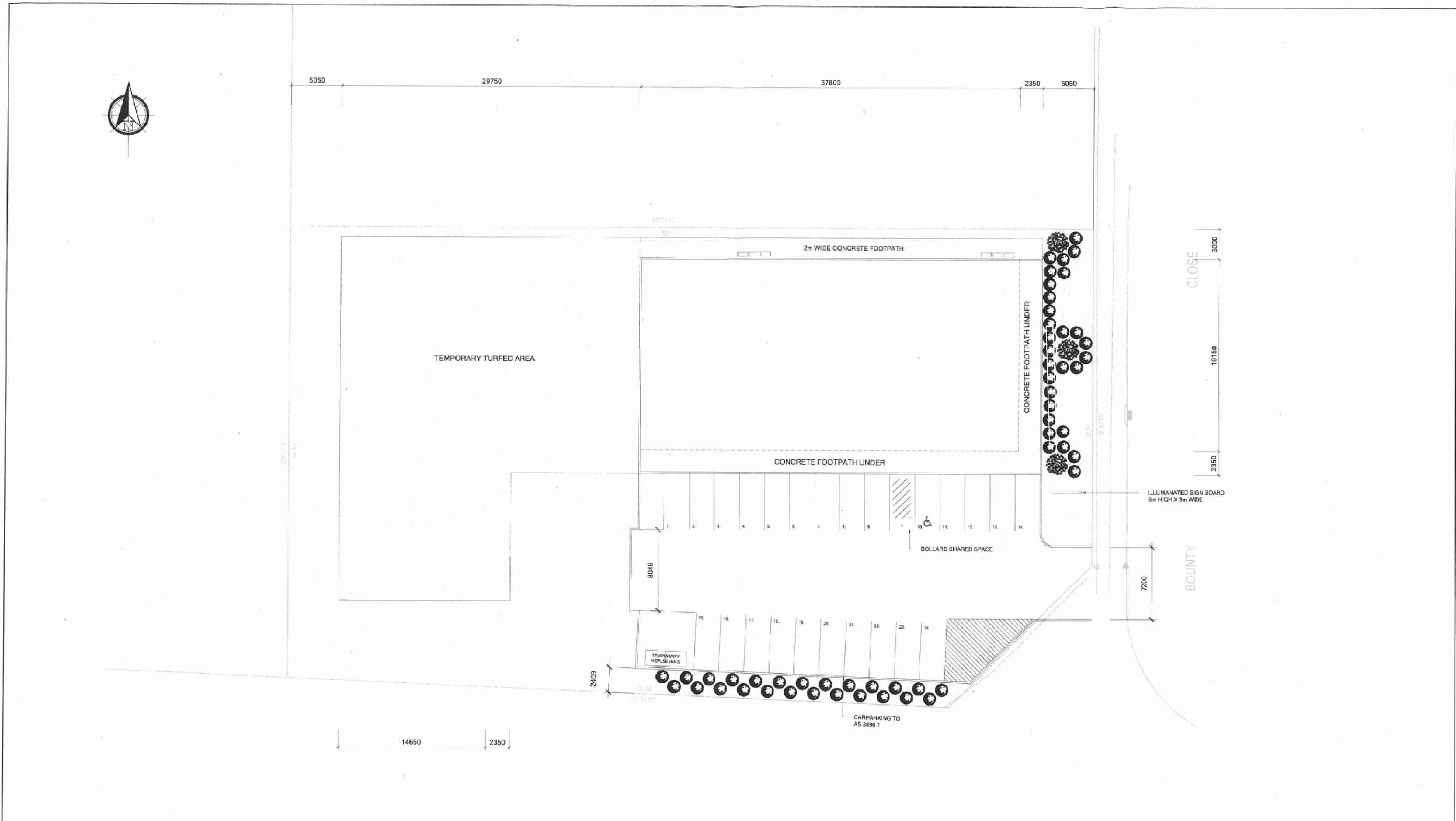
PROPOSED LARGE SCALE COMMERCIAL PREMISES - FLOOR PLAN LAYOUT CCGT Lot 2073, Bounty Cl Tuggerah			
DATE	27/11/12	SCALE	1:400 @ A3
PROJECT NO.	DA02	PLAN NO.	A



ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



PROPOSED LARGE SCALE COMMERCIAL PREMISES - ELEVATIONS & SECTION			
CLIENT	DATE	SCALE	
CGGT	DH	27/11/12	1:400 @ A3
SITE ADDRESS			DATE
Lot 2073, Bounty Ct Tuggerah			DA03 A



SITE PLAN LAYOUT (STAGE 1)

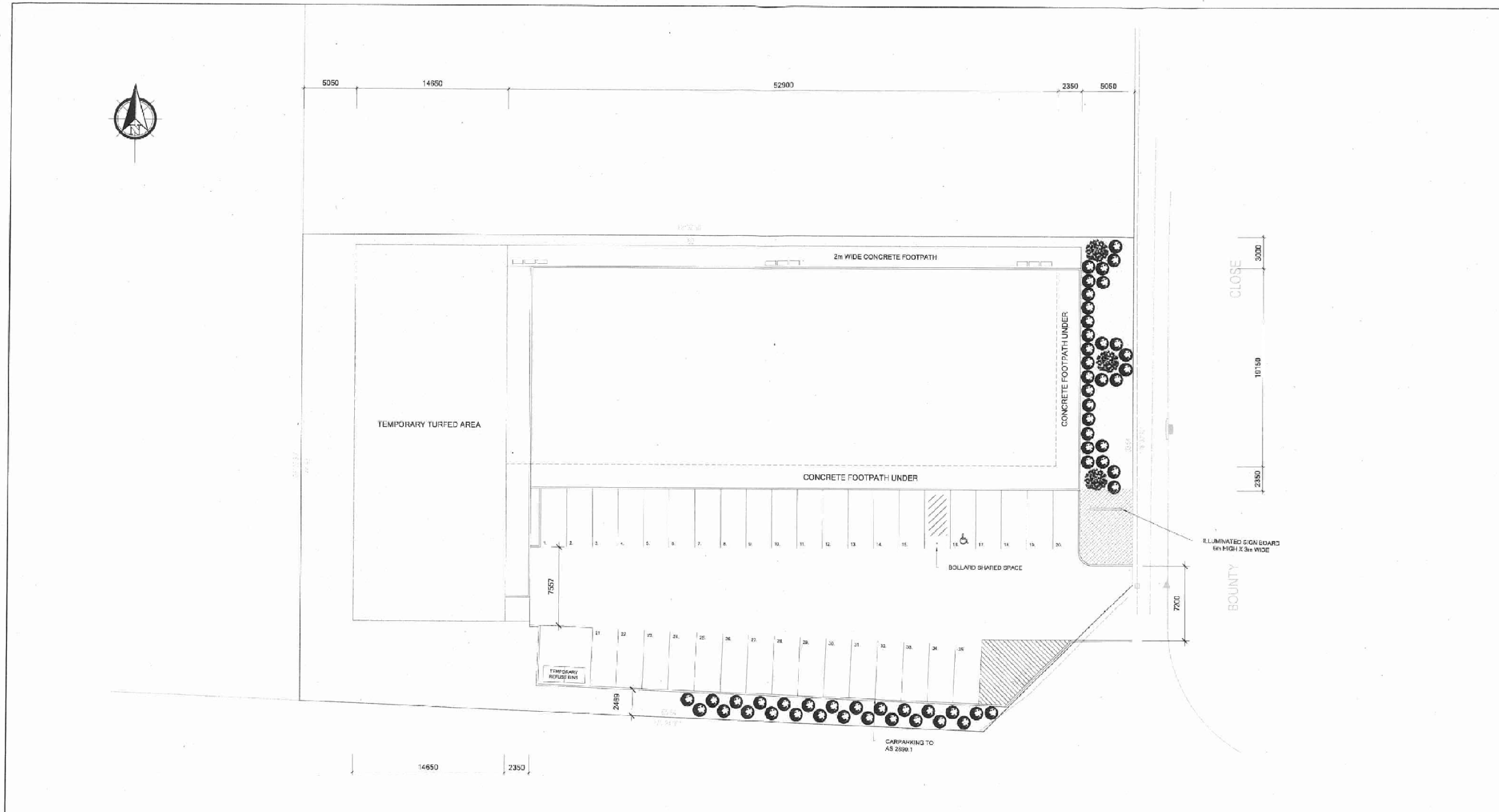
SITE CALCULATIONS	
TOTAL SITE AREA	= 3522m ²
TOTAL BUILDING AREA	= 724m ²
SITE COVERAGE	= 20%

CARPARKING	
TOTAL CARPARKING REQUIRED	724 ÷ 40 = 19
TOTAL CARPARKING SUPPLIED	= 24

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



DRAWING TITLE			
STAGE 1 - SITE PLAN			
CLIENT		SCALE	
CCGT		1:400 @ A3	
PROJECT		DRAWING NO.	
Lct 2073, Bounty Cl Tuggerah		DA04	
			BOOK
			A



SITE PLAN LAYOUT (STAGE 2)

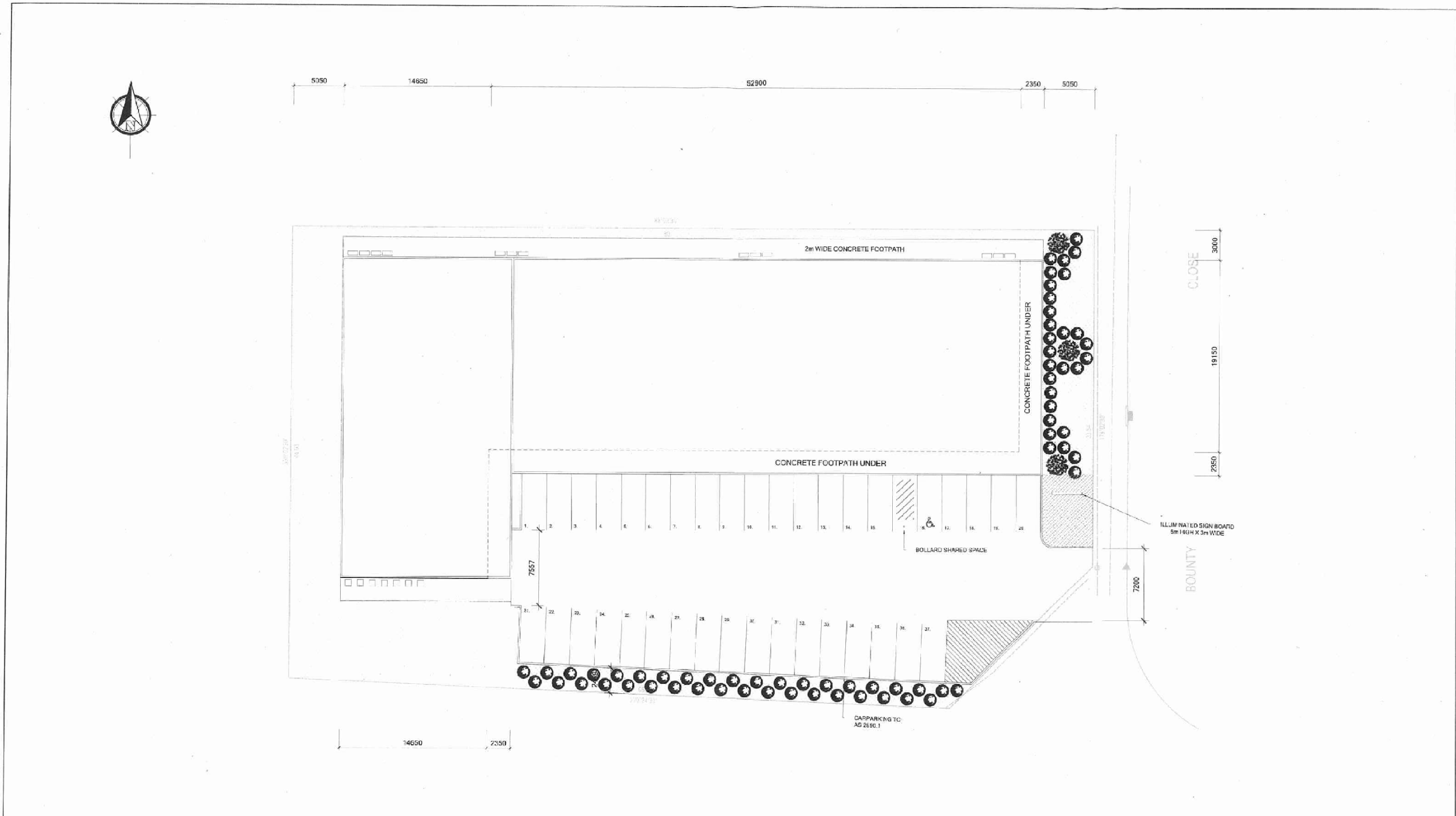
SITE CALCULATIONS	
TOTAL SITE AREA	= 3522m ²
TOTAL BUILDING AREA	= 1013m ²
SITE COVERAGE	= 28%

CARPARKING	
TOTAL CARPARKING REQUIRED	1013 ÷ 40 = 36
TOTAL CARPARKING SUPPLIED	= 35

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



DRAWING TITLE STAGE 2 - SITE PLAN			
CLIENT CCGT	DATE 27/11/12	SCALE 1:400 @ A3	ISSUE NO. A
SITE ADDRESS Lot 2073, Bounty Cl Tuggerah		DA05	



SITE PLAN LAYOUT (STAGE 3)

SITE CALCULATIONS	
TOTAL SITE AREA	= 3822m ²
TOTAL BUILDING AREA	= 1480m ²
SITE COVERAGE	= 41%

CARPARKING	
TOTAL CARPARKING REQUIRED	1480 ÷ 40 = 37
TOTAL CARPARKING SUPPLIED	= 37

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



STAGE 3 - SITE PLAN			
SCALE:	CCGT	DATE:	27/11/12
PROJECT:		SCALE:	1:400 @ A3
SITE ADDRESS:		APPROVAL NO.:	DA06
Lot 2073, Bounty Cl Tuggerah		ISSUE NO.:	A



SITE ANALYSIS PLAN

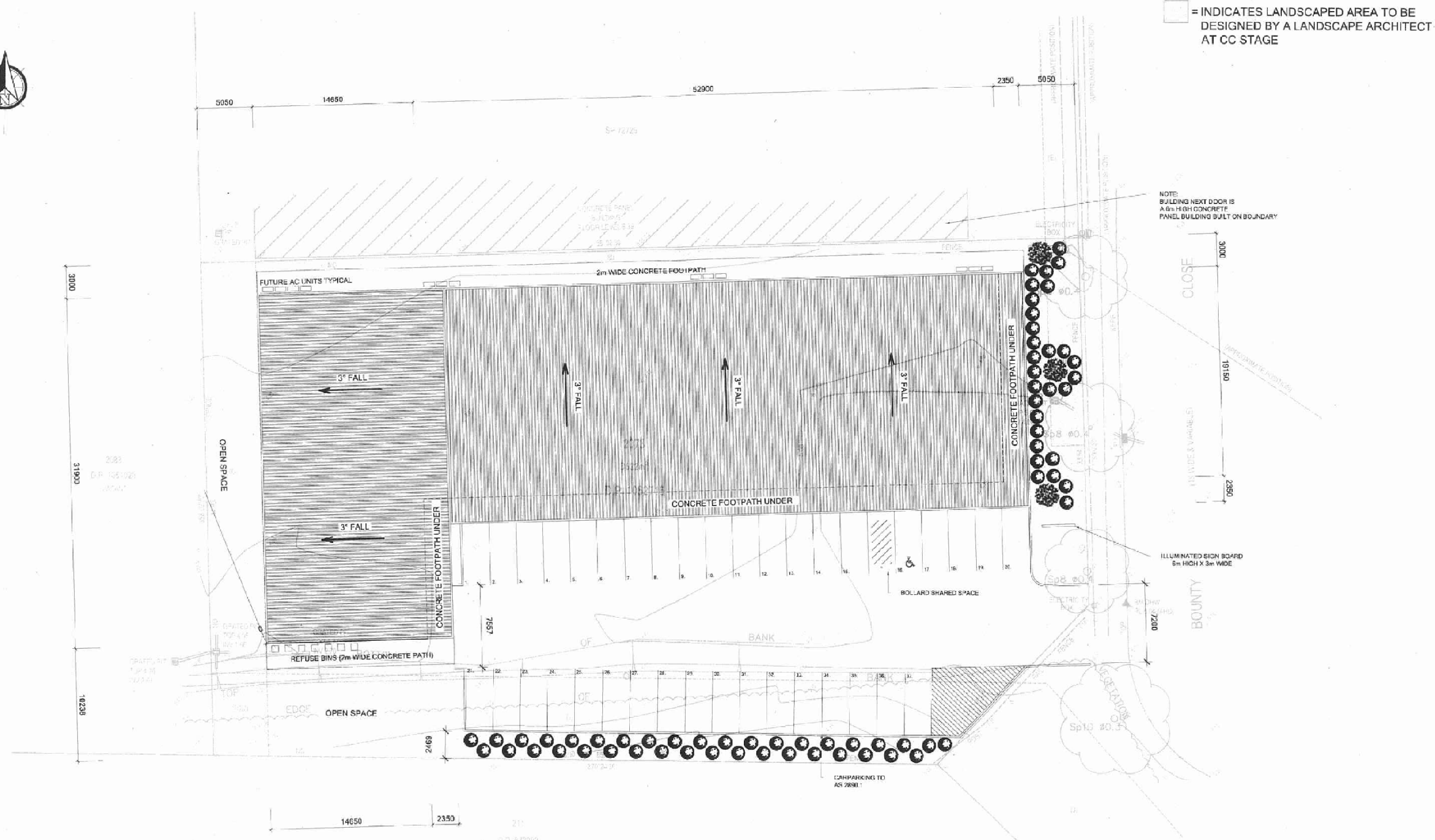
SITE CALCULATIONS	
TOTAL SITE AREA	= 3622m ²
TOTAL BUILDING AREA	= 1480m ²
SITE COVERAGE	= 41%

CARPARKING	
TOTAL CARPARKING REQUIRED	1480 ÷ 40 = 37
TOTAL CARPARKING SUPPLIED	= 37

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



PROJECT TITLE PROPOSED LARGE SCALE COMMERCIAL PREMISES - SITE ANALYSIS PLAN			
CLIENT CCGT	DESIGNER DH	DATE 27/11/12	SCALE 1:400 @ A3
SITE ADDRESS Lot 2073, Bounty Cl Tuggerah		PROJECT ID DA08	
			SHEET NO. A



LANDSCAPE PLAN

SITE CALCULATIONS	
TOTAL SITE AREA	= 3822m ²
TOTAL BUILDING AREA	= 1483m ²
SITE COVERAGE	= 41%

CARPARKING	
TOTAL CARPARKING REQUIRED	1480 ÷ 40 = 37
TOTAL CARPARKING SUPPLIED	= 37

ISSUE	DESCRIPTION	BY	DATE
A	ISSUE FOR COUNCIL APPROVAL	DH	27/11/12



PROPOSED LARGE SCALE COMMERCIAL PREMISES - LANDSCAPE PLAN
 CCGT
 Lot 2073, Bounty CI Tuggerah

ISSUE	DATE	SCALE
DH	27/11/12	1:400 @ A3

DA09 | A

2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991

TRIM REFERENCE: F2012/01830 - D03351167

MANAGER: Jari Ihalainen, Director Land Management

AUTHOR: Peter Kavanagh; Senior Planner

SUMMARY

The Planning Proposal to amend Clause 16(1) of Wyong Local Environmental Plan, 1991 (WLEP91), to enable the erection of a rural dwelling on existing allotments which do not comply with the minimum area requirement of their respective zones has been placed on public exhibition for comment between Wednesday 24 April and Wednesday 8 May, 2013, in accordance with the Gateway Determination. This report seeks Council's endorsement to refer the Planning Proposal to the Minister for Planning and Infrastructure for the plan to be made.

RECOMMENDATION

- 1 That Council delegate authority to the General Manager to undertake any amendments to the Planning Proposal and supporting documents required by Parliamentary Counsel or the NSW Department of Planning and Infrastructure.**
- 2 That the Planning Proposal which includes LEP (Amendment No. 187) be referred to the General Manager to decide to make the Plan in accordance with Section 59 of the Environmental Planning and Assessment Act, 1979, and to forward relevant documentation to the NSW Department of Planning and Infrastructure to arrange for the Plan to be notified.**
- 3 That Council advise those who made submissions of the decision.**

BACKGROUND

Council has recently completed public exhibition of the Planning Proposal to amend Clause 16 of the Wyong LEP, 1991, in accordance with the Gateway Determination issued 5 April, 2013. Two (2) submissions from the public were received, which are considered below.

The need for the Planning Proposal arose as a result of a decision in the NSW Court of Appeal (*Agostino v Penrith City Council [2010] NSWCA 20*). In this regard, Wyong Council's General Counsel provided advice in relation to the interpretation of Clause 14(2) and Clause 16(1) of Wyong Local Environmental Plan (WLEP 1991). These clauses identify minimum area requirements for the subdivision of land and for the erection of a dwelling house respectively, within rural and environmental protection zones.

2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991 (contd)

WLEP 1991 was gazetted on 15 February 1991. Since this time numerous development applications have been determined (by Council, the Department of Planning and Infrastructure and also the Land and Environment Court) which have created allotments comprising less than the relevant minimum area requirement, using State Environmental Planning Policy (SEPP) No.1 – Development Standards. This process has long been considered entirely appropriate and in compliance with relevant statutory provisions.

However, following the majority interpretation of three judges in the NSW Court of Appeal the minimum area standards (as included in most LEP's within NSW) are now considered mandatory and require strict compliance. Council, therefore, has no legal power to utilise the provisions of SEPP 1 to issue development consents for subdivisions which propose allotments below the minimum area requirement (Cl.14(2)) within the respective zone. If challenged, any existing consent granted for these subdivisions may likely be considered not legally valid as the consent authority did not have jurisdiction (the power) to grant consent. It is clear that Council will be unable to consent to any further subdivisions which do not comply with the minimum area provision within the LEP. It also follows that where the minimum area requirement for the erection of a dwelling house (Cl.16(1)) cannot be met because the lot is undersize, SEPP 1 cannot be utilised to grant consent.

Clause 16(1) currently permits the erection of a dwelling house only:

...”on an allotment of land that was in existence on the appointed day (15 February, 1991) or with an area not less than the applicable minimum area specified in clause 14 (2) or (3) (b), within Zone No 1 (a), 1 (c), 7 (a), 7 (b), 7 (c), 7 (d), 7 (e), 7 (f), 7 (g) or 10 (a)....”

This situation is not unique to Wyong Shire, with ramifications extending throughout NSW. Many landowners have already built upon or have purchased vacant land affected by these provisions. In this regard, it was considered appropriate for Council to seek to facilitate future dwellings on these allotments by amending WLEP 1991, and to legalise those dwellings which have already been approved and created.

Whilst it is not clear how many allotments may be affected by the decision of the Court of Appeal, it is likely that as WLEP91 has been in force for a period exceeding 20 years, they will number in the hundreds. It was not considered feasible to identify these allotments in a schedule to the LEP due to available resourcing and the potential that not all allotments may be able to be identified. The preferred method was to modify the wording of the clause to capture all allotments approved by Council and registered under the Real Property Act, 1900, in addition to the existing inclusions.

Council at its Ordinary meeting of 14 November, 2012;

“RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor VINCENT:

1/12 *That Council initiate the Local Environmental Plan “Gateway” process, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by preparation of a Planning Proposal to amend Clause 16(1) of Wyong Local Environmental Plan 1991.*

2/12 *That Council forward the Planning Proposal to the Department of Planning and Infrastructure requesting a “Gateway” determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.*

2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991 (contd)

3/12 That Council undertake community consultation regarding the Planning Proposal, subject to such being required by the Gateway Determination.

4/12 That Council receive a report on the outcomes of any community consultation undertaken.

FOR: COUNCILLORS BEST, GRAHAM, GREENWALD, MATTHEWS, NAYNA, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL”

THE PROPOSAL

A Planning Proposal for amendment of the clause was submitted to DP&I, where a Gateway Determination was issued on 5 April, 2013, authorising the public exhibition.

The exhibited Planning Proposal is to amend Clause 16(1) by adding the following text outlined in **bold** below:

“16 Dwelling-houses

(1) Except as otherwise provided by this plan, one dwelling-house only may be erected, with the consent of the Council, on an allotment of land that was in existence on the appointed day or **that was created in accordance with a consent issued by Council and registered in accordance with the Real Property Act, 1900, or which with has** an area not less than the applicable minimum area specified in clause 14 (2) or (3) (b), within Zone No 1 (a), 1 (c), 7 (a), 7 (b), 7 (c), 7 (d), 7 (e), 7 (f), 7 (g) or 10 (a).”

PUBLIC EXHIBITION AND ISSUES RAISED

In accordance with the Gateway Determination issued 5 April, 2013, public exhibition of the Planning Proposal was conducted between Wednesday 24 April and Wednesday 8 May, 2013. The Gateway Determination identified that consultation with public authorities was not required in this instance and that a public hearing is not required to be held.

The Determination included requirements that the Planning Proposal be amended to indicate that should draft LEP 2012 be made before this proposal is finalised, then this proposal may not proceed. Further, that an alternate approach may be identified during the drafting of the LEP, to achieve the intended outcome. As no alternative approach has yet been identified and the draft LEP 2012 will only recognise and preserve existing entitlements when it comes into force, it is considered necessary to expedite this amendment to WLEP, 1991, so that “dwelling entitlements” on these existing lots are preserved and recognised.

2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991 (contd)

Two (2) submissions from the public were received. Key issues raised in the submissions and Council responses are summarised in the Table below:

Document No	Issue	Response
D03291048	The Court of Appeal decision has far broader ramifications than Clause 16. The amendments should include a savings provision within Clause 14, allowing 12 months, or the life of any existing consent to expire, to allow registration of new subdivisions to occur. The amendment will not address minor boundary adjustments under Clause 13(3), where the minimum area requirement is not met, and therefore no existing dwelling entitlement will be recognised. Other more significant boundary adjustments (usually to achieve a superior planning outcome) can now not be entertained. The writer suggests the issue could be addressed by a further amendment to Clause 13, by detailing wording which could be added as a subclause.	When dLEP 2012 comes into effect, it will recognise existing entitlements. In view of the hardship currently being experienced by existing landowners, Council is seeking to reinstate the "dwelling entitlement" to existing subdivided lots as a matter of urgency. Whilst the issues raised are valid, to propose additional Clause amendments at this time would require that Council endorse a new Planning Proposal and seek a revised Gateway Determination. The resultant delays would be likely to lead to significant financial hardship, and the proposals are therefore not supported at this time. Council unsuccessfully tried to convince NSW DP&I that the issue required a State-wide response to address the effectiveness of the SEPP No.1 Instrument.
D03337681	Rural landowners are being discriminated against under the Gateway Determination and Settlement Strategy, etc. The writer raises issues in relation to the proposed zoning of his property under draft LEP 2012, indicating that it is ideal for subdivision.	This submission incorrectly cites Clause 16 of the WLEP, 1991, however, was intended to address draft LEP 2012. This has been discussed and clarified with the writer. The submission is not relevant to this Planning Proposal.

STATUTORY CONSIDERATIONS

Community consultation has been conducted in accordance with the Gateway Determination, which required compliance with the notice requirements and specifications for material to be made available within s.5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012)*. The submissions received have been taken into consideration. The *Guide* defines the remaining procedural requirements to finalise the Plan.

Council has now received formal Delegation from the Director-General of the Department of Planning and Infrastructure, authorising Council's General Manager to proceed to finalise the Plan. Accordingly, staff have commenced the remaining steps in the process, including Council's consideration of this report and the resulting Resolutions.

2.3 Results of Public Exhibition of Proposed Amendment to Clause 16 of the Wyong LEP, 1991 (contd)

A request has been forwarded that the legal Instrument be drafted by the Office of the Parliamentary Counsel (PC), to enable agreement to be reached regarding the content and legal wording of the Clause. The PC will issue an Opinion that the Plan can legally be made. The General Manager may then decide, in accordance with s. 59(2) of the EP&A Act, 1979, to make the Plan, with or without any variation. The Plan and all relevant documentation is then forwarded to the Department of Planning and Infrastructure. The Department will arrange for the Plan to be notified on the NSW Government legislation website, when it becomes law. This process is anticipated to take approximately six (6) weeks to be finalised.

In view of the provisions of the Gateway Determination, further minor changes may be required after Council's adoption of the Planning Proposal to ensure consistency with dLEP 2012 and to address any issues which may be raised by Parliamentary Counsel or the Department of Planning and Infrastructure. Therefore, a recommendation has been included within this report that the General Manager be authorised to make changes to the Planning Proposal if required.

STRATEGIC LINKS

Wyong Shire Council Strategic/Annual Plan

The Annual Plan and 4 Year Delivery Plan are Council's short to medium term plans outlining the strategic role that Council will play in delivering the community's strategic vision. Council has 12 Principal Activities, each activity provides a set of services to the community and the Delivery Plan and Annual Plan show the net cost of each service. This proposal to restore entitlements for landowners is considered to be consistent with the identified strategic vision and activities, without impacting the identified delivery plans.

GOVERNANCE AND POLICY IMPLICATIONS

The Planning Proposal has been pursued in a manner consistent with Council policy and/or policy direction/guidance at appropriate times during its compilation, together with relevant legislative procedures and related statutory guidelines.

CONCLUSION

The proposed amendment to Clause 16 of the Wyong LEP, 1991, will enable Council to approve dwellings on rural lots in consideration of existing entitlements. In view of the hardship currently being experienced by existing landowners, Council is seeking to reinstate the "dwelling entitlement" to existing subdivided lots as a matter of urgency. Referral of the plan to the Minister for Planning and Infrastructure is required for the plan to be made.

ATTACHMENTS

Nil.