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8 May 2015

Gosford City Council

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Mr Hugo Harmstorf  
Chief Executive Officer  
Independent Pricing & Regulatory Tribunal of NSW  
L8 1 Market Street  
SYDNEY NSW 2000  
Sent via email [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

**Attention: Erin Cini**  
**Ref:D15/4934, 14/241-3**

Dear Mr Harmstorf

**Subject: Aquacell Pty Ltd (Narara Eco Village) network operator's licence application  
Comments sought**

Thank you for your invitation to make a submission in regard to the licence application (the application) from Aquacell Pty Ltd (the applicant) for the Narara Eco Village at 25 Research Road, Narara, Lot 13 DP 1126998 (the site).

Council provides the following comments, from our perspective as the public water utility and the development consent authority.

As the public water utility, Council notes that the applicant proposes to connect to Council's 'water industry infrastructure'. Council confirms that connection of the site to Council's water supply system has been permitted and that this is a temporary arrangement as described in the addendum to the application.

As the development consent authority, Council confirms that the development consents listed in Attachment A of your letter dated 25 March 2015 have been issued.

These consents include conditions requiring the applicant to obtain a licence under the Water Industry Competition Act 2006, or (alternately) make arrangements for permanent connections to Council's water supply and sewerage systems.

Council does not believe that any further approvals under the Environmental Planning and Assessment Act 1979 are required for the proposed activities.

Council does not consider that the proposed activities pose any unacceptable risk to the environment, subject to IPART's assessment of the application.

Council does not consider that any specific conditions need to be included in the network operator's licence in relation to protection of the environment, subject to IPART's assessment of the application.

I enclose Development Application assessment reports for the site. The reports consider various issues, including environmental matters, which may be of assistance to IPART. Likewise, I also enclose comments from Council's liquid waste management section.

Should you require any further information from Council, please contact the undersigned on 4304 7042 or Town Planner Diane Spithill on 4325 8209.

Yours faithfully



Elizabeth Knight  
**Regulatory Services Officer**

Enc

IDEP Report DA44994 Part 1

IDEP Report DA44898 H25 Research Road Narara Ecovillage Part 1

IDEP Report DA44899

OSSM Liquid Waste Comments DA 44994/2013

**TITLE**            **DEVELOPMENT APPLICATION NO. 44994/2013 PART 1**  
**APPLICANT: NARARA ECOVILLAGE CO-OPERATIVE LTD**  
**PROPOSED: COMMUNITY TITLE SUBDIVISION (39 LOTS) AND**  
**ASSOCIATED INFRASTRUCTURE AND DEMOLITION OF VARIOUS**  
**STRUCTURES AND BUILDINGS ON LOT: 13 DP: 1126998, 25 RESEARCH**  
**ROAD NARARA**  
  
Directorate:       Environment and Planning  
Business Unit:    Development

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

## **EXECUTIVE SUMMARY**

**Assessing Officer:** D Spithill  
**Reviewing Officer:** IDEP - \$5,400,000 value  
**Application Received:** 18/12/2013  
**Estimated Value:** \$5,400,000

This application is subject to saving provisions under Gosford Local Environmental Plan 2014 and as such must be determined as if this plan had not commenced. The assessment and determination of this application has been made under Gosford Planning Scheme Ordinance and Interim Development Order No 122.

**Synopsis:** The proposal is for a 39 lot community title subdivision of the site formerly known as the Gosford Horticultural Research & Advisory Station, and associated infrastructure and demolition of existing buildings and structures. The proposed community subdivision will form part of the Narara Eco-Village Co-operative Ltd.

The proposal is integrated development under Section 91 of the EP&A Act 1979 requiring separate approvals from both the NSW Rural Fire Service (i.e. Bushfire Safety Authority) under s100B of the Rural Fires Act 1997 and from the NSW Office of Water (i.e. controlled activity approval) under the Water Management Act 2000. Both RFS and NOW have issued general terms of approval for the proposal. The land is also subject to a Voluntary Planning Agreement.

The Director General has issued a Certificate for the satisfactory arrangement for State infrastructure provision in accordance with Cl. 49U of the GPSO.

The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, relevant DCP and SEPPs.

The proposal will not detract from the character or scenic qualities of the area or have unreasonable impacts on the environment.

The developer does not propose to connect the development to Council's water supply or sewerage reticulation system. The proposed water and sewer system will be privately owned, operated and maintained and has not been assessed under this application as it is subject to a separate approval process under the Water Industry Competition Act (WICA) and private sector licensing regime (IPART).

All relevant matters under Section 79C of the Environmental Planning and Assessment Act, section 89 of the Local Government Act, the objectives of the zone and the principles of

ecologically sustainable development have been considered and the proposal is recommended for **approval** subject to conditions.

**Zone:** Previous Zoning: GPSO: 2(a) Residential and 6(a) Open Space (Recreation)  
 IDO 122: 6(b) Open Space (Special Purposes) – Forestry, 7(c2) Scenic Protection Rural and 7(a) Conservation  
Current Zoning: LEP 2014: RE1 Public Recreation / Part RU3 Forestry / Part E2 Environmental Conservation / Part R2 Low Density Residential / Part E3 Environmental Management

**Area:** 62.97 hectares

**Permissible Development:** Development for the purpose of subdivision is permissible on the land under the provisions of the EP&A Act 1979 on land zoned (a) Residential and 6(a) Open Space (Recreation) under the GPSO and on land zoned 6(b) Open Space (Special Purposes) – Forestry, 7(c2) Scenic Protection Rural and 7(a) Conservation under IDO 122.

**Section 94 Contributions:** Not Applicable

A section 94 contribution plan does not cover the subject site despite the rezoning of the site under LEP 464 gazetted 1.2.2008 to facilitate urban development and classification as an urban release area under the current LEP 2014. The site is located outside the mapped area applicable under Narara 5 Contribution plan which has not been extended to cover this site.

However, under clause 8.1c of DCP 175 it was advised that s94 contributions or equivalent contributions (other than for servicing) will not be levied on the subdivision due to the value of the 6(a) zoned flood prone land to be dedicated to Council at no cost, for development for open space purposes that are flood compatible. The Department of Planning has also not sought a contribution towards the provision of regional transport infrastructure and services in relation to the lots created under clause 49U of the GPSO in relation to the lots created under the proposed plan of subdivision.

**Public Submissions:** Two (2)

**Pre-DA Meeting:** Held

**Political Donations:** None declared

#### **Relevant Statutory Provisions**

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 Gosford Local Environmental Plan 2014
- 4 Gosford Planning Scheme Ordinance
- 5 Interim Development Order No 122
- 6 Gosford Local Environmental Plan 464
- 7 Development Control Plan No 175 – Gosford Horticultural Institute
- 8 State Environmental Planning Policy No 1 – Development Standards
- 9 State Environmental Planning Policy No 71 – Coastal Protection
- 10 State Environmental Planning Policy No 55 – Remediation of Land
- 11 State Environmental Planning Policy No 19 – Urban Bushland
- 12 Water Industry Competition (WICA) Act
- 13 Water Management Act 2000
- 14 Rural Fires Act 1997

#### **Key Issues**

- 1 Background, Proposal, Site and Surrounds

- 2 Interim Development Order No 122 /Gosford Planning Scheme Ordinance (Permissibility, Zone Objectives, Character, Heritage, and relevant subdivision provisions)
- 3 Gosford Local Environmental Plan 2014 – Consistency
- 4 Coastal Open Space System
- 5 Voluntary Planning Agreement
- 6 DCP 175 – Gosford Horticultural Institute Rezoning
- 7 Site Contamination / Environmental Officer's Comments
- 8 DCP 112 – Residential Subdivision / DCP 130 Subdivision of Rural and Non Urban Land
- 9 Community Management Statement and Structure of Community Title Scheme
- 10 Traffic, Access and Roadworks
- 11 Roads and Maritime Service (RMS)
- 12 Integrated Water Management System
- 13 Drainage Engineering Assessment
- 14 Servicing Considerations
- 15 Water and Sewer Directorate Comments
- 16 Flooding Impact – Comments Flooding Development Engineer
- 17 Dam Break Study
- 18 Tree Removal
- 19 Environmental Assessment
- 20 Aboriginal Cultural Heritage
- 21 Scenic Quality/Visual Impact
- 22 Other Internal Assessment Comments
- 23 Climate change and sea level rise
- 24 SEPP 71 – Coastal Protection
- 25 Cut and Fill and Earthworks
- 26 External Referrals/ Integrated Development
- 27 Controlled Activity Approval - Water Management Act 2000 – NSW Office of Water
- 28 Bush Fire Safety Authority - Rural Fires Act 1997- NSW Rural Fire Service
- 29 Geotechnical Assessment
- 30 Public Submissions

## **Recommendation**

Approval

## **REPORT**

### **Background**

The site comprises approximately 62.97 hectares of land which was acquired by the Narara "Ecovillage" site (NEV) from the Department of Primary Industry in September 2012. The site was previously zoned 5(a) Special Use (Experimental Station) under IDO 122 and was occupied and operated as the Gosford Horticulture Research and Advisory Station. Gosford LEP 464 was gazetted on 1.2.2008 which rezoned the site to facilitate the future development and use of the land primarily for residential purposes.

Development Consent 44650/2013 was issued on 31.01.2014 for the establishment of use to occupy 4 existing buildings on the site of the former Narara Agricultural Research Station, which involves continued use of two existing dwellings for residential purposes to be used by the site manager and caretaker, as ancillary uses to the on-site community facilities (care maintenance and security of the site) and two other buildings which are to be utilised for community purposes (marketing, monthly meetings open days community visits).

### Other Applications

Two other development applications DA 44899/2013 to demolish existing structures and construct 17 Cluster Houses and DA 44898/2013 to demolish existing structures and construct 10 Cluster Houses have been recently granted a consent with the issue of the construction

certificate subject to the registration of the proposed community title residential subdivision of the site into 39 lots (DA 44994) including the two proposed cluster sites.

#### DA44994 – Amended Plan of Subdivision

The original application was lodged as a 40 lot subdivision (Stage 1) with the 7(c2) zoned land nominated as proposed lot 39. The 7(c2) zoned land has since been amalgamated with Proposed Pt Lot 37 to resolve issues associated with flood free access to the lot, which will need to be resolved in a later stage of the development if development is proposed on this land.

By letter dated 3 July 2014, the applicant's planning consultant has advised that:

*"the development of Lot 39 is not a priority for the Narara Ecovillage Co- Operative Ltd (the Co-operative) and therefore, the deferral of the construction of the flood free access to Stage 3 in the proposed development of the NEV site is paramount.*

*The application currently proposes that Lot 39 be created as a separate lot containing all land within the NEV site currently zoned E3 Environmental Management (formerly, 7(c2) Scenic Protection). In order to address concerns raised by Council in relation to the timely provision of flood free access to Lot 39 and furthermore, the development entitlements which arise from the subdivision of this land, the Co-operative seek to amend the current application with an amended Plan of Subdivision (i.e. subdivision plans S12242 titled "Plan Showing Proposed Community Title Subdivision of Lot 13 in DP1126998, Research Road, Narara" Sheets 1-6 Rev.A dated 2/7/2014. These amended plans now show former Lot 39 as part of Lot 37.*

*These amended subdivision plans supersede the original series of subdivision plans. This amendment now results in the subdivision of the site being reduced to a 39 lot subdivision (not 40 lots as originally submitted) and furthermore, that former Lot 40 now becomes new Lot 39."*

*Lot 37 will initially be retained in the ownership of the Co-operative. The redevelopment of this Lot is likely to be subject to further subdivision associated with the future stages in the development of the NEV site.*

*Register-General's Direction (LPI) with respect to the creation of part Lots confirms that it is possible to create a Lot comprising two (2) or more parts where it is separated by a physical site feature."*

#### **Proposal**

The current proposal is for a 39 Lot Community Title Subdivision, under the provisions of the *Community Land Development Act 1989* to create a Community Title Scheme.

The subdivision and lot layout provides for creation of the following:

- **Lot 1: A Community Association Lot-** Lot 1 is vested in the community association that is entrusted with the ownership and management of the community property for the benefit of its members. This includes the site infrastructure, access ways, roadways, gullies and associated landscaped/open space areas.
- **Lots 2-36: 35 Private Residential Lots-** these lots are proposed to be individually sold for future dwelling house development. The lot sizes for future residential development in Stage 1 range from 474m<sup>2</sup> to 800m<sup>2</sup> for conventional residential development. Two large lots for cluster housing comprising 7299m<sup>2</sup> (Lot 15) and 6243m<sup>2</sup> (Lot 36) are also proposed.
- **Lot 37- A Private Lot:** Lot 37 will be initially owned by the Co-operative (as the developer). The lot configuration has been created to reflect future stages in the development of the NEV site. This lot may be subject to further subdivision associated with the staged

development of the site and will require community association approval. There are no development contracts proposed in this community title subdivision.

Lot 37 contains a number of existing buildings including the Administration Building and the Visitors Centre and these will be retained by the Co-operative. It is noted that these buildings are the subject of separate license agreements constituted under common law between the Co-operative and the Sydney Coastal Ecovillage Incorporated (SCEV). These licenses allow SCEV to enter, occupy, and use these buildings and the surrounding land for community purposes. The community use of the site is subject of Development Consent No 44650/2013.

More recently, the subdivision plan has been amended to include the **7(c2) zoned land** which has an area of 5.534ha and will be initially owned by the Co-operative (as the developer). The SEE advises that this land may be subject to further subdivision associated with the staged development of the site.

- **Lot 38: Lot comprising 6(a) zoned Land-** this lot contains all land currently zoned 6(a) pursuant to GPSO with an area of 11.48 hectares. This land is proposed to be dedicated to Council under the terms on an existing Voluntary Planning Agreement (VPA) which has been prepared for the NEV site in accordance with the requirements of the rezoning process undertaken by DPI and as stipulated in Section 8.1 of DCP No.175. The VPA makes specific provision for the dedication to Council of the 6(a) Open Space zoned portion of the site, together with a small area of land upon which a stand of *Araucaria cunninghamii* (Hoop Pines) are located.
- **Lot 39: Lot comprising 7(a) zoned land-** Lot 39 incorporates the 7(a) bushland, the residual 7(a) land (which has one dwelling entitlement) and the dam. This land has been incorporated into one lot so as not to create a “split zone lot” and will have an area of 34.21 hectares.

The indicative layout for the 39 lot community title subdivision, which also proposes the creation of the 35 private residential lots for Stage 1, is illustrated in **Figure 1**.

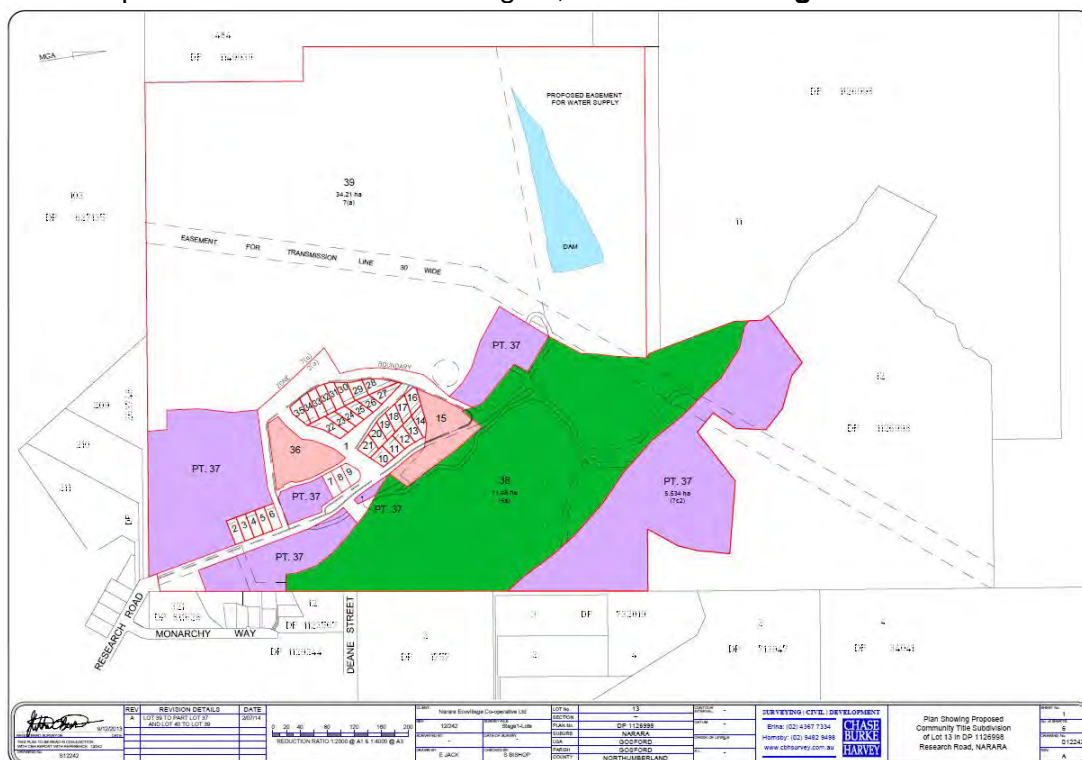


Figure 1: Proposed 39 lot Community Title Subdivision. (Source: CBH)

The Plan of Subdivision also includes various easements associated with services and drainage, and proposed rights of way. A proposed restriction on the use of the land (6m wide) is also proposed at the rear of a number of private dwelling lots where this land forms part of the communal garden strategy.

To support the subdivision of the site and to meet the servicing requirements for Stage 1, the following ancillary works are also proposed:

- remediation of the site;
- the demolition of 15 redundant site structures and removal of 45 trees;
- limited bulk earthworks to enable the construction of the Stage 1 works (roadways and infrastructure);
- the construction of the road network including new internal circulation roads and two (2) bridges over the middle western gully; the construction of visitor car parking and the concept design for access to the private residential lots.
- provision of essential utility services and infrastructure to service the site including the construction of an integrated water management system (water recycling facility and sewer reticulation system); the extension and augmentation of electricity and telecommunications through the site; a waste storage area and mail room;
- the implementation of the first stage in a comprehensive landscape strategy for the site;
- works to make the site bushfire safe including the establishment of asset protection zones; and
- the first stage in the ecological restoration of the site.

### **The Site**

The NEV site (Lot 13 in DP 1126998) has a total area of approximately 62.97 hectares of which the portion of the site zoned 2(a) Residential under the GSPO is approximately 11.5 hectares. The remainder of the site is zoned 7(c2) Scenic Protection Rural Small Holdings, 7(a) Conservation and 6(a) Open Space and 6(b) Open Space Special Purposes - Forestry. The application is predominantly limited to the land on the site which is currently zoned 2(a) residential. However, due to the alignment of the eastern boundary of the 2(a) land with the contiguous 6(a) open space land, some civil works are proposed on the 6(a) zoned land, to ensure that road access is suitably upgraded to service the NEV site.

The Narara Ecovillage site contains in excess of 56 buildings and structures which were used during the sites' former occupation as the Gosford Horticultural Research and Advisory Station. The proposal will include demolition of 15 of these buildings. The site is accessed off Fountain Road to the south-east and includes a series of existing internal private road with Research Road running through the centre of the site.

The SEE advises the following in relation to the physical site characteristics:

*"The NEV site contains varied topography. Narara Creek runs across part of the site, flowing from the State Forest to the 2(a) residential zoned land to the south. The areas surrounding Narara Creek are flood liable.*

*The land is steeper along the western parts of the site. There are a number of gullies running from the west to the east through the site towards Narara Creek. Generally, the western slopes of the valley fall to the northeast at approximately 10-15°.*

*The section of the site which is the subject of this application mainly consists of citrus orchards and managed vegetation including the gardens surrounding the buildings and mown grass within the open areas of the site. The vegetation on the remainder of the site includes Dry Sclerophyll Low Open Forest on the ridgelines to the northwest, Closed Forest growing on the alluvial flats of Narara Creek to the northeast, and Closed Remnant Freshwater Grassland with sedgeland/rushland along the alluvial flats of Narara Creek.*



*A 30 metre wide electricity easement crosses the site in a south westerly to a north easterly direction.*

*An existing dam is located in the north-western corner of the site and was previously used for onsite irrigation for the Gosford Horticultural Research and Advisory Station. The dam has a capacity of approximately 43.3 mega litres."*

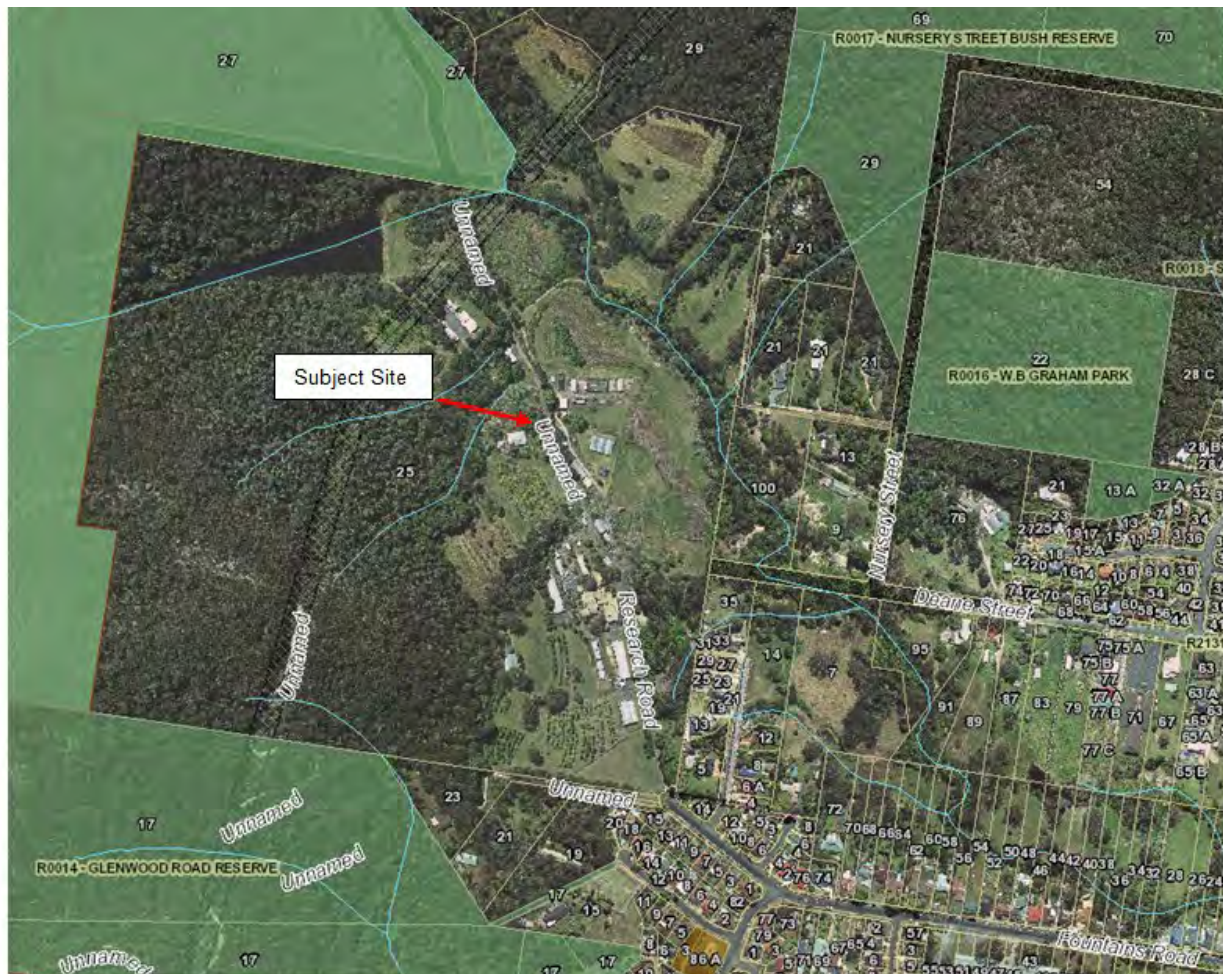


**Figure 2: Aerial Photograph of subject site showing existing cleared areas**

### **Surrounding Development**

The NEV site is bounded by rural residential development to the south and the east, residential lots to the east and the south-east, and dense bushland to the west, north, north-east and south-west. Strickland State Forest adjoins the site to the north and the west.





**Figure 3: Aerial Photograph of Site and Surrounds**

### **Assessment**

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports approval of the application and has identified the following key issues which are elaborated upon for Council's information.

### **Gosford Local Environmental Plan 2014**

Under Clause 1.8A of Gosford Local Environmental Plan 2014 the application is to be assessed and determined as if the plan had not commenced. The assessment and determination of this application has been made under Gosford Planning Scheme Ordinance/ Interim Development Order No 122.

### **Gosford Planning Scheme Ordinance/ Interim Development Order No 122**

#### **a Permissibility**

The subject land has multiple zonings comprising 6(a) Open Space (Recreation)-GPSO/ 2(a) Residential under the GPSO and 6(b) Open Space (Special Purposes) – Forestry / 7(c2) Scenic Protection Rural and 7(a) Conservation under IDO 122. The proposed community title subdivision encompasses the entire land parcel being the site of the former horticultural research centre. Subdivision (including roads and utility installations) is permissible with consent within zones specified above under the provisions of IDO 122 and GPSO with the exception of the open space land zoned 6(b) under IDO 122 and 6(a) under the GPSO -which is land to be dedicated under DCP 175 and the terms of the VPA.

**b** Objectives of Zone

Clause 10(3) of the Gosford Planning Scheme Ordinance and Clause 5(3) of IDO 122 stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

In this instance, it is considered that the proposal is consistent with the stated objectives of the various zones as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act 1993. (Refer compliance tables submitted by the Applicant)

**c** Character

Clause 10(4) of the Gosford Planning Scheme Ordinance and clause 5(4) of the IDO122 stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

Development Control Plan 159 - Character, requires development applications to demonstrate consistency or compatibility with the development objectives as defined by the relevant "Statement of Desired Character". The relevant desired character statement - Narara 14: Scenic Buffer, stipulates a number of development objectives (i.e. relevant to subdivision) which are reproduced below:

*"These should remain rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City's major roads and tourist routes are preserved by appropriate very-low density residential developments ...that have a modest impact on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.*

*Retain natural slopes and prevent further fragmentation of the tree canopy..... Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants ..... In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire resistant siting, design and construction..... Maintain the informal character of existing semi-rural hillsides by avoiding tall retaining walls, extensive terraces or broad driveways.*

The proposal is consistent with the key objectives of the character statement. In this regard the proposal will provide:

- Bushfire mitigation measures to reduce hazard to an acceptable level which will not result in excessive clearing to maintain asset protection zones.
- While the proposal will include tree removal to accommodate site works, such removal does not result in further fragmentation of the tree canopy.

As such, the proposal does not detract from the character of the immediate locality.

**d** Heritage

The property is registered as containing heritage items as identified under Schedule 5 of LEP 2014 (Schedule 8 of the former GPSO) and the provisions of Clause 49T of the GPSO are required to be considered in respect to any items of environmental significance.

**Schedule 5 Environmental heritage-Part 1 Heritage items**

Suburb	Item name	Address	Property description	Significance	Item no
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Narara	Former grafting shed/administration block and curtilage	Research Road	Lot 13, DP 1126998	Local	120
Narara	Group of <i>Araucaria cunninghamii</i> (hoop pines)	Research Road	Lot 13, DP 1126998	Local	123
Narara	Group of <i>Taxodium distichum</i> (bald cypress)	Research Road	Lot 13, DP 1126998	Local	121
Narara	Main entrance gate posts	Research Road	Lot 13, DP 1126998	Local	127
Narara	Manager's cottage, hen house (former shower block) and curtilage	Research Road	Lot 13, DP 1126998	Local	119
Narara	Plantation of <i>Carya illinoensis</i> (pecan)	Research Road	Lot 13, DP 1126998	Local	124
Narara	Row of <i>Pyrus calleryana</i> (Callery pear)	Research Road	Lot 13, DP 1126998	Local	125
Narara	Specimen of <i>Syncarpia glomulifera</i> (turpentine)	Research Road	Lot 13, DP 1126998	Local	122
Narara	Specimen of <i>Pyrus calleryana</i> (Callery pear), strain D6	Research Road	Lot 13, DP 1126998	Local	126

The application is supported by a *Heritage Impact Statement, prepared by Musecape*, dated 4 December 2013 which assesses the extent to which the carry out of the proposed development would affect the heritage significance of the heritage item concerned. The report advises that the proposal will necessitate the removal of eight disused horticultural research structures of low significance, removal of one of moderate significance and the removal of a carport of low significance and an intrusive fence. No items of environmental heritage are proposed to be demolished

Infrastructure construction and subsequent housing will result in perceptible but acceptable changes to the cultural landscape and the wider site. The visual absorption capacity of the area is such that the proposed development can be accommodated without unacceptable changes to the perception of the site as viewed from major viewing points within the heritage items' curtilage and the former Primary Industries Institute site generally.

The report concludes that:

*"provided the recommended mitigation measures are implemented, the proposal is within the limits of acceptable change for the listed heritage items and the site generally, and any impacts are manageable."*

As such, the proposed subdivision does not involve works (clearing, roadworks, retaining or excavation), which would impact on the heritage items. Mitigations measures recommended in Section 5.5 of the report have been incorporated as conditions of consent where relevant to the proposed subdivision. **(Refer Condition No 3.12 and 4.28)**

In addition, Clause 8.6 of DCP 175 relating to Environmental Heritage stipulates the following requirements:

- All heritage items are to be used and managed in accordance with the relevant Heritage Inventory Data sheets held in the office of the Council;

- At the time of subdivision/development, the land upon which stand of *Araucaria cunninghamii* (Hoop Pines) is to be determined and transferred at no cost to Council and to be managed in conjunction with the open space/drainage system and floodplain;
- The Main Entrance gates, *syncarpai glomulifera* (Turpentine) and *taxodium distichum* (Bald Cypress) are to be retained and incorporated into an entrance statement for the subdivision/development, with consideration for interpretative signage.

Such requirements have been included as conditions of consent (**Refer Condition Nos. 6.9, 5.19 and 6.10**)

*e Subdivision of Land*

The minimum lot size requirements for residential 2(a) zoned land under clause 30AAA(1) of the GPSO is not less than 450m<sup>2</sup> and not more than 10% of the allotments to be created by the subdivision are to have an areas of less than 550m<sup>2</sup>. Under the proposed plan of subdivision, the residential zoned 2(a) allotments have a minimum lot sizes ranging from 474m<sup>2</sup> to 800m<sup>2</sup> and complies with the minimum lot size for conventional residential subdivision. Proposed Lots 7 and 26 are less than 550m<sup>2</sup> (being 547.9m<sup>2</sup> and 474.3m<sup>2</sup>) and comprise less than 10% of the allotments.

Two large lots for cluster housing comprising 7299m<sup>2</sup> (Lot 15) and 6243m<sup>2</sup> (Lot 36) are also proposed and comply with the minimum lot size under 27A of the GPSO of 3500m<sup>2</sup>.

The remaining land in different zones (zones 6(a) Open Space (Recreation)-GPSO and 6(b) Open Space (Special Purposes) – Forestry/ 7(c2) Scenic Protection Rural and 7(a) Conservation under IDO 122) represent residue land and will not be subdivided further under the proposed stage 1 subdivision, noting that the 7(a) land is less than the 40 hectare (minimum lot size being 34.21 hectares), the 7(c2) land has an area of 5.534 hectares and is in excess of the minimum lot size of 2 hectares and the 6(a) public recreation land to be dedicated to Council under the VPA is 11.48 hectares in size.

*f. 49U. Subdivision and regional transport infrastructure – Gosford Horticultural Institute*

Clause 49U of the Gosford Planning Scheme Ordinance stipulates the following:

*49U. Subdivision and regional transport infrastructure – Gosford Horticultural Institute*

- (1) *This clause applies to the land shown coloured light scarlet with heavy black edging and lettered "2 (a)" on Sheet 1 of the map marked "Gosford Local Environmental Plan No 464" deposited in the office of the Council, but does not apply to such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).*
- (2) *The object of this clause is to require assistance towards the provision of regional transport infrastructure and services to satisfy needs that arise from development on land to which this clause applies, but only if the land is developed intensively for urban purposes.*
- (3) *Despite any other provision of this Ordinance, the Council must not grant consent to the subdivision of the land to which this clause applies if the subdivision of land would create additional lots on land that, immediately before the commencement of Gosford Local Environmental Plan No 464, was within Zone No 5 (a) (Special Uses), unless the Director-General has certified in writing to the Council that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation to those lots.*
- (4) *Subclause (3) does not apply to any lot:*
  - (a) *identified in the certificate as a residue lot, or*
  - (b) *that is proposed in the development application to be reserved for public open space, public roads, public utilities, educational facilities or any other public purpose.*

- (5) *Subclause (3) does not apply to a subdivision for the purposes only of rectifying an encroachment on any existing allotment.*
- (6) *State Environmental Planning Policy No 1—Development Standards does not apply to development for the purposes of subdivision in respect of land to which this clause applies.*

As such, Certification was requested from the Director General under Clause 49U of the Gosford Planning Scheme Ordinance that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation to the lots created under the propose plan of subdivision. It is also noted that the site is not subject to a Section 94 contribution plan.

In response such request, by letter dated 7/4/2014 Reference: 14/04346 the DG has issued a certificate for the satisfactory arrangement for State Public Infrastructure provision in accordance with clause 49U of Gosford LEP 2014 with respect to DA 44994/2013 and any and all subsequent development applications for the site.

g Clause 19(1) of IDO 122

Clause 19(1) of IDO 122 stipulates that a person shall not subdivide land so as to create an allotment partly within one zone and partly within another zone. However such clause is not applicable in this instance as the inclusion of the 7(c2) land as part of proposed lot 37 which contains 2(a) zoned land does not result in any further subdivision of the land to create additional split zones. The existing NEV allotment currently contains multiple split zones. The proposed subdivision represents a rationalisation of the existing zone arrangements by creating residue allotments for the 6(a) zoned land and 7(a) zoned land.

**Local Environmental Plan 2014 Consistency**

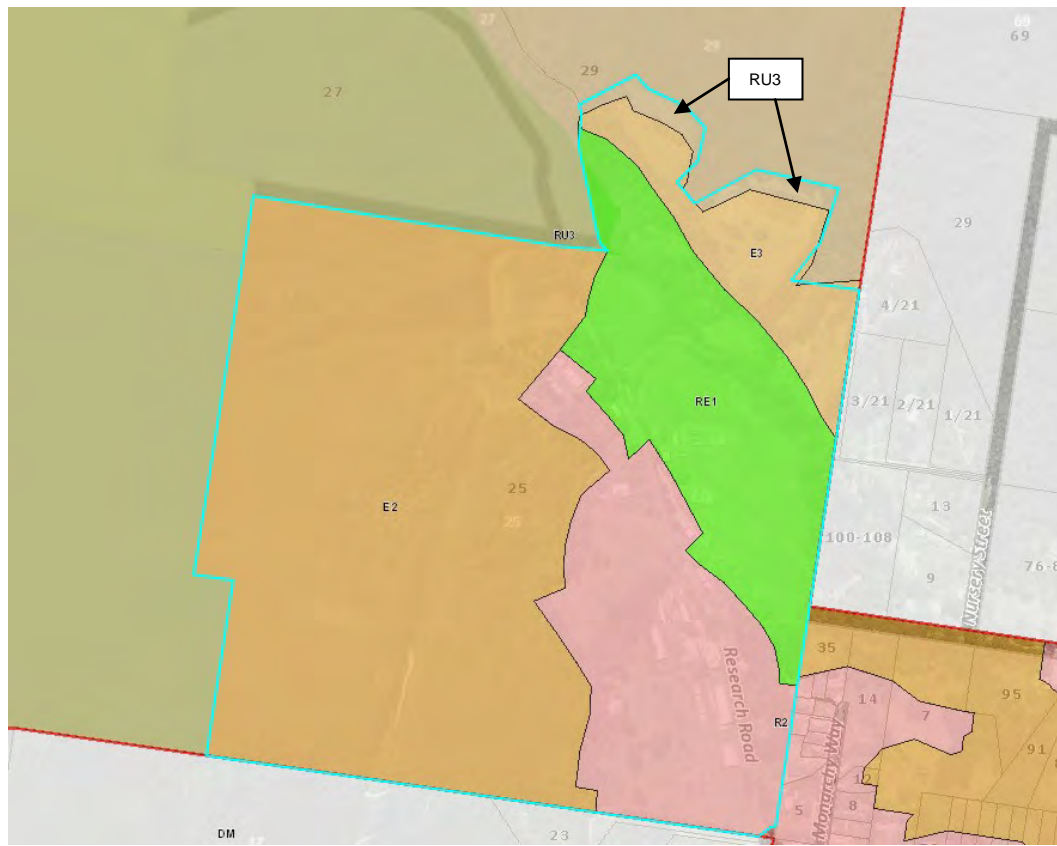
Although this application is subject to the saving provision consideration of the zoning, development standards and special provisions of Local Environmental Plan 2014 are discussed for the purpose of consistency.

Permissibility

The current zoning of the subject land under LEP 2014 is Part RE1 Public Recreation / Part RU3 Forestry / Part E2 Environmental Conservation / Part R2 Low Density Residential / Part E3 Environmental Management. Under clause 2.6 (1) of the LEP 2014, land to which this Plan applies may be subdivided, but only with development consent.

The relevant subdivision clauses under the LEP 2014 does not apply to the RU3 Forestry Zone





**Figure 3: Land zoning under Gosford LEP 2014**

**Principal Development Standards Clause 4.1AA - Minimum Subdivision Lot Size for Community Title Schemes**

Clause 4.1AA of LEP 2014 applies to the subject land with the exception of land zoned RU3 Forestry. The stated objective of this clause is “to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements”.

Subclause (3) stipulates that: “The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.”

Under the proposed plan of subdivision, the residential zoned R2 allotments have a minimum lot sizes ranging from 474m<sup>2</sup> to 800m<sup>2</sup>, noting a minimum allotment size of 550m<sup>2</sup> applies under the LEP. Two large lots for cluster housing comprising 7299m<sup>2</sup> (Lot 15) and 6243m<sup>2</sup> (Lot 36) are also proposed. The remaining land in different zones (E2, RE1, RU3 and E3 zones represent residue land and will not be subdivided further under the proposed stage 1 subdivision, noting that the E2 land is less than the 40 hectare (minimum lot size being 34.21 hectares), the E3 land has an area of 5.534 hectares and is in excess of the minimum lot size of 2 hectares and the RE1 land to be dedicated to Council is 11.48 hectares in size.

The application is saved under Clause 1.8A. The minimum lot size requirements for residential 2(a) zoned land under clause 30AAA(1) of the GPSO is not less than 450m<sup>2</sup> and not more than 10% of the allotments to be created by the subdivision are to have an areas of less than 550m<sup>2</sup>. The proposal complies with this requirement.

### Urban Release Areas

The R2 zoned land is identified as an urban release area under the plan and is subject to the provisions under *Part 6 – Urban Release Areas -6.1 Arrangements for designated State public infrastructure*

- (1) *The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.*
- (2) *Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.*
- (3) *Subclause (2) does not apply to:*
  - (a) *any lot identified in the certificate as a residue lot, or*
  - (b) *any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or*
  - (c) *any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or*
  - (d) *a subdivision for the purpose only of rectifying an encroachment on any existing lot.*
- (4) *This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).*

The application is saved under Clause 1.8A refer previous advice relating to clause 49U of the GPSO. By letter dated 7/4/2014 Reference: 14/04346, the DG has issued a certificate for the satisfactory arrangement for State Public Infrastructure provision in accordance with clause 49U of Gosford Planning Scheme Ordinance with respect to DA 44994/2013 and any and all subsequent development applications for the site.

### Acid Sulfate Soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Gosford Local Environmental Plan 2014 have been considered.

### Flooding

This land has been classified as being under a “flood planning level” and subject to the imposition of a minimum floor level, the development is considered satisfactory in respect to Gosford Local Environmental Plan 2014.

### **Coastal Open Space System**

Part of the 7(a) land has been identified within the Coastal Open Space System (COSS) as being desirable for future voluntary acquisition in full or in part by Council's Minute 2008/457.

The application does not propose any works on the 7(a) land the western extent of which is earmarked for inclusion in the COSS

The Co-operative has indicated that: “it would welcome the opportunity to discuss a land contribution toward the COSS to offset the 6(a) land dedication”. This will be subject to further negotiations in relation to the VPA and is not subject of the current application.

### **Voluntary Planning Agreement**

A Voluntary Planning Agreement (VPA) under s93F of the EP&A Act 1979 and a deed has been prepared on 31 May 2013, signed by the Narara Ecovillage Co operative Limited and Council for the NEV site in accordance with the requirements of the rezoning process



undertaken by DPI and as stipulated in Section 8.1 of DCP No.175. The VPA makes specific provision for the dedication to Council of the 6(a) Open Space zoned portion of the site (being that land immediately to the east and contiguous with the 2(a) residential land), together with a small area of land upon which a stand of *Araucaria cunninghamii* (Hoop Pines) are located.

The application has no effect on the terms of or implementation of the VPA. Conditions will be imposed on the subdivision consent to ensure that the proposal is consistent with the requirements under the VPA (**Refer Condition No. 1.3, 5.11, 5.13(c), 5.24**). Notwithstanding the VPA, once entered into, is legally binding both as a contract and as a statutory instrument under the Act. The terms of the VPA cannot be varied without the agreement of the other parties.

The application has addressed the requirements of the Voluntary Planning Agreement in relation to the dedication the land that is zoned 6(a) Open Space, together with land identified as containing the stand of *Araucaria cunninghamii* (Hoop Pines). VPA requires that the land be dedicated free of cost to Council on registration of a plan of subdivision of the land. This land is proposed as Lot 38 in the Plan of Subdivision prepared by Chase Burke Harvey.

### **DCP 175 – Gosford Horticultural Institute Rezoning**

The site is subject to a site specific Development Control Plan 175 to guide future development. The purpose of this DCP is to provide more detailed guidelines for the development and use of the land for a residential subdivision into approximately 120 lots, approximately four rural residential lots to be zoned Scenic Protection Rural Small Holdings 7(c2), and one residue rural residential lot to be zoned Conservation 7(a) or other permissible development. As part of the rezoning process it was proposed to transfer land to be zoned Open Space 6(b) Special Purposes (Forestry) to NSW Forests and dedicate land to be zoned Open Space 6(a) to Council.

*The objectives of this Development Control Plan are to:*

- *encourage the orderly development of the residential and rural residential use;*
- *facilitate traffic management*
- *make provision for environmental protection*
- *make provision for bushfire protection;*
- *restrict development in flood liable areas and consider flooding and drainage issues and to ensure there is no increase in downstream flooding*
- *protect items of environmental heritage*
- *ensure the development is carried out in accordance with best practice management for site development*
- *ensure on-site contamination is addressed*
- *provide for additional matters in relation to the residue Conservation 7(a) allotment*
- *ensure the land is adequately serviced*

Relevant provisions under the plan are considered in the assessment of the application for subdivision and specific requirements under Clause 8 of the plan are addressed in sections of the report relating to environmental assessment, traffic, bushfire protection, flooding and drainage, items of environmental heritage, site contamination and servicing (water and sewer).

The proposal is considered to be consistent with the stated objectives of the plan and will not impact on the following provisions in the DCP:

- the dedication of that part of the NEV site which is zoned 6(a) to Council under the terms of clause 4 of the VPA;
- the environmental protection of the threatened species identified in Section 8.3 of the DCP;
- the heritage significance of the items of environmental heritage listed in Section 8.6 of the DCP.

Compliance with broader land use provisions under the DCP 175 has been considered in the assessment of Development Application (DA 44994/2013) for the Community Title Subdivision of the land. Specific provisions have been addressed by conditions of consent where relevant.

In accordance with clause 8.1b of the DCP, that part of the site to be to be zoned 6(b) is to be transferred to Forests NSW for inclusion in Strickland State Forest. Apparently this occurred with the rezoning of the land however it appears that some abnormality with the zone boundary has occurred with small areas of 6(b) land adjoining the 7(c2) land retained as part of the development site. **(Refer LEP zoning map above)** Dedication of 6(b) land was not included in the Voluntary Planning Agreement (VPA).

Section 94 is the only provision in the EP&A Act that can authorise a consent condition requiring the dedication of land free of cost. In this regard, section 94B(1) of the Act specifies that a council may only impose a condition under section 94 if it is allowed by, and is determined in accordance with, a contribution plan. There is no general power to require dedication of land, even if a DCP shows certain land to be dedicated. As such no condition has been imposed requiring compliance with Clause 8.1b of the DCP.

Such zone boundary abnormality may possibly be rectified under the proposed planning proposal if still required noting the relatively small size of the remaining land.

### Site Contamination

DCP 175 identifies that: *“Due to the history of landuse, State Environmental Planning Policy No 55 - Remediation of Land needs to be considered. Preliminary assessments and further site contamination investigations have been undertaken, that conclude that the land is suitable for rezoning to residential purposes subject to additional matters as required below.*

- a A Site Remediation Action Plan is to be prepared and implemented in accordance with SEPP 55 - Remediation of Land and the document Managing Land Contamination - Planning Guidelines;*
- b A Site Validation Report be prepared and implemented in accordance with SEPP 55 Remediation of Land and the document Managing Land Contamination – Planning Guidelines;*
- c Prior to the issuing of a construction certificate/releasing engineering plans for future subdivision/development works, Council shall be issued with a Site Audit Statement by an accredited Department of Environment and Conservation (former EPA) Auditor stating the land is suitable for its intended uses;” **(Refer Condition No 2.10)***

The area which comprises the Stage 1 site is proposed to be remediated prior to the issue of a construction certificate for the Stage 1 works.

A Phase 1 Preliminary Site Assessment report (PSA Report) has been prepared by Douglas Partners in accordance with SEPP 55.

*The PSA report advises the following:*

*“Based on the information gathered, DP considers that the site has been subjected to potentially contaminating activities or land uses. The contamination risk across the site is assessed to be generally low to moderate; however, some areas with a higher contamination potential (or areas of environmental concern) exist at the site.*

*These potentially contaminating activities and areas of environmental concern have been summarised in Table 3 (Section 6). The preliminary CSM (presented as Table 3) will form the basis for development of a Sampling and Analysis Quality Plan (SAQP) prior to the completion of a Detailed Site Investigation (DSI). With respect to the conditions of DCP*

*175, this PSI should be reviewed by a NSW EPA Accredited Auditor to facilitate the efficient progression of site redevelopment from a site contamination standpoint.*

*It is recommended that a combined systematic and judgemental sampling strategy be adopted for a DSI to substantiate DP's assessment of the low to moderate contamination risk at the site. A DSI scope of work could be further developed during the preparation of a Sampling and Analysis Quality Plan with consideration given to the land uses proposed. It is anticipated that the recommended DSI and any remediation/validation works could be undertaken as a condition of development approval, given the conclusions provided in the NAA 2005 and 2006 reports. Furthermore, it is expected that any remedial works are unlikely to prevent redevelopment of the site for the proposed mixed residential and commercial uses."*

**Environment Officer - Assessment Comment:**

The application was referred to Council's Environment Officer who has provided the following assessment in relation to SEPP 55 – Remediation of Land:

*"A Report on Preliminary Site Investigation (Douglas Partners, Project 75583.00, dated August 2013) has been submitted to address SEPP 55 and Clause 8.8 of DCP 175. Overall this report has identified the contamination risk across the site to be generally low to moderate although some areas with higher contamination potential (areas of environmental concern) exist across the subject site. This report recommends that the proposed Conceptual Site Model (CSM) form the focus of sampling under a Detail Site Investigation to fully categorise contamination on the site. The report also recommends that an EPA Accredited Auditor reviews the Preliminary Site Investigation and CSM to ensure Clause 8.8(c) of DCP 175 can be achieved. A condition of development consent is attached to address this issue and ensure compliance with Clause 8.8(c) of DCP 175."*  
**(Refer Condition No.2.10)**

**DCP 112 – Residential Subdivision/ DCP 130 - Subdivision of Rural and Non Urban Land**

The proposal is considered to be generally consistent with the objectives and specific provisions relating to arrangement of lots and allotment sizes under the subdivision DCPs with the exception of the minimum width requirement. In this regard a number of the 2(a) zoned lots do not comply with the minimum lot width of 15m, with a number of lots having widths to the street frontage of 14+metres. Notwithstanding the lot configuration is considered to be acceptable providing for a range of housing types and an acceptable level of amenity and design opportunities as indicated by the Hill Thalys design report. In addition a number of lots have slopes in excess of 15% and will be subject to further slope stability assessment at DA stage when further development is proposed on these lots.

Compliance with the relevant provisions of DCP 112 have been considered in the assessment of the application and have been demonstrated in the Table of Compliance, prepared by the applicant's planning consultants, including relevant provisions relating to Community Title Subdivision. Refer "Appendix Z" of SEE. The requirements relating to subdivision are more site specific under DCP 175 and have also been considered in the assessment of the application.

**Community Management Statement / Structure of Community Title Scheme**

The application is supported by a draft Community Management Statement, prepared by Andrews & Holms Lawyers, pursuant to Schedule 3 of the *Community Land Development Act 1989*. The control, maintenance and management of the subdivision are proposed to be regulated through the by-laws contained in the management statement.

The SEE advises the following in relation to the structure of the Community Title scheme:

*“Once development consent is secured for the community title subdivision of the site, the Board will establish the Narara Ecovillage Community Association (NECA). Subject to the registration of the NEV community title plan with the LPI, The NECA will be constituted under the Community Land Development Act 1989 (NSW).*

*The responsibilities of the NECA will include the following:*

- administration and enforcement of the by-laws of the community scheme;*
- raising funds by levying its members in the scheme to carry out its duties; and*
- managing the administrative fund and sinking fund to cover the costs of maintaining the association property and any other relevant expenses.*

*The Co-operative will maintain an ongoing role in the development and management of the site.”*

The setup of the development contract and community plan in accordance with the provisions under the Community Land Development Act 1989 is a matter for the NEV and is not relevant in the assessment of the subdivision application as Council is not the responsible authority in ensuring compliance with this Act.

A condition of consent has been imposed requiring Submission to the Principal Certifying Authority of a Development Contract and Management Statement which is consistent with conditions of consent, prior to the issue of a subdivision certificate. **(Refer Condition No.5.25)**

### **Traffic, Access and Roadworks**

Council's Development Engineer has provided the following assessment in relation to roadworks, access and traffic:

#### External road works

*The site gains vehicular access from the end of Research Road via the existing gated entry point associated with the former agricultural research station. There is no formalised turning head within the end of the road reserve in Research Road. The applicant was advised in a pre-DA meeting dated 13 November 2013 that road works including a turning head at the end of Research Road would be required”. (This requirement was also reflected in the minutes of that meeting.) It is noted that the configuration of the existing road reserve would make it difficult to provide a cul-de-sac turning head, however, a T-turning Head could be provided subject to alterations to the existing kerb and pavement and adjustments to some of the vehicular access crossings in this area of Research Road.*

*Council's Dekho system indicates that the property between the formalised road reserve in Research Road and the property boundary is a small section of Crown Road. This would need to be transferred to Council. If at the time of lodgement of a Roads Act application this section of Research Road is still a Crown Road, then permission to lodge the application from the Department of Lands will be required with the Road Act application.*

*A reinforced concrete heavy duty vehicular access crossing will be required from the end of the required turning head leg to the property boundary. **(Refer Condition Nos.2.2, 2.3, 4.6, 5.6 and 7.5)***

#### Internal roads

*The internal road network has not been designed in accordance with the requirements of Council's DCP 112 – Residential Subdivision. The internal road layout has instead been designed with the intent to conform with AMCORD guidelines and requirements associated with the RFS Planning for Bushfire Protection 2006.*

*The internal road layout consists of a combination of proposed two-way and one-way roads. The two way roads (including the perimeter road) are proposed at 5.5m wide. This*

has been deemed to be acceptable by the bushfire consultant (Australian Bushfire Protection Planners Pty Ltd) on the basis that there are “No Parking” restrictions imposed on this road. The one way roads have been designed to be 3.5m wide, which will facilitate circulation throughout the development that would still facilitate the access requirements for the emergency fire vehicles. The bridge on the perimeter road is narrowed to 3.5m wide which is acceptable on the basis that it is a localised restriction. Although the stage one proposal under this development application will not provide a two way network (approx. half of road 2 is one way) from the main entry point to the perimeter road it is noted that a future stage of the development (subject to a separate development application in the future) is intended to provide a 5.5m wide extension of the perimeter road from within the entry point of the development to the intersection of that road and road 2 near the upper bridge.

The proposal includes the deviation of an existing access road that currently traverses proposed lot 15 to the lower side of lot 15. The new deviated road would be located within the proposed public reserve lot (Lot 38). With reference to the proposed Traffic Flow / Road Circulation pattern proposed for the development it is noted that this road will form part of a one way loop. It is recommended that this road be constructed to a suitable standard and sealed. **(Refer Condition no.2.6 and 4.7)**

There are other access roads proposed within the proposed Lot 38 (RE1 zoned lot) that provide access to other parts of the site on the western side of Narara Creek and the E3 zoned land on the eastern side of Narara Creek (i.e. other side of the floodplain). The plan of subdivision indicates that right of ways are proposed over these roads. It is recommended that the roads on the western side of Narara Creek are constructed to a suitable standard and sealed. The access roads across the floodplain to the E3 zoned area of Pt Lot 37 are not to be constructed as part of this application but would be constructed to accommodate suitable access at the time that development of the E3 zoned area of land is proposed –Refer to other comments in section on “Flooding & Drainage”. **(Refer condition 8.13)**

It is further noted that the maintenance and all costs associated with the internal roads are the responsibility of the Co-operative, not Council. (Refer also to comments associated with the Voluntary Planning Agreement later in this assessment.)

#### Bridges

The proposed internal road network includes the construction of bridges over natural watercourses. It is recommended that these bridges be designed with a minimum loading of 15 tonnes to comply with the RFS Planning for Bushfire Protection 2006 requirements. Loading limit signage is to be provided for the bridges. The bridges are also to be designed by a suitably qualified and practising Structural Engineer, and designed in accordance with Austroads Australia Bridge Design Code and relevant Australian Standards. **(Refer Condition No.2.9, 4.13)**

#### **Traffic**

A traffic report prepared by Christopher Hallam & Associates titled “Transport Impact Assessment of Proposed Eco-Village, Research Road, Narara, NSW” dated 6<sup>th</sup> December 2013 was submitted with the application. This report addressed the follows aspects of development on the site:

- Overall Masterplan Concept Plan, for 120 dwellings.
- Stage 1 subdivision, for a total of 39 lots, including two Cluster lots.
- Two Cluster Lot developments, with 10 dwellings (Lot 15) and 17 dwellings (Lot 36).
- Community uses development application.

This report concluded the following:

**“Concept Plan**

1. *The subject site was rezoned with an expectation of at least 120 dwellings being built. The traffic studies assumed 150 dwellings. We have assessed the proposed ecovillage with 120 dwellings, with lower traffic generation rates than typical suburban dwellings because of the environmental transport management plan proposed. It thus follows that the conclusions drawn in the previous traffic impact assessment remain applicable. (The previous traffic assessment was prepared by Barry Bradley & Associates in conjunction with the rezoning proposal.)*
2. *Notwithstanding the above conclusion, new traffic counts were undertaken to confirm this situation. Firstly, seven day counts were undertaken in Fountains Road just west of Narara Valley High School. With the addition of the ecovillage traffic, the peak traffic flows in this section of Fountains Road would remain under the RMS environmental goal for a local residential street. Clearly traffic flows increase at the High School.*
3. *Peak period traffic counts at the junction of Fountains Road and Hanlan Street South, with the addition of ecovillage traffic, show that this intersection will continue to have satisfactory capacity. The earlier traffic counts at the Deane Street and Narara Valley Road intersection were used to reassess the capacity of that intersection under the additional loads from the ecovillage. This intersection also will remain satisfactory.*
4. *At the Manns Road and Carrington Street junction new peak period traffic counts were undertaken, and the ecovillage traffic added. Through traffic on Manns Road would remain undelayed. The right turn out of Carrington Street currently is delayed in peak periods, particularly in the morning. These delays would increase. Drivers would have the option of using Deane Street to make a right turn onto Narara Valley Road Manns Road. With the close proximity of Narara Creek to the Carrington/Manns junction, roundabout or seagull channelization options are not feasible. Traffic signals would delay all traffic, including through traffic along Manns Road. In the circumstances, the future situation with the ecovillage traffic would be satisfactory.*
5. *The ecovillage roads would be private roads rather than public roads. Carriageway widths have been designed on AMCORD principles, with two-way roads 5.5m wide, and one-way roads 3.5m wide. The road network has been reviewed for compliance with Rural Fire Service guidelines. We understand that the road network meets these requirements. The internal road layout is consistent with the RMS Guide to Traffic Generating Developments, as discussed. The road network proposed is satisfactory.*
6. *Garbage will be stored in common bins, to be collected by Council vehicles.*
7. *Car parking will generally not be provided at individual dwellings, but will be grouped in parking clusters. Some dwellings will have individual parking spaces. There will be some shared drop-off zones on lot boundaries to permit residents to drop off and pick up passengers and goods directly from the dwelling, but without the need to park cars at the dwelling. Designated parking spaces will be provided for shared cars. A minimum of one space per dwelling will be provided somewhere on the site. Visitor parking will be provided as illustrated in the Hill Thalys Design Report Drawing 3.07 and in the Circulation Plan RC12242 by Chase Burke Harvey Surveying.*
8. *We recommend that a consent condition be imposed to require that all parking areas comply with AS2890.1:2004 and that vehicular access near the waste storage area comply with AS2890.2:2002. **(Refer Condition no.3.10)***
9. *In conclusion, the traffic and transport implications of the proposed Ecovillage Concept Plan will be satisfactory.*

**Stage 1 Subdivision**

10. *The proposed Stage 1 Subdivision is for 33 individual dwelling lots, plus two lots for Cluster housing development, with Lot 15 to have 10 dwellings and Lot 36 to have 17 dwellings (and 4 other lots which reflect zone boundaries.). This Stage 1 will thus provide for a total of 60 dwellings. The traffic generation of this Stage 1 will thus be half of that assessed for the overall Concept Plan, and hence satisfactory.*

11. The detailed road layout for Stage 1 is shown on Figures 2 and 3 and follows the Concept Plan shown on Figure 1. As discussed, this layout will be satisfactory.

It is noted that this report also considered the traffic implications associated with the cluster housing developments proposed on lots 15 and 36 that are subject to separate DA's (DA 44898/2013 & DA 44899/2013) and the community use of the site (DA 44560/2013), and concluded that the surrounding road network, and internal access and parking arrangements would be satisfactory.

### **Roads and Maritime Services (RMS)**

DCP 175 "Gosford Horticultural Institute Rezoning" requires referral of the application to the Roads & Maritime Services ("RMS"). DA44994/2013 for a 40 lot community title subdivision was referred to RMS for consideration who by letter dated 13 February 2014, raised **no objections** or requirements to the subdivision proposal as it is considered there will not be a significant impact on the classified (State) road network.

### **Integrated Water Management System**

An Integrated Water Cycle Management Plan has been prepared by Woodlots and Wetlands for the NEV site and the key infrastructure will be installed as part of the Stage 1 DA 44994/2013 for the community title subdivision.

For the purposes of this DA, key elements of the Integrated Water Cycle Management Plan will be extended from the main trunk lines into the site, as required to service the individual dwellings. It is proposed that each Unit have a 3-pipe system as follows:

- potable water supply based on tank water for individual dwelling roofs, backed up with treated water from the 45 ML dam. All potable flows to be disinfected by inline UV system
- Reclaimed water to Australian guideline quality criteria for internal use. This water will be from the Sewage Treatment Plant (STP) outflows
- Raw sewage pipes delivering wastes to the STP

The integrated water cycle management concepts for the NEV site include:

- Capture of roof water (after UV disinfection) for all potable and non-potable internal uses except toilet flushing
- Runoff water from roads and other surfaces to be treated in a stormwater management system designed to achieve Gosford City Council's Water Cycle Management Guideline performance criteria (GCC, 2007)
- Stormwater conveyance via existing drainage lines following their stabilisation
- Combined wastewater from the homes to be conveyed to Sewage Treatment Plant (STP). The wastewater to be treated to National Recycled Water Standard for internal use in dwellings (NRMMC/EPHC/AHMC, 2006)
- Recycled water to be used for toilet flushing, gardens and general irrigation
- The large dam at the northern portion of the site to provide potable water during low rainfall periods (water will be disinfected to meet Australian Drinking Water Guidelines (NHMRC, NRMMC, 2011))
- Fire-fighting requirements will be provided to meet NSW Fire and Rescue Service requirements

The application was referred to Councils Health Section officer in relation to the use of the dam for potable water who has advised that:

*"the choice of the proponent to use a private water supply where the property may have access to the town water supply is a matter for Water and Sewer to determine."*

*In the circumstances of the application the NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use."*

The proposal would need to comply with *Australian Drinking Water Guidelines*. The *Private Water Supply Guidelines*, issued by NSW Health aim to summarise and provide advice in applying the Australian Drinking Water Guidelines to private water supplies.

**(Refer Condition No.6.7, 5.21 and 8.14)**

### **Drainage – Engineering Assessment**

Council's Development engineer has provided the following assessment in relation to drainage impacts and requirements:

*"The proposed development has the potential to generate additional stormwater runoff from the site. It is therefore recommended that on-site detention be provided to limit post development flows back to pre-development flows for all storms up to and including the 1%AEP storm event.*

*The proposed development has the potential to generate additional nutrients & pollutants that could impact on the downstream receiving waters. It is therefore recommended that the proposed development provide nutrient/controls in accordance with Council's DCP 165 – Water Cycle Management.*

*The proposed development will need to provide retention of rainwater for reuse within the development.*

*An 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 5 December 2013 was lodged with the application (Appendix S of Statement of Environmental Effects). It is noted that this document:*

- indicates the provisions for on-site detention, nutrient/pollution controls, and retention of rainwater for reuse within the development;*
- refers to matters associated with the requirements for use of the dam water for potable water supplies, & bushfire;*
- refers to on-site sewer management matters (not covered in this development engineering assessment);*
- discusses the overall proposal to address the total water cycle management for the site.*

*Proposed measures to address the requirements of on-site detention and nutrient/pollution controls include a combination of:*

- Contour banks upslope of the development, designed to convey bushland runoff to local gullies.*
- Protection of gully discharge points via use of turf reinforced mesh and rock riprap.*
- Soak-a-ways (shallow infiltration basins) to retain runoff from individual lots where it is difficult to connect to a common swale.*
- Pits and pipes / rock lined drains to convey road runoff where the grades averaged over 7 to 10%.*
- Bioretention swales to convey local runoff parallel to roads where grades were moderate.*
- Bioretention basins in less steep areas to treat runoff converging from roads and lots.*
- Semi-permanent infiltration basins in lower parts of the landscape.*
- Inclusion of environmental features such as frog ponds and permaculture beds within the stormwater swales and bioretention ponds.*
- The use of rainwater tanks.*

*In relation to stormwater management the report concluded that the combination of rainwater tanks, bioretention and retention basins would result in the stormwater treatment*



*trains that would meet the performance requirements of Council's DCP 165 – Water Cycle Management.*

In relation to the management of drainage lines currently within the development site, the report concluded that:

- *The proposed combination of rainwater tanks, swales and bioretention systems will ensure that the development's stormwater management will comply with Council's stormwater system performance criteria.*
- *The outflow volume and peak rates would be less than those that currently occur.*
- *The contaminant export rates would be less than those that currently occur.*
- *The stream lines present on the site would need protection from erosion, especially where stormwater outflows are being constructed. The approach should be based on the Office of Water 2012 guidelines.*

*It is recommended that the 'Water Cycle Management Plan' prepared by Woodlots & Wetlands, dated 5 December 2013 be referenced to in any conditions of development consent related to water management matters associated with the site."*

**(Refer Condition Nos.2.6 (g) (h) (i), 2.17, 4.11 and 5.14)**

### **Servicing Considerations**

DCP 175 advises that the site is outside of Council's Water and Sewer Service Area and as such is not accommodated in existing infrastructure provision strategies. A preliminary sewer system analysis has been undertaken and options investigated for augmentation of existing Council services to accommodate the development.

All public utilities services including Telstra, Gas & Power are available at the Research Road Frontage of the site and are available to the site. Public utilities will generally be located parallel to the proposed road network within a 1.2m allocated corridor. When the public utility services are extended through the site to existing buildings, these will be adjusted or retrofitted to the requirements of the relevant authority and to suit the overall development of Stage 1

The development of the site will include Integrated Water Management System (IWMS)(water recycling facility and sewer reticulation system with a maximum capacity of 50 kilolitres per day and is a closed system). The IWMS will capture waste water from the development and distribute it for beneficial use within the development site.

A report on the IWMS has been prepared by Woodlots & Wetlands. The design refinement of the IWMS will be subject to detailed consultation with the IPART as part of the application which will be lodged concurrently for a Retail Operator's Licence and a Network Operator's Licence.

This infrastructure will be **privately owned and operated and maintained** in accordance with WICA licensing requirements. The SEE advises that *"No connection to Council water or sewer services will be required."*

The key infrastructure to be installed on the site is as follows:

1. *Potable and Recycled Water Systems*- this will comprise a combination of rainwater (collected from roofs of dwellings), potable water (water supply originates from the on-site dam) and recycled water. In the future water tanks with a 10 cubic metre capacity will be installed on all residential lots as part of each residential development.
2. *Wastewater treatment and recycled water system (waste water treatment plant)*- this will comprise the installation of a Membrane Bioreactor (MBR) as the primary treatment technology- although, the final treatment process selected will be determined in consultation with NSW Health and its operation will be subject to a WICA license. This infrastructure will combine biological treatment with ultra filtration to produce high quality treated water.

The MBR is proposed to be located on the eastern boundary of the site adjacent to the 6(a) zoned land and directly to the south-east of the Fisheries Building. The treated water will be sent to two (2) treated water storage tanks (each 100 kilolitres in volume) for reuse within the NEV community and for irrigation.

3. Potable water supply- this will be supplied from an existing dam on the site. A treatment plant, to improve the water quality and ensure it meets the requirements of the Australian Drinking Water Guidelines and WICA requirements, is proposed to be installed near the existing dam in the vicinity of the existing pump station. The treated water will be stored in header tanks near the dam and is proposed to be supplied by gravity to all future dwellings.

The IWMS is fully detailed in the Integrated Water Cycle Management Plan, prepared by Woodlots and Wetlands Pty Ltd. This Plan includes an assessment of demand and supply for the water cycle components based on a maximum density of 130 residential lots, the demand for irrigation water and wet weather storage, waste water modelling output and the use of dam water to supply potable water to the NEV site. In addition, the Plan includes a land capability assessment for a proposal for reclaimed water irrigation and an associated soil assessment.

It is proposed to construct the IWMS in two stages. The Stage 1 construction will ensure the capacity of the network can accommodate the demand and supply requirements of 60 dwelling and other on-site uses.

#### **Water and Sewer Directorate Comments**

Council's Water and Sewer section by memo, dated 06/02/14 have provided the following assessment comments in relation to the proposed subdivision:

*"Water is available to the land. Sewer is not available to the land. The developer's consultants advised Council at preliminary development meetings there was no intention to connect the development to Councils water supply or sewerage reticulation systems, and that these services would be provided by the developer under WICA - Private Sector Licensing Regime (IPART).*

*Should the applicant utilise WICA legislation for provision of water supply and sewerage to the land, then the following conditions will need to be placed on the Development Consent:*

- *The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006, prior to the issue of a Subdivision Certificate. (Refer Condition 5.15)*
- *The applicant shall obtain a Notice of Decision to commence commercial operations from the Minister prior to the issue of a Subdivision Certificate for the development. (Refer Condition 5.20)*
- *Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision / Construction Certificate. (Refer Condition 5.8)*
- *All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002." (Refer Condition 4.14)*

These conditions are noted. The Co-operative proposes to lodge a concurrent application with the Independent Pricing and Regulatory Authority Tribunal (IPART) for a retail operator's licence and network operator's licence under the Water Industry Competition Act 2006 ("WICA") for the integrated water management system (water and sewer).

Council's Water and Sewer section have also advised that:

*“Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the following conditions shall apply:*

- *Connection of the proposed development to Councils water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council's existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.*
- *The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.*
- *Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council's policy.*
- *The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Councils existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.*
- *The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.”*

Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the applicant would need to lodge a section 96 application to modify the development consent to incorporate these conditions instead of the conditions referred to above associated with the WICA requirements. **(Refer Advice Condition No 8.15)**

The application is accompanied by an Air Quality Assessment Report by Aubin Environmental and a Noise Impact Assessment of the proposed STP by Vipac to address amenity odour and noise impacts associated with the installation of the sewerage treatment plant (STP). Such impact will be considered under the Independent Pricing and Regulatory Authority Tribunal (IPART) for a retail operator's licence and network operator's licence under the Water Industry Competition Act 2006 (“WICA”) and have not been addressed in the current application for subdivision.

### **Flooding Impact**

LEP 175 advises that: *“part of the land has been identified as being flood liable (below the 1% Annual Exceedance Probability (AEP) line). The majority of this land is to be dedicated to Council and is only to be used for open space purposes that are flood compatible. Some parts of the rural residential lots may also be flood liable. The site also does not have flood free access, and would be isolated in the event of flooding in the vicinity of Hanlan Street.”*

The application was referred to Council's Flooding & Drainage and Development Engineer who has provided the following assessment in relation to flooding and drainage issues:

The previous flooding comments dated 24/02/2014 provided assessment of the proposed culvert and bridge crossings to roads subject to minor flooding in the 1% AEP event and proposed lots 9, 10, 21, 22 and 35 which are located adjacent to a drainage line. Such issues were considered to be capable of being addressed by conditions of consent. . **(Refer Condition No.2.6 (j) and 2.9 related to design of culverts and bridges)**

However, the following advice was provided by Council's Flooding and Drainage Engineer in relation to the proposed access road to the allotment containing the 7(c2) zoned land:

1) Access road to proposed subdivision of 7(c2) land

*Site visit indicates that the access road is unsealed, most often unformed across a grassed paddock, and at ground level; there is a timber bridge across the creek over a narrow section, and where flowing water was observed. However, the bridge does not appear to provide adequate access across the creek for anything more than a mild rainfall event. The topography of the land is a wide flat floodplain. It can be expected that the creek banks would easily be exceeded by floodwaters for any significant rainfall event and spread out across the floodplain. The bulk of floodwaters would be expected to be conveyed outside of the defined channel.*

*Council's flood mapping of the area confirms site observations.*

*For Council's flood planning event, the 1% AEP flood event (1 in 100 year event), the proposed access way would be inundated by more than 2m depth of flooding with sufficient velocity so that at least 60m of the access way would be high hazard and not suitable for vehicular traffic. The length of access way that is affected by flooding in the 1% AEP flood event is over 230m. Therefore, the existing/proposed access is not acceptable.*

*In the 50% AEP flood event (2 year event), the proposed access way would still be inundated by up to 2m depth of flooding with sufficient velocity so that approximately 50m of the access way would be high hazard and not suitable for vehicular traffic. Therefore, even considering the relatively frequent 2 year event the existing/proposed access would not be acceptable. The 2 year event is the most frequent event that Council have for their flood mapping, however, as described above (after site visit) I would expect the access way to be un-trafficable after any heavy rainfall or extended event (probably several times per year).*

*In addition to DCP 115 – building in flood liable areas, DCP 175 provides “more detailed guidelines for the development and use of the land”. Flood related requirements of this document include, but are not limited to the following:*

- a) Primary access to the rural residential lots is to be provided by way of access over the land to be zoned Open Space 6(a) and the design standard of such access is to be determined at the DA stage,*
- b) Any drainage or filling works proposed below the 1% AEP (including access to the 7(c2) and in the eastern section of the site) are to ensure that no adverse effect occurs on floodwaters both upstream and downstream.*
- c) An adequate building curtilage to accommodate a rural residential dwelling and associated activities above the probable maximum flood line is to be identified at the time of subdivision/development.*

d) An appropriate flood warning system is to be provided. This system is to be implemented/provided to the satisfaction of the SES (in consultation with the DPI and Council).

With regards to a) above, this is the DA stage, and the standard for access to this lot is for access to be provided in accordance with Council document "Guidelines for providing access to rural properties affected by flooding". The conceptual design of a floodplain crossing is to be provided – it is likely that a raised crossing of the floodplain will be required. Any works for the proposed floodplain crossing are not to adversely affect flood levels or characteristics.

With regards to c) above, the extents of the probable maximum flood are to be shown on a plan together with a building envelope that is outside of the flood extents.

Details of a flood warning system are to be provided after consultation with those parties listed in DCP 175, and in accordance with the requirements of DCP 175.

The duration for the floodplain to be un-trafficable with the existing crossing is approximately 2.5 hours and 1.5 hours for the 2 and 100 years events respectively. The flood modelling only goes up to 11 hours, but even then the existing access is totally unusable, with depths still greater than 1m.

The proposed subdivision of this land **is not supported** due to inadequate access being proposed across the floodplain, to the proposed subdivision.

I do not support the entire scope of the proposed development due to flooding issues.

Although further information for items 1-8 (culvert and bridge crossings) above could reasonably be requested, the requirements can also be ensured by way of conditions at this stage. **(Refer Condition No.2.6 (j) and 2.9 related to design of culverts and bridges)**

The following information is required before further assessment with regards to flooding can be undertaken:

- 1) The conceptual design of a floodplain crossing to provide access to the rural residential lot 7(c2) on the eastern banks of the watercourse. The design is to be in accordance with DCP 115 – building in flood liable areas, DCP 175 – Gosford Horticultural Institute Rezoning, and Council document "Guidelines for providing access to rural properties affected by flooding". It should be noted that a proposed floodplain crossing is not to adversely affect flood levels or characteristics and may therefore require a raised floodplain crossing. Council have a 2D model of the area; the applicant's consultant should obtain a copy of this model and submit a post-development flood model that demonstrates non-worsening of flooding (or provide alternative hydraulic analyses of the proposed structure).
- 2) For the 7(c2) lot, the extents of the probable maximum flood are to be shown on a plan together with a building envelope, that is outside of the flood extents.
- 3) Details of a flood warning system are to be provided, after consultation with those parties listed in DCP 175, and in accordance with the requirements of DCP 175.

Council's Development Engineer who has provided the following assessment in relation to flooding and drainage issues:

"This information is noted. It is agreed that the matters associated with the items 1-8 associated with culvert and bridge designs could be appropriately conditioned with a development consent. **(Refer Condition No.2.6(j) and 2.9)**

Reference to the Voluntary Planning Agreement indicates that on 7 December 2010, Council resolved to remove the Early Warning Flood System Requirement from the Planning Agreement. Therefore the request for details of the early warning flood system will not be pursued with this application.

Furthermore, the following is also noted in relation to the required access for proposed lot 39 indicated on the original plans (now part Lot 37 on eastern side of Narara Creek) that is zoned E3 under LEP 2014 but 7(c2) under GPSO and Planning Agreement:

Voluntary Planning Agreement (VPA):

The VPA for the development of the property requires that "The developer shall at all times be responsible for the construction, repair and maintenance of the works within the Rights of Carriageway. The standard of construction of the works within the Rights of Carriageway shall be determined by Council at the time development application/s for the Land are determined by Council."

As the proposed development includes the E3 zoned lot 39 (now part Lot 37 on eastern side of Narara Creek) that will have development potential when created, it was considered necessary that proper access be constructed to the lot as part of this application that satisfies Council in relation to flooding requirements.

In view of the above, the applicant was requested to address the flooding matters raised by the Flooding & Drainage Development Engineer, in particular associated with the access provisions over the floodplain, and matters associated with the E3 lot.

To address this matter the applicant submitted legal advice from their lawyer (Mattila Lawyers) and held a meeting with Council after which the applicant submitted a revised subdivision plan that now incorporates what was originally Lot 37 (indicated as a number of Part lot 37's) and lot 39 (i.e. the E3 lot on the eastern side of the floodplain) into one lot, with all areas defined as Part Lot 37.

In view of this amended subdivision plan, additional flooding & drainage comments dated 07/07/2014 were received that indicated the following:

"Following a meeting on 2 July 2014 and subsequent information submitted whereby the applicant proposes to create a split lot which includes land from both sides of the watercourse, I provide the following comments.

Proposed lot 37 will comprise of adequate land that has flood free access for a future dwelling. I have been informed that the land will only have a single dwelling right. If a future application for such a dwelling is submitted then the applicant will either be required to locate the dwelling on the significant area of land with flood free access or provide flood free access to the area without current flood free access. I do not consider that conditions or advice are required to address this future requirement.

A future subdivision application to create a separate lot on the opposite side of the watercourse (currently no flood free access) will be required to address the issue of flood free access at that point in time.

Summary

There are **no outstanding objections** to the proposed development now that the applicant has submitted an amended subdivision layout.

My previous recommended conditions are still relevant. No further conditions are required for the creation of lot 37."

### VPA – Applicant's Legal Advice

The applicant has submitted a letter from Mattila Lawyers, dated 27 May 2014 to support the application which is summarised as follows:

*"the VPA does not include, and does not need to include, the submission of a construction design for access to Lot 39. Under the VPA, the parties agreed to create legal easements for access and movement on the floodplain contingent upon the floodplain being transferred to Council. The easements are a legal necessity arising due to the potential transfer of the land to Council. Without them, legal rights of access to the floodplain will be unclear and possibly non-existent, presenting problems of legal access and potential liability for both parties in the future.*

*The VPA provides as follows. The deed requires (at clause 5.3) that prior to effecting the transfer of Lot 38 (the floodplain, and the Hoop Pines allotment) to Council, the Cooperative and the Council will create two easements ("Rights of Carriageway" pursuant to the Conveyancing Act 1919 (NSW)).*

- One Right of Carriageway is to allow access to assets on the dedicated land ("Easement 1").*
- The other Right of Carriageway is an easement for repairs and access to services on the floodplain ("Easement 2").*

*The VPA obliges the parties to set in place legal rights and obligations for entry onto the dedicated land. This is as far as the VPA extends: it does not cover development of the rural blocks in Lot 39 (Now Part Lot 37), which the Co-operative aspires to commence in the future. Compliance with the technical requirements of DCP 115, DCP 175 and Council's Guidelines for providing access to rural properties affected by flooding is not a requirement under the VPA and is not an issue in creation of the VPA easements. The present development approval required is to effect the initial subdivision of the floodplain in preparation of the transfer to Council and does not extend to development of Lot 39"*

*NEV acknowledges that the VPA makes the Co-operative responsible for construction, repair and maintenance of works within the easements and that the standard for the construction of works within the Agreement's easements is to be determined by Council "at the time development application/s for the Land are determined by Council"*

As such, the amended subdivision plan permits the development to proceed without the need to provide a flood free access design for the 7(c2) zoned land during the Stage 1 subdivision which has now been incorporated as Part Lot 37. No development is proposed on this land during Stage 1 and the VPA does not include, and does not need to include, the submission of a construction design for access to Lot 39 (now Part Lot 37). **(Refer condition 8.13)**

### Dam Break Study

The land is identified as being affected by a Dam Break Study (NSW Department of Commerce May 2006) and the SEE provides the following information in relation to such study:

*"The existing dam on the NEV site was built in 1985 and was historically used for irrigation of the Narara Horticultural Research Station. The dam is built on a creek tributary that drains into Narara Creek. The local catchment area for this tributary covers an area of 159.20ha.*

*A number of studies were commissioned by the NSW Primary industries to support the rezoning and sale of the NEV site. The studies were undertaken by NSW Department of Commerce, Dams & Civil Section and were prepared to simulate and assess the failure of the dam and the possible downstream flooding impacts.*

*A more recent study undertaken in November 2011 by NSW Public Works re-examined the flood consequences utilising updated modelling results. The Study concluded that under various cases or scenarios (ie. sunny day dambreak, 1 in 100 AEP Flood both with*

*and without dambreak, and dam crest flood both with and without dam break) the risk of dam failure and downstream flooding was found to create minimal additional flood affects. Furthermore, a sunny day dambreak event was found to have no flood effects on the Population at Risk largely as the floodwater remain in channel and within its local floodplain."*

Council's Flooding and Drainage engineer has advised that:

*"The dam break flood extents is approximately the same as the 1% AEP flood extents; residential building is not proposed within the 1% AEP flood extents."*

### **Tree Removal**

Approximately 65 trees have been identified as being impacted by the Stage 1 works. A total of 45 of these trees will require removal to accommodate the development. A small area of native vegetation will be required to be removed from the southern bank of the middle western gully to accommodate the proposed asset protection zone. Therefore, approval will be required under the *Native Vegetation Act 2003*. One hollow bearing tree (Tree 191) is required to be removed as it is located within the road reserve. The Tree is a multi-stemmed *Callistemon viminalis* with a hollow at the base. The project ecologist has recommended that the loss of this Tree 191 be offset and substituted with a bat roosting box. No heritage listed trees in Schedule 8 (Environmental Heritage) of the Gosford Planning Scheme Ordinance are proposed to be removed to accommodate the proposal.

### **Comments Tree Management Officer**

Council's Tree Management Officer has provided the following assessment:

*"The subject application has been considered with the Arboricultural Impact Assessment provided and during a site inspection with the site foreman. Trees affected were mostly of lesser prominence to the site and careful consideration has been given to the road design to minimise the affect on trees to be retained.*

*The report mentions up to 65 existing trees within the vicinity of road works and service installations, with up to 45 of those trees to be removed. Most trees to be removed are planted fruit trees and ornamentals. Two (2) large Eucalypts and a Turpentine are the only large native trees nominated for removal. Removal of those trees will not be noticed from such a site.*

*In regard to plan "Existing vegetation types and trees" prepared by Hill Thalys 6/12/13, item 8 Callery Pear (approximate location), identified as a D6 heritage item listed under DCP 175, was difficult to find in the area as shown on the plan. Considerable time was spent onsite with the site foreman finding the Pear in the gully, well away from proposed works and lots."*

The requirements of the Tree management officer and recommendations of the Arborist report have been incorporated as conditions of consent. **(Refer Condition Nos 3.7, 3.11, 4.27 and 4.28)**

### **Environmental impact**

The application includes an Ecological Restoration Plan prepared by Robert Payne includes recommendations for the appropriate ecological management of the NEV site and is required to be prepared in accordance with section 8.3 of DCP 175. The Ecological Management Plan provides a prescriptive framework for the management of known threatened species habitat; weed management, potential impacts associated with the sub-division and ongoing management. Management matters include replacement tree planting for Camphor Laurel, threatened plant species management, feral animal control, removal of weeds, and ecological restoration of floodplain wetlands and riparian grasslands. The Co-operative has prepared a



Property Vegetation Plan in conjunction with the Hunter Central River Catchment Management Authority (Catchment Management Authority) as required by Section 8.9 of the DCP 175.

### **Environmental Assessment**

Council's Environmental Assessment Officer has assessed the environmental impact of the proposal and has provided the following assessment comment:

#### Section 5A Assessment

*Based on an inspection of the site, review of plans and supporting documentation the proposed subdivision works will result in the removal of 45 trees mostly comprising of planted non-native fruit trees and ornamentals. A total of 2 large Eucalypts and a Turpentine are the only large native trees nominated for removal. Collectively these trees do not form part of any listed endangered ecological community nor are they listed threatened flora species.*

*A single hollow-bearing tree (*Callistemon viminalis* No. 191) will be removed under this application due to impacts associated with the proposed internal road network construction. The tree exhibits multi stems with a hollow at the base. Recommendations outlined in the Flora & Fauna Gap Analysis Report (Robert Payne Ecological Surveys & Management, dated December 2013) compensate this loss through the installation of a nest box suitable for arboreal micro bat species. A condition of consent is attached to address the removal of this tree and to provide a suitable nest box replacement. All other identified hollow-bearing trees will be retained in-situ as required under Clause 8.3(c) of DCP 175.*

*In respect to the endangered species *Syzygium paniculatum*, the Illustrative Stage 1 Concept Plan (hill thalis, Rev 1, dated 6 December 2013) clearly indicates a 20m buffer has been established for the western specimen adjacent to the Stage 1 subdivision as required under Clause 8.3(a) & (b) of DCP 175. Further this specimen will be managed under the submitted Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013). A condition of development consent is attached that requires this plan to be implemented.*

*An additional single specimen of *Syzygium paniculatum* was previously recorded from the site on rural residential zoned land to the northeast of the floodplain (Flora & Fauna Assessment - Additional Information, Andrews Neil Pty Ltd, dated September 2006). This specimen was unable to be positively identified during surveys conducted as part of the Flora & Fauna Gap Analysis Report (Robert Payne Ecological Surveys & Management, dated December 2013). Notwithstanding this, the proposed subdivision and associated works are located well away from this previous record and will not lead to any adverse indirect impacts on this area.*

*In consideration of Section 5A for *Syzygium paniculatum* the Flora & Fauna Gap Analysis Report (Robert Payne Ecological Surveys & Management, dated December 2013) relies on assessment undertaken as part of the rezoning application that was completed on a conceptual residential layout (Flora & Fauna Assessment, Andrews Neil Pty Ltd, dated February 2006 and Flora & Fauna Assessment - Additional Information, Andrews Neil Pty Ltd, dated September 2006).*

*Based on an inspection of the site, review of plans and supporting documentation I have considered Section 5A of the EP&A Act 1979 and am satisfied that the proposed subdivision will not lead to a significant impact on *Syzygium paniculatum* or its habitat.*

*Two endangered ecological communities listed as Lowland Rainforest and Freshwater Wetland on Coastal Floodplain have been identified within the subject site. The proposed subdivision and associated works will not directly impact on these communities and given appropriate erosion and sedimentation control along with the implementation of the Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) the proposal is not likely to adversely impact on these communities. Section 5A assessments have been completed for these communities and have identified the proposal as not likely to lead to a significant impact on Lowland Rainforest or Freshwater Wetland on Coastal Floodplain or their habitats.*

*In regards to impacts on threatened fauna species and their habitats trees removal is predominantly restricted to non-native fruit trees and planted ornamental species. Residual native bushland areas will be subject to restoration and management that will endeavour to enhance fauna habitat. The removal of one hollow-bearing tree will be offset through the installation of a nest box. The existing dam will be retained as will all creek, floodplain and wetland areas. In accordance with Clause 8.3(f) of DCP 175 all external night lighting will be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013). A condition of development consent is attached to address night lighting in accordance with this report. (Refer Condition No 6.2, 4.17 to 4.26)*

*Based on an inspection of the site, review of plans and supporting documentation I am **satisfied** that the proposed development will not lead to a significant impact on threatened species, populations, ecological communities or their habitats.*

#### SEPP 19 – Bushland in Urban Areas

*Clause 9 of SEPP 19 applies to this application. Given the proposed development will be subject to an Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) the proposal is not likely to adversely impact on bushland area zoned for public open space. In addition, the proposed landscape plan appears consistent with Clause 8.3(e) of DCP 175.*

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

#### **Aboriginal Cultural Heritage**

The importance of protecting Aboriginal cultural heritage is reflected in the provisions under Part 6 of the National Parks and Wildlife Act 1974 (NPW Act). The NPW Act clearly establishes that Aboriginal objects and places are protected and may not be harmed, disturbed or desecrated without appropriate authorisation. Importantly, approvals under Parts 4 of the EP&A Act do not absolve the proponent of their obligations under the NPW Act.

The applicant has provided the following information in relation to Aboriginal Cultural Heritage sites:

*An Aboriginal Archaeological & Cultural Heritage Assessment Report (AA&CHA Report) was prepared for the Gosford Horticultural Research Statement rezoning in May 2006. The AA&HCA Report was commissioned by NSW Department of Commerce and was prepared by Danny O'Brien.*

*The AA&HCA Report included background data on pre-recorded Aboriginal sites for the township of Narara and its environs. Fifty-two (52) registered Aboriginal archaeological sites were found to occur, of which none were registered AHIMS Aboriginal sites located within or adjacent to the subject site.*

*The AA&HCA Report also included the results of field assessment and whilst fifteen (15) additional 'new' or previously unrecorded sites were identified, none of these were recorded within or immediately adjacent to the proposed development precinct (i.e. the including Stage 1 are which is the subject of this application).*

*Based on the above findings it was concluded that the **identified Aboriginal archaeological sites will not be directly affected by any future development**, as these sites are not located within the proposed developable precincts of the subject site. It was also advised that the Darkinjung Local Aboriginal Land Council had no objection to the future development of the developable precincts identified at the rezoning stage. The development area identified in the Concept Plan and the Stage 1 DA remains consistent with the development precincts identified in the rezoning, with the works being largely contained within that portion of the site zoned 2(a) residential.*

*In light of the conclusions of the AA&HCA Report, no further archaeological investigations of the site have been undertaken. However, further consultation will be undertaken with the Darkinjung Local Aboriginal Land Council during the DA assessment phase as required by Clause 49T(7) of the GPSO and prior to the commencement of development on the site.*

*A number of recommendations contained in the AA&HCA Report remain valid and relevant to the current application, as outlined below:*

- *That no plans should be made to include walking trails within the subject site that lead to sensitive Aboriginal sites.*
- *That should fire trails or APZ be required to be established to protect future dwellings, then a detailed Aboriginal archaeological site survey be undertaken to ensure that any cryptic or sub-surface sites are considered.*
- *Should any Aboriginal sites be located during the construction phases for any future development including for road, infrastructure or dwellings, then all works at this location should cease, and the Department of Environment & Conservation's National Park & Wildlife Services should be contacted for further advice.*

*Should any artefacts be unearthed, the Co-operative is aware of its legal responsibility in respect to any requirement to obtain a permit under the Heritage Act and that Aboriginal sites and artefacts are protected under the National Parks and Wildlife Act 1974. (Refer Condition No.4.2, 8.16 to 8.18)*

## **Scenic Quality/ Visual Impact**

### Development Control Plan 89 – Scenic Quality

The NEV site is located within the Narara Valley geographical Unit. The site has been identified as a landscape area of local significance within the Gosford local government area. It is described as an area of extensive areas of complex valleys and valley floors with extensive suburban development bounded by naturally vegetated slopes, open space system lands and the Brisbane Water Escarpment. A key concern in this area is proposed development in visually prominent areas located on escarpments and on prominent ridges.

### Landscape Strategy

A landscape strategy for the NEV site prepared by McGregor Coxall accompanies the application which includes the following works:

- Potential entry planting external to the site;
- Landscaping of the main entry road (Research Road) and other new roads within Stage 1 including new street planting and landscaping to carriageways including landscaping to drainage swales.
- Streetscape treatments between a number of road edges and the boundaries of proposed Lots;
- Restoration of gullies through the site in accordance with the Ecological Restoration Management Plan

- The landscape treatment of the swales which form the common gardens are the rear of the proposed residential lots.

It is considered that the proposal will have a satisfactory visual impact and will not detract from the scenic qualities of the area, noting that most of the naturally vegetated bushland areas and forested slopes surrounding the proposed subdivision will be preserved. The residential subdivision is limited to the predominantly cleared sections of the site and established landscaping and significant bushland areas will be maintained. Views of the development from public vantage points is generally screened by existing vegetation and topography.

The application is accompanied by a lighting report to respond to the requirements of Section 8.3(f) of DCP 175 which requires that any external night lighting of the site be designed to reduce light spillage into adjacent forested areas. The report makes specific recommendations to ensure compliance with AS/NZS 1158.3.1 part 1.1 and Part 3.1 lighting of roads and public spaces which have been incorporated as conditions of consent. **(Refer Condition Nos.5.18, 6.4 and 6.5)**

### **Cut and Fill and Earthworks**

The bulk earthworks for Stage 1 are principally associated with the road construction and the provision of underground services/utilities temporary regrading of sites relative to the new road formation. Batters of 2.0H:1V have been generally adopted for the project in accordance with the Slope Stability Report, prepared by Douglas Partners. Concept site regrading plans and sections have been prepared for the site by Chase Burke Harvey. The extent of cut and fill has generally been minimised where possible to accommodate future development. In most instances, the regrading associated with the roads is generally less than 1.0m. However, there are a number of areas particularly, adjacent to the western extent of Stage 1 where regrading will result in up to 2.0m variation in the current site levels. It is considered that the extent of cut and fill works are within reasonable limits. Erosion/sedimentation controls are proposed to be installed prior to commencement of any construction works and will be maintained until the finished works have been stabilised. Accordingly, the application meets the aims, objectives and requirements of DCP 122- Cut and Fill requirements.

### **Other Internal Assessment Comments**

#### Building Assessment:

Council's Building Surveyor has raised **no objections** to the proposal and has advised the following:

#### Assessment Comments - Liquid Waste Services:

By memo dated 25 February 2014 Council's Liquid Waste Services officer has provided the following assessment in relation to the on-site sewage management of the proposal:

*"A number of issues have been highlighted within both the Integrated Water Cycle Management Plan submitted by Woodlots and Wetlands Pty Ltd and the Water and Wastewater Systems Overview submitted by Aquacell which require further clarification/information. For example, there are no details provided on the proposed location and specifications for wet weather storage; no discussion on the provision of a reserve land application area should the primary land application area fail; no details on proposed on-going environmental monitoring. It is our understanding however that the applicant has been advised by IPART to undertake a preliminary risk assessment and facilitate a meeting with all relevant stakeholders including the NSW Ministry of Health, the EPA, and Council, as part of the approval process for the WICA licence, which will address these issues. IPART anticipates that the application will not be submitted until mid-year. Notwithstanding these issues, the applicant will be required to submit an application under Section 68 of the Local Government Act 1993 for a permit to install an on-site sewage management system prior to the issue of the Construction Certificate. Once the system design is finalised it can be conditioned to comply with the relevant wastewater reports and requirements of the WICA licence. The following conditions should also be placed on the Development Consent:*

- A licence must be obtained under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision.  
**(Refer Condition No. 5.15)**
- A Notice of Decision to commence commercial operations from the Minister responsible for the WIC Act 2006 prior to the issue of an Occupation Certificate.  
**(Refer Condition No. 5.20)**
- An Approval to Operate the on-site sewage management system is to be issued by Council's Waste and Emergency Services prior to the issue of an Interim or Final Occupation Certificate.  
**(Refer Condition No. 5.22)**

Assessment Comments - Waste Management (Solid Waste)

Council's waste management officer has raised **no objections** to the proposal subject to conditions of consent. **(Refer Condition Nos 2.11 to 2.13, 4.4, 4.29 to 4.33, 5.17 and 6.3)**

In the assessment of the related application for the cluster housing developments:

Council's waste management officer advised that: *"the area chosen for the proposed communal waste enclosure is located where adverse impact may occur on adjoining residences in Monarchy Way. An existing parking/waste area is located approximately 100 metres further into the site which would provide a greater setback from adjoining properties, is an existing waste storage area and has a significant vegetative screening between the existing cleared area and adjoining properties."*

Waste Services has recommended that this existing carpark/waste area be utilised for the required waste storage/servicing area to reduce impacts associated with bulk waste storage for a development of this scale and nature.

In response to issues raised, the applicant has submitted:

- a revised plan showing location of the waste storage area which has been redesigned and moved further to the north; and
- revised Waste Management Plans for the Stage 1 DA, and the 2 cluster housing DA's.

The NEV will be required to manage the transportation of the bulk bins on storage day to a collection point.

To ensure consistency with the other development consents such conditions will be included in the current conditions for the subdivision **(Refer Condition No.4.33)**

**Climate change and sea level rise**

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

Climate change and sea level rise will be felt through:

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

Internationally there is a lack of knowledge on the specifics of climate change and the likely impact it will have on the subject development. Government action may mitigate the impact of

climate change and the question of sea-level rise may be able to be addressed through the construction of containment works or through Council's policies that may be developed over time.

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

### **SEPP 71**

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

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

### **External Referrals**

#### **Integrated Approval Water Management Act 2000 – NSW Office of Water (NOW)**

The Stage 1 area of the NEV site is punctuated by two (2) gullies which run west to east/north-east. The Stage 1 DA proposes works to these gullies. NOW has indicated that the drainage depression to the south of proposed Lots 10, 21, 22 and 35 (the middle western gully) may constitute a river under the *Water Management Act 2000* and therefore, may be a first order watercourse. This would require a Core Riparian Zone ("CRZ") of 10 metres in width from the top of the bank on either side of the watercourse. Works are proposed within 40 metres of the northern gully and referral to NOW under section 91 of the EP&A Act 1997 is required.

The NSW Office of Water by letter dated 25 February 2014, has provided General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA. The controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval.

NOW recommended the following conditions be included in the development consent:

*"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".*  
**(Refer Condition 2.15 to 2.16 and 7.7 to 7.10).**

In relation to the proposed use of the existing dam for domestic water supply, NOW has advised that the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the *Water Management Act 2000* in relation to any proposed water use. **(Refer Condition No. 6.7, 5.21 and 8.14).**

#### **Bushfire Protection / Integrated Approval NSW Rural Fire Service**

The NEV site is located on bushfire prone land and has been mapped as being Category 1 and Category 2 Bushfire Prone Land together with bushfire buffer areas. Due to the relative physical inaccessibility of the site (with only one road access) future development needs to have due regard to requirements in relation to bushfire protection.

The subdivision application was referred to the NSW Rural Fire Service as the proposal is integrated development under Section 91(1) of the EP&A Act 1979 and requires separate approval (i.e. Bush Fire Safety Authority) from the NSW Rural Fire service under s100B of the Rural Fires Act 1979. The RFS have provided general terms of approval in relation to the

subdivision application which will be included as conditions of consent. **(Refer Conditions 7.1 to 7.6)**

A bushfire report prepared by Australian Bushfire Protection Planners (Assessment No B132141 – 1, dated 4.12.13) was submitted with the application. The Report undertakes an assessment of the bushfire protection measures required to address the bushfire risk to the future development of the site, in accordance with Planning for Bushfire Protection 2006 and the requirements of the *Rural Fires Regulation 2013*.

Recommendations have also been made in respect to the provision of fire fighting water supplies and access provisions for fire fighting resources as well as the management of the Asset Protection Zones and the vegetation within the Community Lot. The recommendations contained within that report are recommended for inclusion as conditions of consent. **(Refer Condition Nos 2.6(a), 5.1 to 5.6, 6.6, 4.15 and 6.8)**

### **Geotechnical Assessment**

The application is accompanied by a Geotechnical Assessment Report, prepared by Douglas Partners, Project: 75583.20, dated 2 December 2013, which provides an assessment of the stability of the site in accordance with Gosford City Council Development Control Plan No 163, geotechnical parameters for the design of footings to address slope stability issues and safe batter slopes and retaining wall design parameters. The recommendations of the report have been included as a condition of consent. **(Refer Condition No.2.14, 2.19, 3.9, 4.5 and 5.23.)**

### **Public Submissions**

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

A summary of the submission is detailed hereunder.

#### **1. Location of waste enclosure**

**We do have some concerns over the proposed positioning of the Ecovillage refuse site. The plans indicate this is on the eastern boundary of the site adjacent to residential properties in Monarchy Way. Our concerns are that this refuse area will ultimately service over 100 residential properties and community buildings. The proposed refuse site will be less than 10 metres from our main outdoor entertaining, food preparation and dining area.**

### **Assessment Comment**

Refer Waste Comments. The waste enclosure has been relocated further away from the eastern boundary **(Refer Conditions No.4.33)**

## 2. Aboriginal Cultural Heritage

Darkinjung Local Aboriginal Lands Council has reviewed the proposal and there are concerns relating to this development for six reasons.

1. The area is rich in Aboriginal Cultural Heritage and according to the Office of Environment and Heritage (OEH) Aboriginal Heritage Information Management System (AHIMS) there are a number of Registered Aboriginal Cultural Heritage sites located within the subject land and within the vicinity of the subject land.
2. The last Archeological survey of the subject land was carried out in 2006 by Danny O'Brien of Environmental Appraisal and Planning PTY LTD, some 8 years ago.
3. DLALC was last consulted in regards to the subject land in 2006.
4. Potential Aboriginal Cultural Heritage sites and materials that may have once been concealed by ground cover, leaf litter, soil and silt within the subject land may have become visible through such processes as erosion over the past 8 years and since the last Archeological survey and Aboriginal Cultural Heritage Assessment.
5. The current condition of the existing Registered Aboriginal Cultural Heritage sites is unknown. These sites may have deteriorated due to several factors such as visitation and/ or vandalism over the past 8 years since the last Archeological survey and Aboriginal Cultural Heritage Assessment.
6. There does not seem to be any record of an Aboriginal Cultural Heritage Plan of Management prepared for the Registered Aboriginal Cultural Heritage sites located within this property.

### Recommendation:

1. A follow up Aboriginal Cultural Heritage Site Assessment must be conducted on the proposed development site before any approval for any type of development application can be considered.

### Assessment comment

The previous Aboriginal Cultural Heritage Aboriginal Archaeological & Cultural Heritage Assessment Report, dated May, 2006 prepared by Danny O'Brien - Environmental Appraisal & Planning Pty Limited advised that:

*"Within the pre-recorded Aboriginal sites for the township of Narara and environs. Fifty-two (52) registered Aboriginal archaeological sites were found to occur including axe-grinding grooves, rock engravings and 'shelters with art'. An open camp site and isolated find has also been pre-recorded within the broader locality. None of the above registered Aboriginal sites are located within or adjacent to the subject site.*

*Fifteen (15) additional 'new' or previously unrecorded sites were recorded during the field assessment phase including 'scarred' trees, axe-grinding grooves, spear-sharpening grooves, stone arrangements, rock shelters with art, rock shelters with Potential Archaeological Deposits and shell fragments (oyster) and Anadara trapezia in stratified archaeological deposits.*

*However, none of the above recorded Aboriginal sites were recorded within or immediately adjacent to the proposed development precincts within the Horticultural Research Station and none of the previously recorded or registered AHIMS Aboriginal sites are present within or immediately adjacent to the developable precincts within the subject site."*

A further report is not considered warranted given that no Aboriginal relics or sites were recorded within the developable precincts of the subject site.

The report however also concluded that:



*“the non-developable precincts have high Aboriginal archaeological potential, as this had been considered to be the case prior to the Aboriginal site surveys and that this was substantiated during the field assessment phase as fifteen (15) additional Aboriginal sites were recorded during the field surveys including site types not previously recorded for the locality of Narara such as stone arrangements, scarred/carved trees, cooking/grinding hole and spear-sharpening grooves.*

*The most sensitive Aboriginal sites occurring within the subject site and prone to vandalism are the rock shelters with art. The location of these sensitive sites should be considered during any future planning activities in the area.”*

The report makes a number of recommendations for development of the area which have been incorporated as conditions of consent. **(Refer Condition No. 4.2, 8.16 to 8.18)**

## Conclusion

The proposal is for a 39 lot community title subdivision of the site formerly known as the Gosford Horticultural Research & Advisory Station and associated infrastructure and roads and demolition of existing buildings and structures. The proposed community subdivision will form part of the Narara Eco-Village Co-operative Ltd.

The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, relevant DCPs and SEPPs, the objectives of the zone and the principles of ecologically sustainable development .

The proposal is integrated development under Section 91 of the EP&A Act 1979 requiring separate approvals from both the NSW Rural Fire Service (i.e. Bushfire Safety Authority) under s100B of the Rural Fires Act 1997 and from the NSW Office of Water (i.e. controlled activity approval) under the Water Management Act 2000. Both RFS and NOW have issued general terms of approval for the proposal.

The Director General has issued a Certificate for the satisfactory arrangement for State infrastructure provision in accordance with Cl. 49U of the GPSO.

Water is available to the land. Sewer is not available to the land. The proposal does not seek to connect the development to Councils water supply or sewerage reticulation systems as these services would be provided by the developer under WICA - Private Sector Licensing Regime (IPART).

The proposed development of the site is also subject to a Voluntary Planning Agreement.

The site is considered suitable for the development in that:

- It is appropriately zoned and is consistent with the provisions in GPSO and LEP 2014, which promote land uses that are compatible with the low density residential character of the area
- The existing bushfire protection measures on the site are generally adequate and subject to minor works and the ongoing maintenance of the existing APZ's will comply with the provisions of *Planning for Bushfire Protection 2006*
- It is located in an area with reasonable access to facilities and services and public transport

It is considered that the proposal will not have an adverse impact on surrounding development in that:

- It will not result in any significant environmental impacts on adjoining properties or surrounding conservation land and the 6(a) open space zoned land

- The proposal will have minimal impact on the surrounding residential area in terms of traffic, character, built form or environmental issues;
- It incorporates environmentally sustainable design solutions.
- The proposal will not detract from the character or scenic qualities of the area or have unreasonable impacts on the environment.

Issues raised in public submissions have been considered in the assessment of the proposal and addressed by conditions of consent. As such, the application is recommended for approval.

## RECOMMENDATION

- A Council as consent authority grant consent to Development Application No. 44994 for Community Title Subdivision (39 Lots) and associated infrastructure and demolition of various structures and buildings on LOT: 13 DP: 1126998, 25 Research Road NARARA subject to the conditions attached.
- B In accordance with Section 95(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- C The objector(s) be notified of Council's decision.
- D The RMS, RFS and NOW be notified of Council's decision.

## CONDITIONS

### 1.. PARAMETERS OF THIS CONSENT

#### 1.1. Approved Plans and Supporting Documents

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

#### Architectural Plans by Chase Burke Harvey

Drawing	Description	Sheets	Issue	Date
S12242 -1	Community Title Subdivision	1/6	A	02.07.2014
S12242-2	Community Title Subdivision	2/6	A	02.07.2014
S12242-3	Community Title Subdivision	3/6	A	02.07.2014
S12242-4	Community Title Subdivision	4/6	A	02.07.2014
S12242-5	Community Title Subdivision	5/6	A	02.07.2014
S12242-6	Community Title Subdivision	6/6	A	02.07.2014
S12242	Community Title Subdivision	1/6	A	02.07.2014
S12242	Community Title Subdivision	1/6	A	02.07.2014

#### Supporting Documentation

Document	Title	Date
D12242-4	Site Survey (Chase Burke Harvey) Sheets 1 to 3	20.01.2008
3.02	Stage 1 Common Ownership Elements - Layout (Hill Thalís)	06.12.2013

3.03	Stage 1 Common Ownership Elements – Landscape Strategy Plan (McGregor Coxall)	10.12.2013
3.04	Stage 1 Common Ownership Elements – Water Management (Hill Thalys)	06.12.2013
3.05	Stage 1 Common Ownership Elements – Subdivision (Hill Thalys)	06.12.2013
3.06	Stage 1 Common Ownership Elements – Street Pattern and Access (Hill Thalys)	06.12.2013
3.07	Stage 1 Common Ownership Elements – Grouped Facilities(Hill Thalys)	06.12.2013
3.08	Stage 1 Common Ownership Elements – Demolition Plan (Hill Thalys)	06.12.2013
3.11	Stage 1 Common Ownership Elements – Landscape Detail reference plan (McGregor Coxall)	06.12.2013
3.12	Stage 1 Common Ownership Elements – Landscape Plan Detail 1+2 (McGregor Coxall)	06.12.2013
3.13	Stage 1 Common Ownership Elements – Landscape Plan Detail 1+2 (McGregor Coxall)	06.12.2013
3.14	Stage 1 Common Ownership Elements – Landscape Material Pallete (McGregor Coxall)	06.12.2013
3.15	Stage 1 Common Ownership Elements – Landscape Planting Palette (McGregor Coxall)	06.12.2013
Project: 75583.00	Report on Preliminary Site Investigation (Douglas Partners)	August 2013
	Heritage Impact Statement (Chris Betteridge - Musecape Pty Ltd)	04.12.2013
	Conservation Management Plan Review 2013 (Chris Betteridge-Musecape Pty Ltd)	05.12.2013
	Arboricultural Impact Assessment (Michael Shaw)	29 .11.2103
	Flora and Fauna Gap Analysis Survey Report (Rober Payne)	December 2013
	Ecological Restoration Plan (Robert Payne)	December 2013
75583.01	Preliminary Geotechnical Assessment (Douglas Partners)	December 2013
75583.01 Revision 2	Preliminary Slope Stability Assessment Report (Douglas Partners)	December 2013
CE12242 Sheets 1 to 33	Concept Road Grading Plans for Stage 1 – Subdivision (Chase Burke & Harvey)	08.12.2013
	Stage 1 Road Circulation Plan (Chase Burke & Harvey)	
Ref:2012242	Stage 1 Concept Engineering and Public Utility Services Report (Chase Burke & Harvey)	09.12.2013
SW12242 Sheets 1 to 2	Concept Stormwater Plans for Stage 1 (Chase Burke & Harvey)	08.12.2013
ES12242 Sheets 1 to 3	Erosion/ Sedimentation Control Plan	08.12.2013
	Integrated Water Cycle Management Plan (Woodlots and Wetlands Pty Ltd)	05.12.2013
	Water and Wastewater Systems Overview (Aquacell)	03.12.2013
	NEV Concept Integrated Water Scheme Design (Aquacell)	
	Waste Management Plan (Chase Burke Harvey)	18.12.2013

	screened waste storage enclosure to be located as indicated on Draft Dwg No CGS2.01, dated February 2014, Amendments issued for comment	18.02.2014
B121881 -2	Bushfire Protection Assessment (Australian Bushfire Protection Planners)	04.12.2013
3301	Transport Impact Assessment (Chris Hallam & Associates)	06.12.2013
L127P_R01_P01	NEV Lighting Report	28 June 2013
	Air Quality (Odour Impact Assessment Report (Aubin Environmental))	02.12.2013
29N-13-0156-TRP-472220-1	Sewage Treatment Plant Noise Impact Assessment (Vpac Engineering & Scientists Ltd)	16.12.2013
29N-13-0156-TRP-472220-1	Sewage Treatment Plant Noise and Vibration Management Plan (Vpac Engineering & Scientists Ltd)	16.12.2013
	Aboriginal Cultural Heritage Aboriginal Archaeological & Cultural Heritage Assessment Report (Danny O'Brien - Environmental Appraisal & Planning Pty Limited)	May, 2006
IR 15029234	Statement of Environmental Effects (Sara Roach & Michael Woodland) - Stage 1 Subdivision infrastructure and associated works	December 2013

## 1.2. Building Code of Australia

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

- 1.3. The proposed subdivision is to be consistent with all provisions of the Voluntary Planning Agreement (VPA) under s93F of the EP&A Act 1979 which has been prepared and deed made on 31 May 2013 and signed by the Narara Ecovillage Co operative Limited and Council for the NEV site, including specific provision for the dedication to Council of the 6(a) Open Space zoned portion of the site (being that land immediately to the east and contiguous with the 2(a) residential land), together with a small area of land upon which a stand of *Araucaria cunninghamii* (Hoop Pines) are located.

## 2.. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1. No activity is to be carried out on site until any Construction Certificate has been issued. Other than:
- a Site investigation for the preparation of the construction, and/or
  - b Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
- 2.2. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

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

If at the time of lodgement of a Roads Act application a small section at the end of Research Road is still a Crown Road, then permission to lodge the application from the Department of Lands will be required with the Road Act application upon lodgement with Council.

The required works to be designed are as follows:

- a. T-turning head & road works at the end of the public road section of Research Road including kerb and guttering, subsoil drainage, footpath formation, drainage and a road pavement. The configuration of the turning head is to be as advised by Council and is to maintain property accesses to adjoining properties.
- b. Footway formation with a minimum width of 2.0m and graded up at +2% from the top of kerb toward the property boundary, around the extents of the required turning head.
- c. 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location around the extents of the required turning head.
- d. Heavy-duty vehicle crossing for the subject site as required to tie-in the required turning head & road works to the property boundary, and that has a minimum width of 5.5m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- e. Heavy-duty vehicle crossing to the driveway for No's 19, 21, & 23 Research Road, as required to tie-in to the required turning head & road works, and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
- f. Adjustments to the vehicle crossing to No 15 Research Road as required to tie-in to the required road works and constructed with 150mm thick concrete reinforced with SL72 steel fabric.
- g. All redundant dish crossings and/or damaged kerb and gutter are to be removed and replaced with new kerb and gutter.
- h. All redundant vehicular crossings to be removed and the footway formation reinstated with turf and a 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location.
- i. Roadside furniture and safety devices as required including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RMS and Australian Standards.
- j. Pram ramp as required to tie-in the footpath to the turning head.
- k. Connection of stormwater from Research Road to the existing stormwater system within the site.
- l. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

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

- 2.3. A pavement report for works within a public road reserve shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans and approved by Council under the Roads Act, 1993.

The pavement depths must be determined in accordance with Council's specifications and the following traffic loadings:

<b>Name of Street</b>	<b>Traffic Loading (ESAs)</b>
Research Road	2x10 <sup>6</sup>

- 2.4. A dilapidation report must be submitted to Council prior to issue of any Construction Certificate and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road,

kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets in the vicinity of the development.

- 2.5. A security deposit of \$50,000 must be paid into Council's trust fund prior to the issue of any Construction Certificate. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit will be refunded upon the completion of the project if no damage was caused to Council's assets as a result of the development.
- 2.6. Design of the following engineering works within private property:
- a. Internal roads in accordance with AMCORD guidelines and the requirements of RFS *Planning for Bushfire Protection* 2006, and generally in accordance with the concept road grading plans, prepared by Chase Burke Harvey (Ref: Drawing CE 12242, Sheets 1-33 dated 08/12/13). Furthermore, internal roads shall include also the following:
    - Internal roads shall be sealed to prevent erosion.
    - Temporary "T" turning heads shall be provided at the terminus of dead-end roads created in the construction of the individual development designs.
    - Access roads within the development shall be constructed to comply with the specifications of Section 4.1.3(1) of *Planning for Bushfire Protection* 2006 with a minimum pavement width of 5.5 metres for the main entrance road and perimeter road and a minimum pavement width of 3.5 metres for the one-way internal roads.
    - Parking Bays [minimum 2.6m wide] shall be designed and constructed clear of the road pavement and complying Passing Bays [20m long x 2.0m wide] provided in the locations shown on the Concept Plan.
    - Property access roads to individual lots shall be designed and constructed to comply with the deemed-to-satisfy provisions of Section 4.1.3(2) of *Planning for Bushfire Protection* 2006, with a minimum width of 4.0 metres located in a 6.0 metre wide managed corridor.
  - b. All parking areas in accordance with Australian Standard AS/NZS 2890.1:2004.
  - c. Vehicular access near the waste storage area in accordance with AS2890.2:2002.
  - d. Internal drainage and pathways.
  - e. Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RMS and Australian Standards.
  - f. Services in accordance with the relevant authorities specifications and requirements.
  - g. On-site stormwater detention system/s designed in accordance with Council's DCP 165 - Water Cycle Management that shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. The on-site stormwater detention shall be generally in accordance with the 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 5 December 2013.
  - h. Nutrient/pollution control measures designed in accordance with Council's DCP 165 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design. The nutrient/pollution controls shall be generally in accordance with the 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 5 December 2013.
  - i. Connection of all stormwater from impervious areas within the site to the nutrient/pollution control facilities and receiving waters generally in accordance with the 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 5 December 2013.

- j. All culvert crossings are to be designed by a suitably qualified and experienced hydraulic consultant. The culvert crossing is to convey the 1% AEP stormwater flow without overtopping of the road. A 50% pipe blockage is to be assumed.
- k. Signage and line marking. Signage shall include "No Parking" restrictions for bushfire access as recommended by the bushfire consultant (Australian Bushfire Protection Planners Pty Ltd). Signage indicating a maximum loading of 15 tonnes shall be provided on the approaches to the bridges over the watercourses traversing roads 2 & 4. Signage and line marking is to also designate/regulate the one-way & two way movements within the site.
- l. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

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

- 2.7. A pavement report for works within the private property shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans for the internal subdivision works.

The pavement depths must be determined in accordance with Council's specifications and the following traffic loadings:

<b>Name of Street</b>	<b>Traffic Loading (ESAs)</b>
Internal access roads	3x10 <sup>5</sup>

- 2.8. Proposed retaining walls, greater than 600mm in height, are to be designed by a practising Structural/Civil Engineer. The plans for the proposed retaining walls shall form part of any Construction Certificate.
- 2.9. Designs for the bridges over Roads 2 & 4 must be undertaken by a practising Structural/Civil Engineer in accordance with the AUSTROADS Australia Bridge Design Code and relevant Australian Standards. These bridges shall be designed with a minimum loading of 15 tonnes to comply with the RFS Planning for Bushfire Protection 2006 requirements. The underside of the bridges are to be a minimum of 0.5m above the 1% AEP flood level in the watercourse. Supports for the bridges shall not encroach within the 1%AEP flood area within the watercourses. The plans for the proposed bridge shall form part of any Construction Certificate.
- 2.10. Prior to the issuing of a construction certificate or releasing engineering plans for the subdivision / development works, Council will be issued with a Site Audit Statement by an accredited EPA Auditor stating the land has been remediated and is suitable for its intended land uses.
- 2.11. Submission of a signed and dated Waste Management Plan in accordance with the Gosford City Council Development Application Guide. Site and development specific details are required to provide advice in relation to site preparation, demolition, use of premises and on-going management of all proposed establishment and associated infrastructure works.

Note: The submitted SEE provides advice in relation to cut/fill, bulk earthworks, construction of bridges and other infrastructure i.e. water treatment plant, waste water treatment plant etc.

- 2.12..Construction Certificate plans are to be overlayed with swept turning path templates to AS2890 to demonstrate access for a rear loading, rear dual axle HRV into the waste truck servicing area to allow exit from the site in a forward direction.
- 2.13. Submission of a fully dimensioned detail of the waste storage area sized to accommodate 2 x 1.5m<sup>3</sup> bulk bins and 2 x 240 litre MGB's for twice weekly servicing of mixed waste and 2 x 1.5m<sup>3</sup> bulk bins and 2 x 240 litre MGB's for twice weekly servicing of recycled waste for 60 residential units as advised by K. Hay. The waste enclosure to be capable of extension for future stages. Screening details to be clearly indicated.
- 2.14. A **Geotechnical report** shall be prepared by a practising Geotechnical Engineer for all lots that are filled more than 0.5 metres above natural surface level. This report must be submitted with the engineering plans for the internal subdivision works.
- 2.15. The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.
- 2.16. The proponent must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use of the existing dam for domestic water supply, prior to the issue of any construction certificate.
- 2.17. Surface water collected on driveways, parking areas and other impervious areas are to be treated so as to control pollution in accordance with one or more of the methods detailed in Section 10 of the Water Cycle Management Guidelines referenced by DCP 2013 Chapter 6.7 - Water Cycle Management.
- 2.18. The Structural Engineer's details are to be certified that they have been prepared in accordance with the details and recommendations of the Geotechnical Assessment Report No. 75583.01, prepared by Douglas Partners, dated December 2013.

### 3.. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. Any construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a Principal Certifying Authority prior to the commencement of any building works.

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

- 3.2. A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 3.3. Site works are not to commence until the sediment control measures have been installed in accordance with the approved plans.
- 3.4. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
  - a) The name, address and telephone number of the principal certifying authority for the work; and



- b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- c) That unauthorised entry to the work site is prohibited.

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

- 3.5. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The person having the benefit of this consent must provide the principal certifying authority with a copy of a signed contract with such licensed removalist before any development pursuant to the development consent commences.

Any such contract must indicate whether any non-friable asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

If the contract indicates that non friable asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

The person having the benefit of the consent must provide the principal certifying authority with a clearance certificate to be prepared by a competent person such as a qualified hygienist at completion of asbestos removal/work from the site.

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

- 3.6. Any Construction Certificate for the subdivision works within the private property must be issued prior to the commencement of any work.
- 3.7. The Principal Certifying Authority must ensure that the Project Arborist has clearly marked trunks of trees on site that are to be removed and ensure all parties/trades working on the site are fully aware of their responsibilities with respect to protection of trees to be retained.
- ~~3.8. Tree Protection measures are to be undertaken in accordance with all recommendations of the Arboricultural Impact Assessment, by M Shaw, dated 29 Nov 2013.~~
- 3.9. Compliance with all recommendations of the Preliminary Geotechnical Assessment (Douglas Partners, Reference: 75583.01, dated December 2013)
- 3.10. All parking areas shall comply with AS2890.1:2004 and vehicular access near the waste storage area shall comply with AS2890.2:2002

- 3.11. Tree Protection is to be undertaken in accordance with the recommendations of the Arboricultural Impact Assessment, by Michael Shaw, dated 29/11/13.
- 3.12. Compliance with the recommended mitigation measures contained within Section 5.5 of the *"Heritage Impact Statement for proposed Stage 1 Community Title Subdivision and associated infrastructure works"*, prepared by Chris Betteridge, MUSEcape Pty Ltd, dated 4 December 2013.

#### 4.. DURING WORKS

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

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

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

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

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

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

- i Minor renovation or refurbishments to single dwelling construction.
  - ii Owner occupied renovations or refurbishments to single dwelling construction.
  - iii Owner builder construction of single dwelling construction; and/or
  - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.3. To minimize the opportunity for crime, the development must incorporate the following:
- a Adequate lighting to AS1158 is to be provided to common areas.
  - b Landscaping adjacent to mailboxes and footpaths must not provide for the concealment opportunities for criminal activity.
  - c Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.4. This development is subject to DCP 2013 Chapter 7.2 – Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.
- 4.5. All recommendations of the geotechnical report must be implemented during works. This includes, but is not limited to, the carrying out of all inspections as required by the geotechnical engineering report with a view to the geotechnical engineer providing written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the recommendations contained within the geotechnical engineers report.
- 4.6. The works within the road reserve that required approval under the Roads Act shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.

- 4.7. The engineering works within private property that formed part of any Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.
- 4.8. Filling or debris must not be placed within any watercourse or drain.
- 4.9. Arrangements must be made with Energy Australia, Australian Gas Light Company and Telstra for the supply of services concurrent with the engineering work. Arrangements must include any relocation of existing mains and services and dedication of easements for mains and services.
- 4.10. Formed vehicular access must be provided to all residential lots, where Council's standard vehicular access cannot be achieved.
- 4.11. All existing building and structures must be connected to the stormwater systems.
- 4.12. All existing building and structures must be connected to the proposed sewer systems.
- 4.13. Supervision and certification for the construction of the bridges must be undertaken by a practicing Structural/Civil Engineer.
- 4.14. All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002.
- 4.15. A fire-fighting water supply shall be provided with Hydrant spacing, sizing and pressure complying with the specifications of Australian Standard A.S. 2419.1 - 2005 and have a flow rate of 10 litres / second.
- 4.16. Hydrant locations shall be delineated by blue markers placed on the hydrant side of the centreline of the road pavement.
- 4.17. During works a suitably qualified & licensed ecologist or wildlife handler must be located on site to inspect the removal of the hollow bearing tree 191. The hollow bearing tree to be removed must be sectionally dismantled and any resident fauna cared for and relocated as appropriate. A constructed nesting box will replace the removed hollow as recommended in the Flora & Fauna Gap Analysis Report (Robert Payne Ecological Surveys & Management, dated December 2013).  
  
Following the removal of the hollow bearing tree numbered 191 in accordance with this condition, the suitably qualified & licensed ecologist or wildlife handler shall notify Council in writing of compliance with this condition within 14 days.
- 4.18. To minimize the potential for erosion and sedimentation, fuel management must only remove the aerial parts of plants; roots of all plants must remain so that soil is undisturbed.
- 4.19. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.

- 4.20. Plant species used for landscaping must be restricted to locally native species appropriate to the locality and/or those introduced species that do not have known potential to become environmental weeds.
- 4.21. Stockpile of soil and other material shall be located away from sensitive environmental receptors, and if not to be used immediately, must be covered with an appropriate control such as geotextile fabric.
- 4.22. Any required fill material will only comprise of;

- I. Virgin Excavated Natural Material (VENM) as defined under Schedule 1 of the *Protection of the Environment Operations (POEO) Act 1997*.

This definition is as follows:

*"virgin excavated natural material" means natural material (such as clay, gravel, sand, soil or rock fines):*

*(a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and*

*(b) that does not contain any sulfidic ores or soils or any other waste,*

*and/or*

- II. Excavated Natural Material (ENM) that has been issued with an exemption under the *Protection of the Environment Operations (Waste) Regulation 2005* in accordance with the Excavated Natural Material exemption 2012.

The placement of any other type of fill material other than that defined under VENM or ENM is classified as prohibited under this consent.

- 4.23. The applicant shall provide Council with validation documents verifying and certifying that the material complies with the definition of VENM under Schedule 1 of the *POEO Act 1997* or an exemption issued under the Excavated Natural Material Exemption 2012 if ENM is placed on the land.
- 4.24. Any exposed soil surface areas must be grassed/landscaped to minimise soil erosion.
- 4.25. All external night lighting is to be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013).
- 4.26. The Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) is to be implemented.
- 4.27. Trees to be removed are to be those located within the footprint of road works and as listed within Appendix 2 "Tree survey data table", within the Arboricultural Impact assessment by M Shaw 29 Nov 2013 (except for 187f). Trees must be removed in a manner so as to prevent damage to those trees that are to be retained.
- 4.28. Heritage item trees (DCP175) are to be protected by accurately locating, fenced off and sign posted to warn of purpose, when within 20m of works.

- 4.29. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.30. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 4.31. The driveway design and loading area layout is to be designed in accordance with AS 2890.2-2002 Parking Facilities - Off Street Commercial Vehicle Facilities.
- 4.32. The waste truck servicing grade is to be 3% or less for the following areas:
- Within the enclosure
  - For bulk bin roll out pads
  - Within the 13m bulk bin and truck service area
- 4.33. The screened waste storage enclosure to be located as indicated on Draft Dwg No CGS2.01, dated February 2014, Amendments issued for comment 18 February 2014.
- 4.34. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.28. Any works to be carried out on a heritage listed building are to be carried out under the supervision of a suitably qualified heritage consultant.
- 4.29. Significant building elements, features, fixtures, fittings and fragile materials shall be adequately protected during construction from potential damage. Protection systems must ensure historic fabric is not damaged or removed.

## 5.. PRIOR TO ISSUE OF ANY SUBDIVISION CERTIFICATE

- 5.1. Prior to the issue of any Subdivision Certificate an instrument under the Conveyancing Act 1919 must be created on the Certificate of Title establishing a restrictive covenant detailing the areas to be maintained as a Asset Protection Zone in accordance with the Bushfire Protection Assessment Report, prepared by G. Swain - Australian Bushfire Protection Planners Pty Ltd, dated 4.12.2013 Ref: B121881-2. The restriction shall ensure the owner continually maintains the Asset Protection Zone in accordance with the recommendation and findings detailed in the Bushfire Report. The restriction is to be created at the applicants cost with the Council having the sole authority to release or modify.
- a. All lots within proposed Stage 1 shall be managed in perpetuity as an inner protection area (IPA) and all residual land zoned as residential within the remainder of the future development shall be managed as an asset protection zone(APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Services' document 'Standards for Asset Protection Zones'.

Written verification from a qualified person in Bushfire Protection or accredited by Fire Protection Association of Australia shall be submitted with the Subdivision Certificate attesting to the completion of such works.

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

- 5.3. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- 5.4. Temporary "T" turning heads shall be provided at the terminus of dead-end roads created in the construction of the individual development designs.
- 5.5. Any existing buildings within proposed Stage 1 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
- 5.6. Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of any Subdivision Certificate.

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

- 5.7. 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 any Subdivision Certificate.
- 5.8. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of the Subdivision Certificate.
- 5.9. A Subdivision Certificate must be issued for the subdivision prior to the registration of the final plan of subdivision and Section 88B Instrument.
- 5.10. Prior to issue of the Subdivision Certificate, separate underground electricity, gas and telephone or appropriate conduits for the same, must be provided to each allotment to the satisfaction of the utility provider. A suitably qualified and experienced engineer or registered surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and telephone. Alternatively, a letter from the relevant supply authorities stating the same may be submitted to satisfy this condition.
- 5.11. Proposed Lot 38 shown on the approved plan must be dedicated free of cost to Council as a public reserve, prior to the issue of the Subdivision Certificate.
- 5.12. Completion of the engineering works required within the development site in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', prior to the issue of the Subdivision Certificate.
- 5.13. Prior to the issue of the Subdivision Certificate the plan of subdivision and an instrument under the Conveyancing Act 1919 must establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision

- a. To create a Restriction As To User over all lots containing an on-site stormwater detention system restricting any alterations to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
  - b. To create a Restriction As To user over all lots containing a nutrient/pollution control facility restricting any alteration to such a facility or the erection of any structure over the facility or the replacement of any obstruction over the facility.
  - c. To create a right of access, right of carriageway and an easement for services as indicated on the approved plans and required under the Voluntary Planning Agreement. All right of ways shall be maintained at the full cost of the Co-operative
- 5.14. An instrument under the Conveyancing Act 1919 must establish the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. The covenant must be prepared by Council's Solicitor at the owner's cost prior to the issue of the Subdivision Certificate.
- a. To ensure on any lot containing an onsite stormwater detention system that:
    - The facility will remain in place and fully operational.
    - The facility is maintained so that it operates in a safe and efficient manner.
    - Council staff are permitted to inspect and repair the facility at the owner's cost.
    - Council is indemnified against all claims of compensation caused by the facility.
  - b. To ensure on any lot containing a nutrient/pollution control facility that:
    - The facility will remain in place and fully operational.
    - The facility is maintained so that it operates in a safe and efficient manner.
    - Council staff are permitted to inspect and repair the facility at the owner's cost.
    - Council is indemnified against all claims of compensation caused by the facility.
- 5.15. The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision Certificate.
- 5.16. Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.
- 5.17. The screened waste storage enclosure to be located as indicated on Draft Dwg No CGS2.01, dated February 2014, Amendments issued for comment dated February 2014.
- 5.18. Street tree planting and landscaping is to be provided generally in accordance with the Landscape Strategy Plan - drawing 3.03, Landscape Detailed Reference plans - drawing 3.11, Landscape Plan detail 1+2 - drawing 3.12, Landscape Plan detail 3+4 - drawing 3.13, Landscape Materials Palette - drawing 3.14 and Landscaping Planting Palette-drawing 3.15 (6 sheets), prepared by McGregor Coxall and dated 6 December 2013.
- 5.19. Prior to the issue of a subdivision certificate, the land upon which stand of Araucaria cunninghamii (Hoop Pines) is to be determined and transferred at no cost to Council and to be managed in conjunction with the open space/drainage system and floodplain.
- 5.20. The applicant shall obtain a Notice of Decision to commence commercial operations from the Minister responsible for the Water Industry Competition Act (WICA) 2006 prior to the issue of any Subdivision Certificate for the development.
- 5.21. Prior to the issue of any Subdivision Certificate, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed use of the existing dam for domestic water supply.

- 5.22. An Approval to Operate the on-site sewage management system is to be issued by Council's Waste and Emergency Services prior to the issue of a Subdivision Certificate
- 5.23. Prior to the issue of any subdivision certificate, a geotechnical engineer shall provide written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the submitted geotechnical report recommendations.
- 5.24. Compliance with the terms of the Voluntary Planning Agreement - "Deed", prepared by Storey & Gough Lawyers, Ref: CCG:070606, Deed made on 31 May 2013 between Gosford City Council and Narara Ecovillage Co Operative Limited in relation to Lot 13 DP 1126998 25 Research Road, prior to the issue of a Subdivision Certificate.
- 5.25. Submission of a Development Contract and Management Statement which is consistent with conditions of consent to the Principal Certifying Authority, prior to the issue of a subdivision certificate.

## 6.. ONGOING OPERATION

- 6.1. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.2. The Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) is to be implemented.
- 6.3. Waste and recycling bulk waste bins and MGB's to be presented for collection/servicing adjacent to the waste truck servicing location prior to servicing by the residents, caretaker or other internal management arrangement and returned to the screened waste storage enclosures immediately after servicing.
- 6.4. To ensure the survival and establishment of the landscaping, all works associated with the approved Landscape Plans are to be maintained for a period of 12 months from the date of the issue of an Occupation Certificate.
- 6.5. At the completion of the landscaping maintenance period any areas of lawn and plantings, including adjoining road reserve areas that are in a state of decline, damage or missing are to be replaced or restored to a healthy and vigorous condition and compliant with the approved detailed Landscape Plans and Development Consent Conditions.
- 6.6. Management of the Inner Protection Area (IPA), as required by the NSW Rural Fire Service.
- 6.7. Use of any private water supply shall comply with Australian Drinking Water Guidelines. The NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use.
- 6.8. Compliance with all recommendations contained within the Bushfire Protection Assessment, reference B121881-2 dated 4.12.2013 prepared by G.L. Swain – Australian Bushfire Protection Planners Pty Ltd except where such requirements are inconsistent with the general terms of approval issued by the NSW Rural Fire Service for a Bushfire Safety Authority under s100B of the Rural Fires Act 1997 and general terms of approval



issued by the NSW Office of Water for a controlled activity approval under the Water Management Act 2000 with respect to protection of riparian vegetation.

- 6.9 All heritage items are to be used and managed in accordance with the relevant Heritage Inventory Data sheets held in the office of the Council.
- 6.10 The Main Entrance gates, *syncarpai glomulifera* (Turpentine) and *taxodium distichum* (Bald Cypress) are to be retained and incorporated into an entrance statement for the subdivision/development, with consideration for interpretative signage.

## 7.. OTHER APPROVALS

### **Integrated Approval (NSW Rural Fire Service – Bush Fire Safety Authority)**

- 7.1. At the issue of subdivision certificate and in perpetuity, all lots within proposed Stage 1 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 7.2. At the issue of subdivision certificate and in perpetuity, all residual land zoned as residential within the remainder of the future development shall be managed as an asset protection zone (APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 7.3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 7.4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- 7.5. Temporary "T" turning heads shall be provided at the terminus of dead-end roads created in the construction of the individual development designs.
- 7.6. Any existing buildings within proposed Stage 1 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

### **Integrated Approval (NSW Office of Water – Controlled Activity Approval)**

- 7.7. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act 2000 from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank of the rivers that occur onsite. (For the purpose of these GTA, the watercourses described as the northern gully and the middle western gully are both considered to be rivers).
- 7.8. Compliance with the attached General Terms of Approval issued by the NSW Office of Water (Reference No.: 20 ERM2014/0011), dated 25 February 2014 for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act)
- 7.9. The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.

- 7.10 In relation to the proposed use of the existing dam for domestic water supply, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use, prior to the issue of a construction certificate.

## 8.. ADVICE

- 8.1. The public authorities may have separate requirements and should be consulted in the following aspects:
- a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 8.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 8.3. Any water or sewer works are to be undertaken with the consent of Council. Application is to be made with Council under the provisions of Section 68 of the Local Government Act 1993 prior to commencement of any works on the site.
- 8.4. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.111.1100.com.au](http://www.111.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 8.5. A fee for the approval of engineering plans under the Roads Act 1993 applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.
- 8.6. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 8.7. Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au) to download a form from the Water & Sewerage forms index.
- 8.8. Payment of a Subdivision Certificate fee must be made at time of lodgement of the subdivision plan with Council. The fee may be obtained from Council's Customer Service Unit on 4325 8222 or from Council's website <http://www.gosford.nsw.gov.au>.
- 8.9. The developer is referred to the requirements of the Environmental Planning and Assessment Act Section 109E (2). To clarify this section of the Act, you are advised that Gosford City Council's Environment Planning instrument does not permit accredited certifiers to undertake the role of the principal certifying authority for subdivisions in the Gosford Local Government area and therefore Gosford City Council can only be appointed as the Principal Certifying Authority (PCA).

In accordance with Section 81A (3) subdivision of the land (4) (b), it is the developer's responsibility to formally notify council of their appointment as the PCA and to notify Council the intention to commence works. Upon receipt of these notifications, Council will issue the developer with 'Terms of Appointment' which formalises the acceptance of the role of the PCA by council and sets out conditions to be satisfied prior to (including payment of inspection fees), during the course of the works, and upon completion.

As the PCA, Council will be responsible for undertaking all critical stage inspections as detailed in the Gosford City Council Construction Specifications. Council will issue a subdivision certificate upon conditions of consent being satisfied and all works being completed in accordance with Council's Design and Construction Specifications.

Council reserves the right to undertake all critical stage inspections as per the specification as deemed necessary in order to satisfy Council that the work is in accordance with the conditions, specifications, industry standards and accepted practice prior to issue of a subdivision certificate. Appointment of accredited certifiers for critical stage inspections by the developer shall not be accepted by Council unless expressly approved to do so in the 'Terms of Appointment'.

- ~~8.10. The applicant shall obtain a Notice of Decision to commence commercial operations (WICA) from the Minister prior to the issue of any future Occupation Certificate within the development site.~~
- 8.11. All right of ways shall be maintained at the full cost of the Co-operative.
- 8.12. This approval is for the subdivision of the land and ancillary works. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' may be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

- 8.13. The access roads across the floodplain to the E3 zoned area of Pt Lot 37 are not to be constructed. If development is to take place on this land further consent will be required and the standard of access works within the right of carriageway shall be determined by Council including the provision of flood free access to this land.
- 8.14. In relation to the proposed use of the existing dam for domestic water supply, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use. For further information regarding water licence approvals, please contact Alison Collaros, [alison.coilaroswater.nsw.gov.au](mailto:alison.coilaroswater.nsw.gov.au) or 49042527.
- 8.15. Should the proponent fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the proponent would need to lodge a section 96 application to modify the development consent.

The following conditions shall apply:

- Connection of the proposed development to Councils water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council's existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.
- The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.
- Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council's policy.
- The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Councils existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.
- The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.

#### 8.16. Aboriginal Cultural Heritage

The importance of protecting Aboriginal cultural heritage is reflected in the provisions under Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act). The NPW Act clearly establishes that Aboriginal objects and places are protected and may not be harmed, disturbed or desecrated without appropriate authorisation. Importantly, approvals under Parts 4 of the EP&A Act do not absolve the proponent of their obligations under the NPW Act.

The proponent should note that the provisions of the NPW Act have recently been amended and they should ensure they are familiar with the new requirements during the development and any subsequent assessment processes. Further advice regarding Aboriginal cultural heritage can be found on OEH's website at: [www.environment.nsw.gov.au/cultureandheritage.htm](http://www.environment.nsw.gov.au/cultureandheritage.htm).

The NPW Act requires consultation to be in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010' if impact to Aboriginal cultural heritage is unavoidable.

8.17. It is an offence under the National Parks and Wildlife Act 1974 to knowingly disturb an Aboriginal object or artifact without consent.

8.18. The location of sensitive sites as identified by the Aboriginal Cultural Heritage Aboriginal Archaeological & Cultural Heritage Assessment Report, dated May, 2006 prepared by Danny O'Brien - Environmental Appraisal & Planning Pty Limited should be considered during any future planning activities or development of the area. In this regard the following requirements shall apply:

- That no plans should be made to include walking trails within the subject site that lead to sensitive Aboriginal sites as indicated on the attached plan.
- The provision of fire trails or Asset Protection Areas (APZ) to protect any future development of the site, then these fire trails or APZ should not be constructed within or towards the direction of Aboriginal sites or to any location near Aboriginal sites present within or adjacent to the subject site.
- That should fire trails or Asset Protection Zones be required to be established to protect future dwellings, then a detailed Aboriginal archaeological site survey be undertaken to ensure that any cryptic or sub-surface sites are considered.
- That prior to any hazard reduction burns undertaken by the NSW Rural Fires Service (RFS) in the future, or with the development of Fire Management Plans to be prepared for the area, then the scarred and carved trees should be located on the ground to ensure that these trees are fully protected from direct flame. It is critical that the Department of Environment & Conservation's National Parks & Wildlife Service's Cultural Heritage unit, the Darkinjung Local Aboriginal Land Council and an archaeologist be contacted in relation to any hazard reduction fires within the subject site in the future. Scarred or carved trees are highly sensitive to the effects of bushfires and need to be protected from bushfire events.
- That the occurrence of Aboriginal sites within the subject site or environs not be advertised or made public.
- That strict erosion and sedimentation control plans be developed to ensure that sedimentation does not impact on any Axe-grinding grooves in the locality.
- Should any Aboriginal relics, Aboriginal cultural artefacts or archaeological deposits be uncovered in the development areas, then all works should cease and the Darkinjung Local Aboriginal Land Council shall be contacted. Should the remaining areas be at a latter stage considered for development, that a more intense archaeological assessment be undertaken.

## 9.. PENALTIES

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

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

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

### **Warnings as to Potential Maximum Penalties**

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

## **10.. RIGHT OF APPEAL**

10.1. Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.

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



## Attachment A



Department of  
Primary Industries  
Office of Water

Contact: Algis Sutse  
Phone: 02 4348 5014  
Fax:  
Email: [algis.sutse@water.nsw.gov.au](mailto:algis.sutse@water.nsw.gov.au)  
Our ref: 20 ERM2014/0011  
Our file:  
Your ref: 44994/2013

The General Manager  
Gosford City Council  
PO Box 21  
Gosford NSW 2250

Attention: Diane Spillhill

25 February 2014

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: 44994/2013**  
**Description of proposed activity: 40 Lot residential subdivision**  
**Site location: 25 Research Road, Narara**

I refer to your recent letter dated 20 December 2014 regarding an Integrated Development Application (DA) proposed for the subject property. Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes: (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

-2-

- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

**The attached GTA are not the controlled activity approval.** The applicant must apply (to the Office of Water) for a controlled activity approval **after** consent has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from the Office of Water's website:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)    [Water licensing](#) > [Approvals](#) > Controlled activities

Other approvals required under the Water Management Act 2000

In relation to the proposed use of the existing dam for domestic water supply, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use. For further information regarding water licence approvals, please contact Alison Collaros, [alison.collaros@water.nsw.gov.au](mailto:alison.collaros@water.nsw.gov.au) or 49042527.

The Office of Water requests that Council provide a copy of this letter to the applicant.

The Office of Water also requests that Council provides the Office of Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Algis Sutas  
Senior Water Regulation Officer  
Office of Water - South Coast / Hunter

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

31/07 Mann Street, GOSFORD | PO Box 340, GOSFORD NSW 2250 | Tel (02) 4348 5014  
| [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | ABN 72 189 919 072



## General Terms of Approval

for work requiring a controlled activity approval  
under s91 of the Water Management Act 2000

Our Reference:	20 FRM20/4/0011	File No:
Site Address:	25 Research Road, Narrara	
DA Number:	44994/2013	
LGA:	Gosford City Council	

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 44994/2013 and provided for Council by NSW Office of Water as part of the Development Application.  Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified in advance if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land within 40 metres of the top of the bank of the rivers that occur on site. (For the purpose of these GTA, the watercourses described as the northern gully and the middle western gully are both considered to be rivers).
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water/Licensing/Approvals/controls">www.water.nsw.gov.au/Water/Licensing/Approvals/controls</a> page: (i) Vegetation Management Plans (ii) Laying pipes and cables in watercourses (iii) Riparian Corridors (iv) In-stream works (v) Culvert structures (vi) Watercourse crossings
5	The consent holder must: (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity on or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
<b>Rehabilitation and maintenance</b>	
6	N/A
7	The consent holder must restore waterfront land affected by the carrying out of any controlled activity.

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

2117 Minto Street, GOSFORD | PO Box 140, GOSFORD NSW 2250 | Tel: (02) 4348 9544

[environment@water.nsw.gov.au](mailto:environment@water.nsw.gov.au) | 1800 72 180 919 072

<b>Our Reference:</b> 20 ERM2014/0011		<b>File No:</b>
<b>Site Address:</b> 25 Research Road, Ilarara		
<b>DA Number:</b> 44994/2013		
<b>LGA:</b> Gosford City Council		
<b>Number</b>	<b>Condition</b>	
	in accordance with a plan or design approved by the NSW Office of Water	
<b>Reporting requirements</b>		
8	The consent holder must use a suitable qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.	
<b>Security deposits</b>		
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.	
<b>Access-ways</b>		
10	The consent holder must design and construct all ramps, stairs, access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.	
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.	
<b>Bridge, causeway, culverts, and crossing</b>		
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.	
13	The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct waterflow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.	
<b>Disposal</b>		
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks, are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.	
<b>Drainage and Stormwater</b>		
15	The consent holder is to ensure that all drainage works (i) capture and convey runoff, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.	
16	The consent holder must establish drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.	
<b>Erosion control</b>		
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and	

<b>Our Reference:</b>	20 ERM2014/0011	<b>File No:</b>
<b>Site Address:</b>	25 Research Road, Narara	
<b>DA Number:</b>	14884/2013	
<b>LGA:</b>	Gosford City Council	

Number	Condition
	structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
<b>Excavation</b>	
18	The consent holder must ensure that no excavation is undertaken on water front land other than in accordance with a plan approved by the NSW Office of Water.
19	The consent holder must ensure that any excavation does not result in (i) channel of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
<b>Maintaining river</b>	
20	N/A
21	N/A
<b>River bed and bank protection</b>	
22	N/A
23	The consent holder must establish a riparian corridor upon water front land in accordance with a plan approved by the NSW Office of Water.
<b>Plans, standards and guidelines</b>	
24	N/A
25	N/A
26	N/A
27	N/A
<b>END OF CONDITIONS</b>	



**TITLE**            **DEVELOPMENT APPLICATION NO. 44898/2013 PART 1**  
**APPLICANT: NARARA ECOVILLAGE CO-OPERATIVE LTD**  
**PROPOSED: DEMOLITION EXISTING STRUCTURES & CONSTRUCT 10**  
**CLUSTER HOUSES & ASSOCIATED INFRASTRUCTURE & LANDSCAPING**  
**WORKS ON LOT: 13 DP: 1126998, 25 RESEARCH ROAD NARARA**  
Directorate:        Environment and Planning  
Business Unit:     Development

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

## **EXECUTIVE SUMMARY**

**Assessing Officer:** D Spithill

**Reviewing Officer:** IDEP

**Application Received:** 06/12/2013

**Estimated Value:** \$2,700,000.00

This application is subject to saving provisions under Gosford Local Environmental Plan 2014 and as such must be determined as if this plan had not commenced. The assessment and determination of this application has been made under Gosford Planning Scheme Ordinance.

**Synopsis:** An application has been received for a demolition of five existing structures and construction of 10 cluster houses and associated infrastructure and landscaping works. The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development, relevant SEPPs and DCPs.

The proposal has a number of non compliances with the requirements under the GPSO and DCP 127 which have been addressed in the report. The proposal will not detract from the character or scenic qualities of the area or have unreasonable impacts on the environment.

The proposal is recommended for **approval** subject to conditions.

**Zone:** Previous Zoning: GPSO: 2(a) Residential and 6(a) Open Space (Recreation)  
IDO 122: 6(b) Open Space (Special Purposes) – Forestry, 7(c2) Scenic Protection  
Rural and 7(a) Conservation  
Current Zoning: LEP 2014: RE1 Public Recreation / Part RU3 Forestry / Part E2  
Environmental Conservation / Part R2 Low Density Residential / Part E3 Environmental  
Management

**Area:** 62.97ha

**Permissible Development:** Cluster housing is permissible with consent on land zoned 2(a) Residential under the GPSO.

**Section 94 Contributions:** A section 94 contribution plan has not been prepared for the site and as such no contributions can be levied.

**Public Submissions:** Two (2)

**Pre-DA Meeting:** Not Held

**Political Donations:** None declared

**Relevant Statutory Provisions**

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 Gosford Local Environmental Plan 2014
- 4 Gosford Planning Scheme Ordinance
- 5 Interim Development Order No 122
- 6 Development Control Plan No 175 – Gosford Horticultural Institute
- 7 State Environmental Planning Policy No 1 – Development Standards
- 8 State Environmental Planning Policy No 71 – Coastal Protection
- 9 State Environmental Planning Policy No 55 – Remediation of Land
- 10 State Environmental Planning Policy No 19 – Urban Bushland
- 11 Water Industry Competition (WICA) Act
- 12 Rural Fires Act 1997

**Key Issues**

- 1 Gosford Planning Scheme Ordinance (Permissibility, Clause 27A – width to depth of land ratio, SEPP 1 Objection, Zone Objectives, Character, Clause 29B Floor Space Ratio, Heritage)
- 2 Gosford Local Environmental Plan 2014 - Consistency
- 3 DCP 175 – Gosford Horticultural Institute Rezoning
- 4 DCP 127 – Cluster Housing: Non Compliance (location, setbacks, open space and landscaped area, height-maximum building envelope, car parking location and provision, vehicle manoeuvring)
- 5 Site Contamination
- 6 Voluntary Planning Agreement
- 7 Waste Management
- 8 Traffic, Access and Roadworks
- 9 Roads and Maritime Service (RMS)
- 10 Bushfire Protection
- 11 Geotechnical Assessment
- 12 Flooding and Drainage
- 13 Servicing Considerations / Integrated Water Management System
- 14 Water and Sewer Directorate Comments
- 15 Deferred Commencement / Community Title Subdivision Plan
- 16 Environmental Assessment
- 17 Tree Removal
- 18 Scenic Quality/Visual Impact
- 19 Accessibility
- 20 Crime Prevention through Environmental Design
- 21 Amenity Impacts
- 22 Other Internal Assessment Comments
- 23 Climate change and sea level rise
- 24 SEPP 71 – Coastal Protection
- 25 Integrated Approval Water Management Act 2000 – NSW Office of Water
- 26 Public Submissions

**Recommendation**

Approval

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**REPORT**

## Background

The site comprises approximately 62.97 hectares of land which was acquired by the Narara “Ecovillage” site (NEV) from the Department of Primary Industry in September 2012. The site was previously zoned 5(a) Special Use (Experimental Station) under IDO 122 and was occupied and operated as the Gosford Horticulture Research and Advisory Station. Gosford LEP 464 was gazetted on 1.2.2008 which rezoned the site to facilitate the future development and use of the land primarily for residential purposes.

Development consent 44650/2013 was issued on 31.01.2014 for the establishment of use to occupy 4 existing buildings on the site of the former Narara Agricultural Research Station, which involves continued use of two existing dwellings for residential purposes to be used by the site manager and caretaker, as ancillary uses to the on-site community facilities (care maintenance and security of the site) and two other buildings which are to be utilised for community purposes (marketing, monthly meetings open days community visits).

## Other Applications

Three development applications have been lodged which relate to the subject land and are currently under assessment. The two other DAs are DA 44899/2013 to demolish existing structures and construct 17 Cluster Houses and DA 44994/2013 for a community title residential subdivision of the site into 40 lots including the two proposed cluster sites.

## Proposal

The proposal is for a 10 unit cluster development on Lot 13 DP 1126998. The development will be sited on proposed Lot 15 which is a proposed lot associated with a 40 lot community title subdivision of the site formerly known as the Gosford Horticultural Research & Advisory Station (“research station”). The proposed 40 lot community title subdivision is subject to a separate development application currently under assessment (DA44994/2013).

This cluster housing proposal includes the following works:

- Demolition of 5 existing single storey buildings and structures within proposed Lot 15;
- Cluster housing development comprising 10 Units , two (2) x 1 storey units and eight (8) x 2 storey units, ranging in size from approximately 68m<sup>2</sup> to 123m<sup>2</sup> gross floor area;
- Onsite parking for 10 vehicles;
- Communal areas and associated landscaping; and
- Associated infrastructure works.
- Retention of existing heritage Item- former Manager’s cottage



Figure 1: Proposed development (Source: Baxter & Jacobson Architects Pty Ltd)

The proposal includes works within 40 metres of the northern gully on the site, which is classified as a first order stream. Therefore, the provisions of the *Water Management Act 2000* apply and the DA is required to be referred to the NSW Office of Water (NOW) for Issue of their general terms of approvals. Therefore, the DA is integrated development under Section 91 of the *Environmental Planning and Assessment Act 1979*.

### Site

The site (Lot 13 in DP 1126998) has a total area of approximately 62.97 hectares of which the portion of the site zoned 2(a) Residential is approximately 11.5 hectares of land and is accessed from Research Road via Fountain Road. The site currently contains in excess of 56 buildings and structures that were used during its former occupation as the Gosford Horticultural Research and Advisory Station and a large dam. The site is bounded by rural residential development to the south and the east, residential lots to the east and the south-east, and dense bushland to the west, north, north-east and south-west. The surrounding residential development predominantly comprises standard residential lots with a mix of single and two storey dwellings. Strickland State Forest adjoins the site to the north and the west. **(Refer Aerial Photograph for location).**



Figure 2: Site of proposed cluster development is shaded green (Source: SEE)

The site for the proposed cluster housing at proposed Lot 15 is located at the north eastern side of the 2(a) zone land and contains the heritage listed Managers Cottage, old horticultural planting sheds and greenhouses and a variety of native and non-native ornamental and fruit trees. The development site (proposed Lot 15) is approx 7,299m<sup>2</sup> and is bisected by the main access road (Research Road) that runs through the site. The site has areas of sloping land with overall falls west to east and is essentially terraced across 3 main level.



The site adjoins land zoned Open Space 6(a) which is subject to a VPA to dedicate this land to Gosford Council.

Vehicular access to Lot 15 is primarily provided through Research Road, which is proposed as a 3.5 metre one-way road running south to north bisecting the site. Vehicular access to the upper units (units 1-4) will be accessed off the 5.5 metre 2 way upper ring road off Research Road to the north-west (Road 2). Vehicular access to the lower units (units 5-10) is proposed from an existing driveway to the south of the site running parallel to Research Road on the lower part of the site to the west. A separate access road for the bushfire purposes is being proposed adjoining the site on the eastern boundary, which will also provide access to the Open Space 6(a) land as required by the VPA.

The site is characterised by a number of mature trees including several trees that have the potential to be affected by the proposal.

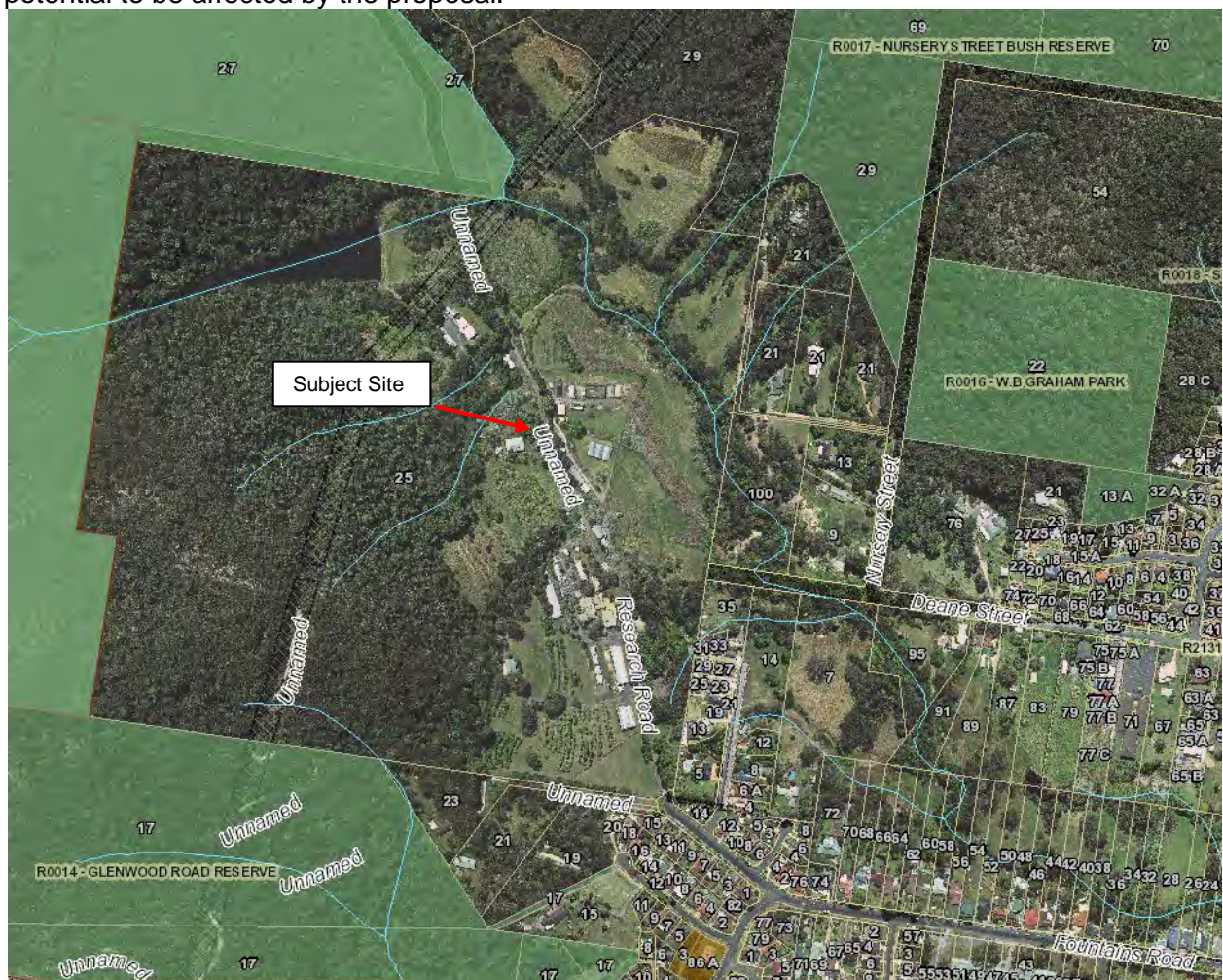


Figure 3: Site and Surrounds

## Assessment

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports approval of the application and has identified the following key issues which are elaborated upon for Council's information.

## Gosford Local Environmental Plan 2014

Under Clause 1.8A of Gosford Local Environmental Plan 2014 the application is to be assessed and determined as if the plan had not commenced. The assessment and determination of this

application has been made under Gosford Planning Scheme Ordinance and Interim Development Order No 122.

### **Gosford Planning Scheme Ordinance (Permissibility, Zone Objectives, Character, Heritage)**

#### **a Permissibility**

The subject land has multiple zonings comprising 6(a) Open Space (Recreation)-GPSO/ 2(a) Residential under the GPSO and 6(b) Open Space (Special Purposes) – Forestry / 7(c2) Scenic Protection Rural and 7(a) Conservation under IDO 122. The cluster development is to be sited entirely within the 2(a) zoned land and is therefore subject to the provisions of the GPSO.

**“Cluster development”** means the erection of 3 or more dwellings on a single allotment of land and is permissible with consent on land zoned 2(a) residential.

#### **b. Clause 27A of the GPSO**

Clause 27A of the GPSO stipulates the following requirements:

- 27A. (1) *This clause applies to land within Zone No. 2(a).*
- (2) *A person shall not, except with the consent of the Council, carry out development for the purposes of cluster development on land to which this clause applies:-*
- (3) *The Council shall not grant any such consent unless -*
- (a) *the area of the land on which the development is proposed to be carried out is not less than 3 500 square metres; and*
  - (b) *the ratio of the width of the land at the building line to the depth of the land is not less than 1:2 and not more than 2:1.*

The proposal will be sited on 2(a) zoned land which has an area well in excess of 3500m<sup>2</sup> (Lot 13 DP1126998) and complies with subclause 27A(3)(a).

It is proposed to subdivide the land (community title subdivision) under DA 44994/2013 to facilitate the cluster housing development. The cluster development will be sited on proposed Lot 15 which will have an area of 7299m<sup>2</sup>. The proposal will not comply with the width to depth ratios specified under subclause 27A (3)(b). In this regard, proposed Lot 15 is irregular in shape some 140m long in the north-south direction and has a variable width at the building line (Research Road bisects the site), ranging from 35m at the southern end to approx 55m wide near the northern end.

As the application has been lodged over the entire parcel of land being Lot 13 DP 1126998 (which has not been subdivided at this stage) and the irregular shape of the land parcel, it is not practical to calculate or apply the width to depth ratio under such circumstances. In rough estimates, the maximum length of the land parcel is approx 950m and average width of 350m which equates to a width to depth ratio of 2.7:1.

The Statement of Environmental Effects advises the following in relation to compliance with clause 26A(3)(b):

*“Clause 27A(3)(b) is designed to prevent irregular shaped lots being used for cluster housing within established residential areas that may not be able to respond to Council identified building lines for the locality - resulting in poor development outcomes. A building line is defined in the GPSO as follows:*

**“Building line”** means the line fixed by the Council under the policies and Development Control Plans of the Council, between which any public place, public reserve, ocean, river or waterway a building may not be erected.

*The Co-operative is unaware of any building line being specified in a Council policy or DCP as being relevant to the site. As the NEV site is a private estate and Lot 36 has frontage to a private road, this provision is not considered to be applicable in this case."*

### **Assessment Comment**

The applicant contends that a building line is not specified or relevant in this instance as the roads in the development are private internal access road to service the Narara Valley Ecovillage site.

Clause 8.1 (d) of DCP 175 - Gosford Horticultural Institute Rezoning requires all development is to comply with Council's adopted Development Control Plans and policies that may be applicable to all components of the development. Clause 3.5.2 of DCP 127 –Cluster Housing stipulates a minimum six (6) metre building line applies to all developments.

### **SEPP 1 objection- Width to depth of Land Ratio**

The proposal does not comply with the ratio of the width of the land at the building line to the depth of the land range of 1:2 and not more than 2:1 as stipulated under clause 27A(3)(b) of the GPSO. The applicant has submitted a SEPP 1 objection to vary the standard. **(Refer Attachment B)** with the following reasons supporting such variation:

*"Compliance with this standard is not required to achieve the objectives of the clause. The proposal is consistent with the objectives of the clause for the following reasons:*

- *The proposed Lot 15 is 7,200m<sup>2</sup> which exceeds the minimum lot size requirement of 3,500m<sup>2</sup> required by Clause 27(3)(a) of the GPSO.*
- *The proposal assists in urban consolidation by providing cluster housing in combination with other housing types and choice on the NEV site.*
- *The proposal provides exceptional levels of internal and external amenity for future occupants.*
- *The proposal is compatible with the character of the locality and is well served by local services both within and outside the NEV site.*
- *The proposal provides for sufficient open space both for Lot 15 and within the NEV site.*

*Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case?*

*Strict compliance with this standard is considered unreasonable or unnecessary in the circumstances of the case. As the NEV site is a private estate and Lot 15 has frontage to private roads, this provision is not considered to strictly apply. Notwithstanding, the proposal is not considered to lead to any detrimental impacts on the environment, streetscape or neighbouring properties."*

### **Assessment Comment**

*State Environmental Planning Policy No 1 - Development Standards* provides that a development standard contained within an environmental planning instrument may be varied where objection is well founded and where strict compliance with those standards would in a particular case be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

In deciding whether to consent to the variation of development standards in a particular case, the consent authority should examine whether the proposed development is consistent with the State, regional or local planning objectives for the locality, and in particular whether the underlying purpose of the development standard will be achieved despite the proposed variation.

Assessment of the SEPP 1 objection to the width to depth of land ratio has been assessed applying the "*underlying object test*" using the 5 part test suggested in *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79 as follows:

1. "Is the planning control in question a development standard"?

The ratio of the width of the land at the building line to the depth of the land range of 1:2 and not more than 2:1 as stipulated under clause 27A(3)(b) of the GPSO is a numerical development standard for the purposes of SEPP 1- Development Standards, and may be varied by the consent authority pursuant to the provisions of the Policy.

2. "What is the underlying objective or purpose of the development standard"?

The GPSO does not contain any stated objectives for the width to depth of land ratio development standard. However the underlying objectives of the standard can be derived from the site characteristics objectives which are stated in clause 3.1.1 of DCP 127:

- To provide sufficient area and dimensions to enable the construction of dwellings, private open space vehicle access and parking.
- To ensure that elements of the site including dimensions, slope and orientation provide maximum opportunities for future building design, privacy, solar access and useable outdoor living space.
- To ensure that the development is in character with the locality and has regard to specific landform features.
- To ensure that the site area is sufficient to achieve satisfactory amenity for both the internal and external occupants.

3. "Is compliance with the development standard consistent with the aims of the Policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in Section 5(a)(i)(ii) of the Environmental Planning and Assessment Act?"

A general aim of the policy is to encourage the provision of housing that will increase the supply and diversity of residential housing. Approval of the proposal still permits the orderly and economic development of land for the purpose of residential housing despite non compliance with the development standard relating to minimum and maximum width to depth land ratios.

4. "Is compliance unreasonable and unnecessary in the circumstances?"

The proposed non-compliance does not undermine or frustrate the underlying objective of the standard.

The proposal is considered to be consistent with the underlying objectives of the development standard for the following reasons:

- It is considered that the site provides sufficient area and dimension to permit the construction of cluster housing units with adequate private and communal open space areas which has favourable solar orientation and parking to service the likely parking demand generated by the development.
- The development has been designed having regard to existing terraces and slope to minimise site disturbance.
- The proposed cluster housing has been designed to be integrated with its surrounds and is compatibility with existing low density residential development and character of the locality and desired character objectives for the site.
- The dwellings have been designed to minimise adverse amenity impacts in terms of loss of privacy, views and solar access and ensure development is not excessive in terms of visual bulk.



In addition, as the application has been lodged over the entire parcel of land being Lot 13 DP 1126998 (which has not been subdivided at this stage) having regard to the irregular shape of the land parcel, it is not practical or reasonable to apply the width to depth ratio under such circumstances.

Accordingly, the SEPP 1 objection is considered to be well founded and strict adherence to the width to depth land ratio development standard under clause 27A(3)(b) of the Gosford Planning Scheme Ordinance is considered to be unreasonable and unnecessary in the circumstances of the case.

**5 "Is the objection well founded?"**

The objection to Clauses 27A (3) (b) is well founded as the proposal does not undermine the underlying objectives of the standard.

**b Objectives of Zone**

Clause 10(3) of the Gosford Planning Scheme Ordinance stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

The proposal is considered compatible with the low density residential environment and will be largely unseen from surrounding residential areas. The proposal will be largely self-contained and will generate minimal additional traffic and proposes an integrated water cycle management with a closed on-site sewerage system.

In this instance, it is considered that the proposal is consistent with the stated objectives of the 2(a) Residential zone under the GPSO as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act.

**c Character**

Clause 10(4) of the Gosford Planning Scheme Ordinance stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

Development Control Plan 159 - Character, requires development applications to demonstrate consistency or compatibility with the development objectives as defined by the relevant "Statement of Desired Character". The relevant desired character statement - Narara 14: Scenic Buffer, stipulates a number of development objectives which are reproduced below:

*"These should remain rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City's major roads and tourist routes are preserved by appropriate very-low density residential developments ...that have a modest impact on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.*

*Retain natural slopes and prevent further fragmentation of the tree canopy .... Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants ...Limit intrusion of structures upon their landscape setting by concentrating new buildings and pavements in existing clearings. Use low-impact construction such as suspended floors and decks rather than extensive cut-and-fill, particularly on elevated slopes or near bushland.*

*In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection*

*zones by fire resistant siting, design and construction for all new structures plus effective management of gardens. ...*

*Maintain the informal character of existing semi-rural hillsides by avoiding tall retaining walls, extensive terraces or broad driveways that would be visible from any road or nearby property, and provide boundary fences that are see-through such as traditional post-and-rail designs.*

*Surround all buildings with extensive garden setbacks, planted with new trees and shrubs that are predominantly indigenous to complement the established canopy. Noxious or environmental weeds must not be planted, and existing infestations should be controlled. In order to minimise their scale and bulk, all new structures that would be visible from a road or nearby property should reflect the modest character and simple articulation of traditional farm buildings. For example, divide floorspace into a series of linked pavilion structures or wings of rooms that are surrounded by landscaped courtyards, and preferably, provide parking in carports or separate garages. Roofs should be simple hips or gables without elaborate articulation, gently-pitched to minimise the height of ridges and flanked by wide eaves or extensive verandahs to disguise the scale of exterior walls. (In bushfire prone areas, verandahs, roofs and suspended floors must be screened to prevent the entry of sparks and flying embers.)*

*Disguise the scale of facades that are visible from the street by incorporating extensive windows and verandahs, some painted finishes rather than expanses of plain masonry, and avoid wide garages that would visually-dominate any frontage. Ensure that outbuildings are compatible with the scale and design of their associated dwelling, particularly by using a similar roof pitch and wide eaves."*

The proposal is consistent with the key objectives of the character statement. In this regard the proposal will provide:

- A low density form of residential development with low impact facilities
- Building designs which will retain natural slopes and retain natural tree canopy where possible having regard to bushfire requirements.
- New buildings and pavements in existing cleared or previously developed areas of the site (i.e. built up areas previously occupied by the Horticultural Research buildings).
- Building designs which will utilise low-impact construction such as suspended floors and decks and avoid extensive cut-and-fill and tall retaining walls, extensive terraces or broad driveways.
- Buildings which have simple articulation with parking in single garages and several separate uncovered car parking areas in proximity to the dwellings. Roofs are simple in form.
- Bushfire mitigation measures will reduce hazard to an acceptable level and will not result in excessive clearing to maintain asset protection zones.

As such, the proposal does not detract from the character of the immediate locality.

#### **d Clause 29B Floor Space Ratio**

Clause 29B of the GPSO stipulates a maximum floor space ratio of 0.5:1 for development in the 2(a) zone (other than dwellings or residential flat building). The gross floor area of the 10 cluster housing units 968m<sup>2</sup> and the Heritage item (approx 187m<sup>2</sup>) is 1155m<sup>2</sup>. Based on a total site area of 7,299m<sup>2</sup>(proposed lot 15), the proposal has a floor space ratio of 0.16:1 and complies with the requirement.

#### **e Heritage**

The property is registered as containing heritage items and the provisions of Clause 49T of the GPSO are required to be considered in respect to any items of environmental significance.

The only heritage item relevant to this application is the former Manager's Cottage an item that is listed as a local heritage item in the GPSO as 'Manager's Cottage, Hen House (former Shower Block) and curtilage, Gosford Horticultural Institute, Research Road, Narara.'

**Figure 4; Proposed Units 1-4 in relation to heritage item and curtilage (Source: SEE and Baxter Jacobson Architects).**



### Heritage Architect's Comments

The application was referred to Council's Heritage Architect who has provided the following assessment:

*"The application proposes the construction of ten new residences. Four of the residences are located adjacent to an item of Environmental Heritage in Schedule 8 of the Gosford Planning Scheme Ordinance. This is the former Manager's Cottage. It is significant because:*

*"The cottage is demonstrative of the architecture of the early 1900s. Has associations with and earlier use as an accommodation block for an old forestry school. Set within a fenced garden, the cottage is a large timber framed, partly weather board clad, partly fibro clad cottage with corrugated iron roof and verandah on four sides. The interior retains many original features including some skirting boards and architrave, four panelled doors with transoms and fanlight over.*

*The former c.1950s bathroom has been renovated in recent years as has the kitchen. Most ceilings appear to have been replaced. One chimney survives, together with a fire place and timber mantel".*

### Heritage Assessment

*This application has been assessed in accordance with 'Statements of Heritage Impact' published by the NSW Heritage Office. It lists the following items for consideration.*

#### 1. How is the impact of the new development on the heritage significance of the item or area to be minimised?

*Four of the new dwelling, numbers 1,2,3 and 4 are considered to have a major detrimental impact on the heritage significance of the heritage significance of the item because of their location within the curtilage of the Manage Cottage and their obstruction of views.*

*It is acknowledged that dwellings 2, 3 and 4 are single storey however each is over 5 metres high and approximately 7 metres above the road. The survey levels clearly indicate, they will almost entirely block any view of the heritage item from the road.*

*Dwellings numbers 5 to 10 are located on the opposite side of the road and therefore will have far less impact on views of the heritage item.*

**2. Why is the new development required to be adjacent to a heritage item?**

*Dwellings 1, 2, 3 and 4 do not have to be located within the curtilage. It is acknowledged there are some constraints but there is adequate area within the total site to accommodate these four dwellings without impacting on the heritage item.*

**How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?**

*The existing curtilage makes a major contribution to the retention of the heritage significance. The Manager's Cottage is located at the top of the site which slopes down towards the road on the north east and north west.*

*This location permits views of the cottage from both roads and though these are partly interrupted by trees but this is considered to complement the cottage and are appropriate considering the sites former use as a horticultural research facility.*

*The four dwellings located on the curtilage of the Manager's Cottage block all views of the cottage and the existing landscape.*

**3. How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects?**

*As set out previously, dwellings 1,2,3 and 4 all block views to the item and when combined almost totally obscure the important north and east elevations.*

**4. Is the development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected?**

*There are no known archaeological deposits on the site.*

**5. Will the public and users of the item, still be able to view and appreciate its significance?**

*Houses 1, 2, 3 and 4 will obscure the important and prominent upward view of the item from the road and have a severely detrimental impact on its significance.*

**Conclusion**

*The application is strongly opposed in its present form as has a major detrimental impact on the heritage significance of the Manager's Cottage.*

*This is a significant building in a prominent location within the larger site. To surround it with other buildings and obscure all views to and from it is completely contrary to proper heritage conservation practice and cannot be supported under any circumstances.*

*There is adequate area within the total site to relocate these four dwellings without impacting on the heritage item and a revised application that preserves the existing curtilage, landscape and views and locates dwellings 1,2,3 and 4 on a different area of the site could be considered acceptable.*

**Applicant's Response to Council's Heritage Assessment Comments**

The applicant has submitted the following information in response to Council architect's heritage assessment:

**"Response (Point 1.)**

*The design and location of Units 1-4 has been devised to:*

- maximise the curtilage around the Manager's Cottage



- minimise view loss from its verandah by sinking the single storey buildings into the site and creating view corridors between them
- create building platforms that minimise impact on tree root zones due to cut and fill and to ensure the gradient of entry paths from the parking area is suitable and compliant with accessibility requirements (for accessible unit)

*These units are carefully planned to respond to the heritage item and its surrounds through setbacks, landscape setting and provision of limited car spaces. Building setbacks vary in response to site conditions and constraints including preserving view lines to the heritage item in accordance with the HIS prepared by MUSEcape Pty Ltd submitted with the DA.*

*While the erection of dwellings 1 to 4 will result in a change to the setting of the former manager's residence and will obstruct some views to and from the residence, in my opinion, the impact on the aesthetic significance of the heritage item is within the limits of acceptable change, striking a balance between conservation of heritage values and economic viability of the adaptive new use for the site.*

#### Response (Point 2)

*The level difference between the internal road and the heritage building is less at southern most part of the site, which is also the location of the existing entry steps to the item. This provides the best opportunity to view the house from the road, where a view corridor has been maintained. Following advice from our heritage consultant, a proposed fifth house on this location was deleted from the proposal in order to maintain this view corridor. Further north from this location, the road drops away and view lines are substantially obscured by mature trees. It is considered that the site line from the internal road to the heritage item will not be improved by lowering the dwellings. This is illustrated in the Site Section A, Drawing DA S.6.1 submitted with the DA.*

*In addition, the roof of the rear of Unit 4 is flat and capped with a roof garden to maintain views from the heritage building verandah, across the site to the east.*

*Important view corridors to the former manager's residence from the main internal road and from the former entrance drive to the north of the residence will be retained. From the 1920s the area between the former manager's residence and the main internal road was heavily planted with trees, many of which have since been removed. The area is more open now than at many times since the 1920s but existing trees still partly obscure views from the main internal road to the house.*

#### Response (Point 3)

*We disagree that the current proposal will obscure all views to and from the former Manager's cottage. As detailed above, the proposal maintains the primary view corridor to the building. The proposed dwellings are located to minimise cut and fill and preserve extensive views from the item across the valley. This view corridor is an historic view reflected in a number of archival photographs of the residence.*

*Although the new view will be changed from the current view to include landscaping and the roofs of the new dwellings, it is our opinion that this is within the limits of acceptable change, subject to the implementation of mitigating measures as recommended in the HIS submitted with the DA.*

#### Response (General)

*Hill Thalys Architecture & Urban Projects prepared a Concept Masterplan to deliver environmental, social and economically sustainable development on the site. This Masterplan was the result of detailed site investigations and planning and it identified opportunities for 2 cluster housing sites at Lot 15, which is the subject of this DA and Lot 36 (subject to a separate DA).*

*The Masterplan nominated the location of these cluster sites following a detailed analysis of:*

- existing site constraints, in particular bushfire and flooding and environmental issues
- protection and respect of existing heritage items (including the Manager's Cottage)
- topography of the NEV site
- access requirements
- location of lot 15 in the context of the site and ecovillage principles
- best practice urban design principles
- economic viability of the project

*The proposed location, siting and design of 10 units on Lot 15 clearly addresses the above constraints, challenges and planning requirements of the site. At the time of lodgment, the cluster housing could only be located on areas zoned residential within the site. A large majority of the total site is zoned for environmental purposes, which prohibits this form of residential development. The remaining R2 residential zone is relatively limited in size in the context of the Masterplan. In addition, the new Gosford Local Environmental Plan 2014 now prohibits cluster housing in this zone.*

*The environmental initiatives, services and principles to create an Ecovillage at Narara require certain residential yields and mix of dwelling types. The Masterplan has outlined the minimum estimated yields to deliver the Ecovillage - which includes the proposed 10 cluster housing Units on lot 15. The Masterplan in its current form, does not exceed the 120 dwelling lots anticipated when the site was rezoning and as reflected in the planning provisions, which apply to the site.*

*In summary, we raise strong objection to any proposal to re-locate Units 1-4 to another area on the site for the following reasons:*

- *it will significantly impact on the delivery of minimum residential yields required to deliver an Ecovillage for the site and the associated environmental, social and economic benefits;*
- *the new R2 residential zone prohibits cluster housing developments, which means the delivery of these units will be delayed until the consideration of any future planning proposal for the site;*
- *it is inconsistent with the principles, design and allocation of residential uses outlined in the Concept Masterplan; and*
- *it will impact on the deliver the most sustainable outcome for the site."*

### **Assessment Comment**

The proposal does not involve works on the heritage item but will include minor landscaping work, include removal of trees within the vicinity of the item and its curtilage.

The application is accompanied by a Heritage Impact Assessment (HIS), prepared by Musescape to assess any potential impacts on the item. The HIS supports the proposal and concludes that:

*"Implementation of the Proposal will result in some changes to the cultural landscape of the former Gosford Primary Industries Institute and the setting of the heritage item described as "Manager's Cottage, Hen House (former Shower Block) and curtilage, Gosford Horticultural Institute, Research Road, Narara" as a heritage item and the wider site which has been assessed in the 2007 CMP and the 2013 CMP Review as of local and State significance. The visual absorption capacity of the area is such that the proposed development can be accommodated without unacceptable changes to the perception of the site as viewed from major viewing points within the heritage item curtilage and the former Primary Industries Institute site generally. In my opinion, provided the*

*recommended mitigative measures are implemented, the proposal is within the limits of acceptable change for the place as a heritage item, and any impacts are manageable. In my opinion there are no heritage grounds for refusal of the application."*

While the erection of dwellings 1 to 4 will result in a change to the setting of the former manager's residence and will obstruct some views to and from the heritage item, the relocation of dwellings 1 to 4 is not considered to be warranted and the impact is considered to be within reasonable limits.

In this regard, the former manager's residence can be viewed from other closer vantage points within the site and pedestrian entrance way to the cottage. The applicant advises that a view corridor has been maintained where the level difference between the internal road and the heritage building is less at southern most part of the site, which is also the location of the existing entry steps to the item which provides the best opportunity to view the house from the road.

The former horticultural research centre previously contained greenhouses and sheds in the location of proposed dwellings 1 to 4 which are demolished. Existing trees still partly obscure views from the main internal road to the house.

Refer plan detail above showing proximity of dwellings 1 to 4 to Heritage Item. Narara Ecovillage is essentially a private estate with limited public access roads. It is considered that adequate separation distance exists between the proposed development and the heritage item. The recommended mitigative measures contained within Section 5.6 of the HIS prepared by Chris Betteridge, MUSEcape Pty Ltd will be incorporated as conditions of consent.

**(Refer Condition No. 3.12)**

#### **Local Environmental Plan 2014 Consistency**

Although this application is subject to the saving provision consideration of the zoning, development standards and special provisions of Local Environmental Plan 2014 are discussed for the purpose of consistency.

The site is zoned R2 Residential and the objectives of this zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure development is compatible with the desired future character of the areas covered by this zone.
- To encourage best practice in the design of low density residential development.
- To promote ecologically, socially and economically sustainable development and the need for and value of biodiversity in the local government area.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low density housing.

Although, cluster housing will be a prohibited use in the R2 zone, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

#### **Acid Sulphate Soils**

This land has been identified as being affected by the Acid Sulphate Soils Map and the matters contained in Gosford Local Environmental Plan 2014 have been considered.

**Flooding**

This land has been classified as being under a “flood planning level” and subject to the imposition of a minimum floor level, the development is considered satisfactory in respect to Draft Gosford Local Environmental Plan 2014.

**Development Control Plan No 175 – Gosford Horticultural Institute Rezoning**

The purpose of this DCP is to provide more detailed guidelines for the development and use of the land for a residential subdivision into approximately 120 lots, approximately four rural residential lots to be zoned Scenic Protection Rural Small Holdings 7(c2), and one residue rural residential lot to be zoned Conservation 7(a) or other permissible development. As part of the rezoning process it was proposed to transfer land to be zoned Open Space 6(b) Special Purposes (Forestry) to NSW Forests and dedicate land to be zoned Open Space 6(a) to Council.

*The objectives of this Development Control Plan are to:*

- *encourage the orderly development of the residential and rural residential use;*
- *facilitate traffic management*
- *make provision for environmental protection*
- *make provision for bushfire protection;*
- *restrict development in flood liable areas and consider flooding and drainage issues and to ensure there is no increase in downstream flooding*
- *protect items of environmental heritage*
- *ensure the development is carried out in accordance with best practice management for site development*
- *ensure on-site contamination is addressed*
- *provide for additional matters in relation to the residue Conservation 7(a) allotment*
- *ensure the land is adequately serviced*

Relevant provisions under the plan are considered in the assessment of the applications for cluster housing and specific requirements under Clause 8 of the plan are addressed in sections of the report relating to environmental assessment, traffic, bushfire protection, flooding and drainage, items of environmental heritage, site contamination and servicing (water and sewer).

The proposal is considered to be consistent with the stated objectives of the plan and will not impact on the following provisions in the DCP:

- the dedication of that part of the NEV site which is zoned 6(a) to Council under the terms of clause 4 of the VPA; and
- the environmental protection of the threatened species identified in Section 8.3 of the DCP.
- the heritage significance of the items of environmental heritage listed in Section 8.6 of the DCP

A separate development application (DA 44994/2013) has been lodged for a Community Title Subdivision of the land. Compliance with broader land use provisions under the DCP 175 will be considered in the assessment of this application.

**DCP 127 –Cluster Development**

The proposed development is subject to the provisions under DCP 127 – Cluster Housing. The application is accompanied by a “DCP 127 Compliance Table”, prepared by Sara Roach Planning Services /Michael Woodland Consulting Pty Ltd which provides an assessment of the proposed development’s compliance against the relevant performance measures under DCP 127 - Cluster Development. **(Refer Attachment 1)**. The proposal does not comply with several of the development requirements under the DCP which are considered below.

The key areas requiring a merit-based assessment, where numerical compliance is not achieved include:

- Locational Requirements (i.e. 400m walking distance to facilities)
- Minimum Setbacks to Site Boundaries
- Maximum Building Envelope
- Minimum Open space and Landscape areas
- Location of car spaces (i.e. within front building setback)
- Car Parking Provisions (i.e. number of resident spaces)
- Height - number of 2 storey dwellings
- Site characteristics - slope

#### a. Locational Characteristics

Clause 3.3.2 stipulates that:

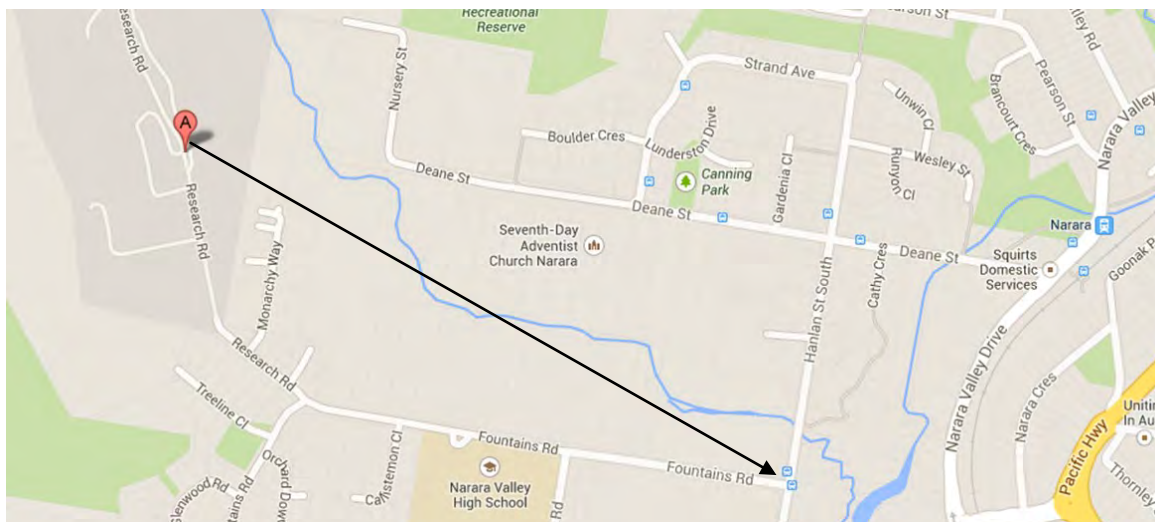
*"Sites considered for cluster development are to be located so as to be located not more than four hundred (400) metres straight line distance from:*

- *a shopping centre containing a supermarket;*
- *a state government primary school; and*
- *public transport pick up/set down point (i.e. railway station, bus stop).*

*The distance is to be measured as a horizontal line between the closest points of the site to the closest point of the school site, shopping centre site and transport stop."*

The cluster housing site does not meet such criteria being located over 400m distance from such facilities. In this regard, the nearest school is Narara Valley High School (600m) and Narara railway 2.5km and shopping facilities at Wyoming average 2.5km. Notwithstanding public bus stop facilities are available approximately 1250m distance at the end of Fountains Road.

**(Refer Figure 4. below)**



**Figure 5: The distance from the visitor centre A to the nearest bust stop (blue symbol) is 1250m via Research Road to the eastern end of Fountains Road (Source: Google maps)**

Despite non compliance with such locational requirements distance to public transport facilities is considered to be within reasonable walking distance (1250m) to access retail and other facilities. It is considered that the proposal is consistent with the objective of the standard to ensure cluster development is appropriately located to meet the needs of the residents for services and facilities.

#### b. Setbacks

Clause of 3.5.2 of DCP 127 stipulates the following setback requirements:

- a *Setback to Road Frontage (Building Line)*
- i *A minimum six (6) metre building line applies to all Cluster Housing developments.*
- b *Setbacks to Adjoining Boundaries*
- i *For single storey development a minimum setback of three (3) metres is to be provided.*
- ii *For buildings up to and including two (2) storeys - the standard for solar access to an adjoining property is that direct sunlight shall be maintained to the major part of their landscaped open space and outdoor living areas and windows to living rooms for at least four (4) hours between 9.00 am and 3.00 pm on 21 June (winter solstice).*
- iii *For development **more than** one (1) storey, the minimum setback shall be a distance of not less than 3/4 of the height of the building above ground level. For sloping sites the average height will be used for calculating setback requirements.*

The site does not adjoin any other neighbouring residential properties and is located wholly within the residential 2(a) zone within the NEV site. As the lot does not front a public road, the front setbacks have been taken from the NEV site's internal roadways and the proposed internal street. The proposed relevant building setbacks as defined by DCP 127- Cluster Housing are detailed in the table below (extract from SEE):

House	Set Back to road (metres)	Overall Height (metres)	Setback to Open space 6(a) land (metres)
Heritage cottage:	5.2 – 1.7	5.7	-
House 1A:	4.5 - 8.0	7.25	-
House 2B:	1.5 – 3.1	5.5	-
House 3B:	4.4 – 5.2	5.5	-
House 4C:	3.3 – 7.2	5.3	-
House 5D:	-	7.25	2.3 – 5.5
House 6D:	-	7.25	8.1 – 10.6
House 7E:	-	6.0	4.5 – 5.8
House 8F:	-	6.0	6.7 – 7.6
House 9E:	-	6.0	6.7 – 7.0
House 10F:	-	6.0	4.0 - 4.1

**Table 1 - Proposed setbacks (Source: SEE)**

The SEE provides the following reasons to support a variation to the setback requirements:

*“The setbacks for the site vary due to a number of site constraints including shape, slope, size, access, flooding and bushfire issues. The site includes internal road that forms part of lot 15. The site does not adjoin any other neighbouring properties and is located wholly within the residential 2(a) zone within the NEV site.*

*The front setbacks for Lot 15 have been taken from the NEV site's internal roadway and open space, although the lot does not front a public road or is known to be subject to Council building lines. Consideration is given to setbacks to the adjoining Open Space 6(a) land, which is part of the existing VPA to be dedicated to Council for potential future public reserve.*

*The proposed setbacks for the site do not strictly meet the requirement of the DCP, namely the front setbacks for the Units 1 -4 and setbacks to the adjoining Open space 6(a) land for Units 6- 10.*

*The application is part of a self-contained ecovillage development, which has minimal to negligible impacts on the adjoining residential development. The proposed 10 cluster*

*units have been designed to respond to the site constraints, based on sound planning principles underpinned by a philosophy of environmental sustainability, walkability and social interaction. The setbacks as proposed should be given favourable consideration and assessed on their merits for the following reasons:*

- there are no established building line for the site, therefore the 6 metre front setback does not strictly apply;
- the design of the units are well articulated with modulated facades and setbacks;
- the areas adjoining the Open Space are well defined and setback sufficiently to reduce any impacts and still maintain a viable building area for the site as detailed in the DCP;
- the development is self-contained and will not impact on existing residential areas;
- the streetscape is enhanced by the development with reduced setbacks in places with sensitive design and significant landscape treatments;
- the design of the proposed units ensures high levels of amenity for all residents;
- the proposal is guided by principles of environmental sustainability by developing in areas requiring minimum cut and fill; and
- the proposal is part of a well designed and informed Concept Masterplan for the NEV site."

### **Assessment Comment**

Variation to the setback requirements is supported for the following reasons:

- The proposal is consistent with the objectives of the setback requirements to maintain the character and amenity of the existing streetscape; provide adequate sight distances at intersections; maximise the amount of "useable" private open space for each dwelling; provide an open streetscape with substantial areas for planting.
- The cluster housing development forms part of the overall integrated masterplan for the site which establishes streetscape character for the entire site in a coordinated manner. Each dwelling provides good amenity for future residents in terms of solar access and privacy with generous communal open space areas and plantings to provide landscape amenity to the development.
- Buildings setbacks vary in response to the site conditions and other constraints. Where zero side setbacks are provided, dwellings are orientated to minimise amenity impacts and have an integrated design. The dwelling setbacks reflect the existing site characteristics and topography of the land utilising existing roads and terrace areas. Unit 1-4 located on the upper level have been designed to respond to the Manager's Cottage and its surrounds through its setback, landscape setting and provision of limited car spaces.
- Units 5-10 are located below the road level of the main road and will be viewed as essentially single storey units. Setbacks to the adjoining Open Space 6(a) land vary between 2.3 metres and 10.6 metres from verandahs with an average of approx 6 metres. These setbacks will be landscaped and will provide a suitable transition to the 6(a) land.

### **c. Open Space and Landscaped Area**

Clause 3.6.2 of DCP 127, stipulates the following open space requirements for each dwelling unit:

- Each dwelling less than 70m<sup>2</sup> in floor area will require an open space area of 130m<sup>2</sup> (40% of 325m<sup>2</sup>) for each dwelling. Dwellings 5 and 6 fall in this range.
- Each dwelling greater than 70m<sup>2</sup> but not greater than 110m<sup>2</sup> in floor area shall require an open space area of 140m<sup>2</sup> (40% of 350m<sup>2</sup>) for each dwelling. Units 1– 4 fall within this range.
- Each dwelling greater than 110m<sup>2</sup> but not greater than 240m<sup>2</sup> in floor area shall require an open space area of 160m<sup>2</sup> (40% of 400m<sup>2</sup>) for each dwelling. Units 7 to 10 fall and the existing heritage dwelling within this range.

On this basis, dwellings 5 and 6 will each require an open space area of 130m<sup>2</sup>, dwellings 1 to 4 will each require an open space area of 140m<sup>2</sup> and dwellings 7 to 10 will each require an open space area of 160m<sup>2</sup> – a total of 1460m<sup>2</sup>. The heritage item to be retained on the site has substantial open space area well in excess of 160m<sup>2</sup>. The proposal provides the following private open spaces areas:

Dwelling Unit	Floor Area m <sup>2</sup>	Minimum Site Area (m <sup>2</sup> ) – Density Required	Private Open Space m <sup>2</sup> Provided	Private Open Space m <sup>2</sup> Req.	Compliance
Dwelling No 1:	81	350	90	140	No
Dwelling No 2:	97	350	100	“	No
Dwelling No 3:	97	350	98	“	No
Dwelling No 4:	85	350	99	“	No
Dwelling No 5:	68	325	103	130	No
Dwelling No 6:	68	325	87	130	No
Dwelling No 7:	113	400	94	160	No
Dwelling No 8:	123	400	113	“	No
Dwelling No 9:	113	400	117	“	No
Dwelling No 10:	123	400	151	“	No
Existing Heritage Dwelling	Over 185m <sup>2</sup>	400	Well in excess of 160m <sup>2</sup>	-	Yes
Total		3650m <sup>2</sup> required + heritage 400m <sup>2</sup> = 4450m <sup>2</sup> (site area: 7299m <sup>2</sup> )		1460m <sup>2</sup> (cluster dwellings)	

**Table 1: Open Space Area**

Subclause (d) requires that the useable private outdoor living space for each dwelling have a minimum width of 6m. The width of ground level courtyard space ranges from 3.3m (Unit 2) to 5.2m (Unit 4) and 7.8m (Unit 6), with balconies provided to first floor units approximately 2.9m in width (Unit 10).

As such open space areas for each dwelling are smaller in area and narrower in width and do not comply with the open space requirements under DCP 127. Notwithstanding, subclause (e) states that: “*subject to the minimum open space requirements being satisfied by the development, council may consider 35% of that requirement being incorporated into a functional communal open space area for use by the entire development.*”

The applicant has sought variation to the open space area requirements with the following reasons supporting such request:

*“The proposal does not strictly meet the numerical requirements for landscaped area allocated to individual units. In this regard, concession is sought on the basis of the provision of a variety of dwelling types with varying landscape spaces to maintain for each unit. However, with a very low FSR of 0.2:1, it provides extensive areas of landscaped area.*

*The smaller amount of outdoor landscaped area provided at Units at 5-8 is of very high quality with excellent aspect and views and solar orientation and good areas for private outdoor space and growing garden space. Combined with the extensive amount of communal landscape area provided with this application, this is considered to be an acceptable landscaping outcome for this unique site consistent with the objectives of the DCP.”*

### **Assessment Comment**

The objectives under Clause 3.6.1 relating to the provision of open space is:

- To provide areas for planting and enjoyment by residents.
- To provide a private outdoor living space as an extension to the dwelling for the recreation of residents.



- To provide private outdoor living space that receives a reasonable quantity of sunlight during all months of the year.
- To create an attractive living environment that allows appropriate privacy and amenity so that it may be well used.
- To provide service space for clothes drying, storage, etc.

Variation to the open space area requirements is supported in this instance for the following reasons:

- Each dwelling is provided with northern courtyard or terraces that will receive good solar access;
- Privacy issues are addressed by limiting window openings on side boundaries and building design with walls on boundaries and screen landscaping along courtyard perimeter;
- All open space areas at ground level and balconies are orientated to the north and are linked to internal living areas;
- The size of open space areas provided are in excess of requirements generally required under DCP 100 which applies to medium density development and are of adequate size to provide for outdoor dining, entertaining and service need of future residents;
- Overall landscape provision for the site is considered to be acceptable to provide landscape amenity to the development site including the larger landscaped area surrounding the curtilage of the heritage dwelling which may be included as communal open space and will provide outlook for Units 2, 3 and 4.
- Units 5 to 10 are located on the edge of the 2(a) residential zone and will immediately adjoin and have an outlook over the 6(a) open space zoned land to the east.

It is considered that despite the significant numerical variation to the open space requirements each dwelling is provided with satisfactory open space which is consistent with the objectives of the standard.

#### **d. Height – Maximum Building Envelope**

Clause 3.4.2 of DCP 127- Cluster Housing stipulates the maximum height requirements:

- All portions of the buildings are to be sited within a building envelope determined by planes projected at 45° from a height of 3.5 metres above natural ground level at the side and rear boundaries, to a maximum height of ten (10) metres; and
- the vertical distance measured from the highest point of the floor of the topmost storey above ground level is not to exceed four (4) metres.

The proposal is compliant with maximum 10m building height and topmost floor height (4m) with all dwellings ranging in height from 5.3m to 7.25m (roof ridge height) and topmost floor height from 2.85m to 3.0m as indicated in Table 2 below. However due to the proposed setback treatment, the proposal has not been designed to meet the building envelope provisions outlined in the DCP. The unique shape of the lot, frontage onto private roads and terraced design allows for 2 storey dwellings closer to boundaries than provided by the DCP.

Unit	Building Height (metres)	Height to floor of top storey (metres)
Unit 1	7.25	3.0
Unit 2	5.5	-
Unit 3	5.5	-
Unit 4	5.3	-
Unit 5	7.25	2.85
Unit 6	7.25	2.85
Unit 7	6.0	2.85
Unit 8	6.0	2.85
Unit 9	6.0	2.85
Unit 10	6.0	2.85

**Table 2:** Proposed building heights

**Applicant's submission**

Accordingly, the applicant has sought variation to this requirement with the following reasons supporting such request:

*"Due to the proposed setback treatment, the proposal has not been designed to meet the building envelope provisions outlined in the DCP. The unique shape of the lot, frontage onto private roads and terraced design allows for 2 storey dwellings closer to boundaries than provided by the DCP. It is requested that adherence to this control be assessed on its merits due to the unique circumstances of this site.*

Overall, the proposal meets the objectives of the height control as follows:

- *it is located within the NEV site and will not impact on existing neighbouring detached housing;*
- *it will maintain a low rise residential character which is compatible with the locality and the objectives of the NEV site as detailed DCP 175 – Gosford Horticultural Institute Rezoning and the Concept Masterplan;*
- *it will have negligible impacts on adjoining properties; and*
- *it maintains the conservation of existing natural landscape features by utilising existing terraces for building platforms."*

**Assessment Comment**

Variation to the building envelope requirement is supported for the following reasons:

- The minor encroachment to the building envelope reflects the proposed zero setbacks to site boundaries. As the dwellings form part of an integrated design approach with zero setback on southern boundaries (units 5 to 10) and northern private open space areas.
- The height of each dwelling does not pose any significant amenity impacts in terms of solar access and loss of privacy to adjoining dwellings which have similar setbacks.
- The height of each dwelling is not excessive ranging in maximum height from 5.3m to 7.25m.
- The proposal is consistent with the objectives of the standard in that:
  - All proposed dwelling are of a low rise residential character
  - The proposed cluster housing is compatible with the desired character of the site.
  - The proposal has minimal impact on adjacent properties in respect to overshadowing, loss of privacy and views.

**e. Two Storey Dwelling Restrictions**

Clause 2.2.2 (c) of DCP 127 requires that not more than 50% of dwellings in any development shall be two-storey, or alternatively not more than 33% of the total floor area shall be at first floor level. The SEE advises that seven (7) out of the 11 houses (including heritage item) on the site are two storey, 3 of which are full two storey and 4 are part 1 and 2 storey, 22.5% of the total floor area is at first floor level.

The SEE advises that:

*"The proposal exceeds the amount of 2 storey dwellings permitted in the development, which is in place to ensure cluster developments are low scale and compatible with the surrounding area. The 2 storey dwellings on lot 15 are mostly located in the lower part of the site (Units 5-10). Due to their orientation and location below the main access road, these dwellings will not impact on adjoining residences or the internal streetscape. The skillion roofs will be visible from the roadway framed by extensive landscaping which will not lead to any detrimental impacts on the streetscape. Furthermore, it is noted that the height of the units do not exceed the 10 metre height limit nominated in Concept Masterplan for new housing."*

Overall, a total of 22% of the total floor area is at first floor level which **complies** with the maximum.

**f. Car Parking Location**

Clause 3.7.2 (f) of the DCP requires that car spaces not be located within the front setback. The SEE advises the following in relation to the location of car parking:

*"The DCP requires that car spaces not be located within the front setback. Lot 15 proposes carparking for the Units 1-5 within the front setback at the Road 2 in a clustered formation. As detailed above, it is considered that this site requires merit assessment for the treatment of setbacks generally.*

*Two fundamental key issues dictate the location of car spaces on Lot 15. First, to deliver a pedestrian environment, not dominated by cars and thus providing clusters of open space that are well landscaped. Second, to respond to the site constraints, such as slope, flooding and bushfire and heritage issues. It is considered that the location of the car spaces result in a better outcomes than strict compliance with the DCP."*

**Assessment Comment**

Six (6) car parking spaces are located at the southern end of Lot 15 (Road 1) a further two space parking area and two single car parking spaces are provided to the north west side of the site accessed from Road 2.) Such car parking areas and individual spaces are located within the front building setback. Variation to the carpark locational requirements is supported as car parking locations are accessed off private internal access roads (Roads 1 and 2) which service the development and are not readily visible from the primary street frontage (Research Road). Spaces are designed to be partially screened by landscaping and do not detract from the future desired streetscape which forms part of the concept master plan for the overall site.

**g. Car Parking Provision**

In accordance with Clause 3.7.2 of DCP 127 and DCP 111, car parking is to be provided at the following minimum rate:

- 1.5 car spaces per dwelling; or
- 1 car space per dwelling within 400m of a public transport node; and
- 0.2 car spaces per dwelling for visitor parking

On this basis, the proposal generates a requirement for 15 resident spaces and 2 visitor spaces, noting that the development site is located over 1km from a public transport node.

The proposed parking arrangements are as follows:

- Resident car parking is proposed at one communal parking area with six (6) spaces located at the southern end of proposed Lot 15 and four (4) other distributed spaces located in the vicinity of Units 1 to 4 towards the northern end.
- There are also a number of car parking areas for the required visitor spaces located adjacent to the Administration Block and the Visitors Centre that are directly accessed off Research Road.

As such, the proposal does not comply with the car parking requirements under DCP 127, representing a **shortfall of five (5) spaces**. Accordingly, the applicant has sought variation to the car parking requirement with the following reasons supporting such request:

*"The report (Traffic Impact Assessment Report, prepared by Christopher Hallam & Associates, dated 6 December 2013) supports the application in terms of car parking numbers, layout and access arrangements.*

In relation to car parking, the report makes the following comment:

*"Car parking will be provided in multiple parking areas distributed around the site. Individual dwellings will not necessarily have individual parking spaces, but some will. This is an integral part of the eco-design principles, where the use of private transport is desired to be reduced. However there is no restriction on private car ownership. There are ample parking areas distributed around the site to accommodate the private parking*

*demand and to provide visitor parking. Some spaces will also be set aside for the parking of share cars, as an incentive to not individually own cars. The site layout will however provide shared drop-off zones on lot boundaries, allowing residents to drive to individual dwellings and pick up or drop off passengers and goods. There will be six spaces provided for visitors just inside the main entrance plus more visitor spaces distributed within the site. These will be suitably signposted."*

### Assessment Comment

Provision of one car parking space per cluster dwelling is considered to be adequate to service the needs of the development with dwellings ranging in size from 96.92m<sup>2</sup> (Unit 1 containing two bedrooms) to 156.22m<sup>2</sup> (Unit 10 containing three bedrooms and study) . Six of the dwellings will contain two bedrooms while four of the dwellings will contain three bedrooms. As such dwelling occupancy rates/density (population) is considered low having regard to the relatively small size of six of the dwellings which have floor areas of less than 90m<sup>2</sup>. There is ample opportunity for visitor parking along the private access road.

In addition, the SEE advises that the Co-operative promotes social, economic and environmental sustainability, visitors attending the site will be encouraged to adopt more sustainable practices of travel including car pooling/sharing initiatives, organised group travel (i.e. use of buses) and to utilise non-car based travel the site.

### h. Site Characteristics – Maximum Slope

Clause 3.1.2 of DCP 127, stipulates that a site to be used for cluster development shall not have a slope in excess of 10%. The lower part of the site is relatively flat, however upper portion east of the heritage cottage exceeds 10% slope (approx. 23% in parts). The slope reflects the characteristic of the existing modified topography of the NEV site. Variation to the maximum slope requirements is supported in this instance for the following reasons:

- The application is supported by a geo-technical report prepared by Douglas Partners), confirming that the development is acceptable in this location subject to recommendations on the type of structural design for the units.
- The proposal achieves the objectives of the site characteristics requirements (Refer previous section of report - SEPP 1 Objection)

In this instance the non-compliance is considered acceptable.

### Development Control Plan 122- Cut and Fill Restrictions

The application meets the aims, objectives and requirements of DCP 122- cut and fill requirements. The plan below indicates the areas of proposed of cut and fill is generally limited to a maximum of 1m apart from some small areas on the lower part of the site require fill greater than 1 metre as the proposal seeks to reduce the slope of the bank back to 1:2 as required by the DCP.



### Site Contamination

DCP 175 identifies that: *“Due to the history of landuse, State Environmental Planning Policy No 55 - Remediation of Land needs to be considered. Preliminary assessments and further site contamination investigations have been undertaken, that conclude that the land is suitable for rezoning to residential purposes subject to additional matters as required below.*

- a A Site Remediation Action Plan is to be prepared and implemented in accordance with SEPP 55 - Remediation of Land and the document Managing Land Contamination - Planning Guidelines;*
- b A Site Validation Report be prepared and implemented in accordance with SEPP 55 Remediation of Land and the document Managing Land Contamination – Planning Guidelines;*
- c Prior to the issuing of a construction certificate/releasing engineering plans for future subdivision/development works, Council shall be issued with a Site Audit Statement by an accredited Department of Environment and Conservation (former EPA) Auditor stating the **land is suitable for its intended uses;**”*

The SEE advises that Lot 15 is located in close proximity to a chemical store and petrol pump, which was part of the former use of the site. A preliminary contamination investigation has been carried out which concludes that subject to further testing, it is expected that lot 15 can be made suitable for future residential uses as detailed below:

*Based on the information gathered, DP considers that Proposed Lot 15 has been subjected to potentially contaminating activities or land uses. Therefore the site may not be considered suitable, from a site contamination perspective, for the proposed land uses without a Detailed Site Investigation (DSI) and any requisite remediation works*

The application was referred to Council's Environment Officer who has provided the following assessment in relation to SEPP 55 – Remediation of Land:

*“A “Report on Preliminary Site Investigation (Douglas Partners, Project 75583.00, dated August 2013) has been submitted to address SEPP 55 and Clause 8.8 of DCP 175. Overall this report has identified the contamination risk across the site to be generally low to moderate although some areas with higher contamination potential (areas of environmental concern) exist across the subject site. This report recommends that the proposed Conceptual Site Model (CSM) form the focus of sampling under a Detail Site Investigation to fully categorise contamination on the site. The report also recommends that an EPA Accredited Auditor reviews the Preliminary Site Investigation and CSM to ensure Clause 8.8(c) of DCP 175 can be achieved. A condition of development consent is attached to address this issue and ensure compliance with Clause 8.8(c) of DCP 175.”*

**(Refer Condition No.2.9)**

### Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) under s93F of the EP&A Act 1979 has been prepared and the deed made on 31 May 2013 and signed by the Narara Ecovillage Co operative Limited and Council for the NEV site in accordance with the requirements of the rezoning process undertaken by DPI and as stipulated in Section 8.1 of DCP No.175. The VPA makes specific provision for the dedication to Council of the 6(a) Open Space zoned portion of the site (being that land immediately to the east and contiguous with the 2(a) residential land), together with a small area of land upon which a stand of *Araucaria cunninghamii* (Hoop Pines) are located.

The application has no effect on the terms of or implementation of the VPA. Conditions will be imposed on the related subdivision consent to ensure compliance with the requirements under

the VPA. A construction certificate will not be issued for the cluster developments until such time as the community title subdivision (Stage 1) has been registered.

### **Waste Management**

All waste generated will be stored in the existing bin store/s in each building and transported on a daily basis (or as required) to the sites dedicated waste storage area and where it will be separated/recycled, as appropriate.

Council's waste management officer has advised that *"the area chosen for the proposed communal waste enclosure is located where adverse impact may occur on adjoining residences in Monarchy Way. An existing parking/waste area is located approximately 100 metres further into the site which would provide a greater setback from adjoining properties, is an existing waste storage area and has a significant vegetative screening between the existing cleared area and adjoining properties."*

Waste Services has recommended that this existing carpark/waste area be utilised for the required waste storage/servicing area to reduce impacts associated with bulk waste storage for a development of this scale and nature.

In response to issues raised, the applicant has submitted:

- a revised plan showing location of the waste storage area which has been redesigned and moved further to the north; and
- revised Waste Management Plans for the Stage 1 DA, and the 2 cluster housing DA's.

The NEV will be required to manage the transportation of the bulk bins on storage day to a collection point.

Council's waste management officer has raised **no objections** to the proposal subject to conditions of consent.

**(Refer Condition Nos.2.2(c) and (d), 4.21 to 4.27, 5.16 and 6.8).**

### **Traffic, Access and Roadworks**

Council's Development Engineer has provided the following assessment in relation to roadworks, access and traffic:

#### *External road works*

*The site gains vehicular access from the end of Research Road via the existing gated entry point associated with the former research station. No road works in the public road reserve are required for this development (residential cluster development) as required road works will be constructed under the DA for the 40 lot community title subdivision (DA44994/2013).*

#### *Internal roads*

*The internal road network for the subdivision has not been designed in accordance with the requirements of Council's DCP 112 – Residential Subdivision. The internal road layout has instead been designed with the intent to conform with AMCORD guidelines and requirements associated with the RFS Planning for Bushfire Protection 2006. The internal road layout consists of a combination of two way and one way roads. The two way roads (including the perimeter road) are proposed at 5.5m wide. This has been deemed to be acceptable by the bushfire consultant (Australian Bushfire Protection Planners Pty Ltd) on the basis that there are "No Parking" restrictions imposed on this road. The one way roads have been designed to be 3.5m wide, which will facilitate circulation throughout the development that would still facilitate the access requirements for the emergency fire vehicles. The bridge on the (2-way) perimeter road is narrowed to 3.5m wide which has been deemed acceptable on the basis that it is a localised restriction. These roads will be constructed under DA 44994/2013 associated with the 40 lot community title subdivision. Although the proposal under DA44994/2013 (Stage 1 of*

overall master plan) will not provide a two way network from the main entry point to the perimeter road (as approximately half of road 2 is one way) it is noted that a future stage of the development (subject to a development application in the future) is intended to provide a 5.5m wide extension of the perimeter road from within the entry point of the development to the intersection of that road and road 2 near the upper bridge.

A central driveway known as Road 1 (community title road) in the community title subdivision bisects lot 15 associated with this development application. This road is a proposed one way road. The lot also has frontages to other community title roads. In general the dwellings in this lot will not have covered car parking spaces, and 10 car parking spaces are dispersed within the lot for the 10 dwellings proposed. It is recommended that the driveway and car parking areas comply with Australian Standard AS2890 and the requirements of the Rural Fire Service's "Planning for Bushfire Protection 2006".

### Traffic

A traffic report prepared by Christopher Hallam & Associates titled "Transport Impact Assessment of Proposed Eco-Village, Research Road, Narara, NSW" dated 4<sup>th</sup> December 2013 was submitted with the application (Appendix 15 of Statement of Environmental Effects). This report addresses the follows aspects of development on the site:

- Overall Master Plan Concept Plan, for 120 dwellings
- Stage 1 subdivision, for a total of 35 lots, including two Cluster lots.
- Cluster Lot development, with 10 dwellings (Lot 15) associated with the subject development application.
- Cluster Lot development, with 17 dwellings (Lot 36).
- Community uses development application.

This report concluded (in part) the following:

### "Concept Plan"

1. The subject site was rezoned with an expectation of at least 120 dwellings being built. The traffic studies assumed 150 dwellings. We have assessed the proposed ecovillage with 120 dwellings, with lower traffic generation rates than typical suburban dwellings because of the environmental transport management plan proposed. It thus follows that the conclusions drawn in the previous traffic impact assessment remain applicable. (The previous traffic assessment was prepared by Barry Bradley & Associates in conjunction with the rezoning proposal.)
2. Notwithstanding the above conclusion, new traffic counts were undertaken to confirm this situation. Firstly, seven day counts were undertaken in Fountains Road just west of Narara Valley High School. With the addition of the ecovillage traffic, the peak traffic flows in this section of Fountains Road would remain under the RMS environmental goal for a local residential street. Clearly traffic flows increase at the High School.
3. Peak period traffic counts at the junction of Fountains Road and Hanlan Street South, with the addition of ecovillage traffic, show that this intersection will continue to have satisfactory capacity. The earlier traffic counts at the Deane Street and Narara Valley Road intersection were used to reassess the capacity of that intersection under the additional loads from the ecovillage. This intersection also will remain satisfactory.
4. At the Manns Road and Carrington Street junction new peak period traffic counts were undertaken, and the ecovillage traffic added. Through traffic on Manns Road would remain undelayed. The right turn out of Carrington Street currently is delayed in peak periods, particularly in the morning. These delays would increase. Drivers would have the option of using Deane Street to make a right turn onto Narara Valley Road Manns Road. With the close proximity of Narara Creek to the Carrington/Manns junction, roundabout or seagull channelization options are not feasible. Traffic signals would delay all traffic, including through traffic along Manns Road. In the circumstances, the future situation with the ecovillage traffic would be satisfactory.



5. *The ecovillage roads would be private roads rather than public roads. Carriageway widths have been designed on AMCORD principles, with two-way roads 5.5m wide, and one-way roads 3.5m wide. The road network has been reviewed for compliance with Rural Fire Service guidelines. We understand that the road network meets these requirements. The internal road layout is consistent with the RMS Guide to Traffic Generating Developments, as discussed. The road network proposed is satisfactory.*
6. *Garbage will be stored in common bins located in an area near the main entrance, to be collected by Council vehicles.*
7. *In conclusion, the traffic and transport implications of the proposed Ecovillage Concept Plan will be **satisfactory**.*

#### Lot 15 Cluster Development

- *Stage 1 includes the Lot 15 Cluster development, with 10 dwellings proposed on this lot. Vehicular access will be via Roads 1, & 2. With a weekday peak hour traffic generation of less than 10 veh/hr, no road or intersection capacity issues are likely.*
- *Car parking is proposed at one communal parking area with 6 spaces, plus four other distributed places.. The provision of one space per dwelling is in conformity with the Concept Plan. Visitor parking (two spaces) for lot 15 will be located on the main site.*
- *For Both Lots 15 and 36, we recommend that all car parking areas and their access conform with AS 2890.1:2004, and that the common garbage storage area proposed have its access conforming with AS2890.2:2002.”*  
**(Refer Condition Nos 2.7a and 5. 4)**

*This report also considered the traffic implications associated with the 40 lot community title subdivision associated with DA44994/2013, the cluster housing development proposed on lot 36 that is associated with DA 44899/2013, and the community use of the site (DA 44560/2013), and concluded that the surrounding road network, and internal access and parking arrangements would be satisfactory.”*

#### **Roads and Maritime Services (RMS)**

DCP 175 “Gosford Horticultural Institute Rezoning” requires referral of the application to the Roads & Maritime Services (“RMS”).

The subject application (cluster development on lot 15) does not fall under the referral requirements associated with SEPP Infrastructure (2007) and as such has not been referred to the RMS. However, DA44994/2013 for a 40 lot community title subdivision was referred to RMS who raised **no objections** or requirements to the subdivision proposal. The recommendations and traffic matters for this cluster housing development were included in the traffic report associated with the RMS review of the subdivision development application 44994/2013.

#### **Geotechnical Assessment**

The application is accompanied by a Geotechnical Assessment Report, prepared by Douglas Partners, Project: 75583.20, dated 2 December 2013, which provides an assessment of the stability of the site in accordance with Gosford City Council Development Control Plan No 163, geotechnical parameters for the design of footings to address slope stability issues and safe batter slopes and retaining wall design parameters.

The report advises the following in relation to slope stability:

*On the basis of the ground slopes observed with average slopes falling to the northeast at about 5 - 10°, with rocks of the Terrigal Formation underlying the area, the higher, north-western portion of the proposed cluster housing lot would be classified as “Category 1 – Low Hazard Area” with reference to Gosford City Council (GCC) Development Control Plan (DCP 163) [Ref 1]. This slope classification would apply to the area surrounding the*

*existing Manager's cottage. Four dwellings are proposed in this area. For the purposes of the slope stability assessment, this area is designated as "Land Area 1".*

*Whilst the remainder of Proposed Lot 15 falls to the northeast at an average slope about 15° and would normally be classified as a "Category 2 – Medium Hazard Area", due to the presence of existing steep batter slopes ranging from 2 m to 5 m in height, this area would be more appropriately classified as "Category 3 – High Hazard Area" with reference to GCC's DCP 163. This also recognises previous instability of the batters as observed during the site walkover inspection. For the purposes of the slope stability assessment, this area is designated as "Land Area 2".*

The report concludes that:

*The site has been assessed to be suitable for the proposed development, provided that the recommendations made in this report are implemented. These primarily include the following:*

- The proposed dwellings within Class P areas of Lot 15 are to be supported by foundations socketed into the very stiff residual clay profile or the underlying weathered sandstone bedrock profile;*
- Existing overly steep cut and fill batters are to be reduced to 2H:1V or flatter and protected against erosion or supported by engineered retaining walls*
- Inspection of all footings is undertaken by a geotechnical engineer to confirm that the target foundation strata is reached;*
- Design of the retaining walls and footings to be undertaken by a structural engineer;*
- Stormwater flows from the proposed dwellings and any surface or subsurface drains should be collected by a stormwater drainage system and discharged to the reticulated stormwater drainage system (this may require the creation of an easement to drain water); and*
- Design of the structures are to be in accordance with the guidelines provided in LR7 and LR8 (refer Appendix A).*

The recommendations contained within Section 7 of the Geotechnical Assessment Report will be incorporated as conditions of consent.

**(Refer Condition Nos 2.15 and 5.19)**

### **Bushfire Protection**

The site is located on bushfire prone land and has been mapped as being Category 1 and Category 2 Bushfire Prone Land together with bushfire buffer areas. Due the relative physical inaccessibility of the site (with only one road access) future development needs to have due regard to requirements in relation to bushfire protection.

The two cluster housing applications have been assessed under Section 79BA of the Environmental and Assessment Act 1979 and have not been referred to the Rural Fire Service. However the related subdivision application (DA 44994/2013) has been referred as the proposal is integrated development under s91 of the EP&A Act 1979 and requires separate approval (i.e. Bush Fire Safety Authority) from the NSW Rural Fire service under s100B of the Rural Fires Act 1979. The RFS have provided general terms of approval in relation to the subdivision application which will be included as conditions of consent for the Cluster Housing developments.

**(Refer Conditions 7.1 to 7.6)**

A bushfire report prepared by Australian Bushfire Protection Planners (Assessment No B132141 – 1, dated 4.12.13) was submitted with the application. APBB make the following key comments and recommendations in relation to the application:

- The proposed buildings 1A & 2B have been setback to provide a separation from the vegetation within the gully line/CRZ which exceeds the requirement to maintain the maximum level of bushfire attack on the future dwelling/s at less than 29kW/m2).

- The separation to the west of building 1A exceeds the width required by Table A2.4 of Planning for Bushfire Protection 2006 and therefore the bushfire attack rating is less than 29kW/m2.
- An egress route for fire vehicles is required for the hazard interface on the east side of the proposal on the adjoining Open Space land (this will be addressed in the Stage 1 DA)

Recommendations have also been made in respect to the provision of fire fighting water supplies and access provisions for fire fighting resources as well as the management of the Asset Protection Zones and the vegetation within the Cluster Housing lot.

The recommendations contained within that report are recommended for inclusion as conditions of consent.

**(Refer Condition Nos 5.15.)**

### **Flooding and Drainage**

*“LEP 175 advises that: “part of the land has been identified as being flood liable (below the 1% Annual Exceedance Probability (AEP) line). The majority of this land is to be dedicated to Council and is only to be used for open space purposes that are flood compatible. Some parts of the rural residential lots may also be flood liable. The site also does not have flood free access, and would be isolated in the event of flooding in the vicinity of Hanlan Street.”*

#### Flooding

The application was referred to Council's Flooding & Drainage Development Engineer who provided the following assessment:

- *The lot is subject of a subdivision application, DA 44994. Site wide flood comments have been made for this application (IR 15327614), for which flood related conditions have been recommended.*
- *This application is dependent on approval of the subdivision.*

*Further and specific comments for this proposed development are provided below:*

- *With regards to flooding, all the proposed buildings are outside of the 1% AEP flood extents; proposed floor levels are more than 2m above the 1% AEP flood level (approximately 10.2m AHD at this location).*
- *Conditions regarding culvert crossings along the access road to the proposed buildings have been recommended for the subdivision application, DA 44994.*
- *No further flood requirements for this application*

#### Summary

**No objection** with regards to flooding issues.

#### Stormwater Management / Drainage

Council's Development Engineer has provided the following assessment in relation to stormwater management:

*“The proposed development has the potential to generate additional stormwater runoff from the site. It is therefore recommended that on-site detention be provided to limit post development flows back to pre-development flows for all storms up to and including the 1% AEP storm event.*

*The proposed development has the potential to generate additional nutrients and pollutants that could impact on the downstream receiving waters. It is therefore recommended that the proposed development provide nutrient/controls in accordance with Council's DCP 165 – Water Cycle Management.*

*The proposed development will need to provide retention of rainwater for reuse within the development.*

An 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 28 November 2013 was lodged with the application which:

- indicates the provisions for on-site detention, nutrient/pollution controls, and retention of rainwater for reuse within the development;
- refers to matters associated with the requirements for use of the dam water for potable water supplies, & bushfire;
- refers to on-site sewer management matters (not covered in this assessment);
- discusses the overall proposal to address the total water cycle management for the site.

The conclusions contained in this report indicate:

- The proposed combination of rainwater tanks, swales and bioretention systems will ensure that the development's stormwater management for lot 15 will comply with Council's stormwater system performance criteria.
- The outflow volume will be less than those that currently occur.
- The contaminant export rates will be less than those that currently occur.
- The predicted performance indicates compliance with DCP 165.
- The stream lines present on the site will need protection from erosion, especially where stormwater outflows are being constructed. The approach should be based on the Office of Water 2012 guidelines

*It is recommended that this document be referenced to in any conditions of development consent related to water management matters associated with the site."*

**(Refer Condition Nos.1.1 .2.7(c) and (d))**

### **Servicing Considerations**

DCP 175 advises that the site is outside of Council's Water and Sewer Service Area and as such is not accommodated in existing infrastructure provision strategies. A preliminary sewer system analysis has been undertaken and options investigated for augmentation of existing Council services to accommodate the development.

### **Integrated Water Management System**

An Integrated Water Cycle Management Plan has been prepared by Woodlots and Wetlands for the NEV site and the key infrastructure will be installed as part of the Stage 1 DA 44994/2013 for the community title subdivision.

For the purposes of this DA, key elements of the Integrated Water Cycle Management Plan will be extended from the main trunk lines into the site, as required to service the individual dwellings. It is proposed that each Unit have a 3-pipe system as follows:

- potable water supply based on tank water for individual dwelling roofs, backed up with treated water from the 45 ML dam. All potable flows to be disinfected by inline UV system
- Reclaimed water to Australian guideline quality criteria for internal use. This water will be from the Sewage Treatment Plant (STP) outflows
- Raw sewage pipes delivering wastes to the STP

The integrated water cycle management concepts for the NEV site include:

- Capture of roof water (after UV disinfection) for all potable and non-potable internal uses except toilet flushing
- Runoff water from roads and other surfaces to be treated in a stormwater management system designed to achieve Gosford City Council's Water Cycle Management Guideline performance criteria (GCC, 2007)
- Stormwater conveyance via existing drainage lines following their stabilisation
- Combined wastewater from the homes to be conveyed to Sewage Treatment Plant (STP). The wastewater to be treated to National Recycled Water Standard for internal use in dwellings (NRMMC/EPHC/AHMC, 2006)
- Recycled water to be used for toilet flushing, gardens and general irrigation

- The large dam at the northern portion of the site to provide potable water during low rainfall periods (water will be disinfected to meet Australian Drinking Water Guidelines (NHMRC, NRMCC, 2011))
- Fire-fighting requirements will be provided to meet NSW Fire and Rescue Service requirements

The application was referred to Councils Health Section officer in relation to the use of the dam for potable water who has advised that:

*"the choice of the proponent to use a private water supply where the property may have access to the town water supply is a matter for Water and Sewer to determine."*

*In the circumstances of the application the NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use."*

The proposal would need to comply with *Australian Drinking Water Guidelines*. The *Private Water Supply Guidelines*, issued by NSW Health aim to summarise and provide advice in applying the Australian Drinking Water Guidelines to private water supplies.

**(Refer Condition No 6.9)**

#### **Integrated Approval – NSW Office of Water**

The NSW Office of Water by letter dated 25 February 2014, has provided General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA. The controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval

The NSW Office of Water (NOW) recommended the following condition be included in the development consent:

*"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".*

**(Refer Condition 2.12 to 2.13 and 7.7 to 7.10).**

In relation to the proposed use of the existing dam for domestic water supply, NOW has advised that the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the *Water Management Act 2000* in relation to any proposed water use.

**(Refer Condition No. 2.13).**

#### **Water and Sewage Management**

The application was referred to Council's Water & Sewer Directorate who by memo dated 06/02/14 have provided the following assessment:

*"Water is available to the land. Sewer is not available to the land. The developer's consultants advised Council at preliminary development meetings there was no intention to connect the development to Councils water supply or sewerage reticulation systems, and that these services would be provided by the developer under WICA - Private Sector Licensing Regime (IPART)."*

*Should the applicant utilise WICA legislation for provision of water supply and sewerage to the land, then the following conditions will need to be placed on the Development Consent:*

- *The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision / Construction Certificate.*  
**(Refer Condition 2.8)**
- *The applicant shall obtain a Notice of Decision to commence commercial operations from the Minister prior to the issue of an Occupation Certificate for the development.*  
**(Refer Condition 5.14)**
- *Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision / Construction Certificate.*  
**(Refer Condition 2.6)**
- *All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002."*  
**(Refer Condition 4.11)**

#### Development engineer's comment

These conditions are noted. The Co-operative proposes to lodge a concurrent application with the Independent Pricing and Regulatory Authority Tribunal (IPART) for a retail operator's licence and network operator's licence under the Water Industry Competition Act 2006 ("WICA") for the integrated water management system (water and sewer). It is recommended that the conditions indicated above be appropriately conditioned on a development consent.

**(Refer Condition No 2.8, 2.6, 4.11 and 5.14)**

Council's Water and Sewer section have also advised that:

*"Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the following conditions shall apply:*

- *Connection of the proposed development to Councils water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council's existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.*
- *The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.*
- *Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council's policy.*
- *The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Councils existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.*
- *The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be*

submitted to Council for approval and shall be in accordance with Council's water and sewer design standards."

#### Development engineer's comment

These comments are noted. Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the applicant would need to lodge a section 96 application to modify the development consent to incorporate these conditions instead of the conditions referred to above associated with the WICA requirements.

**(Refer Advice Condition No 8.9)**

#### **Deferred Commencement / Community Title Subdivision Plan**

Council's development engineer has advised that the creation of lot 36 is associated with the 40 lot community title subdivision associated with DA44994/2013. It is recommended that the subject DA (DA 44899/2013) for the cluster housing development be subject to a deferred commencement that requires:

1. The completion of all works and infrastructure associated with DA44994/2013, and
2. The registration of the plan of subdivision under DA44994/2013.

**(Refer Condition 2.11)**

#### **Assessment comment**

It is considered that consent may be issued for the proposed cluster development subject to registration of the community title subdivision, prior to the issue of a construction certificate for the development rather than as a deferred commencement consent.

#### **Environmental Assessment**

Council's Environmental Assessment Officer has provided the following assessment in relation to the environmental impact of the proposal:

#### "Section 5A Assessment"

*Based on an inspection of the site, review of plans and supporting documentation the proposed development works will result in the removal of 17 individual and groups of existing trees located within the footprint or close to proposed buildings and services. Trees generally comprise of planted ornamental specimens and do not exhibit any potential significant habitat features for threatened fauna species nor do they collectively form part of any listed endangered ecological community.*

*In regards to potential indirect impacts on threatened fauna species all external night lighting will be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013). A condition of development consent is attached to address night lighting in accordance with this report and this condition adequately addresses Clause 8.3(f) of DCP 175.*

**(Refer Condition No.4.18.)**

*In respect to the endangered species *Syzygium paniculatum*, proposed works are clearly well in excess of the 20m buffer required under Clause 8.3(a) & (b) of DCP 175. Further this specimen will be managed under the submitted Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013). A condition of development consent is attached that requires this plan to be implemented.*

**(Refer Condition No.4.19.)**

*Based on an inspection of the site, review of plans and supporting documentation I am satisfied that the proposed development will not lead to a significant impact on threatened species, populations, ecological communities or their habitats.*



SEPP 19 – Bushland in Urban Areas

Clause 9 of SEPP 19 applies to this application. Given the proposed development will be subject to an Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) the proposal is not likely to adversely impact on bushland area zoned for public open space. In addition, the proposed landscape plan appears consistent with Clause 8.3(e) of DCP 175. A condition of development consent is attached that restricts the planting of any known environmental weed species.

**(Refer Condition No.4.13)**

Conclusion

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

**Tree Removal**

There are several trees located on Lot 15 that have the potential to be affected by the proposal. A specific Arboricultural Impact Assessment has been prepared in support of the application

Council's Tree Assessment Officer has raised **no objection** to the proposal and has provided the following assessment of the likely impacts of the development on existing trees.

The proposal has nominated removal of 17 individual and groups of existing trees located within the footprint or close to proposed buildings and services. Trees nominated for removal are listed within the AIA and mostly consist of planted ornamentals and old or weed growth of non native fruit trees such as Pear. The Consulting Arborist has provided acceptable tree protection methods for trees to be retained near works.

Trees listed for removal are not heritage listed trees of the site.

**(Refer Condition No. 3.11, 4.20)**

**Scenic Quality/ Visual Impact**Development Control Plan 89 – Scenic Quality

The NEV site is located within the Narara Valley geographical Unit. The site has been identified as a landscape area of local significance within the Gosford local government area. It is described as an area of extensive areas of complex valleys and valley floors with extensive suburban development bounded by naturally vegetated slopes, open space system lands and the Brisbane Water Escarpment. A key concern in this area is proposed development in visually prominent areas located on escarpments and on prominent ridges.

The SEE advises that the proposal for Lot 15 is considered to meet the above objectives as follows:

- “The land has been rezoned with significant areas for open space and environmental landuses, limiting the areas for future residential land;
- The 2 cluster sites will provide higher density areas and have been located with minimal visibility impacts lower in the valley;
- The proposed application will not impact on any areas of scenic protection or conservation areas; and
- The proposal application is located in the lower slopes in accordance with the absorption capacity section as identified in the DCP”.

It is considered that the proposal will have a satisfactory external appearance and will not impact on the scenic qualities of the immediate locality. Lot 15 is located over 200 metres to the nearest adjoining residential dwelling in Monarchy Way and approx 270 metres to the nearest adjoining dwelling in Research Road. However, due to the existing and proposed vegetation

and other buildings on the site, it is not likely to be highly visible from these surrounding residential areas.

### **Accessibility**

The application provides for two (2) adaptable and accessible units (Units 2 and 3) in accordance with the relevant Australian Standard. Such units are to be provided with accessible parking areas and 1:20 grade walkways. Houses 7 to 10 have been designed so that elderly inhabitants can live on the ground floor with upper bedrooms capable of accommodating live in care. This design element provides for a high level of accessibility to the development. This is considered an appropriate design outcome for the site and is considered to meet the relevant provisions of the DCP 127.

### **Crime Prevention Through Environmental Design (CPTED)**

The SEE advises that the cluster housing has been designed to incorporate the CPTED principles of surveillance, access control, territorial reinforcement and space management as follows:

- *“the communal areas within the development are well lit and designed to minimise areas for concealment and entrapment*
- *encouraging ownership of communal areas through territorial reinforcement, in particular the communal areas within the shared street, yoga platform, BBQ area and playground*
- *appropriate landscaping, particularly in parking areas, communal areas and courtyards*
- *pathways and pedestrian walkways around the development, including those leading from the communal areas facilitate pedestrian comfort and safety*
- *design of the Units allows for passive surveillance, particularly of the pedestrian shared street within the development*
- *opportunities for clear sightlines between public and private areas*
- *effective lighting of the site and the communal areas during evening hours*
- *providing clearly defined paths of travel between the Units, car parking and the common areas”*

It is considered that the development adequately addresses CPTED and safer by design principles.

**(Refer Condition No 4.4)**

### **Amenity Impacts**

The SEE advises that:

*“The proposed units have high levels of amenity for both future residents as well as the adjoining dwellings on the site. All units meet Council’s minimum requirements for solar access to living areas, useable areas of private open space and landscaping. The units have been designed to reduce overlooking from 2 storey balconies to adjoining properties.*

#### **Siting (Upper Units 1 to 4)**

*Units 1 to 4 have been sited to maximise the curtilage around the existing heritage house, minimise view loss from its verandah by sinking the single storey buildings into the site and creating view corridors between them. The proposed windows have been positioned to prevent overlooking between living spaces of one house into the bedrooms of the adjoining house. This design also provides excellent acoustic privacy for future residents. Unit are sited and building forms created to maximise winter solar access to outdoor living areas which are connected to the interior living spaces.*

#### **Siting (Lower Units 5 to 10)**

*The lower units have been sited to create a village like arrangement sharing a common landscaped pedestrian linkage with community meeting spaces & BBQ areas. Single storey living spaces ensure solar access to the open space & living rooms to the unit to the south. In addition, masonry walls have been utilised to provide visual and acoustic privacy between units.*

It is considered that the proposal raises no significant internal or external amenity issues.

### **Other Assessment Comments**

#### **Building Assessment:**

Council's Building Surveyor has raised no objections to the proposal and has advised the following:

*"The proposed development is capable of complying with the BCA , and all works in accordance with the Geotechnical report by Douglas & Partners."*

#### **Comments - Liquid Waste Services:**

Council's Liquid Waste Services officer has provided the following assessment in relation to the on-site sewage management of the proposal:

*"A number of issues have been highlighted within both the Integrated Water Cycle Management Plan submitted by Woodlots and Wetlands Pty Ltd and the Water and Wastewater Systems Overview submitted by Aquacell which require further clarification/information. For example, there are no details provided on the proposed location and specifications for wet weather storage; no discussion on the provision of a reserve land application area should the primary land application area fail; no details on proposed on-going environmental monitoring. It is our understanding however that the applicant has been advised by IPART to undertake a preliminary risk assessment and facilitate a meeting with all relevant stakeholders including the NSW Ministry of Health, the EPA, and Council, as part of the approval process for the WICA licence, which will address these issues. IPART anticipates that the application will not be submitted until mid-year. Notwithstanding these issues, the applicant will be required to submit an application under Section 68 of the Local Government Act 1993 for a permit to install an on-site sewage management system prior to the issue of the Construction Certificate. Once the system design is finalised it can be conditioned to comply with the relevant wastewater reports and requirements of the WICA licence. The following conditions should also be placed on the Development Consent:*

- A licence must be obtained under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision/Construction Certificate.  
**(Refer Condition No. 2.8)**
- A Notice of Decision to commence commercial operations from the Minister responsible for the WIC Act 2006 prior to the issue of an Occupation Certificate.  
**(Refer Condition No. 5.14)**
- An Approval to Operate the on-site sewage management system is to be issued by Council's Waste and Emergency Services prior to the issue of an Interim or Final Occupation Certificate.  
**(Refer Condition No. 5.16)**

### **Climate change and sea level rise**

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

Climate change and sea level rise will be felt through:

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

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

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

### **SEPP 71**

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

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

### **Public Submissions**

Two (2) public submissions were received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

A summary of the submission is detailed hereunder.

#### **1. Rainfall runoff**

##### **Impact of additional runoff from paved areas and driveways on creek and river flows in Narara Valley**

###### **Comment**

A 'Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 2 December 2013 was lodged with the application which indicates the provisions for on-site detention, nutrient/pollution controls, and retention of rainwater for reuse within the development; and discusses the overall proposal to address the total water cycle management for the site.

Council Development engineer has recommended that on-site detention be provided to limit post development flows back to pre-development flows for all storms up to and including the 1%AEP storm event.

The proposed development has the potential to generate additional nutrients & pollutants that could impact on the downstream receiving waters and the proposed development is required to provide nutrient/controls in accordance with Council's DCP 165 – Water Cycle Management.

#### **2. Traffic Impact**

##### **Impact of the extra traffic entering/exiting the local area via Dean Street and Carrington Streets is already impossibly congested at certain times of the day.**

###### **Comment**

The application is accompanied by a Traffic Impact Assessment Report *prepared by Christopher Hallam & Associates titled "Transport Impact Assessment of Proposed Eco-Village, Research Road, Narara, NSW", dated 6 December 2013* which advises the following:

- *With the addition of the ecovillage traffic, the peak traffic flows in this section of Fountains Road would remain under the RMS environmental goal for a local residential street. Clearly traffic flows increase at the High School.*
- *Peak period traffic counts at the junction of Fountains Road and Hanlan Street South, with the addition of ecovillage traffic, show that this intersection will continue to have satisfactory capacity. The earlier traffic counts at the Deane Street and Narara Valley Road intersection were used to reassess the capacity of that intersection under the additional loads from the ecovillage. This intersection also will remain satisfactory.*
- *At the Manns Road and Carrington Street junction new peak period traffic counts were undertaken, and the ecovillage traffic added. Through traffic on Manns Road would remain undelayed. The right turn out of Carrington Street currently is delayed in peak periods, particularly in the morning. These delays would increase. Drivers would have the option of using Deane Street to make a right turn onto Narara Valley Road Manns Road. With the close proximity of Narara Creek to the Carrington / Manns junction, roundabout or seagull channelization options are not feasible. Traffic signals would delay all traffic, including through traffic along Manns Road. In the circumstances, the future situation with the ecovillage traffic would be satisfactory.*

**3. Request for additional information:**

**The paperwork is too bulky to sift through to find appropriate information in relation to:**

- **Flood prone area, road widths, traffic, car parking, overall development, traffic report provided for stage 1 only, no design work for stormwater catchment, impact on downstream properties , sewer design.**

**Comment**

The application is accompanied by a concept master plan for the site which includes flood prone areas. However this is a concept plan only. Development application 44898 is for a 10 unit cluster development on one of the proposed allotments and the application has been assessed on its individual merits. **(Refer Assessment Report - Flooding and Drainage Assessments)**. Two (2) other applications (17 unit cluster development and community title subdivision) have been lodged with Council and are under assessment. The applicant also intends to lodge a planning proposal for the overall site. These applications will be assessed on their merits.

Construction of the cluster housing developments cannot proceed until such time as the subdivision (Stage 1) is granted approval.

The submitted traffic report addresses the follows aspects of development on the site:

- *Overall Masterplan Concept Plan, for 120 dwellings*
- *Stage 1 subdivision, for a total of 35 lots, including two Cluster lots*
- *Cluster Lot developments, with 10 dwellings (Lot 15)*
- *Cluster Lot development, with 17 dwellings (Lot 36) associated with the subject development application.*
- *Community uses development application.*

Road works, traffic impacts and car parking have been addressed in the assessment report.

The proposal does not comply with the car parking requirements under DCP 127 and 111, representing a shortfall of 5 spaces. Notwithstanding, car parking provision is considered satisfactory for the development for reasons identified in the report. Each townhouse will be provided with at least one resident car parking space which is considered adequate to service the development together with visitor parking areas throughout the site. **(Refer previous section of report on car parking provision).**

Development Application 44898/2013 contains sufficient information in relation to overall civil works proposed for the site. An Integrated Water Cycle Management Plan has been prepared by Woodlots and Wetlands for the NEV site and the key infrastructure will be installed as part of the Stage 1 DA 44994/2013 for the community title subdivision.

The applicant intends to lodge a separate application with the Independent Pricing and Regulatory Authority Tribunal (IPART) for a retail operator's licence and network operator's licence under the *Water Industry Competition Act 2006* ("WICA") for the integrated water management system (water and sewer). Council is not involved in the assessment of the private water and sewer system and conditions of consent have been imposed requiring approval of the WICA licence before development can proceed.

### Conclusion

This application seeks approval for the construction of 10 Cluster Housing Units on proposed Lot 15 of the Narara Eco Village site. The application has been assessed in accordance with the relevant provisions under Section 79C of the *Environmental Planning and Assessment Act 1979*, relevant SEPPs and DCPs. Despite various non compliances with several development standards under the Cluster Housing DCP 127 as outlined in the report, the proposal is considered to be consistent the objectives of the DCP.

The site is considered suitable for the development in that:

- It is appropriately zoned and is consistent with the provisions in GPSO and LEP 2014, which promote land uses that are compatible with the low density residential character of the area
- The existing bushfire protection measures on the site are generally adequate and subject to minor works and the ongoing maintenance of the existing APZ's will comply with the provisions of *Planning for Bushfire Protection 2006*
- It is located in an area with reasonable access to facilities and services and public transport

It is considered that the proposal will not have an adverse impact on surrounding development in that:

- It will not result in any significant environmental impacts on adjoining properties or surrounding conservation land and the 6(a) open space zoned land
- The proposal will have minimal impact on the surrounding residential area in terms of traffic, character, built form or environmental issues;
- It incorporates environmentally sustainable design solutions.

As such the application is recommended for approval.

**Attachments:** Applicant's Compliance Table DCP 127 – Cluster Housing

Applicant's SEPP 1 Objection

### RECOMMENDATION

- A Council assume the concurrence of the Director of Planning for the use of SEPP No 1 to vary the development standards of Clause 27A (3)(b) of the GPSO to permit the proposed development.
- B Council as consent authority grant consent to Development Application No. 44899 for Demolition of Existing Structures & Construct 10 Cluster Houses & Associated Infrastructure & Landscaping Works on LOT: 13 DP: 1126998, 25 Research Road NARARA subject to the conditions attached.
- C In accordance with Section 95(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- D The objector(s) be notified of Council's decision.
- E The NSW Office of Water, RMS be notified of Council's decision.

## CONDITIONS

### 1.. PARAMETERS OF THIS CONSENT

#### 1.1. Approved Plans and Supporting Documents

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

**Architectural Plans by**      **Baxter & Jacobson Architects Pty Ltd**  
**Landscape Plan by**      **McGregor Coxall**

Drawing	Description	Sheets	Issue	Date
353-01 DA S.1.1	Site and Location Plan	DAS.1.1	-	03.12.2013
353-01 DA S.2.1	Existing Site Plan	DAS.2.1	-	03.12.2013
353-01 DA S.3.1	Site Analysis Plan	DAS.3.1	-	03.12.2013
353-01 DA S.4.1	Demolition Plan	DAS.4.1	-	03.12.2013
353-01 DA S.5.1	Cluster Site Plan	DAS.5.1	-	03.12.2013
353-01 DA S.6.1	Site Sections	DAS.6.1	-	03.12.2013
353-01 DA S.6.2	Site Sections	DAS.6.2	-	03.12.2013
353-01 DA S.3.1	Site Analysis Plan	DAS.3.1	-	03.12.2013
353-01 DA S.7.1	Site Shadows Solstice June 20 9am	DAS.7.1	-	03.12.2013
353-01 DA S.7.2	Site Shadows Solstice June 20 12pm	DAS.7.2	-	03.12.2013
353-01 DA S.7.3	Site Shadows Solstice June 20 3pm	DAS.7.3	-	03.12.2013
353-01 DA S.7.4	Site Shadows Equinox March 20 9am	DAS.7.4	-	03.12.2013
353-01 DA S.7.5	Site Shadows Equinox March 20 12pm	DAS.7.5	-	03.12.2013
353-01 DA S.7.6	Site Shadows Equinox March 20 3pm	DAS.7.6	-	03.12.2013
DA A.1.1	House No.1 – Type A Site Plan	A.1.1		02.12.2013
DA A.2.1	House No.1 – Type A Ground	A.2.2	-	02.12.2013



	Floor and First Floor Plan			
DA A.3.1	House No.1 – Type A Section	A.3.1	-	02.12.2013
DA A.3.2	House No.1 – Type A Sections	A.3.2	-	02.12.2013
DA A.4.1	House No.1 – Type A Elevations	A.4.1	-	02.12.2013
DA B.1.1	House No.2 – Type B Site Plan	B.1.1	-	02.12.2013
DA B.1.2	House No.3 – Type B Site Plan	B.1.2	-	02.12.2013
DA B.2.1	House No.2 and 3 – Type B Ground Floor Plan	B.2.1	-	02.12.2013
DA B.3.1	House No.2 – Type B Sections	B.3.1	-	02.12.2013
DA B.3.2	House No.3 – Type B Sections	B.3.2	-	02.12.2013
DA B.4.1	House No. 2 and 3 – Type B Elevations	B.4.1	-	02.12.2013
DA C.1.1	House No.4 – Type C Site Plan	C.1.1	-	02.12.2013
DA C.2.1	House No.4 – Type C Ground Floor Plans	C.2.1	-	02.12.2013
DA C.3.1	House No.4 – Type C Sections	C.3.1	-	02.12.2013
DA C.4.1	House No.4 – Type C Elevations	C.4.1	-	02.12.2013
DA D.1.1	House No.5 – Type D Site Plan	D.1.1	-	02.12.2013
DA D.1.2	House No.6 – Type D Site Plan	D.1.2	-	02.12.2013
DA D.2.1	House No.5 and 6 – Type D Ground Floor and First Plans	D.2.1	-	02.12.2013
DA D.3.1	House No.5 – Type D Sections	D.3.1	-	02.12.2013
DA D.3.2	House No.6 – Type D Sections	D.3.2	-	02.12.2013
DA D.4.1	House No.5 and 6 – Type D Elevations	D.4.1	-	02.12.2013
DA E.1.1	House No.7 – Type E Site Plan	E.1.1	-	02.12.2013
DA E.1.2	House No.9 – Type E Site Plan	E.1.2	-	02.12.2013
DA E.2.1	House No. 7 and 9 – Type E Ground Floor and First Floor Plans	E.2.1	-	02.12.2013
DA E.3.1	House No.7 – Type E Section	E.3.1	-	02.12.2013
DA E.3.2	House No.7 – Type E Sections	E.3.2	-	02.12.2013
DA E.3.3	House No.9 – Type E Section	E.3.3	-	02.12.2013
DA E.3.4	House No.9 – Type E Sections	E.3.4	-	02.12.2013
DA E.4.1	House No.7 and 9 – Type E Elevations	E.4.1	-	02.12.2013
DA F.1.1	House No.8 – Type F Site Plan	F.1.1	-	02.12.2013
DA F.1.2	House No.10 – Type F Site Plan	F.1.2	-	02.12.2013
DA F.2.1	House No. 8 and 10 – Type E Ground Floor and First Floor Plans	F.2.1	-	02.12.2013
DA F.3.1	House No.8 – Type F Section	F.3.1	-	02.12.2013
DA F.3.2	House No.8 – Type F Sections	F.3.2	-	02.12.2013
DA F.3.3	House No.10 – Type F Section	E.3.3	-	02.12.2013
DA F.3.4	House No.10 – Type F Sections	E.3.4	-	02.12.2013
DA F.4.1	House No.8 and 10 – Type F Elevations	E.4.1	-	02.12.2013
01	Landscape Plan	1	B	
02	Landscape Plan – Section, Planting and Materials	2	B	
CGS 2.01	Communal Garbage Store Waste Management Plan			February 2014

## Supporting Documentation

Document	Title	Date
-	Architectural Design Statement (Baxter & Jacobson Architects).	28.11.2013
-	Waste Management Plan (J Talbott).	20.03.2014
512165M	BASIX Certificate ( G.E Hunt )	04.12.2013
D12242-4	Site Survey ( Chase Burke & Harvey) Sheets 1 to 3	20.01.2008
B132141-1	Bushfire Protection Assessment (G. L. Swain - Australian Bushfire Protection Planners Pty Ltd)	04.12.2013
75583.02	Geotechnical Assessment Report (Douglas Partners)	December 2013
V4.3	Water Cycle Management Plan (Woodlots and Wetlands Pty Ltd) – Cluster Housing Proposed Lot 15	28.11.2013
-	Arboricultural Impact Assessment (Michael Shaw Consulting Arborist)	29.11.2013
3301	Transport Impact Assessment (Chris Hallam & Associates	04.12.2013
-	Heritage Impact Statement ( Musecape Pty Ltd)	02.12.2013
75583.00	Site Contamination Report ( Douglas Partners)	November 2013

### 1.2. Building Code of Australia

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

## 2.. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

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

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

2.2. Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* must be amended. Any *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

- a) Laundry facilities comprising at least one washtub and space in the same room for a washing machine to be shown on floor plans for each unit. (Note: A kitchen sink or washbasin must not be counted as a laundry tub)
- b) Provide details of sound insulation and fire protection between floors and between units as per BCA requirements.
- c) Construction Certificate plans are to be overlayed with swept turning path templates to AS 2890 to demonstrate access for a rear loading, rear dual axle HRV into the waste truck servicing area to allow exit from the site in a forward direction.
- d) Details of the waste storage area, sized to accommodate 2 x 1.5m<sup>3</sup> bulk bins and 2 x 240 litre MGB's for twice weekly servicing of mixed waste and 2 x 1.5m<sup>3</sup> bulk

bins and 2 x 240 litre MGB's for twice weekly servicing of recycled waste for 60 residential units.

- 2.3. The finished surface material, colours and texture of any building and/or hard paved areas must be non-glare. The details of the materials are to be submitted to the principle certifying authority prior to the issue of any Construction Certificate.
- 2.4. Surface water collected on driveways, parking areas and other impervious areas are to be treated so as to control pollution in accordance with one or more of the methods detailed in Section 10 of the Water Cycle Management Guidelines referenced by DCP 2013 Chapter 6.7 - Water Cycle Management.
- 2.5. The future dwellings erected in the Cluster Housing precinct shall be located with a separation distance from unmanaged bushfire prone vegetation which maintains the maximum level of bushfire construction standard requirement to BAL 29.  
All dwellings located within 100m of the bushfire prone vegetation shall be constructed to a minimum standard of with Bushfire Attack Level (BAL) 12.5 as prescribed by AS3959 - 2009 - *Construction of buildings in bushfire prone areas*. Furthermore, depending on the required BAL, the development is to incorporate additional construction requirements that are contained in *subsection A3.7 - Additional Construction Requirements*, of the document produced by the NSW Rural Fire Service and known as *Addendum: Appendix 3 - Planning for bushfire protection 2010*.

Details demonstrating compliance with this condition are to be incorporated within the documentation associated with any construction certificate.

- 2.6. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of any Construction Certificate.
- 2.7. Design of the following engineering works within private property:
  - a. Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
  - b. Access roads within the Cluster Housing precinct shall be constructed to comply with the specifications of Section 4.1.3(1) of *Planning for Bushfire Protection 2006* with a minimum pavement width of 5.5 metres for two-way internal roads and a minimum pavement width of 3.5 metres for the one-way internal roads. Parking Bays (minimum 2.6m wide) shall be designed and constructed clear of the road pavement and complying Passing Bays (20m long x 2.0m wide) provided in the locations shown on the Concept Plan.
  - c. A stormwater detention system must be designed in accordance with Council's DCP165 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used in the design calculations. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths. The onsite detention system/s shall be designed generally in accordance with the 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 28 November 2013.
  - d. Nutrient/pollution control measures must be designed in accordance with Council's DCP 165 - Water Cycle Management. A nutrient/pollution control report including an

- operation and maintenance plan shall accompany the design. The nutrient/pollution controls shall be designed generally in accordance with the 'Integrated Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 28 November 2013.
- e. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure/s to internal drainage system associated with community title subdivision.
  - f. A fire-fighting water supply shall be provided to the Cluster Housing precinct with Hydrant spacing, sizing and pressure complying with the specifications of Australian Standard A.S. 2419.1 - 2005 and have a flow rate of 10 litres / second. Hydrant locations shall be delineated by blue markers placed on the hydrant side of the centreline of the road pavement.

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

- 2.8. The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006 prior to the issue of any Construction Certificate.
- 2.9. Prior to the issuing of any construction certificate or releasing engineering plans for the subdivision / development works, Council shall be issued with a Site Audit Statement by an accredited EPA Auditor stating the land has been remediated and is suitable for its intended land uses.
- 2.10. Details of compliance with Accessibility requirements under the Building Code of Australia and AS4299-1995 are to be submitted with any Construction Certificate.
- 2.11. Prior to the issuing of any Construction Certificate, the following matters are to be complied with:
  - The completion of all works and infrastructure associated with DA44994/2013, and
  - The registration of the plan of subdivision under DA44994/2013
- 2.12. The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.
- 2.13. The proponent must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use of the existing dam for domestic water supply, prior to the issue of any construction certificate.
- 2.14. Separate application for a vehicular access crossing, accompanied by the current fee as prescribed in Council's Schedule of Fees and Charges shall be submitted to Council. The application form can be obtained by contacting Council's Customer Service Staff or visit Council's web site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)
- 2.15. The Structural Engineer's details are to be certified that they have been prepared in accordance with the details and recommendations of the Geotechnical Assessment Report No. 75583.02, prepared by Douglas Partners, dated December 2014.

### 3.. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. Any construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a Principal Certifying Authority prior to the commencement of any building works.

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

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

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

- 3.5. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change.
- 3.6. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, *'Site Security and Public Access onto Housing Construction Sites'* and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

- 3.7. A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place, a separate application made under the *Roads Act 1993* will need to be lodged with Council together with the associated fee.

- 3.8. All parking areas shall comply with AS2890.1:2004 and vehicular access near the waste storage area shall comply with AS2890.2:2002
- 3.9. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The person having the benefit of this consent must provide the principal certifying authority with a copy of a signed contract with such licensed removalist before any development pursuant to the development consent commences.

Any such contract must indicate whether any non-friable asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

If the contract indicates that non friable asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

The person having the benefit of the consent must provide the principal certifying authority with a clearance certificate to be prepared by a competent person such as a qualified hygienist at completion of asbestos removal/work from the site.

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

3.10. The Principal Certifying Authority must ensure that all parties/trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.

3.11. Tree Protection is to be undertaken in accordance with the recommendations of the Arboricultural Impact Assessment for Proposed Lot 15 Cluster housing development, by Michael Shaw, dated 29/11/13.

3.12. Compliance with the recommended mitigative measures contained within Section 5.6 of the *"Heritage Impact Statement for proposed cluster housing development within and adjacent to the curtilage of the Manager's Residence"*, prepared by Chris Betteridge, MUSEcape Pty Ltd, dated 2 December 2013.

## 4.. DURING WORKS

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

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

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

a No work is permitted on Sundays and Public Holidays

b No work is permitted on:

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

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

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



- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.4. To minimize the opportunity for crime, the development must incorporate the following:
  - a Adequate lighting to AS1158 is to be provided to common areas.
  - b Landscaping adjacent to mailboxes, pathways and footpaths must not provide for the concealment opportunities for criminal activity.
  - c The communal areas within the development are well lit and designed to minimise areas for concealment and entrapment
  - d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
  - e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.5. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.6. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.7. This development is subject to DCP 2013 Chapter 7.2 – Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.
- 4.8. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.9. No fill permitted beyond the footprint of the building with the exception of vehicular access.
- 4.10. The Engineering works within private property that formed part of any construction certificate shall be constructed in accordance with the plans and details approved with any construction certificate.
- 4.11. All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002.
- 4.12. To minimize the potential for erosion and sedimentation, fuel management must only remove the aerial parts of plants; roots of all plants must remain so that soil is undisturbed. This constraint will require that this work be undertaken manually in this sensitive zone.

Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.

- 4.13. Plant species used for landscaping must be restricted to locally native species appropriate to the locality and/or those introduced species that do not have known potential to become environmental weeds.
- 4.14. Stockpile of soil and other material shall be located away from sensitive environmental receptors, and if not to be used immediately, must be covered with an appropriate control such as geotextile fabric.
- 4.15. Any required fill material will only comprise of;

- i Virgin Excavated Natural Material (VENM) as defined under Schedule 1 of the *Protection of the Environment Operations (POEO) Act 1997*.

This definition is as follows:

*"virgin excavated natural material" means natural material (such as clay, gravel, sand, soil or rock fines):*

- (a) *that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and*

- (b) *that does not contain any sulfidic ores or soils or any other waste,*

and/or

- ii Excavated Natural Material (ENM) that has been issued with an exemption under the *Protection of the Environment Operations (Waste) Regulation 2005* in accordance with the Excavated Natural Material exemption 2012.

The placement of any other type of fill material other than that defined under VENM or ENM is classified as prohibited under this consent.

- 4.16. The applicant shall provide Council with validation documents verifying and certifying that the material complies with the definition of VENM under Schedule 1 of the *POEO Act 1997* or an exemption issued under the Excavated Natural Material Exemption 2012 if ENM is placed on the land.
- 4.17. Any exposed soil surface areas must be grassed/landscaped to minimise soil erosion.
- 4.18. All external night lighting is to be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013).
- 4.19. The Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) is to be implemented.
- 4.20. Trees to be removed are to be those as recommended for removal within the Arboricultural Impact Assessment for proposed Lot 15 Cluster housing development. Trees must be removed in a manner so as to prevent damage to those trees that are to be retained. Note: The Landscape plan has inaccuracies and is not to be used in regard to tree removal.

- 4.21. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.22. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 4.23. The driveway design and loading area layout is to be designed in accordance with AS 2890.2-2002 Parking Facilities - Off Street Commercial Vehicle Facilities.
- 4.24. The waste truck servicing grade is to be 3% or less for the following areas:
  - Within the enclosure
  - For bulk bin roll out pads
  - Within the 13m bulk bin and truck service area
- 4.25. The screened waste storage enclosure to be located as indicated on Draft Dwg No CGS2.01, dated February 2014, Amendments issued for comment 18 February 2014.
- 4.26. A maximum gradient of 12.5% to the entry/access driveway to the Waste Storage Area.
- 4.27. Compliance with all commitments as detailed in the Waste Management Plan signed by J. Talbot and dated 20.3.2014 and Introduction and general comments regarding Waste Management Plans for Master Plan and Cluster housing DA's for Narara Ecovillage Co-Operative Ltd.
- 4.28. Any works to be carried out on the heritage listed building are to be carried out under the supervision of a suitably qualified heritage consultant.
- 4.29. Significant building elements, features, fixtures, fittings and fragile materials shall be adequately protected during construction from potential damage. Protection systems must ensure historic fabric is not damaged or removed.

## 5.. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. Application for any Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2. The premises not being occupied until any occupation certificate has been issued.
- 5.3. A concrete kerb, or alternative of similar standard, must be provided to the driveways and around areas of landscaping to prevent encroachment of vehicles.
- 5.4. The driveway, vehicle manoeuvring area and 10 car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking. Accessible parking to be designed in accordance with AS2890.6:2009.
- 5.5. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.6. Mail receptacles shall be provided and appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.7. Prior to the issue of any Occupation Certificate the Principal Certifying Authority must be furnished with a written statement from a recognised Bushfire Consultant certifying that all

recommendations and findings of the Bushfire Report prepared by Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-2, dated 04.12.2013

- 5.8. Prior to the issue of any Occupation Certificate an instrument under the Conveyancing Act 1919 must be created on the Certificate of Title establishing a restrictive covenant detailing the areas to be maintained as a Asset Protection Zone in accordance with the Bushfire Report prepared by Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-1, dated 04.12.2013. The restriction shall ensure the owner continually maintains the Asset Protection Zone in accordance with the recommendation and findings detailed in the Bushfire Report. The restriction is to be created at the applicants cost with the Council having the sole authority to release or modify.
- 5.9. The requirements of the BASIX certificate 512165M dated 04.12.2013 for development and shown on the approved plans must be complied with prior to the issue of any occupation certificate.
- 5.10. The development shall incorporate a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 2013 Chapter 6.7 -Water Cycle Management) with a minimum total capacity of 15000 litres, capturing water from at least 90% of the total roof area. The water collected is to be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s).
- 5.11. A material or device is to be installed to prevent the build up of flammable material (such as leaf matter) within the roof gutters is to be installed. The material or device must have a flammability index of not greater than 5 when tested in accordance with AS1530.2.
- 5.12. Prior to the issue of any occupation certificate, the internal engineering works within private property that formed part of any construction certificate shall be completed in accordance with the plans and details approved with any construction certificate.
- 5.13. Prior to the issue of any Occupation Certificate the Deposited Plan (DP) must be amended to:
- Include an Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan.
    - a To create a 'Restriction as to User' over the lot containing on-site stormwater detention system/s and/or nutrient/pollution facilities restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- And,
- Include an instrument under the Conveyancing Act 1919 for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).
    - a To ensure on any lot containing on-site stormwater detention system/s and/or a nutrient/pollution facility} that:
      - (i) The facility will remain in place and fully operational.
      - (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
      - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
      - (iv) Council is indemnified against all claims of compensation caused by the facility.

Registered title documents showing the restrictive and positive covenants must be submitted to and approved by the Principal Certifying Authority prior to the issue of any occupation certificate.

- 5.14. The applicant shall obtain a Notice of Decision to commence commercial operations from the Minister responsible for the WIC Act 2006 prior to the issue of any Occupation Certificate for the development.
- 5.15. Compliance with all recommendations contained within Section 6 of the Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-2, dated 04.12.2013 as follows:

*Recommendation 6.1 Asset Protection Zones:*

Asset Protection Zones to future dwellings within the Cluster Housing precinct on proposed Lot 15 in the subdivision of Lot 13 in DP 1126998 shall be determined to maintain a maximum 29kW/m<sup>2</sup> radiant heat flux on the exterior of the buildings. This shall apply to the buildings located adjacent to the bushfire prone vegetation to the northwest and west [Unit 1A & 2B]. [Refer to Annexure 1 – Plan of Asset Protection Zones].

*Recommendation 6.2 Management of the vegetation within the designated Asset Protection Zone:*

The Asset Protection Zone to the west of Unit 1A & 2B shall be maintained as an Inner Protection Area in accordance with Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service “*Standards for Asset Protection Zones*”.

An 88B covenant shall be created on the title of the future strata lots and Community land to ensure the ongoing management of the Asset Protection Zone and residual vegetation within the Cluster Housing precinct.

Should the Cluster Housing precinct be developed prior to the commencement of the adjoining residential allotments to the southeast and to the northwest of the riparian corridor, the whole of the residual residential zoned land, except for those areas defined as habitat areas/riparian corridors, shall be managed by slashing/grazing to maintain a maximum grass height of 150mm during the designated Bushfire Danger Period [1<sup>st</sup> October – 31<sup>st</sup> March or as prescribed].

*Recommendation 6.3: Construction Standards to future dwellings:*

The future dwellings erected in the Cluster Housing precinct shall be located with a separation distance from unmanaged bushfire prone vegetation which maintains the maximum level of bushfire construction standard requirement to BAL 29.

All dwellings located within 100m of the bushfire prone vegetation shall be constructed to a minimum standard of BAL 12.5 and fitted with non-combustible gutter ember protection device.

*Recommendation 6.4: Fire-fighting access provisions:*

Access roads within the Cluster Housing precinct shall be constructed to comply with the specifications of Section 4.1.3(1) of *Planning for Bushfire Protection 2006* with a minimum pavement width of 5.5 metres for two-way internal roads and a minimum pavement width of 3.5 metres for the one-way internal roads. Parking Bays [minimum 2.6m wide] shall be designed and constructed clear of the road pavement and complying Passing Bays [20m long x 2.0m wide] provided in the locations shown on the Concept Plan.

*Recommendation 6.5: Water Supplies for Fire-fighting Operations:*

A fire-fighting water supply shall be provided to the Cluster Housing precinct with Hydrant spacing, sizing and pressure complying with the specifications of Australian Standard A.S. 2419.1 - 2005 and have a flow rate of 10 litres / second.

Hydrant locations shall be delineated by blue markers placed on the hydrant side of the centreline of the road pavement.

- 5.16. Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.
- 5.17. Prior to the issue of any Occupation Certificate, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed use of the existing dam for domestic water supply.
- 5.18. An Approval to Operate the on-site sewage management system is to be issued by Council's Waste and Emergency Services prior to the issue of any Interim or Final Occupation Certificate
- 5.19. Prior to the issue of any Occupation Certificate a geotechnical engineer shall provide written certification to the Principal Certifying Authority's satisfaction that all works have been carried out on site in accordance with the submitted geotechnical report recommendations.
- 5.20. a. The existing building on proposed Lot 15 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm.  
b. Where applicable, this includes any subfloor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.  
c. The entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Services' document 'Standards for Asset Protection Zones'.

Written verification from a qualified person in Bushfire Protection or accredited by Fire Protection Association of Australia shall be submitted with the Occupation Certificate attesting to the completion of such works.

## 6.. ONGOING OPERATION

- 6.1. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.3. Ten (10) car parking spaces are to be physically identified on site, and maintained free of obstruction. These spaces are not to be used for the storage of goods or waste products.
- 6.4. No cooking facilities or sanitary fittings other than those indicated on the approved plan being installed in the building.

- 6.5. The operation of all mechanical plant equipment and machinery (i.e. air conditioning unit and/or heat pump) shall not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.
- 6.6. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
- 6.7. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 6.8. Waste and recycling bulk waste bins and MGB's to be presented for collection/servicing adjacent to the waste truck servicing location prior to servicing by the residents, caretaker or other internal management arrangement and returned to the screened waste storage enclosures immediately after servicing.
- 6.9. Use of any private water supply shall comply with Australian Drinking Water Guidelines. The NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use.

## 7.. OTHER APPROVALS

### **RFS Requirements**

#### *Asset Protection Zones*

- 7.1. At the issue of subdivision certificate and in perpetuity, all lots within proposed Stage 1 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 7.2. At the issue of subdivision certificate and in perpetuity, all residual land zoned as residential within the remainder of the future development shall be managed as an asset protection zone (APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### *Water and Utilities*

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

#### *Access*

- 7.4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- 7.5. Temporary "T" turning heads shall be provided at the terminus of dead-end roads created in the construction of the individual development designs.

#### *Design and Construction*

- 7.6. Any existing buildings within proposed Stage 1 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

### **NSW Office of Water**



- 7.7. The proponent shall apply for and obtain a controlled activity approval from the NSW Office of Water for any controlled activity to be carried out on waterfront land.
- 7.8. Compliance with the attached General Terms of Approval (GTA) (REF 20ERM2014/0010) issued by the NSW Office of Water for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act)
- 7.9. The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.
- 7.10. In relation to the proposed use of the existing dam for domestic water supply, the applicant must obtain the appropriate approvals or provide evidence that the appropriate approvals are currently held under the Water Management Act 2000 in relation to any proposed water use, prior to the issue of a construction certificate.

## 8.. ADVICE

- 8.1. The public authorities may have separate requirements and should be consulted in the following aspects:
  - a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 8.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 8.3. Any water or sewer works are to be undertaken with the consent of Council. Application is to be made with Council under the provisions of Section 68 of the Local Government Act 1993 prior to commencement of any works on the site.
- 8.4. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.111.1100.com.au](http://www.111.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 8.5. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 8.6. It is an offence under the National Parks and Wildlife Act 1974 to knowingly disturb an Aboriginal object or artifact without consent.
- 8.7. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.  
NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law. The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the requirements of the DDA.
- 8.8. Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Council's web site [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au) to download a form from the Water & Sewerage forms index.
- 8.9. Should the proponent fail to obtain a Licence and Notice of Decision under WICA and require connection to Council's water supply and sewerage reticulation systems then the proponent would need to lodge a section 96 application to modify the development consent.

The following conditions shall apply:

- Connection of the proposed development to Council's water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council's existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.

- The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.
- Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council's policy.
- The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Council's existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.
- The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.

## 9.. PENALTIES

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

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

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

### Warnings as to Potential Maximum Penalties

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

## 10.. REVIEW OF DETERMINATION

- 10.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

## 11.. RIGHT OF APPEAL

- 11.1. Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.
- 11.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

## General Terms of Approval

for work requiring a controlled activity approval  
under s51 of the Water Management Act 2000

Our Reference: 20.ERM2014/0010 File No:

Site Address: 20 Research Road, Narara

DA Number: 44898/2013

LG A: Gosford City Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated Development Application relating to DA 44898/2013 and provided by Council to NSW Office of Water as part of the Development Application.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (work) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAP) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 45 metres of the top of the bank of the rivers that occur on-site. (For the purpose of these GTA, the watercourses described as the northern gully and the middle watercourse are both considered to be rivers.)</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> <li>(i) Vegetation Management Plan</li> <li>(ii) Erosion and Sediment Control Plan</li> </ul>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/water-licensing/licensing-default.aspx">www.water.nsw.gov.au/water-licensing/licensing-default.aspx</a>:</p> <ul style="list-style-type: none"> <li>(i) Vegetation Management Plans</li> <li>(ii) Laying pipes and cables in watercourses</li> <li>(iii) Riparian Corridors</li> <li>(iv) In-stream works</li> <li>(v) Culvert structures</li> <li>(vi) Watercourse crossings</li> </ul>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p>
<b>Riparian Erosion and Maintenance</b>	
6	NA
7	The consent holder must restore waterfront land affected by the carrying out of any controlled activity.

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

3rd Floor, Water Street, Gosford NSW 2250 | Tel: (02) 4340 6014  
or email to [Water@nsw.gov.au](mailto:Water@nsw.gov.au) | ABN 52 136 913 272



<b>Our Reference:</b>	23 ERM 2014/0010	<b>File No:</b>
<b>Site Address:</b>	25 Research Road, Windsor	
<b>DA Number:</b>	44898/2013	
<b>LGA:</b>	Gosford City Council	

Number	Condition
	In accordance with a plan or design approved by the NSW Office of Water.

#### Reporting requirements

8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
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#### Security deposits

9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as required.
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#### Access-ways

10	The consent holder must design and construct all ramps, stairs, access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront, and, other than in accordance with a plan approved by the NSW Office of Water.
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a position which is in accordance with a plan approved by the NSW Office of Water.

#### Bridge, causeway, culverts, and crossing

12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront, and, other than in accordance with a plan approved by the NSW Office of Water.
13	The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and the clear, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.

#### Deposit

14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks, are left on waterfront and other than in accordance with a plan approved by the NSW Office of Water.
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#### Drainage and Stormwater

15	The consent holder is to ensure that all drainage across (i) rights and common rights, discharges and flood flows to follow low water level in accordance with a plan approved by the NSW Office of Water, and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must establish main discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.

#### Erosion control

17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and
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[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

5100 Mann Street, GOSFORD | PO Box 590, GOSFORD NSW 2250 | Tel: 253 444 5314  
e: [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | F: 634 72 137 9 | 1 877

Our Reference: 20 ERM20140013 File No:

Site Address: 25 Research Road, Narrara

DA Number: 44898/2013

LGA: Gosford City Council

Number	Condition
	structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised
<b>Excavation</b>	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water
19	The consent holder must ensure that any excavation does not result in (i) diversion of any river (i) bed or bank instability or (ii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water
<b>Maintaining river</b>	
20	N/A
21	N/A
<b>Riverbed and bank protection</b>	
22	N/A
23	The consent holder must establish a riparian corridor upon waterfront land in accordance with a plan approved by the NSW Office of Water
<b>Plans, standards and guidelines</b>	
24	N/A
25	N/A
26	N/A
27	N/A
<b>END OF CONDITIONS</b>	

<<Insert Attachment Link/s Here >>

**DCP 127 – Cluster Housing (Amendment 1) Compliance Table for lot 36, prepared by Sara Roach Planning Services /Michael Woodland Consulting Pty Ltd**

- Amended to reflect non compliance

**Gosford City Council - Development Control Plan 127 – Cluster Housing (Amendment 1)  
Compliance Table for lot 15**

	Section	Key requirement	Compliance	Comment
<b>1 INTRODUCTION</b>				
<b>1.0 6</b>	Objectives	To ensure that the cluster development represents a high level of urban design that will be compatible with the character and scale of the existing residential development in the locality	Yes	Details in specific guidelines elsewhere in the DCP. Adjoining land is also part Stage 1 NEV development. The Cluster site does not have a common boundary with the residential area, nor is it visible from the surrounding public domain.
		To provide high level of amenity for the occupants of the development and the residents of adjoining land.	Yes	Refer to sections 2.3, 2.4, 2.5 below. Details in specific guidelines elsewhere in the DCP.
		To ensure the development will not adversely affect the natural environment	Yes	Refer to sections 3.6, 4.1, 4.2 below. Details in specific guidelines elsewhere in the DCP
		To recognise the importance of ecologically sustainable development	Yes	Refer to sections 2.5, 6.1, 6.2, 6.3 below. Details in specific guidelines elsewhere in the DCP.
		To achieve the efficient use of urban land and to maximise development potential of land and infrastructure	Yes	Refer to sections 3.1, 4.1, 4.2 below. Details in specific guidelines elsewhere in the DCP.
<b>2 DESIGN GUIDELINES</b>				
<b>2.1</b>	Streetscape	Ensure external appearance is compatible with the character and scale of residential development, in the immediate vicinity	Yes	The proposal is for 1 and 2 storey dwellings that are compatible with surrounding scale of residential development in the vicinity. The proposal does not have a common boundary with existing residential areas, nor is it visible from the surrounding public domain. Refer to detail sections below.
		Consider height, bulk and scale, landscaping and materials	Yes	The proposed 1 and 2 storey developments respond to the topography of the land. The setbacks have been proposed to ensure appropriate response to the site and provision of landscaped areas to the dwellings with excellent solar access and amenity. Materials will respond to the site and will focus on environmental sustainability principles of the Masterplan.
		Reflect the function of the road servicing the development	Yes	All proposed roads within the site will be private roads and are proposed as part of an integrated internal road and pedestrian network to service the NEV site. The proposal responds to these conditions as well as the sloping topography of the site.
		Provide appropriate landscaping and fencing	Yes	The proposal is accompanied by a full landscape plan that reflects the key landscape principles in the Concept



	Section	Key requirement	Compliance	Comment
				Masterplan.
2.2	External Appearance	Ensure external appearance is compatible with the design and character of the surrounding residential development, and to achieve an attractive and quality living environment	Yes	The proposal is of exceptional design quality and will compliment the existing natural and built environment. The proposal is located away from existing residential areas. The design is staggered to reflect the site conditions and uses a variety of materials.
		Not more than 50% of dwellings in any development shall be two storey, or alternatively not more than 33% of the total floor area shall be at first floor level	No - Merit assessment	7 out of the 11 houses (including heritage item) on the site are two storey, 3 of which are full two storey and 4 are part 1 & 2 storey. Based on the table of floor areas below, 22.5% of the total floor area is at First Floor Level (FFL).
		Garages/Carports	N/A	The proposal do not provide for any garages/carport, with dwellings provides with car spaces, often clustered to facilitate pedestrian environment not dominated by vehicles.
2.3	Visual Privacy	Control visual privacy between public spaces & habitable rooms, between public /private spaces	Yes	The design addresses privacy issues by various means including landscape elements, set backs, orientation, window location and internal layout.
2.4	Noise	Provide acoustic privacy within dwellings & between dwellings	Yes	The design addresses acoustic privacy controlled by various means including landscape elements, set backs, window location and building materials.
2.5	Solar Energy/Climate Control	Min 3.5 star rating required	Yes	See BASIX Certificate
		Limit overshadowing of adjacent dwellings	Yes	The proposed dwellings have been sited to maintain solar access to north facing open spaces and living rooms. Shadow diagrams have been provided.
		Limit summer exposure, max winter solar access	Yes	East & west facing windows will be provided with solar shades or E-glass. Note: site is in shadow after approx 5pm in summer due to the western hill and 3pm in Winter
2.6	Views	Maximise views from within dwellings but minimise view loss to adjoining dwellings	Yes	Houses 2, 3 & 4 around the heritage-listed cottage are single storey and not raised. Buildings have also been spread out to maintain uninterrupted views between buildings
2.7	Access for People with Disabilities	Recommended that single storey dwellings to provide access for people with disabilities	Merit assessment	The proposal exceeds this recommendation by providing 2 dwellings that are both accessible and full adaptable in accordance with the relevant Australian Standard. Dwellings 2 & 3 will be designed to be adaptable units. Houses 7 to 10 have been designed to be accessible from the street.
<b>3 DEVELOPMENT REQUIREMENTS</b>				
3.1	Site Characteristics	Min allotment area of 3500 sq m	Yes	Site has 7200m2 including roadway.
		Ration of width to depth	No	The proposal is not subject to identified building lines and therefore this is not applicable. In addition, the site is part of

	Section	Key requirement	Compliance	Comment		
				broader NEV site, which is self contained and well exceeds numerical standard.		
		Slope not to exceed 10%	No – Merit Assessment	The lower part of the site is relatively flat, however upper portion east of the heritage cottage exceeds 10% (approx. 23% in parts). The application is accompanied by a geotechnical assessment and the design has responded to the topography in this area through design and landscaping.		
3.2	Location Characteristics	Proximity to schools, shopping centre, public transport point	No	The NEV site is well located within 400m from the Narara Public school and bus services.		
3.3	Density	Site area: <ul style="list-style-type: none"><li>325m2 - dwellings up to 70m2</li><li>350m2 - dwellings between 70 &amp; 110m2</li><li>400m2 - dwellings between 110 &amp; 240m2</li></ul>	Yes	The current proposal is for 10 new dwellings with appropriate site areas in response to the constraints of the site. Details of Gross floor areas (GFA), Ground Floor area (GFL and First Floor Areas (FFL) and site areas for each house are listed below		
3.4	Height	Max height of 10m within envelope defined by 45 deg at 3,5m height at side & rear boundaries	Yes – Overall height No Merit assessment	As the cluster site is within the NEV larger site, and traditional front, side & rear boundaries are not applicable, the proposal is seeking merit-based assessment of this control. Preliminary heights are detailed below in the Set Back table.		
3.5	Set Backs	6m set back from front boundary	No Merit assessment	As the cluster site is within the NEV larger site, and traditional front, side & rear boundaries are not applicable, the proposal is seeking merit-based assessment of this control. Detailed arguments are provided in the Report. The following provides details of set backs taken from the elevation facing the cluster site boundary for all houses except 3B & 4C which have been taken from the existing road which cuts through the cluster site. Buildings have been placed at varying angles to the boundaries to provide solar access as well as to create a more varied presentation to the public domain. Heights are from finished ground level.		
			House	Set Back to road (metres)	Overall Height (metres)	Setback to Open space 6(a) land (metres)
			Heritage cottage:	5.2 – 1.7	5.7	-
			House 1A:	4.5 - 8.0	7.25	-
			House 2B:	1.5 – 3.1	5.5	-
			House 3B:	4.4 – 5.2	5.5	-
			House 4C:	3.3 – 7.2	5.3	-
			House 5D:	-	7.25	2.3 – 5.5
			House 6D:	-	7.25	8.1 – 10.6
			House 7E:	-	6.0	4.5 – 5.8
			House 8F:	-	6.0	6.7 – 7.6
			House 9E:	-	6.0	6.7 – 7.0

	Section	Key requirement	Compliance	Comment
			House 10F:	- 6.0 4.0 - 4.1
		Courtyards within front set back	<b>No</b>	Courtyard to House 1 will be located in the front set back zone
		3m set back to adjoining boundaries for single storey dwellings	<b>No</b> Merit assessment	As the cluster site is within the NEV larger site, and traditional front, side & rear boundaries are not applicable, the proposal is seeking merit-based assessment of this control.
		Set back also must provide min 4hrs solar access to major part of outdoor open space /living areas as well as solar access to living rooms.	Yes	All dwellings have been sited to comply with this requirement for both outdoor living spaces as well as living rooms. Sunshade analysis & shadow diagrams have been prepared to support this requirement.
		2-3 storeys require set back of $\frac{3}{4}$ building height	<b>No</b> Merit Assessment	As the cluster site is within the NEV larger site, and traditional front, side & rear boundaries are not applicable, the proposal is seeking merit-based assessment of this control. Dwellings 7, 8, 9 & 10 form a row and are attached by a 3m wide pergola structures & courtyard for the western portion of the plan.
		Set back to foreshores, reserves etc	Merit Assessment	Not considered applicable as site fully contained in NEV development, detailed argument in Report.
<b>3.6</b>	Open Space & Landscaped Areas	Dwellings up to 70 sqm require 130 sqm of open space (40% of 325sq m)	Yes	Dwellings 5 & 6 fall in this range. See landscape Plan. Compliance is achieved by allocating 35% open space to common areas
		Dwellings between 70 & 110 sq m require 140 sqm of open space (40% of 350sqm)	Yes	Dwellings 1 to 4 fall within this range. See Landscape Plan. Compliance is achieved by allocating 35% open space to common areas
		Dwellings between 110 & 240 sq m require 160 sqm of open space (40% of 400sqm)	Yes	Dwellings 7 to 10 fall within this range. See Landscape Plan. Compliance is achieved by allocating 35% open space to common areas
		50% Private open space to receive direct sunlight between 9am & 3pm in Mid winter	Yes	Dwellings have been sited to comply with this requirement. Sunshade analysis & shadow diagrams demonstrate compliance with this requirement.
		Min dimension of 6 metres and to be contiguous with living space	<b>No</b> Merit Assessment	All open space areas are useable with living rooms face north and open directly onto private courtyards.
		35% of private open space may be allocated to communal areas	N/A	See comments above at 3.6
<b>3.7</b>	Car Parking	1car spaces per dwelling (for sites within 400 m of public transport node)	<b>No</b> public transport node more than 400m	One parking space has been allocated to each dwelling. Adaptable houses 2 & 3 will be allocated a larger parking space as per AS 4299. Traffic / parking study which underpins the Concept Masterplan recommends 1 space per dwelling with visitor spaces at main entry gate. All car parking spaces will be adequately screened and landscaped.
		0.2 car spaces per dwelling for visitor parking	Yes	All visitor spaces will be provided across the site in areas nominated in the Stage 1

	Section	Key requirement	Compliance	Comment
				DA. Car washing facilities will be provided within the NEV site.
		Location of car spaces	No – merit assessment	Car spaces for Units 15-17 and spaces for Units 12-14 are located within the front building setback. This is considered acceptable given the site is within the NEV site and fronts private roads. Detailed consideration is provided in the Report.
		Spaces allocated to units	Yes	Each unit will be provided with an allocated car space.
3.8	Pedestrian & Vehicular Access	Min driveway width of 3m	Yes	All parking spaces will be located directly adjacent the internal access road and width will comply with Council standards.
		Driveways to be impervious, but not raw concrete, bitumen etc	Yes	All driveways will allow adequate manoeuvring in accordance with Council's requirements for onsite parking. Details to be provided in Landscape Plan and Stage 1 DA road layout/access plans.
<b>4 SERVICES</b>				
4.1	Stormwater Drainage	To ensure that the land can be adequately drained for the health & convenience of residents and that the development does not contribute to drainage or flooding problems elsewhere	Yes	Refer to the proposed Integrated Water cycle Management Plan at Appendix 12.
4.2	Water & Sewerage	To ensure residents are provided with an appropriate supply of potable water, and access to a sewerage system	Yes	Refer to the proposed Integrated Water Cycle Management Plan at Appendix 12.
4.3	Garbage Disposal	Council requirements to service dwellings within the site are significant	Yes	All waste is proposed to be collected at a central point at the entry of the site. The Stage 1 DA will provide further details.
		Provide 1 x 1200mm high x 900x 800 bin for general garbage & one for recycling	Yes	All waste and recycling is to be undertaken at a central point at the entry of the site. The Stage 1 DA will provide further details
<b>5 GENERAL</b>				
5.1	Subdivision	Subdivision may be by strata or community title	Yes	The dwellings are proposed to be subdivided under community title within the broader community title scheme for the NEV site in a future application.
5.2	Development Contributions	Water Supply & Sewerage	N/A	NEV proposes a closed system and will be self sufficient with regards to water supply & sewerage. Water tanks for each dwelling to augment potable water from dam to be provided. Refer to the proposed Integrated Water cycle Management Plan at Appendix 12.
		Section 94 Contributions	N/A	
5.3	Illumination & Ventilation	Where the development has 3 or more dwellings, provision shall be made for the illumination of the common areas at the frontage of the site throughout the hours of darkness	Yes	Refer to Architectural and Landscape Plans.
		All car parking areas are to be	Yes	Refer to Architectural and Landscape

	Section	Key requirement	Compliance	Comment
		adequately lit and ventilated at all times		Plans.
5.4	Laundries	Each dwelling shall be provided with adequate laundry facilities for the exclusive use of the occupants of that dwelling.	Yes	Each dwelling is provided with a laundry
5.5	Common Use Toilet	Where a development contains more than 4 dwellings a toilet shall be provided which is directly accessible from the common areas of the site for the use of all who visit or reside on the site	Yes	Community facilities for the broader NEV site are incorporated in Stage 1 DA, which will provide for these facilities.
5.6	Letter Boxes	To satisfy Australia Post.	Yes	Letter boxes will be located in a central location on the site to the satisfaction of Australia Post.
<b>6 ENERGY EFFICIENCY</b>				
6.1	Objective	To facilitate the energy efficient design & layout of cluster housing development	Yes	All dwellings are oriented to the north, with glazing designed to maximise winter sun access and minimise summer access. Concrete floors and internal masonry walls are designed to provide high thermal mass. Windows to the south, are minimised and east & west windows are provided with E glass
6.2	Performance Criteria	Number of qualitative design suggestions / criteria	Yes	The proposal exceeds BASIX and provides for dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans
6.3	Performance Measures	5 Star rating encouraged but not mandated	Yes	The proposal exceeds BASIX and provides for dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans
		Energy efficient appliances	Yes	The proposal exceeds BASIX and provides for dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans
		Collection of Rainwater; Common water tanks recommended for toilets, gardens & car washing	Yes	All dwellings are provided with a 10cu m water tank. Refer to the proposed Integrated Water cycle Management Plan at Appendix 12

## ATTACHMENT A

### OBJECTION TO A DEVELOPMENT STANDARD UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY NO.1 (SEPP 1)

#### CLUSTER HOUSING DEVELOPMENT APPLICATION FOR LOT 15 25 RESEARCH ROAD, NARARA (DA 44898/13)

#### PROPOSED DEVELOPMENT / USE

Demolition of existing buildings, cluster housing development for 10 units, car parking, landscaping and associated infrastructure works on proposed Lot 15 on the Narara Ecovillage Site (NEV) at 25 Research Road, Narara.

#### DEVELOPMENT STANDARD WHICH THE OBJECTION RELATES

The Development standard to which the objection relates is the requirement for the width of the land at the building line to the depth of the land is not less than 1:2 and not more than 2:1. A building line is defined in the Gosford Planning Scheme Ordinance (GPSO) as follows:

*'Building line' means the line fixed by the Council under the policies and Development Control Plans of the Council, between which and any public place, public reserve, ocean, river or waterway a building may not be erected.*

The Co-operative is unaware of any building line being specified in a Council policy or DCP as being relevant to the site. Notwithstanding, should Council consider this clause applicable, the Gosford Council DCP 127 - Cluster Housing identifies a building line as the front setback to a road frontage (6 metres).

#### ENVIRONMENTAL PLANNING INSTRUMENT WHICH SPECIFIES THE DEVELOPMENT STANDARD (Specify Clause)

Gosford Planning Scheme Ordinance - Clause 27A(3)(b)

#### PROPOSED VARIATION OF THIS DEVELOPMENT STANDARD

The site does not meet the minimum standard, should the front setback requirement in the Gosford Council DCP 127 - Cluster Housing be defined as a building line for the purpose of this clause.

#### REASON FOR THIS PROPOSED VARIATION

The SEPP 1 Objection has been structured in accordance with the approach taken by the Land & Environment Court NSW in Winten Property Group v North Sydney Council [2001].

*Is the control to be varied a development standard*

Yes.

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*What is the underlying object or purpose of the development standard?*

The site area controls in Clause 27A of the GPSO are designed to prevent irregular lots being used for cluster housing within established residential areas that may not be able to respond to Council identified building lines for the locality - resulting in poor development outcomes.

The objectives of the standard are to:

- Assist urban consolidation through the provision of cluster housing developments
- Promote a range of dwelling types suitable for a variety of households
- Provide a satisfactory level of internal and external amenity to dwellings and their occupants
- Ensure that development under these provisions results in cluster development which is compatible with single dwelling house and dual occupancy development and which:
  - achieves a desired local character
  - provides a satisfactory balance of buildings, open space, community facilities
  - is related to the local level of services and facilities
  - Complies with the minimum open space requirements of this plan

*Is compliance with the development standard consistent with the aim of the clause?*

Compliance with this standard is not required to achieve the objectives of the clause. The proposal is consistent with the objectives of the clause for the following reasons:

- The proposed lot 15 is 7,200m<sup>2</sup> which exceeds the minimum lot size requirement of 3,500m<sup>2</sup> required by Clause 27(3)(a) of the GPSO
- The proposal assists in urban consolidation by providing cluster housing in combination with other housing types and choice on the NEV site
- The proposal provides exceptional levels of internal and external amenity for future occupants
- The proposal is compatible with the character of the locality and is well served by local services both within and outside the NEV site
- The proposal provides for sufficient open space both for lot 15 and within the NEV site.

*Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case?*

Strict compliance with this standard is considered unreasonable or unnecessary in the circumstances of the case. As the NEV site is a private estate and Lot 15 has frontage to private roads, this provision is not considered to strictly apply. Notwithstanding, the proposal is not considered to lead to any detrimental impacts on the environment, streetscape or neighbouring properties.

*Whether the objection is well founded*

The application is part of a self-contained ecovillage development, which has minimal to negligible impacts on the adjoining residential development.

The proposed 10 cluster units have been designed on lot 15 to respond to the site constraints, based on sound planning principles underpinned by a philosophy of environmental sustainability, walkability and social interaction.



<<Insert Attachment Link/s Here >>

**TITLE**            **DEVELOPMENT APPLICATION NO. 44899/2013 PART 1**  
**APPLICANT: NARARA ECOVILLAGE CO-OPERATIVE LTD**  
**PROPOSED: DEMOLITION OF EXISTING STRUCTURES & CONSTRUCT 17**  
**CLUSTER HOUSES & ASSOCIATED INFRASTRUCTURE & LANDSCAPING**  
**WORKS ON LOT: 13 DP: 1126998, 25 RESEARCH ROAD NARARA**  
Directorate:        Environment and Planning  
Business Unit:     Development

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

## **EXECUTIVE SUMMARY**

**Assessing Officer:** D Spithill  
**Reviewing Officer:** IDEP  
**Application Received:** 06/12/2013  
**Estimated Value:** \$2,692,000.00

This application is subject to saving provisions under Gosford Local Environmental Plan 2014 and as such must be determined as if this plan had not commenced. The assessment and determination of this application has been made under Gosford Planning Scheme Ordinance.

**Synopsis:** An application has been received for a Demolition of Existing Structures & Construct 17 Cluster Houses & Associated Infrastructure & Landscaping Works. The application has been assessed against the matters for consideration detailed in 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979, section 89 of the Local Government Act, the objectives of the zone and the principles of ecologically sustainable development, relevant SEPPs and DCPs.

The proposal has a number of non compliances with the requirements under the GPSO and DCP 127 which have been addressed in the report. The proposal will not detract from the character or scenic qualities of the area or have unreasonable impacts on the environment.

The proposal is recommended for **approval** subject to conditions.

**Zone:** Previous Zoning: GPSO: 2(a) Residential and 6(a) Open Space (Recreation)  
IDO 122: 6(b) Open Space (Special Purposes) – Forestry, 7(c2) Scenic Protection Rural and 7(a) Conservation  
Current Zoning: LEP 2014: RE1 Public Recreation / Part RU3 Forestry / Part E2 Environmental Conservation / Part R2 Low Density Residential / Part E3 Environmental Management

**Area:** 62.97ha

**Permissible Development:** Cluster housing is permissible with consent on land zoned 2(a) Residential under the GPSO.

**Section 94 Contributions:** A section 94 contribution plan has not been prepared for the site and as such no contributions can be levied.

**Public Submissions:** One (1)  
**Pre-DA Meeting:** Not Held  
**Political Donations:** None declared

**Relevant Statutory Provisions**

- 1 Environmental Planning & Assessment Act, 1979 – Section 79C
- 2 Local Government Act 1993 – Section 89
- 3 Gosford Local Environmental Plan 2014
- 4 Gosford Planning Scheme Ordinance
- 5 Interim Development Order No 122
- 6 Development Control Plan No 175 – Gosford Horticultural Institute
- 7 State Environmental Planning Policy No 1 – Development Standards
- 8 State Environmental Planning Policy No 71 – Coastal Protection
- 9 State Environmental Planning Policy No 55 – Remediation of Land
- 10 State Environmental Planning Policy No 19 – Urban Bushland
- 11 Water Industry Competition (WICA) Act
- 12 Rural Fires Act 1997

**Key Issues**

- 1 Gosford Planning Scheme Ordinance (Permissibility, Clause 27A – width to depth of land ratio, SEPP 1 Objection, Zone Objectives, Character, Clause 29B Floor Space Ratio, Heritage)
- 2 Gosford Local Environmental Plan 2014 - Consistency
- 3 DCP 175 – Gosford Horticultural Institute Rezoning
- 4 DCP 127 – Cluster Housing: Non Compliance (locational characteristics, setbacks, open space and landscaped area, height -maximum building envelope, car parking location and provision, vehicle manoeuvring.)
- 5 Site Contamination
- 6 Voluntary Planning Agreement
- 7 Waste Management
- 8 Traffic, Access Roadworks
- 9 Roads and Maritime Service (RMS)
- 10 Bushfire Protection
- 11 Flooding and Drainage
- 12 Servicing Considerations / Integrated Water Management System
- 13 Water and Sewer Directorate Comments
- 14 Deferred Commencement / Community Title Subdivision Plan
- 15 Environmental Assessment
- 16 Tree Removal
- 17 Scenic Quality/ Visual Impact
- 18 Accessibility
- 19 Crime Prevention through Environmental Design
- 20 Amenity Impacts
- 21 Other Internal Assessment Comments
- 22 Climate change and sea level rise
- 23 SEPP 71 – Coastal Protection
- 24 Public Submissions

**Recommendation**

Approval

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**REPORT****Background**

The site comprises approximately 62.97 hectares of land which was acquired by the Narara “Ecovillage” site (NEV) from the Department of Primary Industry in September 2012. The site was previously zoned 5(a) Special Use (Experimental Station) under IDO 122 and was occupied and operated as the Gosford Horticulture Research and Advisory Station. Gosford

LEP 464 was gazetted on 1.2.2008 which rezoned the site to facilitate the future development and use of the land primarily for residential purposes.

Development consent 44650/2013 was issued on 31.01.2014 for the establishment of use to occupy 4 existing buildings on the site of the former Narara Agricultural Research Station, which involves continued use of two existing dwellings for residential purposes to be used by the site manager and caretaker, as ancillary uses to the on-site community facilities (care maintenance and security of the site) and two other buildings which are to be utilised for community purposes (marketing, monthly meetings open days community visits).

### Other Applications

Three development applications have been lodged which relate to the subject land and are currently under assessment. The two other DAs are DA 44898/2013 to demolish existing structures and construct 10 Cluster Houses and DA 44994/2013 for a community title residential subdivision of the site into 40 lots including the two proposed cluster sites.

### Proposal

The proposal is for a 17 unit cluster development on Lot 13 DP 1126998. The development will be sited on proposed Lot 36 which is a proposed lot associated with a 40 lot community title subdivision of the site formerly known as the Gosford Horticultural Research & Advisory Station ("research station"). The proposed 40 lot community title subdivision is subject to a separate development application currently under assessment (DA44994/2013).

This cluster housing proposal includes the following works:

- Demolition of 4 existing buildings and structures within proposed Lot 36;
- Cluster housing development comprising 17 Units, one to two storey in height, ranging in size from approximately 55m<sup>2</sup> to 105m<sup>2</sup> gross floor area;
- Onsite parking for 18 spaces (including 1 visitor space);
- Communal areas and associated landscaping; and
- Associated infrastructure works.

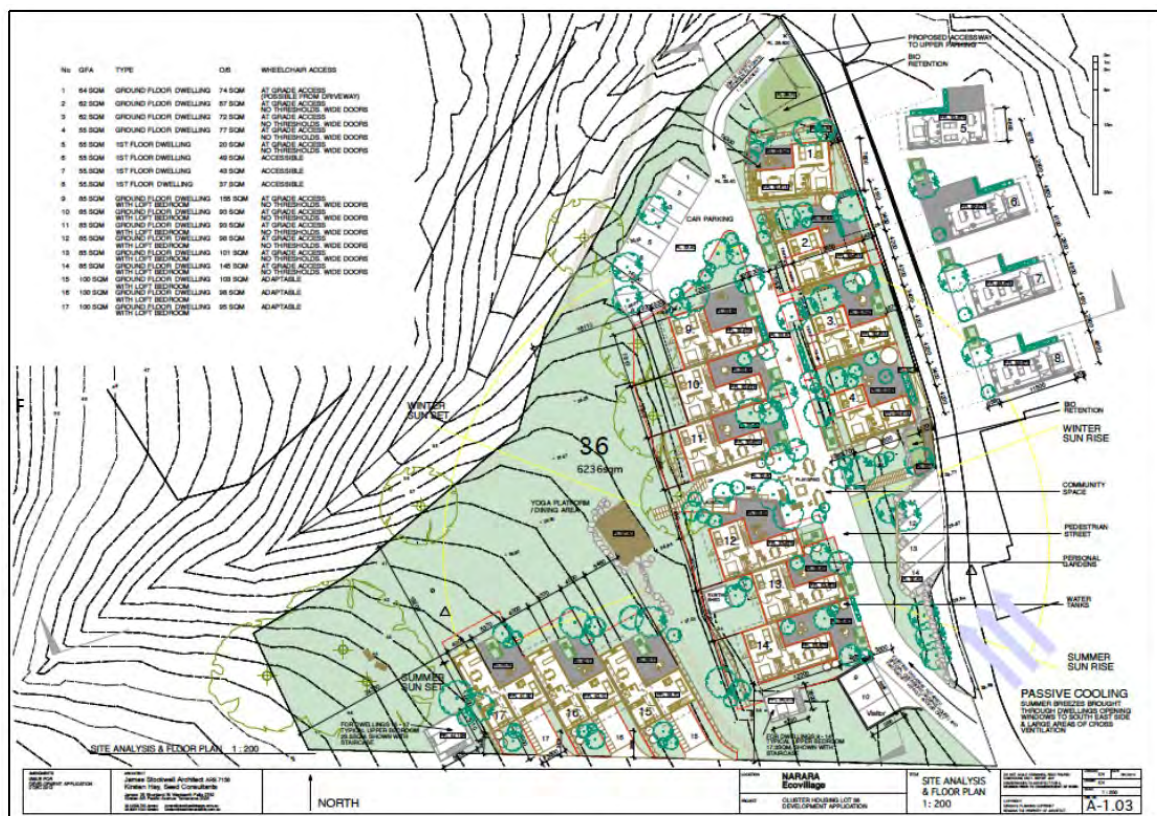


Figure 11 – Site Plan showing number of Units - note that Units 1-8 are 2 storey building (Source: McGregor Coxall)



## Site

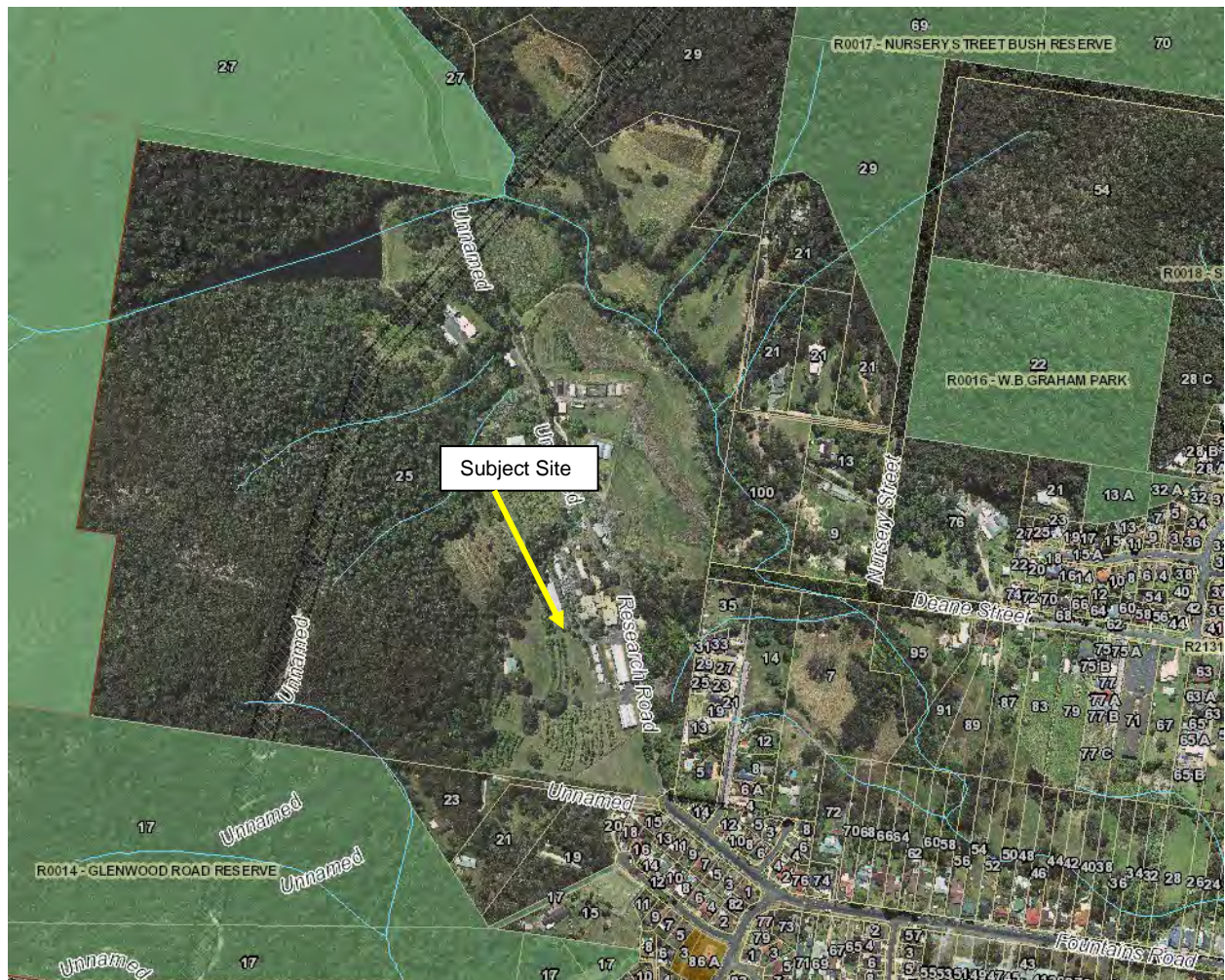
The site (Lot 13 in DP 1126998) has a total area of approximately 62.97 hectares of which the portion of the site zoned 2(a) Residential is approximately 11.5 hectares of land and is accessed from Research Road via Fountain Road. The site currently contains in excess of 56 buildings and structures that were used during its former occupation as the Gosford Horticultural Research and Advisory Station and a large dam. The site is bounded by rural residential development to the south and the east, residential lots to the east and the south-east, and dense bushland to the west, north, north-east and south-west. The surrounding residential development predominantly comprises standard residential lots with a mix of single and two storey dwellings. Strickland State Forest adjoins the site to the north and the west. **(Refer Aerial Photograph for location)**



Figure 1: Site of proposed cluster development is shaded green (Source: SEE)

The site for the proposed cluster housing at proposed Lot 36 is located in the central western part of the 2(a) zoned land located upslope and to the west of the existing Administration Building. The development site (proposed Lot 36) is approx 6,236m<sup>2</sup> with vehicle access provided by a one way internal access road located to the eastern and southern edges of the cluster housing site. A new perimeter two-way road is proposed to be located between the site and the bushfire prone vegetation located on the land to the west. The site is characterised by a number of mature trees including several trees that have the potential to be affected by the proposal.





### Assessment

This application has been assessed using the heads of consideration specified under Section 79C of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans. The assessment supports approval of the application and has identified the following key issues which are elaborated upon for Council's information.

### Gosford Local Environmental Plan 2014

Under Clause 1.8A of Gosford Local Environmental Plan 2014 the application is to be assessed and determined as if the plan had not commenced. The assessment and determination of this application has been made under Gosford Planning Scheme Ordinance and Interim Development Order No 122.

### Gosford Planning Scheme Ordinance (Permissibility, Zone Objectives, Character, Heritage)

#### a. Permissibility

The subject land has multiple zonings comprising 6(a) Open Space (Recreation)-GPSO/ 2(a) Residential under the GPSO and 6(b) Open Space (Special Purposes) – Forestry / 7(c2) Scenic Protection Rural and 7(a) Conservation under IDO 122. The cluster development is to be sited entirely within the 2(a) zoned land and is therefore subject to the provisions of the GPSO.

“**Cluster development**” means the erection of 3 or more dwellings on a single allotment of land and is permissible with consent on land zoned 2(a) residential.

#### b. Clause 27A of the GPSO

Clause 27A of the GPSO stipulates the following requirements:

- 27A. (1) *This clause applies to land within Zone No. 2(a).*  
 (2) *A person shall not, except with the consent of the Council, carry out development for the purposes of cluster development on land to which this clause applies:-*  
 (3) *The Council shall not grant any such consent unless -*  
     (a) *the area of the land on which the development is proposed to be carried out is not less than 3 500 square metres; and*  
     (b) *the ratio of the width of the land at the building line to the depth of the land is not less than 1:2 and not more than 2:1.*

The proposal will be sited on 2(a) zoned land which has an area well in excess of 3500m<sup>2</sup> (Lot 13 DP1126998) and complies with subclause 27A(3)(a).

It is proposed to subdivide the land (community title subdivision) under DA 44994/2013 to facilitate the cluster housing development. The cluster development will be sited on proposed Lot 36 which will have an area of 6,243m<sup>2</sup>. The proposal will not comply with the width to depth ratios specified under subclause 27A(3)(b). In this regard, proposed Lot 36 is triangular in shape, has a width at the building line (internal road) of approx 100m and depth 103m representing a 1:1 width to depth ratio. As the application has been lodged over the entire parcel of land being Lot 13 DP 1126998 (which has not been subdivided at this stage) and the irregular shape of the land parcel, it is not practical to calculate or apply the width to depth ratio under such circumstances. In rough estimates, the maximum length of the land parcel is approx 950m and average width of 350m which equates to a width to depth ratio of 2.7:1.

The Statement of Environmental Effects advises the following in relation to compliance with clause 26A(3)(b):

*"Clause 27A(3)(b) is designed to prevent irregular shaped lots being used for cluster housing within established residential areas that may not be able to respond to Council identified building lines for the locality - resulting in poor development outcomes. A building line is defined in the GPSO as follows:*

***"Building line"** means the line fixed by the Council under the policies and Development Control Plans of the Council, between which any public place, public reserve, ocean, river or waterway a building may not be erected.*

*The Co-operative is unaware of any building line being specified in a Council policy or DCP as being relevant to the site. As the NEV site is a private estate and Lot 36 has frontage to a private road, this provision is not considered to be applicable in this case."*

### **Assessment Comment**

The applicant contends that a building line is not specified or relevant in this instance as the roads in the development are private internal access road to service the Narara Valley Ecovillage site.

Clause 8.1 (d) of DCP 175 - Gosford Horticultural Institute Rezoning requires all development is to comply with Council's adopted Development Control Plans and policies that may be applicable to all components of the development. Clause 3.5.2 of DCP 127 –Cluster Housing stipulates a minimum six (6) metre building line applies to all developments.

### **SEPP 1 objection- Width to depth of Land Ratio**

The proposal does not comply with the ratio of the width of the land at the building line to the depth of the land range of 1:2 and not more than 2:1 as stipulated under clause 27A(3)(b) of the GPSO. The applicant has submitted a SEPP 1 objection to vary the standard (**Refer Attachment B**) with the following reasons supporting such variation:



Compliance with this standard is not required to achieve the objectives of the clause. The proposal is consistent with the objectives of the clause for the following reasons:

- The proposed lot 36 is 6236m<sup>2</sup> which exceeds the minimum lot size requirement of 3,500m<sup>2</sup> required by Clause 27(3)(a) of the GPSO
- The proposal assists in urban consolidation by providing cluster housing in combination with other housing types and choice on the NEV site
- The proposal provides exceptional levels of internal and external amenity for future occupants
- The proposal is compatible with the character of the locality and is well served by local services both within and outside the NEV site
- The proposal provides for sufficient open space both for the lot 36 and within the NEV site.

*Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case?*

Strict compliance with this standard is considered unreasonable or unnecessary in the circumstances of the case. As the NEV site is a private estate and Lot 36 has frontage to private roads, this provision is not considered to strictly apply. Notwithstanding, the proposal is not considered to lead to any detrimental impacts on the environment, streetscape or neighbouring properties.

### **Assessment Comment**

*State Environmental Planning Policy No 1 - Development Standards* provides that a development standard contained within an environmental planning instrument may be varied where objection is well founded and where strict compliance with those standards would in a particular case be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

In deciding whether to consent to the variation of development standards in a particular case, the consent authority should examine whether the proposed development is consistent with the State, regional or local planning objectives for the locality, and in particular whether the underlying purpose of the development standard will be achieved despite the proposed variation.

Assessment of the SEPP 1 objection to the width to depth of land ratio has been assessed applying the "*underlying object test*" using the 5 part test suggested in *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79 as follows:

1. "Is the planning control in question a development standard"?

The ratio of the width of the land at the building line to the depth of the land range of 1:2 and not more than 2:1 as stipulated under clause 27A(3)(b) of the GPSO is a numerical development standard for the purposes of SEPP 1- Development Standards, and may be varied by the consent authority pursuant to the provisions of the Policy.

2. "What is the underlying objective or purpose of the development standard"?

The GPSO does not contain any stated objectives for the width to depth of land ratio development standard. However the underlying objectives of the standard can be derived from the site characteristics objectives which are stated in clause 3.1.1 of DCP 127:

- *To provide sufficient area and dimensions to enable the construction of dwellings, private open space vehicle access and parking.*
- *To ensure that elements of the site including dimensions, slope and orientation provide maximum opportunities for future building design, privacy, solar access and useable outdoor living space.*

- To ensure that the development is in character with the locality and has regard to specific landform features.
- To ensure that the site area is sufficient to achieve satisfactory amenity for both the internal and external occupants.

3. "Is compliance with the development standard consistent with the aims of the Policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in Section 5(a)(i)(ii) of the Environmental Planning and Assessment Act?"

A general aim of the policy is to encourage the provision of housing that will increase the supply and diversity of residential housing. Approval of the proposal still permits the orderly and economic development of land for the purpose of residential housing despite non compliance with the development standard relating to minimum and maximum width to depth land ratios.

4. "Is compliance unreasonable and unnecessary in the circumstances?"

The proposed non-compliance does not undermine or frustrate the underlying objective of the standard.

The proposal is considered to be consistent with the underlying objectives of the development standard for the following reasons:

- It is considered that the site provides sufficient area and dimension to permit the construction of cluster housing units with adequate private and communal open space areas which has favourable solar orientation and parking to service the likely parking demand generated by the development.
- The development has been designed having regard to existing terraces and slope to minimise site disturbance.
- The proposed cluster housing has been designed to be integrated with its surrounds and is compatibility with existing low density residential development and character of the locality and desired character objectives for the site.
- The dwellings have been designed to minimise adverse amenity impacts in terms of loss of privacy, views and solar access and ensure development is not excessive in terms of visual bulk.

In addition, as the application has been lodged over the entire parcel of land being Lot 13 DP 1126998 (which has not been subdivided at this stage) having regard to the irregular shape of the land parcel, it is not practical or reasonable to apply the width to depth ratio under such circumstances.

Accordingly, the SEPP 1 objection is considered to be well founded and strict adherence to the width to depth land ratio development standard under clause 27A(3)(b) of the Gosford Planning Scheme Ordinance is considered to be unreasonable and unnecessary in the circumstances of the case.

5 "Is the objection well founded?"

The objection to Clauses 27A (3) (b) is well founded as the proposal does not undermine the underlying objectives of the standard.

**b Objectives of Zone**

Clause 10(3) of the Gosford Planning Scheme Ordinance stipulates that consent must not be granted for development of land within the prescribed zone, unless the objectives of the zone have been taken into consideration in conjunction with the objectives of the Local Government Act 1993, pertaining to Ecologically Sustainable Development.

The proposal is considered compatible with the low density residential environment and will be largely unseen from surrounding residential areas. The proposal will be largely self-contained and will generate minimal additional traffic and proposes an integrated water cycle management with a closed on-site sewerage system.

In this instance, it is considered that the proposal is consistent with the stated objectives of the 2(a) Residential zone under the GPSO as well as being consistent with the principles of Ecologically Sustainable Development, as specified within the Local Government Act.

### **c Character**

Clause 10(4) of the Gosford Planning Scheme Ordinance stipulates that the Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.

Development Control Plan 159 - Character, requires development applications to demonstrate consistency or compatibility with the development objectives as defined by the relevant "Statement of Desired Character". The relevant desired character statement - Narara 14: Scenic Buffer, stipulates a number of development objectives which are reproduced below:

*"These should remain rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City's major roads and tourist routes are preserved by appropriate very-low density residential developments ...that have a modest impact on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.*

*Retain natural slopes and prevent further fragmentation of the tree canopy .... Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants ...Limit intrusion of structures upon their landscape setting by concentrating new buildings and pavements in existing clearings. Use low-impact construction such as suspended floors and decks rather than extensive cut-and-fill, particularly on elevated slopes or near bushland.*

*In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire resistant siting, design and construction for all new structures plus effective management of gardens. ...*

*Maintain the informal character of existing semi-rural hillsides by avoiding tall retaining walls, extensive terraces or broad driveways that would be visible from any road or nearby property, and provide boundary fences that are see-through such as traditional post-and-rail designs.*

*Surround all buildings with extensive garden setbacks, planted with new trees and shrubs that are predominantly indigenous to complement the established canopy. Noxious or environmental weeds must not be planted, and existing infestations should be controlled.*

*In order to minimise their scale and bulk, all new structures that would be visible from a road or nearby property should reflect the modest character and simple articulation of traditional farm buildings. For example, divide floorspace into a series of linked pavilion structures or wings of rooms that are surrounded by landscaped courtyards, and preferably, provide parking in carports or separate garages. Roofs should be simple hips or gables without elaborate articulation, gently-pitched to minimise the height of ridges and flanked by wide eaves or extensive verandahs to disguise the scale of exterior walls. (In bushfire prone areas, verandahs, roofs and suspended floors must be screened to prevent the entry of sparks and flying embers.)*

*Disguise the scale of facades that are visible from the street by incorporating extensive windows and verandahs, some painted finishes rather than expanses of plain masonry, and avoid wide garages that would visually-dominate any frontage. Ensure that*

*outbuildings are compatible with the scale and design of their associated dwelling, particularly by using a similar roof pitch and wide eaves."*

The proposal is consistent with the key objectives of the Character statement. In this regard the proposal will provide:

- A low density form of residential development with low impact facilities
- Building designs which will retain natural slopes and retain natural tree canopy where possible having regard to bushfire requirements.
- New buildings and pavements in existing cleared or previously developed areas of the site (i.e. built up areas previously occupied by the Horticultural Research buildings).
- Building designs which will utilise low-impact construction such as suspended floors and decks and avoid extensive cut-and-fill and tall retaining walls, extensive terraces or broad driveways.
- Buildings which have simple articulation with parking in single garages and several separate uncovered car parking areas in proximity to the dwellings. Roofs are simple in form.
- Bushfire mitigation measures will reduce hazard to an acceptable level and will not result in excessive clearing to maintain asset protection zones.

As such, the proposal does not detract from the character of the immediate locality.

**d Clause 29B Floor Space Ratio**

Clause 29B of the GPSO stipulates a maximum floor space ratio of 0.5:1 for development in the 2(a) zone (other than dwellings or residential flat building). The gross floor area of the 17 cluster housing units is 1,264m<sup>2</sup>. Based on a total site area of 6,236m<sup>2</sup> (proposed lot 36), the proposal has a floor space ratio of 0.20:1 and complies with the requirement.

**e Heritage**

The property is registered as containing heritage items and the provisions of Clause 49T of the GPSO are required to be considered in respect to any items of environmental significance. The proposed site for the cluster housing development (i.e. proposed Lot 36) does not contain any heritage items.

**Local Environmental Plan 2014 Consistency**

Although this application is subject to the saving provision consideration of the zoning, development standards and special provisions of Local Environmental Plan 2014 are discussed for the purpose of consistency.

The site is zoned R2 Residential and the objectives of this zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure development is compatible with the desired future character of the areas covered by this zone.
- To encourage best practice in the design of low density residential development.
- To promote ecologically, socially and economically sustainable development and the need for and value of biodiversity in the local government area.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low density housing.

Although, cluster housing will be a prohibited use in the R2 zone, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

**Acid Sulphate Soils**

This land has been identified as being affected by the Acid Sulphate Soils Map and the matters contained in Gosford Local Environmental Plan 2014 have been considered.

**Flooding**

This land has been classified as being under a “flood planning level” and subject to the imposition of a minimum floor level, the development is considered satisfactory in respect to Draft Gosford Local Environmental Plan 2014.

**Development Control Plan No 175 – Gosford Horticultural Institute Rezoning**

The purpose of this DCP is to provide more detailed guidelines for the development and use of the land for a residential subdivision into approximately 120 lots, approximately four rural residential lots to be zoned Scenic Protection Rural Small Holdings 7(c2), and one residue rural residential lot to be zoned Conservation 7(a) or other permissible development. As part of the rezoning process it was proposed to transfer land to be zoned Open Space 6(b) Special Purposes (Forestry) to NSW Forests and dedicate land to be zoned Open Space 6(a) to Council.

*The objectives of this Development Control Plan are to:*

- *encourage the orderly development of the residential and rural residential use;*
- *facilitate traffic management*
- *make provision for environmental protection*
- *make provision for bushfire protection;*
- *restrict development in flood liable areas and consider flooding and drainage issues and to ensure there is no increase in downstream flooding*
- *protect items of environmental heritage*
- *ensure the development is carried out in accordance with best practice management for site development*
- *ensure on-site contamination is addressed*
- *provide for additional matters in relation to the residue Conservation 7(a) allotment*
- *ensure the land is adequately serviced*

Relevant provisions under the plan are considered in the assessment of the applications for cluster housing and specific requirements under Clause 8 of the plan are addressed in sections of the report relating to environmental assessment, traffic, bushfire protection, flooding and drainage, items of environmental heritage, site contamination and servicing (water and sewer).

The proposal is considered to be consistent with the stated objectives of the plan and will not impact on the following provisions in the DCP:

- the dedication of that part of the NEV site which is zoned 6(a) to Council under the terms of clause 4 of the VPA; and
- the environmental protection of the threatened species identified in Section 8.3 of the DCP.

A separate development application (DA 44994/2013) has been lodged for a Community Title Subdivision of the land. Compliance with broader land use provisions under the DCP 175 will be considered in the assessment of this application.

**DCP 127 –Cluster Development**

The proposed development is subject to the provisions under DCP 127 – Cluster Housing. The application is accompanied by a “DCP 127 Compliance Table”, prepared by Sara Roach Planning Services /Michael Woodland Consulting Pty Ltd which provides an assessment of the proposed development’s compliance against the relevant performance measures under DCP 127 - Cluster Development. **(Refer Attachment 1)**. The proposal does not comply with several of the development requirements under the DCP which are considered below.

The key areas requiring a merit-based assessment, where numerical compliance is not achieved include:

- Locational Requirements (i.e. 400m walking distance to facilities)
- Minimum Setbacks to Site Boundaries
- Maximum Building Envelope
- Minimum Open space and Landscape areas
- Location of car spaces (i.e. within front building setback)
- Car Parking Provisions (i.e. number of resident spaces)

#### a. Locational Characteristics

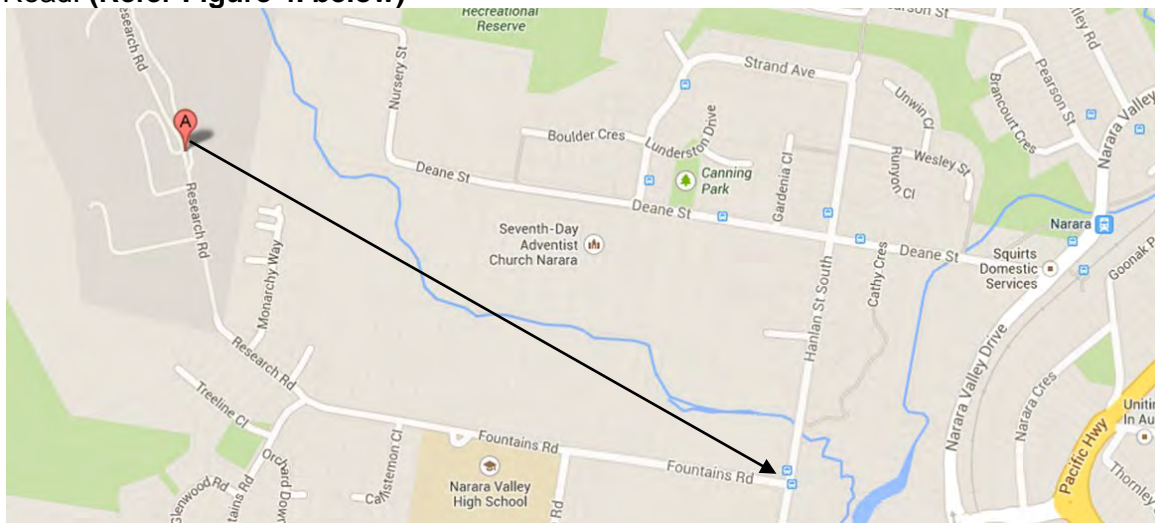
Clause 3.3.2 stipulates that:

*“Sites considered for cluster development are to be located so as to be located not more than four hundred (400) metres straight line distance from:*

- *a shopping centre containing a supermarket;*
- *a state government primary school; and*
- *public transport pick up/set down point (i.e. railway station, bus stop).*

*The distance is to be measured as a horizontal line between the closest points of the site to the closest point of the school site, shopping centre site and transport stop.”*

The cluster housing site does not meet such criteria being located over 400m distance from such facilities. In this regard, the nearest school is Narara Valley High School (600m) and Narara railway 2.5km and shopping facilities at Wyoming average 2.5km. Notwithstanding public bus stop facilities are available approximately 1250m distance at the end of Fountains Road. **(Refer Figure 4. below)**



**Figure 4: The distance from the visitor centre A to the nearest bust stop (blue symbol) is 1250m via Research Road to the eastern end of Fountains Road (Source: Google maps)**

Despite non compliance with such locational requirements distance to public transport facilities is considered to be within reasonable walking distance (1250m) to access retail and other facilities. It is considered that the proposal is consistent with the objective of the standard to ensure cluster development is appropriately located to meet the needs of the residents for services and facilities.

#### b. Setbacks

Clause of 3.5.2 of DCP 127 stipulates the following setback requirements:

##### a. *Setback to Road Frontage (Building Line)*

- i. *A minimum six (6) metre building line applies to all Cluster Housing developments.*

**b Setbacks to Adjoining Boundaries**

- i For single storey development a minimum setback of three (3) metres is to be provided.*
- ii For buildings up to and including two (2) storeys - the standard for solar access to an adjoining property is that direct sunlight shall be maintained to the major part of their landscaped open space and outdoor living areas and windows to living rooms for at least four (4) hours between 9.00 am and 3.00 pm on 21 June (winter solstice).*
- iii For development **more than** one (1) storey, the minimum setback shall be a distance of not less than 3/4 of the height of the building above ground level. For sloping sites the average height will be used for calculating setback requirements.*

The site does not adjoin any other neighbouring residential properties and is located wholly within the residential 2(a) zone within the NEV site. As the lot does not front a public road, the front setbacks have been taken from the NEV site's internal roadways and the proposed internal street. The proposed relevant building setbacks as defined by DCP 127- Cluster Housing are detailed in the table below (extract from SEE):

Unit	Proposed setback (metres)	Proposed average setback (metres)
Units 1 – 4	1.5 – 8.0	4.3
Units 5 - 8	1.4 - 2.2	1.8
Units 9-14	1.0 – 11.0	5.4
Units 15-17	3.5 – 6.0	4.8

**Table 1 - Proposed setbacks (Source: SEE)**

The SEE provides the following reasons to support a variation to the setback requirements:

**“Setbacks to the eastern boundary**

*All Units have been designed to deliver a cluster development based on the principles of communal living and environmentally sustainable principles articulated in the Concept Masterplan. However, the proposed setbacks for the site do not strictly meet the requirement of the DCP, namely the front setbacks for Units 1-8 to the street to the east. These Units have setbacks between 1.4 metres and 8 metres, with average setbacks ranging from 1.8 metres to 4.3 metres.*

*The location of Units 1 – 8 has primarily been determined by utilising existing concrete slabs and retaining walls to reduce waste, reduce excessive cut and fill and encourage re-use of existing building materials. The units are well articulated and have been designed with exceptional streetscape qualities from both the external street (which remains a private road within the NEV site) and to the shared pedestrian street. The strict non-compliance with the numerical requirements of this control in this instance does not lead to any detrimental impacts on the quality of the streetscape, internal amenity, or bulk and scale issues.*

**Setbacks to the Internal Pedestrian Street**

*The proposed setbacks to the internal pedestrian street (Units 5-8 & Units 9 -14) vary from 1.0 metre to 11.0 metres with averages of 4.3 metres and 5.4 metres. This communal area has been specifically created by this design, which has included a variety of setbacks. This area is a unique pedestrian shared space that encourages communal use as the central focus of the development. The elevations and facades are varied and combined with extensive landscaping and internal design presents a well-articulated streetscape to the internal street. The setbacks (up to 11 metres in places) are*



*considered acceptable in this location to enable this space to function as a communal area.*

#### Setbacks for Units 15-17

*The proposed Units 15 – 17 are setback between 3.5 metres and 6 metres, with an average setback of 4.8 metres. The location of the Units at 15-17 are sited to provide maximum communal open space to the north of the site, while providing the minimum setback for the majority of the elevation. This design responds to the irregular shape of the site and maintains excellent streetscape presentation and maximises the northern aspect of the dwellings. This variation to the numerical requirement in this instance is minimal across the elevations of each dwelling due to the staggered design.*

*The proposed 17 cluster units have been designed to respond to the site constraints, consistent with sound planning principles underpinned by a philosophy of environmental sustainability, walkability and social interaction. The setbacks as proposed should be assessed on their merits and given favourable consideration for the following reasons:*

- there are no known established building lines relevant to the site, therefore the 6 metre front setback does not strictly apply;*
- the development is self-contained and will not impact on existing residential areas;*
- the streetscape is enhanced by the development with reduced setbacks in places with sensitive design and significant landscape treatments;*
- the design of the proposed 17 Units ensures high levels of amenity for all residents;*
- the proposal is guided by principles of environmental sustainability by developing in areas requiring minimum cut and fill; and*
- the proposal is part of a well designed and informed Concept Masterplan for the NEV site.”*

#### **Assessment Comment**

Variation to the setback requirements is supported for the following reasons:

- The proposal is consistent with the objectives of the setback requirements to maintain the character and amenity of the existing streetscape; provide adequate sight distances at intersections; maximise the amount of "useable" private open space for each dwelling; provide an open streetscape with substantial areas for planting.
- The cluster housing development forms part of the overall integrated masterplan for the site which establishes streetscape character for the entire site in a coordinated manner. Each dwelling provides good amenity for future residents in terms of solar access and privacy with generous communal open space areas and plantings to provide landscape amenity to the development.
- Where zero side setbacks are provided, dwellings are orientated to minimise amenity impacts and have an integrated design. The dwelling setbacks reflect the existing site characteristics and topography of the land utilising existing roads and terrace areas.

#### **c. Open Space and Landscaped Area**

Clause 3.6.2 of DCP 127, stipulates the following open space requirements for each dwelling unit:

- Each dwelling less than 70m<sup>2</sup> in floor area will require an open space area of 130m<sup>2</sup> (40% of 325m<sup>2</sup>) for each dwelling. Dwellings 1 – 8 fall in this range.
- Each dwelling greater than 70m<sup>2</sup> but not greater than 110m<sup>2</sup> in floor area shall require an open space area of 140m<sup>2</sup> (40% of 350m<sup>2</sup>) for each dwelling. Units 9 – 17 fall within this range.

On this basis, dwellings 1 to 8 require an open space area of 130m<sup>2</sup> and dwellings 9 to 17 will require an open space area of 140m<sup>2</sup> – a total of 2300m<sup>2</sup>. The proposal provides the following private open spaces areas:

Dwelling Unit	Private Open Space	Required	Compliance
Ground Floor Dwelling No 1:	74m <sup>2</sup> courtyard	130m <sup>2</sup>	No
Ground Floor Dwelling No 2:	87m <sup>2</sup> "	130m <sup>2</sup>	No
Ground Floor Dwelling No 3:	72m <sup>2</sup>	130m <sup>2</sup>	No
Ground Floor Dwelling No 4:	77m <sup>2</sup>	130m <sup>2</sup>	No
First Floor Dwelling No 5:	20m <sup>2</sup> terrace/balcony	-	- N/A First floor terrace
First Floor Dwelling No 6:	49m <sup>2</sup> "	-	-
First Floor Dwelling No 7:	43m <sup>2</sup>	-	-
First Floor Dwelling No 8:	37m <sup>2</sup>	-	-
Ground Floor Dwelling No 9:	155m <sup>2</sup> courtyard	140m <sup>2</sup>	Yes
Ground Floor Dwelling No 10:	93m <sup>2</sup> "	140m <sup>2</sup>	No
Ground Floor Dwelling No 11:	93m <sup>2</sup>	140m <sup>2</sup>	No
Ground Floor Dwelling No 12:	98m <sup>2</sup>	140m <sup>2</sup>	No
Ground Floor Dwelling No 13:	101m <sup>2</sup>	140m <sup>2</sup>	No
Ground Floor Dwelling No 14:	145m <sup>2</sup>	140m <sup>2</sup>	Yes
Ground Floor Dwelling No 15:	103m <sup>2</sup>	140m <sup>2</sup>	No
Ground Floor Dwelling No 16:	98m <sup>2</sup>	140m <sup>2</sup>	No
Ground Floor Dwelling No 17:	95m <sup>2</sup>	140m <sup>2</sup>	No

Subclause (d) requires that the useable private outdoor living space for each dwelling have a minimum width of 6m. The width of ground level courtyard space ranges from 4m to 5m on average, with balconies provided to first floor units approximately 2.8m in width.

As such open space areas for each dwelling are smaller in area and narrower in width and do not comply with the open space requirements under DCP 127. Notwithstanding, subclause (e) states that: *"subject to the minimum open space requirements being satisfied by the development, council may consider 35% of that requirement being incorporated into a functional communal open space area for use by the entire development."*

The applicant has sought variation to the open space area requirements with the following reasons supporting such request:

*"The proposal does not strictly meet the numerical requirements for landscaped area allocated to individual units. In this regard, concession is sought on the basis of the provision of a variety of dwelling types with varying landscape spaces to maintain for each unit. However, with a very low FSR of 0.2:1, it provides extensive areas of landscaped area.*

*The smaller amount of outdoor landscaped area provided at Units at 5-8 is of very high quality with excellent aspect and views and solar orientation and good areas for private outdoor space and growing garden space. Combined with the extensive amount of communal landscape area provided with this application, this is considered to be an acceptable landscaping outcome for this unique site consistent with the objectives of the DCP."*

### Assessment Comment

The objectives under Clause 3.6.1 relating to the provision of open space is:

- To provide areas for planting and enjoyment by residents.
- To provide a private outdoor living space as an extension to the dwelling for the recreation of residents.
- To provide private outdoor living space that receives a reasonable quantity of sunlight during all months of the year.
- To create an attractive living environment that allows appropriate privacy and amenity so that it may be well used.
- To provide service space for clothes drying, storage, etc.

Variation to the open space area requirements is supported in this instance for the following reasons:

- The proposal provides for large areas of useable and attractive communal open space as indicated in the landscape plan (Refer below);

- Each dwelling is provided with northern courtyard or terraces that will receive good solar access;
- Privacy issues are addressed by limiting window openings on side boundaries and building design with walls on boundaries and screen landscaping along courtyard perimeter;
- All open space areas at ground level and balconies are orientated to the north and are linked to internal living areas;
- The size of open space areas provided are in excess of requirements generally required under DCP 100 which applies to medium density development and are of adequate size to provide for outdoor dining, entertaining and service need of future residents;
- The communal open space areas provide separate paved playground outdoor dining and BBQ facilities with shared laundry/utility space. This space is connected to a large grassed area expanse with Yoga platform and dining area;
- Overall landscape provision for the site is extensive (over 60% of the site area) which provides landscape amenity to the site.

It is considered that despite the significant numerical variation to the open space requirements each dwelling is provided with satisfactory open space which is consistent with the objectives of the standard.

#### **d. Height – Maximum Building Envelope**

Clause 3.4.2 of DCP 127- Cluster Housing stipulates the maximum height requirements:

- All portions of the buildings are to be sited within a building envelope determined by planes projected at 45° from a height of 3.5 metres above natural ground level at the side and rear boundaries, to a maximum height of ten (10) metres; and
- the vertical distance measured from the highest point of the floor of the topmost storey above ground level is not to exceed four (4) metres.

The proposal is compliant with maximum 10m building height and topmost floor height (4m) with all dwellings ranging in height from 6.45m to 6.8m (roof ridge height) and topmost floor height from 2.7m to 3.06m.

However, the proposal is non compliant with the building envelope requirements due to the limited side setback proposed for several of the dwellings and at the eastern end of the site. (i.e. two-storey dwellings Nos. 1-8). Accordingly, the applicant has sought variation to this requirement with the following reasons supporting such request:

*“it is requested that adherence to this control be assessed on its merits due to the unique circumstances of this site. The proposal meets the objectives of the height control as follows:*

- it is located within the NEV site and will not impact on existing detached housing;
- it will maintain a low rise residential character which is compatible with the locality and the objectives of the NEV site as detailed DCP 175 – Gosford Horticultural Institute Rezoning and is inherent in the Concept Masterplan;
- it will have negligible impacts on adjoining properties; and
- it maintains the conservation of the existing natural landscape features.

#### **Assessment Comment**

Variation to the building envelope requirement is supported for the following reasons:

- The minor encroachment to the building envelope (eastern end of site) reflects the proposed zero setbacks to site boundaries. As the dwellings form part of an integrated design approach with staggered front setback arrangement and northern private open space areas, the height of each dwelling does not pose any significant amenity impacts in terms of solar access and loss of privacy to adjoining dwellings which have similar setbacks.

- The height of each dwelling is not excessive ranging in maximum height from 6.45m to 6.8m.
- The proposal is consistent with the objectives of the standard in that:
- All proposed dwelling are of a low rise residential character
- The proposed cluster housing is compatible with the desired character of the site.
- The proposal has minimal impact on adjacent properties in respect to overshadowing, loss of privacy and views.

#### Two Storey Dwelling Restrictions

Clause 2.2.2 (c) of DCP 127 requires that not more than 50% of dwellings in any development shall be two storey, or alternatively not more than 33% of the total floor area shall be at first floor level. The proposal is for 8 Units (2 storey) (i.e. A first floor unit (units 5 to 8) above a ground floor unit (units 1 to 4) and 9 part single storey units with loft (2 storey portion).

Units 1 to 8 are 2 storey buildings each containing 2 units over the 2 levels. Units 9 to 17 are also classified as 2 storey, by providing a loft bedroom within in the roof space. Units 15 to 17 propose 20m<sup>2</sup> for loft areas, with Units 9 to 14 propose 15m<sup>2</sup> for loft areas. This equates to total loft areas of 150m<sup>2</sup>. Based on 150m<sup>2</sup> for lofts and the floorspace of Units 5---8 (i.e. the first floor units), a total of 29% of the total floor area is at first floor level which **complies** with the maximum

#### **e. Car Parking Location**

Clause 3.7.2 (f) of the DCP requires that car spaces not be located within the front setback.

The SEE advises the following in relation to the location of car parking:

*"There are 3 fundamental key issues that dictate the location of car spaces on Lot 36. First, to deliver a pedestrian environment, not dominated by cars and thus providing clusters of open spaces, which are well landscaped. Second, to respond to the site constraints, such as slope and bushfire issues. Finally, to create a sense of community and place around a central pedestrian street as a focus of the development."*

*In view of the above, it is considered that the location of the car spaces in groups at the edges of the development result in a better outcome than strict compliance with the DCP.*

*The above areas of non-compliance are not considered to result in any significant impacts on either the built or natural environment. On the contrary, it is considered that strict compliance with these controls would lead to a poor design outcome for the site.*

*On these grounds it is requested that Council consider these relatively minor areas of non-compliance with the DCP on its merits, taking into consideration the principles and design of the development of the NEV site through the Concept Masterplan; the remote location of Lot 36 in relation to adjoining residential areas; the superior siting and design of the proposed 17 new cluster units; the high levels of amenity for the new dwellings; and the range of environmentally sustainable measures proposed as part of the application."*

#### **Assessment Comment**

Car parking locations are accessed off a private internal access road which services the development and are not readily visible from the primary street frontage. Spaces 15 to 17 are designed to be partially screened by landscaping and do not detract from the future streetscape.

#### **f. Car Parking Provision**

In accordance with Clause 3.7.2 of DCP 127 and DCP 111, car parking is to be provided at the following minimum rate:

- 1.5 car spaces per dwelling; or
- 1 car space per dwelling within 400m of a public transport node; and

- 0.2 car spaces per dwelling for visitor parking

On this basis, the proposal generates a requirement for 26 resident spaces and 4 visitor spaces, noting that the development site is located over 1km from a public transport node.

The proposed parking arrangements are as follows:

- Units 1-10 have two common parking area with 8 resident parking spaces (spaces 1 to 8), accessed off a ramp shown as having a 1:5 gradient; and a further area near the southern boundary containing 1 visitor and 2 resident spaces (spaces 9, 10 and visitor)
- Units 11-14 have a four angled resident parking spaces accessed off Road 4 located on the eastern boundary.
- Units 15, 16 and 17 will have individual driveways leading into on-site parking ( Spaces 15, 16 and 17), specifically designed for accessibility.
- The total car parking provided on proposed Lot 36 will be 18 spaces allowing one resident space per unit for residents and 1 visitor space. There are also a number of car parking areas for the required visitor spaces located adjacent to the Administration Block and the Visitors Centre that are directly accessed off Research Road.

As such, the proposal does not comply with the car parking requirements under DCP 127, representing a **shortfall of nine (9) resident spaces**.

The applicant has sought variation to the car parking requirement with the following reasons supporting such request:

*"The report (Traffic Impact Assessment Report, prepared by Christopher Hallam & Associates, dated 6 December 2013) supports the application in terms of car parking numbers, layout and access arrangements.*

*In relation to car parking, the report makes the following comment:*

*"Car parking will be provided in multiple parking areas distributed around the site. Individual dwellings will not necessarily have individual parking spaces, but some will. This is an integral part of the eco-design principles, where the use of private transport is desired to be reduced. However there is no restriction on private car ownership. There are ample parking areas distributed around the site to accommodate the private parking demand and to provide visitor parking. Some spaces will also be set aside for the parking of share cars, as an incentive to not individually own cars. The site layout will however provide shared drop-off zones on Lot boundaries, allowing residents to drive to individual dwellings and pick up or drop off passengers and goods. There will be six spaces provided for Visitors just inside the main entrance plus more visitor spaces distributed within the site. These will be suitably signposted.*

*To meet the requirements of Development Control Plan 111 – Car Parking, one parking space per dwelling will be provided, but not necessarily at the dwelling. The Schedule in DCP 111 also states: "One space to be covered (i.e. carport or garage) set back a minimum of six (6) metres from the frontage of the site." With the nature of the design and the distribution of parking, this parking covering will not be provided.*

*The proposed car parking for this application follows the principle of cluster housing by providing car spaces in clusters that are located in areas that responds to the site constraints and function to provide access o dwellings. This has involved locating spaces in areas to reduce cut and fill, respect setbacks to existing vegetation and allow easy access to individual units. There are no parking structures proposed as part of this application, with spaces located in landscaped settings to compliment the function and design of the cluster developments. This is demonstrated through the:*

- *facilitation of safe traffic movement both within the site and to the adjoining local network;*
- *establishment of a high level of amenity and landscaping for the car parking areas;*

- *specific cluster parking design to compliment the nature of the cluster housing development and the ecovillage principles in the Concept Masterplan; and*
- *balance between the needs of vehicular and pedestrian requirements.”*

### **Assessment Comment**

Provision of one car parking space per cluster dwelling is considered to be adequate to service the needs of the development as all dwellings are relatively small in size ranging from 55m<sup>2</sup> to 85m<sup>2</sup> and have a limited number of bedrooms. In this regard dwellings 1 to 8 only contain one bedroom while dwellings 9 to 17 contain two-bedrooms. As such dwelling occupancy rates/density (population) is considered low having regard to the relatively small size of the dwellings compared to larger dwellings sizes generally provided in cluster housing developments.

### **G Vehicle Manoeuvring**

The design of the car parking spaces appear to have been amended after the traffic and car parking assessment report was prepared. The design of the end car spaces 7 and 8 do not permit vehicle egress in a forward manner and the landscaped area will need to be amended to allow a turning area for these spaces. **(Refer Condition No.2.2).**

### **Site Contamination**

DCP 175 identifies that: *“Due to the history of landuse, State Environmental Planning Policy No 55 - Remediation of Land needs to be considered. Preliminary assessments and further site contamination investigations have been undertaken, that conclude that the land is suitable for rezoning to residential purposes subject to additional matters as required below.*

- A Site Remediation Action Plan is to be prepared and implemented in accordance with SEPP 55 - Remediation of Land and the document Managing Land Contamination - Planning Guidelines;*
- A Site Validation Report be prepared and implemented in accordance with SEPP 55 Remediation of Land and the document Managing Land Contamination - Planning Guidelines;*
- Prior to the issuing of a construction certificate/releasing engineering plans for future subdivision/development works, Council shall be issued with a Site Audit Statement by an accredited Department of Environment and Conservation (former EPA) Auditor stating the land is suitable for its intended uses;”*

The application was referred to Council's Environment Officer who has provided the following assessment in relation to SEPP 55 – Remediation of Land:

*“A “Report on Preliminary Site Investigation (Douglas Partners, Project 75583.00, dated August 2013) has been submitted to address SEPP 55 and Clause 8.8 of DCP 175. Overall this report has identified the contamination risk across the site to be generally low to moderate although some areas with higher contamination potential (areas of environmental concern) exist across the subject site. This report recommends that the proposed Conceptual Site Model (CSM) form the focus of sampling under a Detail Site Investigation to fully categorise contamination on the site. The report also recommends that an EPA Accredited Auditor reviews the Preliminary Site Investigation and CSM to ensure Clause 8.8(c) of DCP 175 can be achieved. A condition of development consent is attached to address this issue and ensure compliance with Clause 8.8(c) of DCP 175.”*  
**(Refer Condition No.2.9)**

### **Voluntary Planning Agreement**

A Voluntary Planning Agreement (VPA) under s93F of the EP&A Act 1979 has been prepared and the deed made on 31 May 2013 and signed by the Narara Ecovillage Co operative Limited and Council for the NEV site in accordance with the requirements of the rezoning process

undertaken by DPI and as stipulated in Section 8.1 of DCP No.175. The VPA makes specific provision for the dedication to Council of the 6(a) Open Space zoned portion of the site (being that land immediately to the east and contiguous with the 2(a) residential land), together with a small area of land upon which a stand of *Araucaria cunninghamii* (Hoop Pines) are located.

The application has no effect on the terms of or implementation of the VPA.

### **Waste Management**

All waste generated will be stored in the existing bin store/s in each building and transported on a daily basis (or as required) to the sites dedicated waste storage area and where it will be separated/recycled, as appropriate.

*Council's waste management officer has advised that "the area chosen for the proposed communal waste enclosure is located where adverse impact may occur on adjoining residences in Monarchy Way. An existing parking/waste area is located approximately 100 metres further into the site which would provide a greater setback from adjoining properties, is an existing waste storage area and has a significant vegetative screening between the existing cleared area and adjoining properties."*

Waste Services has recommended that this existing carpark/waste area be utilised for the required waste storage/servicing area to reduce impacts associated with bulk waste storage for a development of this scale and nature.

In response to issues raised, the applicant has submitted:

- a revised plan showing location of the waste storage area which has been redesigned and moved further to the north; and
- revised Waste Management Plans for the Stage 1 DA, and the 2 cluster housing DA's.

The NEV will be required to manage the transportation of the bulk bins on storage day to a collection point.

Council's waste management officer has raised **no objections** to the proposal subject to conditions of consent (**Refer Condition Nos.2.2(d) and (e), 4.28 to 5.16 and 6.8**).

### **Traffic, Access and Roadworks**

Council's Development Engineer has provided the following assessment in relation to roadworks, access and traffic:

#### **External road works**

*The site gains vehicular access from the end of Research Road via the existing gated entry point associated with the former research station. No road works in the public road reserve are required for this development (residential cluster development) as required road works will be required under the DA for the 40 lot community title subdivision (DA44994/2013).*

#### **Internal roads**

*The internal road network for the subdivision has not been designed in accordance with the requirements of Council's DCP 112 – Residential Subdivision. The internal road layout has instead been designed with the intent to conform with AMCORD guidelines and requirements associated with the RFS Planning for Bushfire Protection 2006. The internal road layout consists of a combination of two way and one way roads. The two way roads (including the perimeter road) are proposed at 5.5m wide. This has been deemed to be acceptable by the bushfire consultant (Australian Bushfire Protection Planners Pty Ltd) on the basis that there are "No Parking" restrictions imposed on this road. The one way roads have been designed to be 3.5m wide, which will facilitate circulation throughout the development that would still facilitate*



the access requirements for the emergency fire vehicles. The bridge on the perimeter road is narrowed to 3.5m wide which has been deemed acceptable on the basis that it is a localised restriction. These roads will be constructed under DA 44994/2013 associated with the 40 lot community title subdivision. Although the proposal under DA44994/2013 (Stage 1 of overall masterplan) will not provide a two way network from the main entry point to the perimeter road (as approximately half of road 2 is one way) it is noted that a future stage of the development (subject to a development application in the future) is intended to provide a 5.5m wide extension of the perimeter road from within the entry point of the development to the intersection that road and road 2 near the upper bridge.

A central driveway and associated car parking areas are proposed within lot 36 associated with the subject cluster residential development. It is recommended that the driveway and car parking areas comply with Australian Standard AS2890 and the requirements of the Rural Fire Service's "Planning for Bushfire Protection 2006".

### Traffic

A traffic report prepared by Christopher Hallam & Associates titled "Transport Impact Assessment of Proposed Eco-Village, Research Road, Narara, NSW" dated 6 December 2013 was submitted with the application. This report addresses the follows aspects of development on the site:

- Overall Masterplan Concept Plan, for 120 dwellings
- Stage 1 subdivision, for a total of 35 lots, including two Cluster lots
- Cluster Lot developments, with 10 dwellings (Lot 15)
- Cluster Lot development, with 17 dwellings (Lot 36) associated with the subject development application.
- Community uses development application.

This report concluded (in part) the following:

### Concept Plan

- The subject site was rezoned with an expectation of at least 120 dwellings being built. The traffic studies assumed 150 dwellings. We have assessed the proposed ecovillage with 120 dwellings, with lower traffic generation rates than typical suburban dwellings because of the environmental transport management plan proposed. It thus follows that the conclusions drawn in the previous traffic impact assessment remain applicable. (The previous traffic assessment was prepared by Barry Bradley & Associates in conjunction with the rezoning proposal.)
- Notwithstanding the above conclusion, new traffic counts were undertaken to confirm this situation. Firstly, seven day counts were undertaken in Fountains Road just west of Narara Valley High School. With the addition of the ecovillage traffic, the peak traffic flows in this section of Fountains Road would remain under the RMS environmental goal for a local residential street. Clearly traffic flows increase at the High School.
- Peak period traffic counts at the junction of Fountains Road and Hanlan Street South, with the addition of ecovillage traffic, show that this intersection will continue to have satisfactory capacity. The earlier traffic counts at the Deane Street and Narara Valley Road intersection were used to reassess the capacity of that intersection under the additional loads from the ecovillage. This intersection also will remain satisfactory.
- At the Manns Road and Carrington Street junction new peak period traffic counts were undertaken, and the ecovillage traffic added. Through traffic on Manns Road would remain undelayed. The right turn out of Carrington Street currently is delayed in peak periods, particularly in the morning. These delays would increase. Drivers would have the option of using Deane Street to make a right turn onto Narara Valley Road Manns Road. With the close proximity of Narara Creek to the Carrington/Manns junction, roundabout or seagull channelization options are not feasible. Traffic signals would delay all traffic, including through traffic along Manns Road. In the circumstances, the future situation with the ecovillage traffic would be satisfactory.

- *The ecovillage roads would be private roads rather than public roads. Carriageway widths have been designed on AMCORD principles, with two-way roads 5.5m wide, and one-way roads 3.5m wide. The road network has been reviewed for compliance with Rural Fire Service guidelines. We understand that the road network meets these requirements. The internal road layout is consistent with the RMS Guide to Traffic Generating Developments, as discussed. The road network proposed is satisfactory.*
- *In conclusion, the traffic and transport implications of the proposed Ecovillage Concept Plan will be **satisfactory**.*

#### Lot 36 Cluster Development

13. *Stage 1 includes the Lot 36 Cluster development, with 17 dwellings proposed on this lot. Vehicular access will be via Roads 1, 2 and 4. With a weekday peak hour traffic generation of 11 veh/hr, no road or intersection capacity issues are likely.*
14. *Car parking is proposed in two communal parking areas plus three individual areas, at the rate of one space per dwelling, plus a visitor space. This rate of provision is in conformity with the Concept Plan. Visitor parking, at the rate of 0.2 spaces per dwelling, will be provided, with one space on lot 36 and three spaces on the main site.*
15. *For both Lots 15 and 36, we recommend that all car parking areas and their access conform with AS2890.1-2004, and that the common garbage storage area proposed have its access conforming with AS2890.2-2002.” (Refer Condition No....)*

This report considered the traffic implications associated with the 40 lot community title subdivision associated with DA44994/2013, the cluster housing development proposed on lot 15 that is associated with DA 44898/2013, and the community use of the site (DA 44560/2013), and concluded that the surrounding road network, and internal access and parking arrangements would be satisfactory.

#### **Roads and Maritime Services (RMS)**

DCP 175 “Gosford Horticultural Institute Rezoning” requires referral of the application to the Roads & Maritime Services (“RMS”).

The subject application (cluster development on lot 36) does not fall under the referral requirements associated with SEPP Infrastructure (2007) and as such has not been referred to the RMS. However, DA44994/2013 for a 40 lot community title subdivision was referred to RMS who raised **no objections** or requirements to the subdivision proposal. The recommendations and traffic matters for this cluster housing development were included in the traffic report associated with the RMS review of the subdivision development application 44994/2013.

#### **Bushfire Protection**

The site is located on bushfire prone land and has been mapped as being Category 1 and Category 2 Bushfire Prone Land together with bushfire buffer areas. Due the relative physical inaccessibility of the site (with only one road access) future development needs to have due regard to requirements in relation to bushfire protection.

The two cluster housing applications have been assessed under Section 79BA of the Environmental and Assessment Act 1979 and have not been referred to the Rural Fire Service. However the related subdivision application (DA 44994/2013) has been referred as the proposal is integrated development under s91 of the EP&A Act 1979 and requires separate approval (i.e. Bush Fire Safety Authority) from the NSW Rural Fire service under s100B of the Rural Fires Act 1979. The RFS have provided general terms of approval in relation to the subdivision application which will be included as conditions of consent for the Cluster Housing developments. **(Refer Conditions 7 – Other Approvals)**

The application is accompanied by a Australian Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd (ABPP) (Assessment No 132136-2 dated 4.12.13).

The Category 1 Bushfire Prone Vegetation is located on the vacant land to the west of the proposed Cluster Housing precinct and also within the gully line to the northwest. Whilst the Category 1 Bushfire Prone Vegetation will remain on the land to the west, it is proposed that the vegetated gully line will have the weeds removed and then be maintained, in perpetuity, in a fuel free zone, removing the need to provide an Asset Protection Zone to the north-western aspect of the proposed Cluster Housing precinct.

Whilst this is the case, the proposed buildings have been setback to provide a separation from the gully line which exceeds the width of a complying Asset Protection Zone. A complying Asset Protection Zone has also been provided to the western, hazard, interface to the Cluster Housing precinct.

The separation to the west has been determined so as to satisfy the requirement to maintain the maximum level of bushfire attack on the future dwelling/s at less than 29kW/m<sup>2</sup>.

Recommendations have also been made in respect to the provision of fire fighting water supplies and access provisions for fire fighting resources as well as the management of the Asset Protection Zones and the vegetation within the Cluster Housing lot.

The recommendations contained within that report are recommended for inclusion as conditions of consent. **(Refer Condition Nos 5.15.)**

### **Flooding and Drainage**

LEP 175 advises that: *"part of the land has been identified as being flood liable (below the 1% Annual Exceedance Probability (AEP) line). The majority of this land is to be dedicated to Council and is only to be used for open space purposes that are flood compatible. Some parts of the rural residential lots may also be flood liable. The site also does not have flood free access, and would be isolated in the event of flooding in the vicinity of Hanlan Street."*

### **Flooding**

The application was referred to Council's Flooding & Drainage Development Engineer who provided the following assessment:

- The lot is subject of a subdivision application, DA 44994. Site wide flood comments have been made for this application (IR 15327614), for which flood related conditions have been recommended.
- The subject area of the lot is not subject to flooding in the 1% AEP event from the creek / Narara Creek tributary. However there is a steep gully along the northern boundary of this particular area.
- In the water cycle management plan, a statement has been made about flow in this gully, although it is based on observations rather than calculation and is not adequate for flood assessment purposes.
- My own preliminary calculations based on a catchment area of 3ha and time of concentration of 20 minutes indicates a 100 year peak flow rate of approximately 1m<sup>3</sup>/s. Given the dimensions and gradient of the gully, and both the vertical and horizontal separation of the proposed buildings from the gully, flooding is not an issue - it is highly unlikely not to be contained wholly within the gully. Proposed buildings are at least 15m from the top of bank of the gully and habitable floor levels are several metres higher than the invert of the creek.
- Desktop review (Wateride – Narara Creek Peak) of the access to the subject area (although not the entire lot) appears to be essentially flood free. Site visit on Tuesday 07

January 2014, did not indicate otherwise, and in fact there are two large box culverts at the low point of the road which may not be included in the model.

- The current subdivision application, DA 44994 (and on which this application is dependent on), proposes the upgrade of the culvert crossing to convey the 1% AEP flows.

#### Summary

*I would **not object** to the proposed development. I do not consider that flood related conditions are required.*

### **Stormwater Management / Drainage**

Council's Development Engineer has provided the following assessment in relation to stormwater management:

*"The proposed development has the potential to generate additional stormwater runoff from the site. It is therefore recommended that on-site detention be provided to limit post development flows back to pre-development flows for all storms up to and including the 1%AEP storm event.*

*The proposed development has the potential to generate additional nutrients & pollutants that could impact on the downstream receiving waters. It is therefore recommended that the proposed development provide nutrient/controls in accordance with Council's DCP 165 – Water Cycle Management.*

*The proposed development will need to provide retention of rainwater for reuse within the development.*

*A 'Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 2 December 2013 was lodged with the application (Appendix 10 of Statement of Environmental Effects). It is noted that this document:*

- *indicates the provisions for on-site detention, nutrient/pollution controls, and retention of rainwater for reuse within the development;*
- *refers to matters associated with the requirements for use of the dam water for potable water supplies, & bushfire;*
- *refers to on-site sewer management matters (not covered in this assessment);*
- *discusses the overall proposal to address the total water cycle management for the site.*

*It is recommended that this document be referenced to in any conditions of development consent related to water management matters associated with the site. (Refer Condition Nos.1.1 .2.7(c) and (d))*

### **Servicing Considerations**

DCP 175 advises that the site is outside of Council's Water and Sewer Service Area and as such is not accommodated in existing infrastructure provision strategies. A preliminary sewer system analysis has been undertaken and options investigated for augmentation of existing Council services to accommodate the development.

### **Integrated Water Management System**

An Integrated Water Cycle Management Plan has been prepared by Woodlots and Wetlands for the NEV site and the key infrastructure will be installed as part of the Stage 1 DA 44994/2013 for the community title subdivision.

For the purposes of this DA, key elements of the Integrated Water Cycle Management Plan will be extended from the main trunk lines into the site, as required to service the individual dwellings. It is proposed that each Unit have a 3-pipe system as follows:

- potable water supply based on tank water for individual dwelling roofs, backed up with treated water from the 45 ML dam. All potable flows to be disinfected by inline UV system

- Reclaimed water to Australian guideline quality criteria for internal use. This water will be from the Sewage Treatment Plant (STP) outflows
- Raw sewage pipes delivering wastes to the STP
- The integrated water cycle management concepts for the NEV site include:
- Capture of roof water (after UV disinfection) for all potable and non-potable internal uses except toilet flushing
- Runoff water from roads and other surfaces to be treated in a stormwater management system designed to achieve Gosford City Council's Water Cycle Management Guideline performance criteria (GCC, 2007)
- Stormwater conveyance via existing drainage lines following their stabilisation
- Combined wastewater from the homes to be conveyed to Sewage Treatment Plant (STP). The wastewater to be treated to National Recycled Water Standard for internal use in dwellings (NRMMC/EPHC/AHMC, 2006)
- Recycled water to be used for toilet flushing, gardens and general irrigation
- The large dam at the northern portion of the site to provide potable water during low rainfall periods (water will be disinfected to meet Australian Drinking Water Guidelines (NHMRC, NRMMC, 2011))
- Fire-fighting requirements will be provided to meet NSW Fire and Rescue Service requirements

The application was referred to Councils Health Section officer in relation to the use of the dam for potable water who has advised that:

*"the choice of the proponent to use a private water supply where the property may have access to the town water supply is a matter for Water and Sewer to determine.*

*In the circumstances of the application the NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use."* **(Refer Condition 6.9)**

The proposal would need to comply with *Australian Drinking Water Guidelines*. The *Private Water Supply Guidelines*, issued by NSW Health aim to summarise and provide advice in applying the Australian Drinking Water Guidelines to private water supplies.

## **Water and Sewage Management**

The application was referred to Council's Water & Sewer Directorate who by memo dated 06/02/14 have provided the following assessment:

*"Water is available to the land. Sewer is not available to the land. The developer's consultants advised Council at preliminary development meetings there was no intention to connect the development to Councils water supply or sewerage reticulation systems, and that these services would be provided by the developer under WICA - Private Sector Licensing Regime (IPART).*

*Should the applicant utilise WICA legislation for provision of water supply and sewerage to the land, then the following conditions will need to be placed on the Development Consent:*

- The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision / Construction Certificate. **(Refer Condition 2.8)**
- The applicant shall obtain a Notice of Decision to commence commercial operations from the Minister prior to the issue of an Occupation Certificate for the development. **(Refer Condition 5.14)**
- Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water

Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of a Subdivision / Construction Certificate. **(Refer Condition 2.6)**

- All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002.” **(Refer Condition 4.11)**

#### **Development engineer’s comment**

These conditions are noted. The Co-operative proposes to lodge a concurrent application with the Independent Pricing and Regulatory Authority Tribunal (IPART) for a retail operator’s licence and network operator’s licence under the Water Industry Competition Act 2006 (“WICA”) for the integrated water management system (water and sewer). It is recommended that the conditions indicated above be appropriately conditioned on a development consent. **(Refer Condition No 2.8, 2.6, 4.11 and 5.4)**

Council’s Water and Sewer section have also advised that:

*“Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the following conditions shall apply:*

- Connection of the proposed development to Councils water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council’s existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.
- The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.
- Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council’s policy.
- The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Councils existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council’s water and sewer design standards.
- The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council’s water and sewer design standards.”

#### **Development engineer’s comment**

These comments are noted. Should the applicant fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the applicant would need to lodge a section 96 application to modify the development consent to incorporate these conditions instead of the conditions referred to above associated with the WICA requirements. **(Refer Advice Condition No 8.9)**

**Deferred Commencement / Community Title Subdivision Plan**

Council's development engineer has advised that the creation of lot 36 is associated with the 40 lot community title subdivision associated with DA44994/2013. It is recommended that the subject DA (DA 44899/2013) for the cluster housing development be subject to a deferred commencement that requires:

1. The completion of all works and infrastructure associated with DA44994/2013, and
2. The registration of the plan of subdivision under DA44994/2013.

**Assessment comment**

It is considered that consent may be issued for the proposed cluster development subject to registration of the community title subdivision, prior to the issue of a construction certificate for the development rather than as a deferred commencement consent. **(Refer Condition 2.11)**

**Environmental Assessment**

Council's Environmental Assessment Officer has provided the following assessment in relation to the environmental impact of the proposal:

**"Section 5A Assessment"**

*Based on an inspection of the site, review of plans and supporting documentation the proposed development works will result in the removal of 15 individual and groups of existing trees located within the footprint or close to proposed buildings and services. Trees generally comprise of planted ornamental specimens and do not exhibit any potential significant habitat features for threatened fauna species nor do they collectively form part of any listed endangered ecological community.*

*In regards to potential indirect impacts on threatened fauna species all external night lighting will be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013). A condition of development consent is attached to address night lighting in accordance with this report and this condition adequately addresses Clause 8.3(f) of DCP 175. **(Refer Condition No.4.18.)***

*In respect to the endangered species *Syzygium paniculatum*, proposed works are clearly well in excess of the 20m buffer required under Clause 8.3(a) & (b) of DCP 175. Further this specimen will be managed under the submitted Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013). A condition of development consent is attached that requires this plan to be implemented. **(Refer Condition No.4.19.)***

*Based on an inspection of the site, review of plans and supporting documentation I am satisfied that the proposed development will not lead to a significant impact on threatened species, populations, ecological communities or their habitats.*

**SEPP 19 – Bushland in Urban Areas**

*Clause 9 of SEPP 19 applies to this application. Given the proposed development will be subject to an Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) the proposal is not likely to adversely impact on bushland area zoned for public open space. In addition, the proposed landscape plan appears consistent with Clause 8.3(e) of DCP 175. A condition of development consent is attached that restricts the planting of any known environmental weed species. **(Refer Condition No.4.13)***

**Conclusion**



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

## **Tree Removal**

There are several trees located on Lot 36 that have the potential to be affected by the proposal. A specific Arboricultural Impact Assessment has been prepared in support of the application

Council's Tree Assessment Officer has raised **no objection** to the proposal and has provided the following assessment of the likely impacts of the development on existing trees.

*"The subject application has been considered with the Arboricultural Impact Assessment (AIA) and during onsite inspections ...*

*The proposal has nominated removal of 15 individual and groups of existing trees located within the footprint or close to proposed buildings and services. Trees nominated for removal are listed within the AIA and mostly consist of small ornamental planting of Callistemon and Acacia. Trees listed for removal are not Heritage listed trees on the site.*

*It was noted that the Landscape Plan has mistakenly indicated tree removal in the vicinity of T243a. Rather than requesting amendment of the Landscape Plan, tree removal has been linked to the AIA with a note regarding inaccuracies in the Landscape Plan."*

**(Refer Condition No. 3.11 4.21)**

## **Scenic Quality/ Visual Impact**

### Development Control Plan 89 – Scenic Quality

The NEV site is located within the Narara Valley geographical Unit. The site has been identified as a landscape area of local significance within the Gosford local government area. It is described as an area of extensive areas of complex valleys and valley floors with extensive suburban development bounded by naturally vegetated slopes, open space system lands and the Brisbane Water Escarpment. A key concern in this area is proposed development in visually prominent areas located on escarpments and on prominent ridges.

The SEE advises that the proposal for Lot 36 is considered to meet the above objectives as follows:

- The land has been rezoned, with significant areas rezoned for open space and environmental landuses, limiting the areas for future residential land;
- The 2 cluster sites will provide higher density areas and have been located with minimal visibility impacts lower in the valley;
- The proposed application will not impact on any areas of scenic protection or conservation areas; and
- The proposal application is located in the lower slopes in accordance with the absorption capacity section as identified in the DCP.

It is considered that the proposal will have a satisfactory external appearance and will not impact on the scenic qualities of the immediate locality. Lot 36 is located over 200 metres to the nearest adjoining residential dwelling in Monarchy Way and approx 270 metres to the nearest adjoining dwelling in Research Road. However, due to the existing and proposed vegetation and other buildings on the site, it is not likely to be highly visible from these surrounding residential areas.

## **Accessibility**

The application provides for 3 fully adaptable (Units 15-17) and accessible Units (Units 2&3) in accordance with the relevant Australian Standard. This design element provides for a high level of accessibility to the development. All other Units are fully accessible with at grade access.

This is considered an appropriate design outcome for the site and is considered to meet the relevant provisions of the DCP 127.

### **Crime Prevention through Environmental Design (CPTED)**

The SEE advises that the cluster housing has been designed to incorporate the CPTED principles of surveillance, access control, territorial reinforcement and space management as follows:

- “the communal areas within the development are well lit and designed to minimise areas for concealment and entrapment
- encouraging ownership of communal areas through territorial reinforcement, in particular the communal areas within the shared street, yoga platform, BBQ area and playground
- appropriate landscaping, particularly in parking areas, communal areas and courtyards
- pathways and pedestrian walkways around the development, including those leading from the communal areas facilitate pedestrian comfort and safety
- design of the Units allows for passive surveillance, particularly of the pedestrian shared street within the development
- opportunities for clear sightlines between public and private areas
- effective lighting of the site and the communal areas during evening hours
- providing clearly defined paths of travel between the Units, car parking and the common areas”

It is considered that the development adequately addresses CPTED and safer by design principles. **(Refer Condition No 4.4)**

### **Amenity Impacts**

The SEE advises that:

*“the proposed units have high levels of amenity for both future residents as well as the adjoining properties. All Units meet Council’s requirements in terms of solar access to living areas, useable areas of private open space.*

*Dwellings are varied in size, spaced apart and orientated for ideal passive solar design. They are staggered and varied in position to create diversity and a vibrant environment incorporating landscape areas to soften the surrounds and provide additional privacy through landscape*

- *All proposed units throughout the site are arranged to preserve privacy to internal and external spaces;*
- *Units 1- 8 (which are above one another) are considered vulnerable in terms of privacy issues and overlooking has been addressed through design and landscaping;*
- *Dwellings are orientated to enable comfortable degrees of privacy and also interaction when desired; and*
- *Units are staggered to assist development quality, privacy and diversity.”*

It is considered that the proposal raises no significant internal or external amenity issues.

### **Other Assessment Comments**

#### **Building Assessment:**

Council’s Building Surveyor has assessed the proposal and has requested amended plans demonstrating compliance with Building Code of Australia 2013 is required in relation to the following:

- *Laundry facilities comprising at least one washtub and space in the same room for a washing machine to be shown on floor plans for each unit. (Note: A kitchen sink or washbasin must not be counted as a laundry tub)*

- *Provide details of sound insulation and fire protection between floors and between units as per BCA requirements.*

A condition of consent has been imposed requiring such details with the construction certificate. **(Refer Condition No.2.2 b and c)**

### **Climate change and sea level rise**

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

Climate change and sea level rise will be felt through:

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

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

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

### **SEPP 71**

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

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

### **Public Submissions**

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

A summary of the submission is detailed hereunder.

#### **1. Car Parking Provision**

The total 18 parking bays seems totally inadequate for 17 dwellings that contain a total of 26 bedrooms and potential for perhaps 52 persons. In all likelihood this development will result in an overspill of parking of 2nd and 3rd cars, boats vans etc onto Research Road, with parking well beyond NEC road frontage and cluttering the road parking for other property owners at the end of Research Road. Council should insist on more onsite parking in these cul-de-sac type areas, especially for developments like this where there is potential for 52 persons to be onsite and NEC has a small (15m) frontage to Research Road.

### Assessment Comment

The proposal does not comply with the car parking requirements under DCP 127 and 111, representing a shortfall of 9 spaces. Notwithstanding, car parking provision is considered satisfactory for the development for reasons identified in the report. In this regard, the occupancy rate is likely to be low having regard to the small size and number of bedrooms (1 to 2 bedrooms ) of proposed townhouse when compared to more conventional cluster housing developments. Each townhouse will be provided with at least one resident car parking space which is considered adequate to service the development together with visitor parking areas throughout the site. **(Refer previous section of report on car parking provision).**

### Conclusion

This application seeks approval for the construction of 17 Cluster Housing Units on proposed Lot 36 of the Narara Eco Village site. The application has been assessed in accordance with the relevant provisions under Section 79C of the Environmental Planning and Assessment Act 1979, relevant SEPPs and DCPs. Despite various non compliances with several development standards under the Cluster Housing DCP 127 as outlined in the report, the proposal is considered to be consistent the objectives of the DCP.

The site is considered suitable for the development in that:

- It is appropriately zoned and is consistent with the provisions in GPSO and LEP 2014, which promote land uses that are compatible with the low density residential character of the area
- The existing bushfire protection measures on the site are generally adequate and subject to minor works and the ongoing maintenance of the existing APZ's will comply with the provisions of *Planning for Bushfire Protection 2006*
- It is located in an area with reasonable access to facilities and services and public transport

It is considered that the proposal will not have an adverse impact on surrounding development in that:

- It will not result in any significant environmental impacts on adjoining properties or surrounding conservation land and the 6(a) open space zoned land
- The proposal will have minimal impact on the surrounding residential area in terms of traffic, character, built form or environmental issues;
- It incorporates environmentally sustainable design solutions.

As such the application is recommended for approval.

**Attachments:** Applicant's Compliance Table DCP 127 – Cluster Housing

Applicant's SEPP 1 Objection

### RECOMMENDATION

- A Council assume the concurrence of the Director of Planning for the use of SEPP No 1 to vary the development standards of Clause 27A(3)(b) of the GPSO to permit the proposed development.
- B Council as consent authority grant consent to Development Application No. 44899 for Demolition of Existing Structures & Construct 17 Cluster Houses & Associated Infrastructure & Landscaping Works on LOT: 13 DP: 1126998, 25 Research Road NARARA subject to the conditions attached.

- C In accordance with Section 95(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- D The objector(s) be notified of Council's decision.
- E The External Referrals be notified of Council's decision.

## CONDITIONS

### 1.. PARAMETERS OF THIS CONSENT

#### 1.1. Approved Plans and Supporting Documents

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

**Architectural Plans by** James Stockwell/ Kirsten Hay  
**Landscape Plan by** McGregor Coxall

Drawing	Description	Sheets	Date
A-1.02	Site Plan / Demolitions	2	03.12.2013
A-1.03	Site Analysis & Floor Plan	3	
A-1.04	Roof & Shadow Plan Midday Midwinter	4	03.12.2013
A-1.05	Detail Dwelling Plans	5	03.12.2013
A-1.06	Site Sections	6	03.12.2013
A-1.07	Elevations	7	03.12.2013
A-1.08	Elevations	8	03.12.2013
A01	Landscape Plan		
CGS 2.01	Communal Garbage Store Waste Management Plan		February 2014

#### Supporting Documentation

Document	Title	Date
	Architectural Statement ( J Stockwell/ K.Hay).	18.11.2013
	Waste Management Plan (J Talbott).	20.03.2014
517552M	BASIX Certificate ( D. RW cooper Pty Ltd)	02.12.2013
D12242-4	Site Survey ( Chase Burke & Harvey) Sheets 1 to 3	20.01.2008
B132136-2	Bushfire Protection Assessment (G. L. Swain - Australian Bushfire Protection Planners Pty Ltd)	04.12.2013
V4.3	Water Cycle Management Plan (Woodlots and Wetlands Pty Ltd)	02.12.2013
	Arboricultural Impact Assessment (Michael Shaw Consulting Arborist)	29.11.2013
3301	Transport Impact Assessment (Chris Hallam & Associates	04.12.2013

#### 1.2. Building Code of Australia

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

## 2.. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

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

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

2.2. Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* must be amended. Any *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

- a) Adequate vehicle manoeuvring area is to be provided to permit vehicles to enter and exit car spaces Nos 7 and 8 in a forward manner from northern car park onto internal roadway. Amendments to be made to landscaped area to allow adequate turning area.
- b) Laundry facilities comprising at least one washtub and space in the same room for a washing machine to be shown on floor plans for each unit. (Note: A kitchen sink or washbasin must not be counted as a laundry tub)
- c) Provide details of sound insulation and fire protection between floors and between units as per BCA requirements.
- d) Construction Certificate plans are to be overlayed with swept turning path templates to AS 2890 to demonstrate access for a rear loading, rear dual axle HRV into the waste truck servicing area to allow exit from the site in a forward direction.
- e) Details of the waste storage area, sized to accommodate 2 x 1.5m<sup>3</sup> bulk bins and 2 x 240 litre MGB's for twice weekly servicing of mixed waste and 2 x 1.5m<sup>3</sup> bulk bins and 2 x 240 litre MGB's for twice weekly servicing of recycled waste for 60 residential units.

2.3. The finished surface material, colours and texture of any building and/or hard paved areas must be non-glare. The details of the materials are to be submitted to the principle certifying authority prior to the issue of any Construction Certificate.

2.4. Surface water collected on driveways, parking areas and other impervious areas are to be treated so as to control pollution in accordance with one or more of the methods detailed in Section 10 of the Water Cycle Management Guidelines referenced by DCP 2013 Chapter 6.7 - Water Cycle Management.

2.5. The future dwellings erected in the Cluster Housing precinct shall be located with a separation distance from unmanaged bushfire prone vegetation which maintains the maximum level of bushfire construction standard requirement to BAL 29.

All dwellings located within 100m of the bushfire prone vegetation shall be constructed to a minimum standard of with Bushfire Attack Level (BAL) 12.5 as prescribed by AS3959 - 2009 - *Construction of buildings in bushfire prone areas*. Furthermore, depending on the required BAL, the development is to incorporate additional construction requirements that are contained in *subsection A3.7 - Additional Construction Requirements*, of the document produced by the NSW Rural Fire Service and known as *Addendum: Appendix 3 - Planning for bushfire protection 2010*.

Details demonstrating compliance with this condition are to be incorporated within the documentation associated with any construction certificate.

- 2.6. Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority (Council) prior to the issue of the Construction Certificate.
- 2.7. Design of the following engineering works within private property:
- a. Driveways/ramps and car parking areas must be designed according to the requirements of the current Australian Standard AS2890 for the geometric designs, and industry Standards for pavement designs.
  - b. Access roads within the Cluster Housing precinct shall be constructed to comply with the specifications of Section 4.1.3(1) of *Planning for Bushfire Protection 2006* with a minimum pavement width of 5.5 metres for two-way internal roads and a minimum pavement width of 3.5 metres for the one-way internal roads. Parking Bays (minimum 2.6m wide) shall be designed and constructed clear of the road pavement and complying Passing Bays (20m long x 2.0m wide) provided in the locations shown on the Concept Plan.
  - c. A stormwater detention system must be designed in accordance with Council's DCP165 - Water Cycle Management and Council's 'GCC Design Specification for Survey, Road and Drainage Works'. The stormwater detention system shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1%AEP storm event. A runoff routing method is to be used in the design calculations. An on-site stormwater detention report including an operation and maintenance plan shall accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths. The onsite detention system/s shall be designed generally in accordance with the 'Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 2 December 2013.
  - d. Nutrient/pollution control measures must be designed in accordance with Council's DCP 165 - Water Cycle Management. A nutrient/pollution control report including an operation and maintenance plan shall accompany the design. The nutrient/pollution controls shall be designed generally in accordance with the 'Water Cycle Management Plan' prepared by Woodlots & Wetlands dated 2 December 2013
  - e. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure/s to internal drainage system associated with community title subdivision.
  - f. A fire-fighting water supply shall be provided to the Cluster Housing precinct with Hydrant spacing, sizing and pressure complying with the specifications of Australian Standard A.S. 2419.1 - 2005 and have a flow rate of 10 litres / second. Hydrant locations shall be delineated by blue markers placed on the hydrant side of the centreline of the road pavement.

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

- 2.8. The applicant shall obtain a licence under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Construction Certificate.
- 2.9. Prior to the issuing of a construction certificate or releasing engineering plans for the subdivision / development works, Council will be issued with a Site Audit Statement by an accredited EPA Auditor stating the land has been remediated and is suitable for its intended land uses.



- 2.10. Details of compliance with Accessibility requirements under the Building Code of Australia and AS4299-1995 are to be submitted with the Construction Certificate.
- 2.11. Prior to the issuing of a construction certificate, the following matters are to be complied with:
- The completion of all works and infrastructure associated with DA44994/2013, and
  - The registration of the plan of subdivision under DA44994/2013

### 3.. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1. Any construction certificate for the building work is to be issued and the person having the benefit of the development consent must appoint a Principal Certifying Authority prior to the commencement of any building works.

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

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

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

- 3.5. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change.
- 3.6. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, '*Site Security and Public Access onto Housing Construction Sites*' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

- 3.7. A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place, a separate application made under the *Roads Act 1993* will need to be lodged with Council together with the associated fee.

- 3.8. All parking areas shall comply with AS2890.1:2004 and vehicular access near the waste storage area shall comply with AS2890.2:2002
- 3.9. The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist. Friable asbestos (of any quantity) must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The person having the benefit of this consent must provide the principal certifying authority with a copy of a signed contract with such licensed removalist before any development pursuant to the development consent commences.

Any such contract must indicate whether any non-friable asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the non friable asbestos material or friable asbestos material is to be delivered.

If the contract indicates that non friable asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

The person having the benefit of the consent must provide the principal certifying authority with a clearance certificate to be prepared by a competent person such as a qualified hygienist at completion of asbestos removal/work from the site.

If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work
- a person conducting a business or undertaking at the workplace
- the owner and occupier of the residential premises
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the NSW Work Health and Safety Regulation 2011).

- 3.10. The Principal Certifying Authority must ensure that all parties/trades working on the site are fully aware of their responsibilities with respect to tree protection conditions.
- 3.11. Tree Protection measures shall be implemented in accordance with the recommendations of the Arboricultural Impact Assessment for Proposed Lot 36 Cluster housing development, by Michael Shaw, dated 29/11/13.

## 4.. DURING WORKS

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

Mondays to Fridays - 7:00am to 6:00pm  
Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

- a No work is permitted on Sundays and Public Holidays
  - b No work is permitted on:
    - Saturdays when a public holiday is adjacent to that weekend.
    - Construction industry awarded rostered days off.
    - Construction industry shutdown long weekends.
- Clause b does not apply to works of a domestic residential nature as below:
- i Minor renovation or refurbishments to single dwelling construction.
  - ii Owner occupied renovations or refurbishments to single dwelling construction.
  - iii Owner builder construction of single dwelling construction; and/or
  - iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.
- 4.2. Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Erosion Sedimentation Control Policy D6.46.
- 4.3. Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Office of Environment and Heritage shall be contacted immediately and any directions or requirements complied with.
- 4.4. To minimize the opportunity for crime, the development must incorporate the following:
- a Adequate lighting to AS1158 is to be provided to common areas.
  - b Landscaping adjacent to mailboxes, pathways and footpaths must not provide for the concealment opportunities for criminal activity.
  - c The communal areas within the development are well lit and designed to minimise areas for concealment and entrapment
  - d The development must be designed to avoid foot holes or natural ladders so as to minimize unlawful access to the premises.
  - e Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- 4.5. Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.
- 4.6. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.
- 4.7. This development is subject to DCP 2013 Chapter 7.2 – Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.
- 4.8. Buildings are to be demolished in a safe and systematic manner in accordance with the requirements of Australian Standard *AS 2601-2001 - Demolition of Structures*, and disposed of in an approved manner.
- 4.9. No fill permitted beyond the footprint of the building with the exception of vehicular access.
- 4.10. The Engineering works within private property that formed part of any construction certificate shall be constructed in accordance with the plans and details approved with any construction certificate.

- 4.11. All internal water, sewer and drainage systems shall be installed in accordance with AS/NZ 3500:2003, the NSW Plumbing Code of Practice 2006 and the Water Supply Code of Australia (Sydney Water Edition) WSA 03-2002.
- 4.12. To minimize the potential for erosion and sedimentation, fuel management must only remove the aerial parts of plants; roots of all plants must remain so that soil is undisturbed. This constraint will require that this work be undertaken manually in this sensitive zone.

Erosion and Siltation control measures must be undertaken and maintained in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls shall comply with Council's Code of Practice of Erosion and Sedimentation Control.

- 4.13. Plant species used for landscaping must be restricted to locally native species appropriate to the locality and/or those introduced species that do not have known potential to become environmental weeds.
- 4.14. Stockpile of soil and other material shall be located away from sensitive environmental receptors, and if not to be used immediately, must be covered with an appropriate control such as geotextile fabric.
- 4.15. Any required fill material will only comprise of;

- I Virgin Excavated Natural Material (VENM) as defined under Schedule 1 of the *Protection of the Environment Operations (POEO) Act 1997*.

This definition is as follows:

*"virgin excavated natural material" means natural material (such as clay, gravel, sand, soil or rock fines):*

- a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and*

*(b) that does not contain any sulfidic ores or soils or any other waste,*

*and/or*

- II Excavated Natural Material (ENM) that has been issued with an exemption under the *Protection of the Environment Operations (Waste) Regulation 2005* in accordance with the Excavated Natural Material exemption 2012.

The placement of any other type of fill material other than that defined under VENM or ENM is classified as prohibited under this consent.

- 4.16. The applicant shall provide Council with validation documents verifying and certifying that the material complies with the definition of VENM under Schedule 1 of the *POEO Act 1997* or an exemption issued under the Excavated Natural Material Exemption 2012 if ENM is placed on the land.
- 4.17. Any exposed soil surface areas must be grassed/landscaped to minimise soil erosion.

- 4.18. All external night lighting is to be designed and operated in accordance with the Narara Eco Village Lighting Report (Lighting, Art + Science, Ref: L127P\_R01\_P1, dated 28 June 2013).
- 4.19. The Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) is to be implemented.
- 4.20. The Ecological Restoration Plan (Robert Payne Ecological Surveys & Management, dated December 2013) is to be implemented.
- 4.21. Trees to be removed are to be those as recommended for removal within the Arboricultural Impact Assessment for proposed Lot 36 Cluster housing development. Trees must be removed in a manner so as to prevent damage to those trees that are to be retained. Note: The Landscape plan has inaccuracies and is not to be used in regard to tree removal.
- 4.22. The internal road strength used by the waste trucks must be sufficiently strong enough to withstand a truck loading of 22.5 tonnes.
- 4.23. No obstructions to the wheel out of the waste bins being permitted including grills, speed humps, barrier kerbs etc.
- 4.24. The driveway design and loading area layout is to be designed in accordance with AS 2890.2-2002 Parking Facilities - Off Street Commercial Vehicle Facilities.
- 4.25. The waste truck servicing grade is to be 3% or less for the following areas:
- Within the enclosure
  - For bulk bin roll out pads
  - Within the 13m bulk bin and truck service area
- 4.26. The screened waste storage enclosure to be located as indicated on Draft Dwg No CGS2.01, dated February 2014.
- 4.27. A maximum gradient of 12.5% to the entry/access driveway to the Waste Storage Area.
- 4.28. Compliance with all commitments as detailed in the Waste Management Plan signed by J. Talbot and the document titled: *"Introduction and general comments regarding Waste Management Plans for Master Plan and Cluster housing DA's for Narara Ecovillage Co-Operative Ltd"*.

## 5.. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1. Application for any Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the building.
- 5.2. The premises not being occupied until any occupation certificate has been issued.
- 5.3. A concrete kerb, or alternative of similar standard, must be provided to the driveways and around areas of landscaping to prevent encroachment of vehicles.
- 5.4. The driveway, vehicle manoeuvring area and 14 car parking spaces as shown on the approved plan must be properly constructed, graded, drained, sealed and line marked with impervious paving material, in accordance with Australian Standard 2890.1-2004 Off Street Parking.

- 5.5. The street number is to be at least 100mm high and be clearly visible from the street frontage.
- 5.6. Mail receptacles shall be provided and appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.
- 5.7. Prior to the issue of any Occupation Certificate the Principal Certifying Authority must be furnished with a written statement from a recognised Bushfire Consultant certifying that all recommendations and findings of the Bushfire Report prepared by Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-2, dated 04.12.2013
- 5.8. Prior to the issue of any Occupation Certificate an instrument under the Conveyancing Act 1919 must be created on the Certificate of Title establishing a restrictive covenant detailing the areas to be maintained as a Asset Protection Zone in accordance with the Bushfire Report prepared by Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-2, dated 04.12.2013. The restriction shall ensure the owner continually maintains the Asset Protection Zone in accordance with the recommendation and findings detailed in the Bushfire Report. The restriction is to be created at the applicants cost with the Council having the sole authority to release or modify.
- 5.9. The requirements of the BASIX certificate for development and shown on the approved plans must be complied with prior to the issue of any occupation certificate.
- 5.10. The development shall incorporate a stormwater retention system consisting of either rainwater tanks and/or stormwater tanks (as defined in DCP 2013 Chapter 6.7 -Water Cycle Management) with a minimum total capacity of litres, capturing water from at least 90% of the total roof area. The water collected is to be suitably treated and connected to an external tap, all toilet cisterns and cold washing machine tap(s).
- 5.11. A material or device is to be installed to prevent the build up of flammable material (such as leaf matter) within the roof gutters is to be installed. The material or device must have a flammability index of not greater than 5 when tested in accordance with AS1530.2.
- 5.12. Prior to the issue of any occupation certificate, the internal engineering works within private property that formed part of any construction certificate shall be completed in accordance with the plans and details approved with any construction certificate.
- 5.13. Prior to the issue of any Occupation Certificate the Deposited Plan (DP) must be amended to:
- Include an Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan.
    - a To create a 'Restriction as to User' over the lot containing on-site stormwater detention system/s and/or nutrient/pollution facilities restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- And,
- Include an instrument under the Conveyancing Act 1919 for the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Contact Council for wording of the covenant(s).

- a To ensure on any lot containing on-site stormwater detention system/s and/or a nutrient/pollution facility} that:
- (i) The facility will remain in place and fully operational.
  - (ii) The facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner
  - (iii) Council's officers are permitted to enter the land to inspect and repair the facility at the owners cost.
  - (iv) Council is indemnified against all claims of compensation caused by the facility.

Registered title documents showing the restrictive and positive covenants must be submitted to and approved by the Principal Certifying Authority prior to the issue of any occupation certificate.

5.14. The applicant shall obtain a **Notice of Decision to commence commercial operations from the Minister prior to** the issue of an Occupation Certificate for the development.

5.15. Compliance with all recommendations contained within Section 6 of the Bushfire Protection Assessment prepared by G. L. Swain - Australian Bushfire Protection Planners Pty Ltd, ref: B132136-2, dated 04.12.2013 as follows:

*Recommendation 6.1 Asset Protection Zones:*

Asset Protection Zones to future dwellings within the Cluster Housing precinct shall be determined to maintain a maximum 29kW/m<sup>2</sup> radiant heat flux on the exterior of the buildings. This shall apply to the buildings located adjacent to the bushfire prone vegetation to the west. [Refer to Annexure 1 – Plan of Asset Protection Zones].

*Recommendation 6.2 Management of the vegetation within the designated Asset Protection Zone:*

The Asset Protection Zone to the west of Unit 17 shall be maintained as an Inner Protection Area in accordance with Appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Service "Standards for Asset Protection Zones".

An 88B covenant shall be created on the title of the future strata lots and Community land to ensure the ongoing management of the Asset Protection Zone and residual vegetation within the Cluster Housing precinct.

Should the Cluster Housing precinct be developed prior to the commencement of the adjoining residential allotments the whole of the residual residential zoned land, except for those areas defined as habitat areas/riparian corridors, shall be managed by slashing/grazing to maintain a maximum grass height of 150mm during the designated Bushfire Danger Period [1st October – 31st March or as prescribed].

*Recommendation 6.3: Construction Standards to future dwellings:*

The future dwellings erected in the Cluster Housing precinct shall be located with a separation distance from unmanaged bushfire prone vegetation which maintains the maximum level of bushfire construction standard requirement to BAL 29.

All dwellings located within 100m of the bushfire prone vegetation shall be constructed to a minimum standard of BAL 12.5 and fitted with non combustible gutter ember protection device.

*Recommendation 6.4: Fire-fighting access provisions:*

Access roads within the Cluster Housing precinct shall be constructed to comply with the specifications of Section 4.1.3(1) of Planning for Bushfire Protection 2006 with a minimum pavement width of 5.5 metres for two-way internal roads and a minimum pavement width



of 3.5 metres for the one-way internal roads. Parking Bays [minimum 2.6m wide] shall be designed and constructed clear of the road pavement and complying Passing Bays [20m long x 2.0m wide] provided in the locations shown on the Concept Plan.

**Recommendation 6.5: Water Supplies for Fire-fighting Operations:**

A fire-fighting water supply shall be provided to the Cluster Housing precinct with Hydrant spacing, sizing and pressure complying with the specifications of Australian Standard A.S. 2419.1 - 2005 and have a flow rate of 10 litres / second.

Hydrant locations shall be delineated by blue markers placed on the hydrant side of the centreline of the road pavement.

- 5.16. Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service prior to the issue of any Occupation Certificate together with the creation of a S88B instrument under the Conveyancing Act to this effect and at the applicant's cost.

## 6.. ONGOING OPERATION

- 6.1. No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.
- 6.2. All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.
- 6.3. Fourteen (14) car parking spaces are to be physically identified on site, and maintained free of obstruction. These spaces are not to be used for the storage of goods or waste products.
- 6.4. No cooking facilities or sanitary fittings other than those indicated on the approved plan being installed in the building.
- 6.5. The operation of all mechanical plant equipment and machinery (i.e. air conditioning unit and/or heat pump) shall not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.
- 6.6. Maintenance of the on-site stormwater detention facility in accordance with the operation & maintenance plan.
- 6.7. Maintenance of the nutrient/pollution control facilities in accordance with the operation & maintenance plan.
- 6.8. Waste and recycling bulk waste bins and MGB's to be presented for collection/servicing adjacent to the waste truck servicing location prior to servicing by the residents, caretaker or other internal management arrangement and returned to the screened waste storage enclosures immediately after servicing.
- 6.9. Use of private water supply shall comply with Australian Drinking Water Guidelines. The NSW Health Private Water Supply Guidelines should be followed to assist the operator in managing their water supplies and ensuring the water is safe to use.

## 7.. OTHER APPROVALS

### **RFS Requirements**

#### *Asset Protection Zones*

- 7.1. At the issue of subdivision certificate and in perpetuity, all lots within proposed Stage 1 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 7.2. At the issue of subdivision certificate and in perpetuity, all residual land zoned as residential within the remainder of the future development shall be managed as an asset protection zone (APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### *Water and Utilities*

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

#### *Access*

- 7.4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- 7.5. Temporary "T" turning heads shall be provided at the terminus of dead-end roads created in the construction of the individual development designs.

#### *Design and Construction*

- 7.6. Any existing buildings within proposed Stage 1 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

## 8.. ADVICE

- 8.1. The public authorities may have separate requirements and should be consulted in the following aspects:
  - a *Australia Post* for the positioning and dimensions of mail boxes in new commercial and residential developments;
  - b *Jemena Asset Management* for any change or alteration to the gas line infrastructure;
  - c *Energy Australia* for any change or alteration to electricity infrastructure or encroachment within transmission line easements;
  - d *Telstra, Optus* or other telecommunication carriers for access to their telecommunications infrastructure.
  - e *Gosford City Council* in respect to the location of water, sewerage and drainage services.
- 8.2. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Workplace Health and Safety Act 2011 No 10 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

- 8.3. Any water or sewer works are to be undertaken with the consent of Council. Application is to be made with Council under the provisions of Section 68 of the Local Government Act 1993 prior to commencement of any works on the site.

8.4. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.111.1100.com.au](http://www.111.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- 8.5. All work carried out under this Consent should be done in accordance with WorkCover requirements including the Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- 8.6. It is an offence under the National Parks and Wildlife Act 1974 to knowingly disturb an Aboriginal object or artifact without consent.
- 8.7. It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.

NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law.

The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the requirements of the DDA.

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

8.9. Should the proponent fail to obtain a Licence and Notice of Decision under WICA and require connection to Councils water supply and sewerage reticulation systems then the proponent would need to lodge a section 96 application to modify the development consent.

The following conditions shall apply:

- Connection of the proposed development to Councils water and sewer reticulation systems shall be subject to the existing water and sewer systems having sufficient capacity to accommodate the proposed development. The applicant shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall extend to a point within the water supply and sewerage reticulation systems where proposed demands / loads from the development represent 5% or less of the total capacity of the respective systems. The analysis shall assess the impact of the proposed development on Council's existing water and sewerage reticulation systems. The capacity analysis shall be carried out in accordance with the WSAA method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the development and a second analysis with the inclusion of additional demands / loads created by the proposed development.
- The developer shall be responsible for the design and full cost of augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow connection of the development to the water supply and sewerage systems.
- Payment of the current water and sewer headworks and augmentation contributions, in accordance with Council's policy.
- The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the development to Councils existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.
- The applicant shall be responsible for the design and construction of water supply and sewerage works within the development site. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.

## 9.. PENALTIES

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

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

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

### Warnings as to Potential Maximum Penalties

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

## **10.. REVIEW OF DETERMINATION**

- 10.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

## **11.. RIGHT OF APPEAL**

- 11.1. Section 97 of the Act, confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.
- 11.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.

## &lt;&lt;Insert Attachment Link/s Here &gt;&gt;

DCP 127 – Cluster Housing (Amendment 1) Compliance Table for lot 36, prepared by Sara Roach  
Planning Services /Michael Woodland Consulting Pty Ltd

Gosford City Council

Development Control Plan 127 – Cluster Housing (Amendment 1)

Compliance Table for lot 36

	Section	Key requirement	Compliance	Comment
<b>1 INTRODUCTION</b>				
1.00	Objectives	To ensure that the cluster development represents a high level of architectural design that will be compatible with the character and scale of the existing residential development in the locality.	Yes	Details in specific guidelines elsewhere in the DCP. Adjacent land is also part stage 1 new development. The Cluster 1 does not have a common boundary with the residential boundary or a divide from the surrounding public domain.
		To provide high level of amenity for the occupants of the development and the residents of adjoining land.	Yes	Refer to sections 3.3, 3.4, 3.5 below. Details in specific guidelines elsewhere in the DCP.
		To ensure the development will not adversely affect the natural environment.	Yes	Refer to sections 3.6, 4.1, 4.2 below. Details in specific guidelines elsewhere in the DCP.
		To recognise the importance of ecologically sustainable development.	Yes	Refer to sections 3.5, 4.1, 4.2, 4.3 below. Details in specific guidelines elsewhere in the DCP.
		To achieve the efficient use of land and a model for development potential, design and infrastructure.	Yes	Refer to sections 3.3, 4.1, 4.2 below. Details in specific guidelines elsewhere in the DCP.
<b>2 DESIGN GUIDELINES</b>				
2.1	Streetscape	Cluster development proposals are compatible with the character and scale of residential development in the immediate vicinity.	Yes	The proposal is for 1 and 2 storey dwellings that are compatible with surrounding scale of residential development in the locality. The houses are energy dwellings all have air conditioning. The roof is dark, however still meets the maximum height requirements. The proposal does not have a common boundary with existing residential areas, nor is it visible from the surrounding public domain. Refer to detail sections below.
		Consider height, bulk and scale, landscaping and materials.	Yes	The proposed 1 and 2 storey developments respond to the topography of the land. The setbacks have been



Section	Key requirement	Compliance	Comment
2.2. Environmental Assessment	Proposed: the location of the road among the development	Yes	proposed to ensure appropriate response to the site and provision of landscaped areas to the dwellings with overall 40% canopy cover and a canopy.
	Proposed: the location of the road among the development	Yes	At proposed roads within the site will be suitable roads and are proposed as part of an integrated internal road and public transport network to service the site. The proposed responds to these conditions as well as the mapping topography of the site.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
2.3. Environmental Assessment	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
2.4. Environmental Assessment	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
2.5. Environmental Assessment	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
2.6. Environmental Assessment	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
2.7. Environmental Assessment	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.
	Proposed: the location of the road among the development	Yes	The proposed is consistent with a full landscape plan that reflects the key landscape elements in the landscape.

Section	Key requirement	Compliance	Comment
2.4. Noise	Public spaces & residential zones, between public/private spaces	Yes	including landscape elements, landscaping, window location and internal layout.
	Provide acoustic privacy within dwellings & between dwellings	Yes	The design addresses acoustic privacy controlled by various means including landscape elements, setbacks window location and building materials.
	Limit overshadowing of adjacent dwellings	Yes	See sketch landscape.
	Limit summer exposure, maximum solar access	Yes	The proposed dwellings have been sited to maintain solar access to north facing open spaces and living rooms. Shadow diagrams have been provided.
2.5. Solar energy/Climate Control	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
2.6. Views	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
2.7. Access for People with Disabilities	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
	Limit summer exposure, maximum solar access	Yes	East & west facing windows will be provided with solar shades. North facing windows will be provided with solar shades. North facing windows will be provided with solar shades.
3 DEVELOPMENT REQUIREMENTS			
3.1. Site Characteristics	Min. site area of 3000 m <sup>2</sup>	Yes	The site is 3000 m <sup>2</sup> including internal pedestrian shared roadway.
	Ratio of width to depth	N/A	The proposed site is not subject to identified building lines and therefore this is not applicable. In addition, the site is not subject to any other building lines and therefore this is not applicable.
	Slope not to exceed 10%	Yes	The maximum slope is less than 10%.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
3.2. Location Characteristics	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
3.3. Density	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
3.4. Height	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.
	Proximity to schools, shopping, public transport, etc.	Yes	The site is well located within 400m from the nearest public school and bus stop.



Section	Key requirement	Compliance	Comment
	defined by 45 degree 3.5m height at side & rear boundaries	Met Assessment	As the dwelling is within the 45° larger one, and additional front side & rear boundaries are not applicable, the proposed dwelling meets the assessment at this context. Detailed requirements are detailed below in the setback table.
4.5	Setbacks	Met Assessment	As the dwelling is within the 45° larger one, and additional front side & rear boundaries are not applicable, the proposed dwelling meets the assessment at this context. Detailed requirements are provided in the Report. The following provides the details of setbacks taken from the nearest to internal road/footway. Buildings have been placed at varying angles to the boundaries to provide street access as well as to create a more varied presentation to the public domain.
		Table	Setbacks
		Units 1-4	3.0m - 8.0 m
		Units 5-8	3.0m - 8.0 m
		Units 9-12	3.0m - 8.0 m
		Units 13-16	3.0m - 8.0 m
	Courtyards and front setbacks	Met Assessment	Courtyards to House 1 will be located in a 6.0m setback zone.
	Set back to separate boundaries for single-story dwellings	Met Assessment	As the dwelling is within the 45° larger one, and additional front side & rear boundaries are not applicable, the proposed dwelling meets the assessment at this context.
	Set back to provide minimum level of minimum open space (living areas as well as other access to living rooms)	Yes	All dwellings have been laid to comply with this requirement. For both bedroom living areas as well as living rooms, landscape analysis & shading diagrams have been prepared to support this requirement.
	2-3 stories require setbacks of 4 building height	Met Assessment	As the dwelling is within the 45° larger one, and additional front side & rear boundaries are not applicable, the proposed dwelling meets the assessment at this context.
3.6	Open Space in Occupied Areas	No - Met Assessment	Dwellings 1-8 fall in this range. See Architectural Plans.
	Dwellings between 70 & 100 sq m	No - Met Assessment	Units 9-17 fall within this range. See Architectural Plans.
Section	Key requirement	Compliance	Comment
	require 140 sqm of open space (50% of 280sq m)	N/A	N/A
	Dwellings between 110 & 240 sq m require 140 sqm of open space (50% of 280sq m)	N/A	N/A
	25% of open space in House 1 must be adjacent to the front & rear boundaries	Yes	Dwellings have been laid to comply with this requirement. Landscape analysis & shading diagrams demonstrate compliance with this requirement.
	Minimum dimension of 5 metres and to be contiguous with living space	Yes	All dwellings have been laid to comply with this requirement. All open space areas are accessible with living rooms, front and rear gardens, and private courtyards or decks with extensive views.
	50% of open space area may be allocated to communal areas	Met Assessment	The minimum provision of open space exceeds the requirement based on the 50% area under the rule of 50% of the plot area is deducted. However, this is mitigated as they have open space and a magnificent view with excellent views and the three open space areas of the best view in the village.
3.7	Car Parking	Yes	One parking space has been allocated to each dwelling. All parking spaces 15-17 will be allocated to larger parking spaces of over 45 sqm.
	One parking space per dwelling (for units within 70m of public transport node)	Yes	One parking space has been allocated to each dwelling. All parking spaces will be adequately screened and landscaped.
	One parking space per dwelling for street parking	Yes	All parking spaces will be provided within the 15-17 area as detailed in the Stage 1 DA. Car parking spaces will be provided within the 15-17 area.
	Location of car spaces	No - Met Assessment	Car spaces for Units 13 and 14 will be located within the 15-17 area and located within the front boundary setback. This is acceptable given the site is within the 15-17 area and for private roads. Detailed requirements are provided in the Report.
	Spaces allocated to dwellings	Yes	Each unit will be provided with an allocated car space.
3.8	Reduction in Vehicular Access	Yes	All parking spaces will be located directly adjacent to the internal access road and will comply with Council Standards.

Section	Key requirement	Compliance	Comment
	Driveways to be impervious, but not new concrete, bitumen etc.	Yes	All driveways will allow adequate permeability in accordance with Council's requirements for curbside parking. Details to be provided in Landscape Plan and Stage 1 DA and hydrological plans.
<b>4 SERVICES</b>			
4.1 Stormwater Drainage	To ensure that the land can be adequately drained for the health & convenience of residents and that the development does not contribute to drainage or flooding problems elsewhere.	Yes	Refer to the proposed Integrated Water Cycle Management Plan at Appendix 10.
4.2 Water & Sewerage	To ensure no dwellings are provided with an appropriate supply of potable water, and access to a sewerage system.	Yes	Refer to the proposed Integrated Water Cycle Management Plan at Appendix 10.
4.3 Garbage Disposal	Council requirements to service dwellings within the zone are significant.	Yes	All waste is proposed to be collected at a central point at the entry of the site. The Stage 1 DA will provide further detail.
	Provided a 1200mm high 900x600 bin for general garbage is one for every 100sqm.	Yes	All waste and recycling to be collected at a central point at the entry of the site. The Stage 1 DA will provide further detail.
<b>5 GENERAL</b>			
5.1 Street View	Substitution may be by street or community title.	Yes	The dwellings are proposed to be clad stone under contract with a tiled tile line to be determined by the scheme for the NTV site in a future application.
5.2 Development Contributions	Water Supply & Sewerage	N/A	NTV proposes a storm system and will be self-sufficient with respect to water supply & sewerage. Water tanks for each dwelling to augment potable water from storm water, as detailed in the proposed Integrated Water Cycle Management Plan at Appendix 10.
	Stormwater Contributions	N/A	N/A
5.3 Humidity & Ventilation	Where a development has 3 or more dwellings, provision shall be made for the location of the common areas at the midpoint of the site throughout the hours of darkness.	Yes	Refer to Detailed Land and Landscape Plans.

Section	Key requirement	Compliance	Comment
5.4 Windows	All boarding areas will be adequately lit and vented at all times. Each dwelling shall be provided with adequate laundry facilities for the exclusive use of the occupants of that dwelling.	Yes Yes	Refer to Architectural and Landscape Plans. Each dwelling is provided with a laundry.
5.5 Common Use Toilet	Where a development contains more than 4 dwellings and (a) shall be provided with a common use toilet accessible from the common areas of the site, for the use of all residents residing on the site.	Yes	Community facilities to the proposed NTV site are incorporated in Stage 1 DA, which will include the shared facilities.
5.6 Solar Panels	To comply Australian Gov.	Yes	All solar panels for the site will be located in a court of law on the site to the satisfaction of Australia Post.
<b>6 ENERGY EFFICIENCY</b>			
6.1 Objective	To ensure the energy efficient design & layout of future housing developments.	Yes	All dwellings are oriented to the north, with glazing designed to maximise winter sun access and minimise summer access. Concrete floors and external masonry walls are designed to provide high thermal mass. Air flows to the south, are minimised and east & west windows are provided with ventilation devices to limit hot summer sun and moderate winter sun access.
6.2 Performance Criteria	Number of solar panel design suggestions / criteria.	Yes	The proposal exceeds BASIX and provides all dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans.
6.3 Performance Measures	5 Star energy efficiency but not mandated.	Yes	The proposal exceeds BASIX and provides all dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans.
	Energy efficient appliances	Yes	The proposal exceeds BASIX and provides all dwellings with high levels of sustainability. Refer to Architect's Design Statement and Plans.
	Collection of stormwater for use in watering gardens & landscaping.	Yes	All dwellings are provided with access to water from the proposed integrated water cycle management plan at Appendix 10.

## ATTACHMENT A

### OBJECTION TO A DEVELOPMENT STANDARD UNDER THE PROVISIONS OF STATE ENVIRONMENTAL PLANNING POLICY NO.1 (SEPP 1)

#### CLUSTER HOUSING DEVELOPMENT APPLICATION FOR LOT 36 25 RESEARCH ROAD, NARARA (DA 44899/13)

### PROPOSED DEVELOPMENT / USE

Demolition of existing buildings, cluster housing development for 17 units, car parking, landscaping and associated infrastructure works on proposed Lot 36 on the Narara Ecovillage Site (NEV) at 25 Research Road, Narara.

### DEVELOPMENT STANDARD WHICH THE OBJECTION RELATES

The Development standard to which the objection relates is the requirement for the width of the land at the building line to the depth of the land is not less than 1:2 and not more than 2:1. A building line is defined in the Gosford Planning Scheme Ordinance (GPSO) as follows:

*'Building line' means the line fixed by the Council under the policies and Development Control Plans of the Council, between which and any public place, public reserve, ocean, river or waterway a building may not be erected.*

The Co-operative is unaware of any building line being specified in a Council policy or DCP as being relevant to the site. Notwithstanding, should Council consider this clause applicable, the Gosford Council DCP 127 - Cluster Housing identifies a building line as the front setback to a road frontage (6 metres).

### ENVIRONMENTAL PLANNING INSTRUMENT WHICH SPECIFIES THE DEVELOPMENT STANDARD (Specify Clause)

Gosford Planning Scheme Ordinance (GPSO) - Clause 27A(3)(b)

### PROPOSED VARIATION OF THIS DEVELOPMENT STANDARD

The site does not meet the minimum standard should the front setback requirement in the Gosford Council DCP 127 - Cluster Housing be defined as a building line for the purpose of this clause.

### REASON FOR THIS PROPOSED VARIATION

The SEPP 1 Objection has been structured in accordance with the approach taken by the Land & Environment Court NSW in Winten Property Group v North Sydney Council [2001].

*Is the control to be varied a development standard*

Yes.



The site area controls in Clause 27A of the GPSO are designed to prevent irregular lots being used for cluster housing within established residential areas that may not be able to respond to Council identified building lines for the locality - resulting in poor development outcomes.

The objectives of the standard are to:

- Assist urban consolidation through the provision of cluster housing developments
- Promote a range of dwelling types suitable for a variety of households
- Provide a satisfactory level of internal and external amenity to dwellings and their occupants
- Ensure that development under these provisions results in cluster development which is compatible with single dwelling house and dual occupancy development and which:
  - achieves a desired local character
  - provides a satisfactory balance of buildings, open space, community facilities
  - is related to the local level of services and facilities
  - Complies with the minimum open space requirements of this plan

*Is compliance with the development standard consistent with the aim of the clause?*

Compliance with this standard is not required to achieve the objectives of the clause. The proposal is consistent with the objectives of the clause for the following reasons:

- The proposed lot 36 is 6236m<sup>2</sup> which exceeds the minimum lot size requirement of 3,500m<sup>2</sup> required by Clause 27(3)(a) of the GPSO
- The proposal assists in urban consolidation by providing cluster housing in combination with other housing types and choice on the NEV site
- The proposal provides exceptional levels of internal and external amenity for future occupants
- The proposal is compatible with the character of the locality and is well served by local services both within and outside the NEV site
- The proposal provides for sufficient open space both for the lot 36 and within the NEV site.

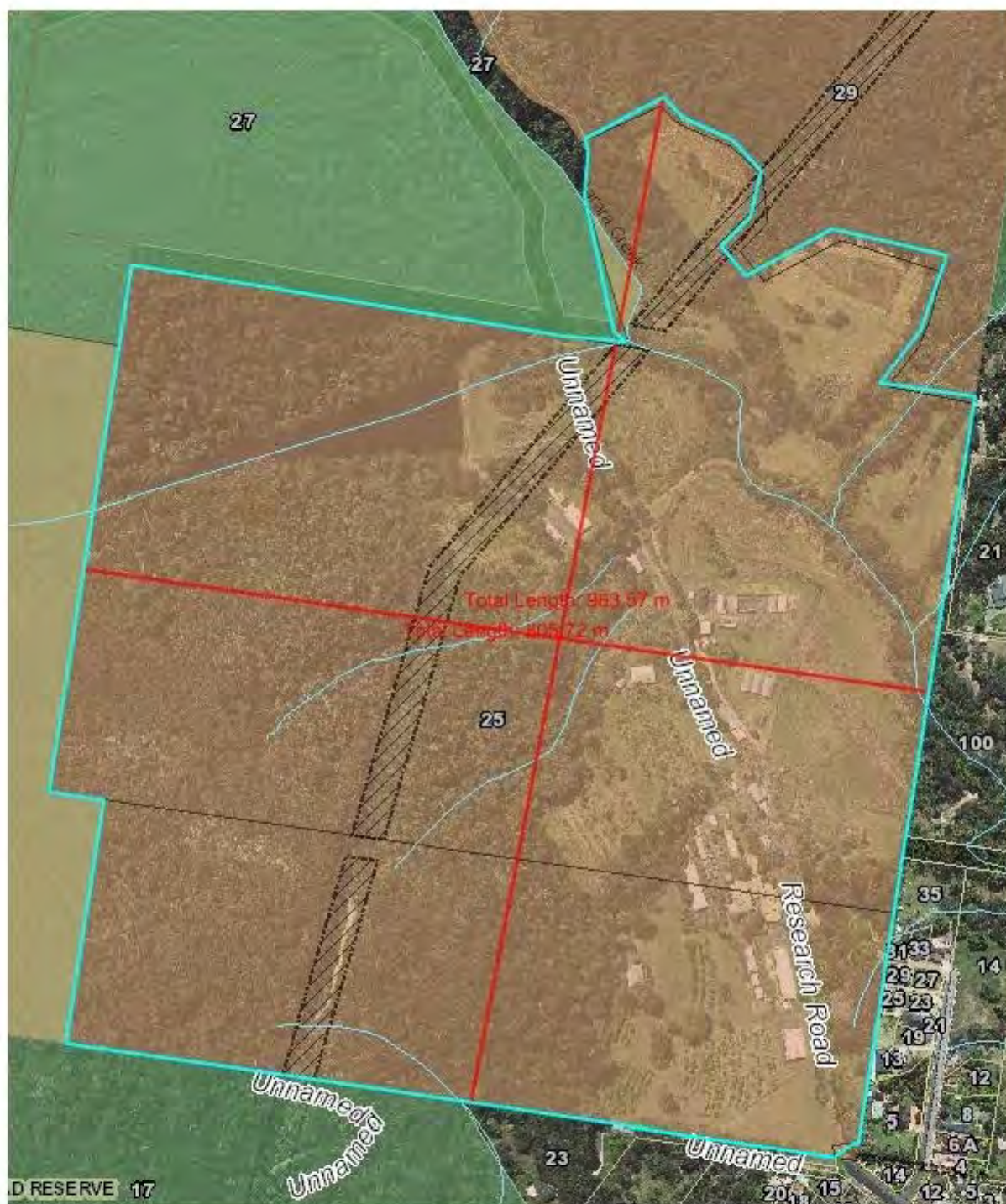
*Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case?*

Strict compliance with this standard is considered unreasonable or unnecessary in the circumstances of the case. As the NEV site is a private estate and Lot 36 has frontage to private roads, this provision is not considered to strictly apply. Notwithstanding, the proposal is not considered to lead to any detrimental impacts on the environment, streetscape or neighbouring properties.

*Whether the objection is well founded*

The application is part of a self-contained ecovillage development, which has minimal to negligible impacts on the adjoining residential development.

The proposed 17 cluster units have been designed on lot 36 to respond to the site constraints, based on sound planning principles underpinned by a philosophy of environmental sustainability, walkability and social interaction.



# Comments from Liquid Waste Management



<b>To</b>	D SPITHILL
<b>From</b>	C KENNEDY
<b>Date</b>	25 February 2014
<b>DA Number/Year</b>	44994/2013 Part 1
<b>Proposed</b>	Subdivision Residential 40 Lots
<b>Property</b>	LOT: 13 DP: 1126998 No 25 Research Road NARARA

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Diane

Waste Services has assessed the plans and documentation associated with the above DA.

The following comments are provided in regards to the on-site sewage management of the proposal:

A number of issues have been highlighted within both the Integrated Water Cycle Management Plan submitted by Woodlots and Wetlands Pty Ltd and the Water and Wastewater Systems Overview submitted by Aquacell which require further clarification/information. For example, there are no details provided on the proposed location and specifications for wet weather storage; no discussion on the provision of a reserve land application area should the primary land application area fail; no details on proposed on-going environmental monitoring. It is our understanding however that the applicant has been advised by IPART to undertake a preliminary risk assessment and facilitate a meeting with all relevant stakeholders including the NSW Ministry of Health, the EPA, and Council, as part of the approval process for the WICA licence, which will address these issues. IPART anticipates that the application will not be submitted until mid-year. Notwithstanding these issues, the applicant will be required to submit an application under Section 68 of the Local Government Act 1993 for a permit to install an on-site sewage management system prior to the issue of the Construction Certificate. Once the system design is finalised it can be conditioned to comply with the relevant wastewater reports and requirements of the WICA licence. The following conditions should also be placed on the Development Consent:

- A licence must be obtained under the Water Industry Competition Act (WICA) 2006 prior to the issue of a Subdivision/Construction Certificate.
- A Notice of Decision to commence commercial operations from the Minister prior to the issue of an Occupation Certificate.
- An Approval to Operate the on-site sewage management system is to be issued by Council's Waste and Emergency Services prior to the issue of an Interim or Final Occupation Certificate.

Regards

Claire Kennedy  
Environmental Health Officer

**1.. PARAMETERS OF THIS CONSENT****2.. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE**

nil

**3.. PRIOR TO COMMENCEMENT OF ANY WORKS**

nil

**4.. DURING WORKS**

nil

**5.. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

nil

**6.. ONGOING OPERATION**

nil

**7.. OTHER APPROVALS****8.. ADVICE**

nil

**9.. PENALTIES**

nil

**10.. REVIEW OF DETERMINATION**

nil



## 11.. RIGHT OF APPEAL

nil