

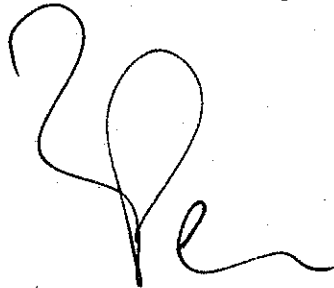
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Deputy Director-General as delegate of the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- Prevent and/or minimise adverse environmental impacts;
- Set standards and performance measures for acceptable environmental performance
- Require regular environmental monitoring and reporting
- Encourage best practice residential subdivision design
- Protect the development from natural hazards;
- Encourage environmentally sustainable development; and
- Provide for the ongoing environmental management of the project.



Richard Pearson
Deputy Director-General

Sydney,

28th June 2010

SCHEDULE 1

PART A—TABLE

Application made by:	Aspen Group
Application made to:	Minister for Planning
Project Application Number:	06_0250
On land comprising:	Seaside Boulevard, Fern Bay Lot 46 in DP 28008 and Lots 1, 4 and 7 in DP 270466
Local Government Area	Port Stephens Council
For the carrying out of:	Proposed residential subdivision
Type of development:	Project Application
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0250

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means Building Code of Australia

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Port Stephens Council

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by ERM on behalf of Aspen Group Pty Ltd, dated February 2009, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

Preferred Project Report means the *Fern Bay Seaside Village Project Application - Submission Report* prepared by ERM on behalf of Aspen Group, dated December 2009, as amended by *Fern Bay Seaside Village Project Application - Further Response to Submissions* prepared by ERM on behalf of Aspen Group, dated April 2010

Proponent means Aspen Group Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Subject Site has the same meaning as the land identified in Part A of this schedule.

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SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 06_0250

DEFERRED APPROVAL AND CLEARING / BULK EARTHWORKS FOR STAGE 4

- A. The Proponent shall enter into a Voluntary Planning Agreement (VPA) with the Director-General of the Department of Environment, Climate Change and Water under section 93F of the *Environmental Planning and Assessment Act 1979* in accordance with the terms of offer made by the Proponent in its Statement of Commitments.

This approval does not operate until the Proponent provides the Department of Planning (the Department) with evidence that the above VPA has been entered into and the Department has advised the proponent in writing, that this condition has been satisfied.

- B. Notwithstanding the requirements of part A of this condition or the requirements of any other condition of this consent, a construction certificate may be issued for clearing and bulk earthworks for Stage 4 provided the following documents (as they relate to Stage 4 works) are approved by Council for Stage 4 only:
- Construction Management Plan in accordance with Condition **B17**;
 - Tree Removal Plan in accordance with Condition **B18**;
 - Weed Control Plan in accordance with Condition **B19**;
 - A Community Land Environmental Management Plan in accordance with Condition **B 20**;
 - Traffic and Pedestrian Management Plan in accordance with Condition **B21**;
 - Acid Sulfate Soil Management Plan in accordance with Condition **B22**; and,
 - Aboriginal Reserve Cultural Heritage Management Plan in accordance with Condition **B23**.

PART A—ADMINISTRATIVE CONDITIONS

A1 Project Description

Project approval is granted only to carrying out the project described in detail below:

- 1) Bulk earthworks and vegetation clearing;
- 2) Subdivision of land for the creation of 411 lots under a community title scheme (including 370 residential lots, 38 super lots, 2 commercial lots and 1 community lot);
- 3) Creation of ecological conservation areas to be managed as Community Conservation Lands (under the community lot);
- 4) Creation of recreational and open space network including formal parks and an Aboriginal cultural heritage reserve;
- 5) Creation of two sites for commercial areas and recreational/community centre area;
- 6) Construction of a road network including internal roads, pedestrian pathways and a shared footpath/cycleway on part of Nelson Bay Road;
- 7) Construction of stormwater management measures;
- 8) Creation of asset protection zones;

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- 9) Associated landscaping; and
 - 10) Works to connect to reticulated services (water, sewerage, power and telecommunications).

A2 *Staging*

Stages 1 to 3 are the subject of separate approvals issued by other authorities. The project is to be constructed in 17 sequential stages, generally as follows:

- (1) Stage 4 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 39 lots;
 - (c) Construction of sewer pump station P4;
 - (d) Construction of a shared footway/cycleway from the bus shelter in front of Bayway Village to the intersection of Seaside Boulevard and Nelson Bay Road;
 - (e) Establishment of Aboriginal Heritage Reserve (R3);
- (2) Stage 5 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 28 lots;
- (3) Stage 6 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 15 lots, including 5 superlots;
 - (c) Construction of sewer pump station P5;
 - (d) Construction of Banksia Park (R4), including recreation facilities;
 - (e) Construction of infiltration basin 6 (Note: the location of this basin shall be amended in accordance with Condition **B1**);
- (4) Stage 7 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 19 lots, including 4 superlots;
- (5) Stage 8 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 23 lots;
 - (c) Construction of sewer pump station P6;
 - (d) Construction of conveyance swale to infiltration area 5;
- (6) Stage 9 comprises:
 - (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) Construction of sewer pump station P7;
 - (c) 29 lots, including 1 superlot;

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- (7) Stage 10 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 47 lots, including 1 superlot and 1 commercial lot (lot 200);
- (8) Stage 11 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 20 lots;
- (9) Stage 12 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 26 lots, including 1 superlot;
- (10) Stage 13 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 12 lots, including 4 superlots;
 - (c) Construction of swale to infiltration area 4;
- (11) Stage 14 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 22 lots, including 2 superlots;
 - (c) Northern extension of Seaside Boulevard, including an intersection with Nelson Bay Road (northern intersection);
 - (d) Construction of Corymbia Park (R5), including recreation facilities;
- (12) Stage 15 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) Construction of sewer pump station P3;
 - (c) 32 lots, including 1 superlot;
- (13) Stage 16 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 14 lots, including 5 superlots;
- (14) Stage 17 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 39 lots;
- (15) Stage 18 comprises:
- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
 - (b) 16 lots, including 4 superlots;

(16) Stage 19 comprises:

- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
- (b) 11 lots, including 5 superlots and 1 commercial lot (lot 383);
- (c) Construction of drainage swale to infiltration area 1;

(17) Stage 20 comprises:

- (a) Clearing, earthworks, roadwork, stormwater, and landscaping as well as servicing provisions for sewer, water supply, power and communications;
- (b) 18 lots, including 5 superlots;
- (c) Construction of unnamed park (R2), including recreation facilities.

The scope and extent of works within each stage of this project as outlined above may be varied due to market conditions and servicing constraints as agreed to by Council.

A3 Project in Accordance with Plans

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

Subdivision Drawings prepared by Daly Smith Pty Ltd			
Drawing No.	Revision	Name of Plan	Plot Date
29850A – Sheet 1 of 22	A	Site and Staging Plan – Rev A	25/3/2010
29850A – Sheet 2 of 22	A	Stages 4-6 Detail Plan – Rev A	25/3/2010
29850A – Sheet 3 of 22	A	Stage 7 Detail Plan – Rev A	25/3/2010
29850A – Sheet 4 of 22	A	Stages 8 & 9 Detail Plan – Rev A	25/3/2010
29850A – Sheet 5 of 22	A	Detail Sheet Stages 10-12– Rev A	25/3/2010
29850A – Sheet 6 of 22	A	Stages 13 & 14 Detail Plan – Rev A	25/3/2010
29850A – Sheet 7 of 22	A	Stages 15 & 16 Detail Plan – Rev A	25/3/2010
29850A – Sheet 8 of 22	A	Stage 17 Detail Plan – Rev A	25/3/2010
29850A – Sheet 9 of 22	-	Stages 18 & 19 Detail Plan	25/3/2010
29850A – Sheet 10 of 22	-	Stage 20 Detail Plan	25/3/2010
29850A – Sheet 11 of 22	A	Indicative Sewer Layout – Rev A	25/3/2010
29850A – Sheet 12 of 22	A	Indicative Watermain Layout - Rev A	25/3/2010
29850A – Sheet 13 of 22	A	Land Tenure Plan – Rev A	25/3/2010
29850A – Sheet	-	Footpath and Cycleway	25/3/2010

19 of 22			
29850A – Sheet 20 of 22		Typical Road Detail	25/3/2010
29850A – Sheet 22 of 22	A	Bulk Earthworks (Cut-Fill) – Rev A	25/3/2010
Engineering Drawings prepared by Martens & Associates Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
P090247JD01_V5	5	Concept Site Drainage Plan – Proposed Swales and Basins (Sheet 1 of 4)	24/12/2009 Submitted within Supplementary Water Cycle Management Information, prepared by Martens & Associates Pty Ltd, dated April 2010 provided in Annexure C of Further Response to Submission Report, prepared by ERM and dated April 2010
Landscape Drawings prepared by Verge Landscape Architects			
Drawing No.	Revision	Name of Plan	Date
063154hv_PPP_0 5		Figure 4 – Street Planting	11/12/2009 (as submitted in the Submissions Report, prepared by ERM dated December 2009)

A4 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* (Volumes 1, 2 3 and 4) prepared by ERM on behalf of Aspen Group Pty Ltd, dated February 2009;
- (2) *Fern Bay Seaside Village Project Application - Submission Report* prepared by ERM on behalf of Aspen Group, dated December 2009 (ref:0063154 Final); and,
- (3) *Fern Bay Seaside Village Project Application – Further Response to Submissions* prepared by ERM on behalf of Aspen Group, dated April 2010 (ref: 0063154).

Note: Items (2) and (3) above will otherwise be referred to as the 'Preferred Project Report' (PPR) in the remaining conditions.

A5 Inconsistency between documents

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to in Conditions A3 and A4, the conditions of this approval prevail to the extent of the inconsistency.

A6 *Building Code of Australia*

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

A7 *Certification*

1) Construction Certificate

A Construction Certificate must be obtained from Council for each stage of the project before any work can commence for that stage on the site.

2) Subdivision Certificate

A Subdivision Certificate pursuant to Section 109C(1)(d) of the Act must be obtained from Council for each stage of the subdivision before the registration of a plan of subdivision under Division 3 of Part 23 of the Conveyancing Act 1919 for any allotments in any phase within the subdivision.

A8 *Erection of a Dwelling*

No approval is given or implied by this approval for the erection of dwellings on any of the lots.

A9 *Water Supply*

Any future application for dwellings on the lots shall include proposed water supply measures in accordance with Council's requirements and the recommendations of the *Sewer and Water Strategy* (prepared by GHD, dated November 2004) as amended by *Sewer and Servicing Strategy Addendum Report* (prepared by DMS Survey Pty Ltd, undated) submitted as part of Annex O of the EA, referred to in Condition **A4**.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 Design Modifications

To ensure a vegetative link is retained within the Stockton Regional Corridor, between the Worimi Regional Park and the Worimi Conservation Area, proposed detention basin no. 6 (as identified on 'Concept Site Drainage Plan – Proposed Swales and Basins', Sheet 1 of 4, prepared by Martens & Associates Pty Ltd, dated 29/12/2009) shall be relocated from the Community Conservation Lands into the development footprint. Details shall be submitted to and approved by the Department of Planning prior to the issue of any Construction Certificate.

Traffic & Road Design

B2 Road Hierarchy Plans

The Road Hierarchy Plan (dated 11/12/09, provided in Submission Report as part of the PPR) must be updated in accordance with the final subdivision plan. The updated plan must be approved by Council prior to the issue of any Construction Certificate.

A detailed Road Hierarchy Plan must be prepared for each stage of the development (showing the road hierarchy, a bus route, pedestrian cycleway and pedestrian pathways through the Community Conservation Lands) and approved by Council, prior to the issue of any Construction Certificate for that stage.

The pedestrian pathways through the development are to be located to minimise impacts upon existing native vegetation and avoid traversing through identified Endangered Ecological Communities.

B3 Road Design

Final road design plans must be prepared by a qualified practising Civil Engineer for each stage and approved by Council prior to the issue of a Construction Certificate for that stage.

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All Roads shall be designed in accordance with the relevant requirements of Council and the RTA (as applicable).

Local Area Traffic Management (LATM) measures are to be incorporated into the entire road network. It is sufficient to provide a plan view of proposed locations (spacing ideally <150m apart) along with a typical section and plan view of the type(s) of LATM device(s) that are proposed. For bus routes and major traffic routes, devices such as lane narrowing, kerb extensions at intersections, and alternate intersection are preferred to vertical deflection devices. The design and location of LATM devices should consider cyclists.

B4 Construction of Shared Footpath/Cycleway along Nelson Bay Road

The shared footpath/cycleway along Nelson Bay Road must be constructed as part of Stage 4. It shall be designed and constructed at the cost of the proponent, in accordance with the requirements of the Roads and Traffic Authority/Council.

Detailed plans for the footway/cycleway (extending from the existing roundabout at the intersection of Nelson Bay Road and Fullerton Cove Road to the bus shelter at Bayway Village to the south) shall be approved by Council, prior to the issue of any Construction Certificate for Stage 4. The plans should be prepared in accordance with Footpath and Cycleway drawing (drawing no. 29850A, Sheet 19 of 22, prepared by Daly Smith Pty Ltd, dated 25/3/2010).

Note: This condition should be read in conjunction with Statement of Commitment No. 33 and Condition B5

B5 Construction of connection to Nelson Bay Road (at Stage 14)

The northern extension of Seaside Boulevard and upgraded intersection with Nelson Bay Road (as identified on the 'Site and Staging Plan' (drawing 29850A – Sheet 1 of 22, prepared by Daly Smith Pty Ltd, dated 25/3/2010) must be constructed as part of Stage 14. The works (including the new intersection) must be designed and constructed at the cost of the proponent.

The following requirements of the Roads and Traffic Authority (RTA) must be met prior to issue of a construction certificate for these works:

- The proposed new vehicular access to/from Nelson Bay Road shall be designed/constructed with left turn deceleration and acceleration lanes in accordance with the RTA's Road Design Guide, including a provision for on road cyclists and a central median to prevent right turn in and out movements. Intersection lighting shall be provided to Australian Standards;
- Geometric road design shall be in accordance with the RTA Road Design Guide. Pavement design shall be in accordance with the AUSTROADS Pavement Design Guide;
- The proponent shall enter into a Works Authorisation Deed with the RTA for any works within the Nelson Bay Road reservation. In this regard, the developer is required to submit detailed design plans and all relevant additional information, as may be required by the RTA's Works Authorisation Deed documentation, for each specific change to the State road network for the RTA's assessment and final decision concerning the work;
- The applicant shall obtain a Road Occupancy Licence from the RTA; and,
- Section 138 concurrence under the Roads Act 1993 shall be obtained from the RTA.

Note1: This condition amends Statement of Commitment no. 31.

Note 2: The conditions of approval do not guarantee the RTA's final consent to the specific road work, traffic control facilities and other structures works on the classified road network. The RTA must provide a final consent for each specific change to the state road network prior to the commencement of any work. Further changes to the intersection design may be required during the detailed design phases, as part of the Works Authorisation Deed (WAD) process. The RTA will not undertake further design reviews until the WAD is executed and RTA fees and charges are paid.

B6 Provision of Bus Bays and Bus Shelter

A Bus Bay and Bus Shelter Plan covering the entire project is to be approved by Council, prior to the release of a Construction Certificate for Stage 4. The plan shall detail the location and specifications of indented bus bays and bus shelters including concrete pads, in accordance with the updated Road Hierarchy Plan (as required by Condition **B2**).

Note: This condition amends Statement of Commitment no. 34.

B7 Accessibility

The footpaths, parks (including child play equipment) and any pedestrian paths (in the community conservation lands) are to be designed to be appropriately accessible in accordance with AS1428 – *Design for Access and Mobility*. Details including an accessibility report are to be provided to Council, prior to the release of the Construction Certificate for each applicable stage of the subdivision.

Subdivision Works

B8 Bushfire Management Plan

A Bushfire Management Plan must be prepared for each stage of the subdivision and approved by Council prior to the release of a Construction Certificate for that stage. The Plan

must be prepared in accordance with Bushfire Hazard Assessment (prepared by ERM, dated February 2009, Annex L of the EA) and as detailed in *Figure 2 – Preferred Project Plan* (dated 30/11/2009, in the PPR dated December 2009) and provide the following details:

- Asset Protection Zones must be managed as outlined within section 4.1.3 and Appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Service's document Standards for Asset Protection Zones. APZs must not impinge on 'Community Conservation Lands';
- Water, electricity and gas must comply with section 4.1.3 of Planning For Bushfire Protection 2006; and,
- Public road access shall comply with section 4.1.3 (1) of Planning for Bush Fire Protection 2006.

B9 Stormwater and Drainage Works Design

Final design plans for the stormwater drainage systems (including stormwater drains, swales and infiltration basins/areas), prepared by a qualified practising Civil Engineer and in accordance with the requirements of Council and the recommendations of the *Amended Water Cycle Management Strategy* (prepared by Martens Consulting Engineers, dated December 2009) ('Martens (2009) Report') and the *Supplementary Water Cycle Management Information, Fern Bay* (prepared by Martens Consulting Engineers, dated April 2010) ('Martens (2010) Report'), shall be approved by Council prior to the issue of any Construction Certificate.

Discharge of stormwater flows from the development to the adjoining Worimi Regional Park (along the Southern Boundary) is not allowed without approval from the Department of Environment, Climate Change and Water.

'Dispersion areas' or 'detention basins' are not permitted within the site and only 'infiltration areas/basins', as per the Martens (2009) Report as amended by Martens (2010) Report, are to be incorporated into the development.

The final design plans of the stormwater drainage system should address any amendments to the subdivision layout as a result of design modifications required by Condition B1.

Note: This condition amends Statement of Commitment no. 27.

B10 Batters on Proposed Infiltration Basin No.3

The side batters along the southern edge of proposed infiltration basin no.3 (as depicted on drawing titled 'Concept Site Drainage Plan – Proposed Basin and Swales', drawing no. P0902479JD01_V5 – Sheet 1 of 4, provided in the Martens (2010) Report) shall be constructed to be structurally sound and enable the provision of a 4WD track. Prior to the release of the Construction Certificate for these works, detailed design drawings for proposed basin no.3 shall be provided to the Department of Environment, Climate Change and Water for endorsement.

B11 Stormwater and Groundwater Management Plan

A Stormwater and Groundwater Management Plan ('SGMP') shall be prepared to the satisfaction of Council and the Department of Environment, Climate Change and Water (National Parks) prior to the issue of a Construction Certificate for Stage 4. The SGMP must be reviewed and submitted prior to the issue of a Construction Certificate for each stage of the development. The SGMP shall be prepared in accordance with the recommendations of outlined in Section 6 of the *Amended Water Cycle Management Strategy* (prepared by Martens Consulting, dated December 2009) and amended by the *Supplementary Water Cycle Management Information, Fern Bay* (prepared by Martens Consulting Engineers, dated April 2010).

The Plan will also specify:

- Identification of the frequency of inspection of the stormwater devices within the community lot and any adjacent land covered by the Community Management Statement;
- Identification of the type of water quality monitoring, to specify suitable water quality outcomes and amelioration works to be carried out in the event of unsuitable outcomes. The stormwater and groundwater monitoring should be undertaken on an annual basis by a qualified consultant. Reporting to be forwarded to Council for review. NSW Office of Water (NOW) should be notified if negative results are indicated in the groundwater assessment. (Note: Any polluting activity impacting on the surface water or groundwater system should be administered by an Environmental Protection licence administered under provisions of the Protection of the Environment Operations Act 1997);
- Establishment of a network of groundwater monitoring bores (Note: All groundwater bores are required to be approved by NOW before installation);
- Preparation of groundwater trigger values and contingency strategies;
- Relevant maintenance requirements for stormwater facilities with regards to clearing of litter and sediments from pits, ensuring geofabric used in liners are not blocked or damaged;
- Ensure inundation by groundwater of stormwater facilities in low lying areas, affecting hydraulic and treatment capacity, and ensuring bioretention systems are not modified through the placement of bark and woodchips;
- Identification of categories of damage to each type of device and specifying timeframes for repair based on the level of impact upon the efficiency of the system;
- Identifying specific timeframes for maintenance of each type of structure, such as mowing of swales or removal of siltation;
- Identifying specifications for suitable repairs, including identifying suitable species for replacement planting;
- Adoption of best practice management practice solutions in line with the principles of Water Sensitive Urban Design and Ecological Sustainable Development;
- Works not to have adverse impacts on the local surface and ground water quality;
- Development is not to rely on the treatment capacity of the proposed infiltration basins; and,
- Identifying that the Community Association is responsible for the cost of the works (unless agreement has been reached with Council to maintain and fund the works).

B12 Flooding Risk Management Measures

Flood risk management measures for the project should be undertaken in accordance with the recommendations outlined in *Supplementary Water Cycle Management Information, Fern Bay* (prepared by Martens Consulting Engineers, dated April 2010). Details of the measures (including detailed plans) shall be provided to Council prior to the issue of the Construction Certificate for each relevant stage. This includes:

- All finished floor levels should be a minimum of 2.8m AHD. Final earthwork levels should be set such that risk of Probable Maximum Flood (PMF at 4.53m AHD) incursion into the development site is minimised;
- The finished floor level of lots in the vicinity of detention basin no.3, shall be set so they are not subject to flooding in the 1% Annual Exceedance Probability Storm event (including allowance for sea level rise up to 2100);
- All new internal roads to be constructed at a level of 2.6m AHD or higher. The proposed access road through the Worimi Regional Park land along the southern

portion of proposed infiltration basin no.3 shall be set at a minimum of 3.6m AHD; and,

- Flood Evacuation Plan (FEP) – A FEP shall be developed for the site to guide the management of a flood induced evacuation. This plan should be made available to all existing and new residents. The FEP shall detail the location of a temporary flood recovery centre.

B13 Dune Restoration/Stabilisation Management Plan

A Dune Restoration/Stabilisation Plan is to be prepared prior to the issue of the Construction Certificate for Stage 6. The plan is to include dune restoration/stabilisation measures to limit the expected transgressive dune movement, being an update of those proposed in the *Fern Bay Dune Stabilisation Position Paper* (prepared by Australian Water and Coastal Studies Pty Ltd, dated 1993, provided in Annex K of the EA).

The Dune Restoration/Stabilisation works can be programmed in such a way that stabilisation is achieved progressively to match the progression of the development. All restoration works shall be conducted prior to the issue of the Subdivision Certificate for Stage 20 (the final stage of development).

B14 Landscaping and Revegetation Plan

A detailed Landscaping and Revegetation Plan for the whole site is to be approved by Council prior to the issue of a Construction Certificate for Stage 4. The plan shall update the *Landscape Master Plan* (Drawing L2, prepared by Verge Landscape Architects, dated 18/05/2007, provided in Annex G of the EA) and *Streetscaping Planting Plan* (Figure 4 in the Submissions Report, prepared by ERM, dated December 2009) to reflect the final subdivision layout (as required by Condition B2)

The plan/s shall include, but not be limited to the following:

- Existing features, including north point, and location of trees to be retained or removed on site, to scale and identified by botanical and common names. Identification and mapping of all other native vegetation, to be retained or removed on site, including abundance codes;
- The location of all proposed planting. Note: In accordance with the Port Stephens DCP 2007, the equivalent of one street tree for each 12m of residential street frontage with locations adjusted for driveway access, sightlines, utilities and the like is required;
- Existing and proposed ground levels (shown as spot heights and/or contours over the site and direction and degree of slope) indicating the site boundaries, and the base of the trees proposed to be planted or that are to be retained;
- The location of the approved access road, development envelopes, asset protection zones, and other site services/infrastructure, such as electricity, pumping stations and stormwater infiltration areas. Note: Details of the proposed infiltration areas as outlined in the updated stormwater plan (refer to Condition B9) should be included on the landscape plan;
- A detailed planting schedule including:
 - species being local native/indigenous species, listed by botanical and common names, in accordance with the Fern Bay Master Plan (prepared by Verge Landscape Architects, dated May 2007, provided in Annex G of the EA).
 - Specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.

- Landscaping and revegetation shall exclude the identified inner protection zones of asset protection zones on each of the lots.
- Maintenance, monitoring and reporting schedule to be implemented after completion of landscaping and revegetation on site. This shall include a watering program and mulching or groundcovers to reduce bare soils areas.
- Identification and mapping of all noxious and environmental weeds as listed on Council's web site, including abundance codes and outline of the methodology of removal and ongoing management of all such listed weeds, including Initial and Follow Up Maintenance works required.
- Details of any fencing.
- Details of stabilisation measures including top soiling, seeding and planting for disturbed areas resulting from any site earthworks, cutting and filling.
- Provision of compensatory planting and revegetation of embankment areas in accordance with any relevant Council requirements, including areas where infiltration basins are proposed (refer to Condition B8).

The plan shall be prepared by person/s with professional qualifications and/or knowledge and experience in bush regeneration practices and who are members of the Australian Association of Bush Regenerators (AABR).

Note 1: Landscaping and revegetation is to be completed for each of stage in accordance with the approved plan prior to the issue of Subdivision Certificates for the stage (refer to condition E3).

Note 2: This condition amends Statement of Commitment No. 39 (Landscaping).

B15 Local Park Facilities

The Proponent must design and construct all recreation facilities as identified by the 'Site and Staging Plan' (drawing 29850A – Sheet 1 of 22, prepared by Daly Smith Pty Ltd, dated 25/3/2010) and 'Land Tenure Plan' (drawing 29850A, Sheet 13 of 22, prepared by Daly Smith Pty Ltd, dated 25/03/2010).

Plans detailing the provision of child play equipment, seating, shading, bins and drinking bubblers are to be provided to Council for approval prior to the release of the Construction Certificates for:

- Stage 6 (for Banksia Park (R4));
- Stage 14 (for Corymbia Park (R5)); and,
- Stage 20 (for Unnamed Reserve (R2)).

B16 Location of Sewage Pumping Stations

A total of 5 sewage pumping stations are to be provided in the development (P3 –P7) as depicted on *Indicative Sewer Layout Rev-A* (Drawing no. 29850A, Sheet 11 of 22, prepared by Daly Smith Pty Ltd, dated 25/03/2010). The location of each pumping station is to be approved by Hunter Water, prior to the issue of the Construction Certificate for the applicable stage.

The final pumping station locations should be selected to minimise the vegetation clearing on the Community Conservation Lands.

The pumping station is to be provided on a separate parcel of land, which is to be dedicated to Hunter Water and easements as necessary for access are to be created (refer to Condition E11).

Construction Management

B17 Construction Management Plan

Prior to the issue of a Construction Certificate for each stage of the project, a Construction Management Plan shall be submitted to and approved Council. The Plan shall address, but not be limited to, the following matters as they relate to that stage, and where relevant:

- a) hours of work;
- b) contact details of site manager;
- c) traffic and pedestrian management;
- d) noise and vibration management;
- e) construction waste management;
- f) erosion and sediment control;
- g) tree removal plan (refer to condition **B18**);
- h) weed removal plan (refer to condition **B19**);
- i) groundwater and stormwater management (including relevant water quality monitoring) (refer to Condition **B11**);
- j) flora and fauna management (including clearing protocol, weed management and indicative work program), which should be in accordance with the specific management requirements, environmental auditing and monitoring specified in the *Community Lands Environmental Management Plan (CLEMP)* (prepared by ERM, dated 2009, provided in Annex H of the Submissions Report, dated December 2009). Refer to Conditions **B18-20**; and,
- k) protection of the Community Lands in accordance with the CLEMP.

Note: This condition should be read in conjunction with Statement of Commitment No.11 (Preparation of the Construction Environmental Management Plan).

Vegetation Management

B18 Tree Removal Plan

The Construction Management Plan (outlined in to Condition **B17**) must include a '**Tree Removal Plan**' for the removal of all vegetation. In addition to the requirements outlined in the *Community Lands Environmental Management Plan* (Chapters 6 and 7), the plan must include, but is not limited to:

- Detail felling techniques that are sensitive to arboreal mammals and bird species;
- Identification and marking of all habitat trees on site prior to removal. Where original hollows cannot be retained, artificial nesting boxes must be provided prior to clearing in neighbouring secure habitat at a ratio of 2:1;
- Underscrubbing to be carried out by machinery that will minimise the establishment of degradation processes and leave a layer of mulch to aid in soil retention in the event of adverse weather. At this time felling of non habitat trees can take place, however all habitat trees must be maintained to allow animal movement into a designated refuge area;
- The retention of habitat trees for a period of two weeks after the initial clearing. Clearing must then be carried out moving from the fringe of the habitat trees towards the refuge area. Trees should be 'soft felled' and inspected immediately by a licensed wildlife carers or ecologist for displaced fauna which are to be relocated as close as possible to the development site. All trees must be left for a minimum of two

nights prior to being moved to a stockpile to allow resident fauna to vacate tree hollows;

- The removal of hollows/nesting sites from felled trees and the re-establishment of these on the site or as near as possible to the site to provide compensatory habitat;
- The felling of trees away from any joining retained habitats;
- Specify that the clearing of vegetation on site shall not occur within key breeding periods. To achieve this, clearing should not occur from the start of August to the end of December, with the exception of clearing for bulk earth works for Stage 4 (as detailed in the condition of Deferred Approval), which may occur during August 2010; and,
- Specify that all vegetation within 100m of the identified Powerful Owl roost tree will be retained and no development will occur in the 100m buffer (located in the north western part of the site and identified in Figure 4.1 of the CLEMP).

B19 Weed Control Plan

The Construction Management Plan (outlined in to Condition **B17**) must include a **Weed Control Plan**. In addition to the requirements outlined in the *Community Lands Environmental Management Plan* (Chapters 6 and 7), the plan must include, but is not limited to:

- Details on appropriate machinery hygiene demonstrating how existing infestations will be contained during construction works, e.g. Controls to prevent the spread of weeds on machinery including a disposal and wash down area;
- Identify an area for storage of contaminated spoil that is separate from clean material;
- Certification that any soil, mulch and plants brought onto the site is free of weeds and weed seeds; and
- Provide for site inductions for all personnel and visitors that includes weed management practices.

B20 Community Land Environmental Management Plan

Prior to the issue of the Construction Certificate for Stage 4 of the development, the Work Program and commitments related to the construction activities outlined in the *Community Land Environmental Management Plan* shall be updated and included as part of the Construction Management Plan (refer to Condition **B17**).

B21 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate for each stage, a Traffic and Pedestrian Management Plan prepared in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 3, by an RTA accredited person, shall be submitted to and approved by Council. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods.

B22 Acid Sulfate Soil Management Plan

A detailed Acid Sulfate Soil Management Plan shall be prepared for the each stage by a suitably qualified person in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee, 1998). The Plan shall be approved by Council prior to the issue of a Construction Certificate for that stage.

B23 Aboriginal Reserve Cultural Heritage Management Plan

The draft *Fern Bay Estate Aboriginal Heritage Reserve - Cultural Heritage Management Plan* (prepared by ERM, dated June 2006, ref:0012720) must be updated and finalised in consultation with the local Aboriginal community, prior to the release of a Construction Certificate for Stage 4,

The plan must identify an additional Aboriginal Heritage Reserve. No development shall occur within the reserve.

The Aboriginal Heritage Reserve (identified as 'R3' reserve on 'Land Tenure Plan' (drawing 29850A, Sheet 13 of 22, prepared by Daly Smith Pty Ltd, dated 25/03/2010) shall be established during Stage 4. The Reserve shall continue to be managed by the Proponent until such time as the Reserve is transferred to the Community Association.

Note: This condition should be read in conjunction with Statement of Commitment no. 24.

PART C—PRIOR TO COMMENCEMENT OF WORKS FOR EACH STAGE OF DEVELOPMENT

Notification Requirements

C1 *Notice to be Given Prior to Commencement / Excavation*

- 1) The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- 2) The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

Structural Works

C2 *Retaining Walls*

Prior to commencement of works for any stage of the project, a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height, must be provided to the Principal Certifying Authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

C3 *Dilapidation Report*

A dilapidation report is to be prepared by a suitably qualified engineer prior to the commencement of each stage. The dilapidation report should document and photograph the current structural condition of adjoining buildings/lands.

Pollution Control

C4 *Erosion and Sediment Control*

Prior to commencement of work on the site for each stage of the project, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

Services

C5 *Existing Services*

The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and advise the Principal Certifying Authority of its location and depth. prior to commencing works for each stage. The Principal Certifying Authority shall ensure there shall that there is no conflict between the proposed development and existing infrastructure prior to start of any works.

Contact Details

C6 *Contact Telephone Number*

Prior to the commencement of the works for each stage of the project, the Proponent shall forward to the Council a 24 hour telephone number to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION FOR EACH STAGE OF DEVELOPMENT

Construction Management

D1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the Principal Certifying Authority.

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- 1) Details of the Builder, Principal Certifying Authority and Structural/Civil Engineer for all stages of the project;
- 2) The approved hours of work;
- 3) The name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- 4) To state that unauthorised entry to the site is not permitted.

D3 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction of any stage of the project, shall be replaced, to the satisfaction of Council.

D4 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction of any stage of the project.

D5 Operation of the Community Lands Environmental Management Plan

Recommendations of the CLEMP relating to construction activities are to be implemented.

D6 Operation of Tree Removal Plan

All recommendations of the Tree Removal Plan (TRP) as approved by Council are to be implemented during the clearance of each stage of the subdivision.

Trees not approved for felling are to be protected during construction works.

Prior to felling, trees with hollows are to be inspected by a suitably qualified ecologist to ensure that no fauna are harmed during tree felling.

A qualified Ecological consultant is to be present on site during any identified vegetation clearance. Their role is to monitor works in sensitive areas, offer advice during the clearance process and be present to supervise recovery procedures in case of accidental harm to wildlife.

Tree hollows in trees approved to be felled are to be salvaged and re-used within the land to be excluded from development.

D7 Operation of Weed Control Plan

All recommendations of the Weed Control Plan (WCP) are to be implemented and the site to be maintained in accordance with the WCP for the entire construction period.

Structural Works**D8 Setting Out of Structures**

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Principal Certifying Authority certifying that structural works are in accordance with the approved development application.

Site Maintenance**D9 Erosion and Sediment Control**

All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works for each stage of the project, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D10 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D11 Operation of the Groundwater and Stormwater Management Plan

Groundwater and stormwater quality monitoring shall be undertaken in accordance with the Stormwater and Groundwater Management Plan (refer to Condition **B11**)

D12 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

D13 Prohibition of Dogs on Site During Construction

To protect native fauna in the locality, no dogs may be kept on the site at any time during construction works.

Noise and Vibration

D14 Hours of Work

The hours of construction for all stages of the project, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D15 Construction Noise Objective

- 1) The construction noise objective for all stages of the project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by more than 5dB(A).
- 2) Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
- 4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D16 Construction Noise Management

For all stages of the project, the Proponent shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday

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- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Management Plan.

D17 *Vibration Criteria*

For all stages of the project, vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC, 2006).

Heritage

D18 *Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects*

If any archaeological relics are uncovered during the course of the work in any stage of the project, then all works shall cease immediately in that area and the Department of Planning (Heritage Branch) contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D19 *Impact of Below Ground (Sub-surface) Works – Aboriginal Objects*

In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The following government agencies/Aboriginal Groups must be informed:

- Department of Environment and Climate Change and Water (DECCW)
- Worimi Local Aboriginal Land Council (LALC)
- Maaiangal Aboriginal Heritage Incorporated (MAHI);
- Mur-roo-ma Incorporated (MI); and
- Nur-rungee Incorporated (NI), which also represents the Worimi Traditional Aboriginal Elders Group Incorporated.

The above groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of DECCW.

D20 *Traffic control and Occupational Health and Safety whilst undertaking works on State roads.*

All Traffic Control and Occupational Health and Safety (OH&S) issues shall be adequately addressed with respect to the work undertaken on the State road during the construction period.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE FOR EACH STAGE

E1 *Part 4A Certificate*

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

E2 *Compliance Certificate*

Prior to the application for a Subdivision Certificate for each stage of the subdivision a Compliance Certificate or Certificates shall be obtained from Council or an accredited certifier for the following:-

- a) Compliance Certificate - Roads
- b) Compliance Certificate - Water Reticulation
- c) Compliance Certificate - Sewerage Reticulation
- d) Compliance Certificate - Drainage

E3 *Completion of Landscaping*

Prior to the release of a Subdivision Certificate for each stage, evidence shall be provided that the landscaping works, required by Condition **B14** have been completed.

E4 *Dune Restoration and Stabilisation Works*

Prior to the issue of the Subdivision Certificate for Stage 20, evidence shall be provided that the dune restoration/stabilisation works, required by Condition **B13**, have been completed.

E5 *Satisfaction of requirements of Bushfire Management Plan*

Prior to the release of a Subdivision Certificate for each stage, evidence shall be provided to Council that any works/actions required by the Bushfire Management Plan prepared to satisfy Condition **B8**, have been completed.

E6 *Roadworks and Traffic control facilities on State roads.*

All roadworks (including restoration of disturbed areas) and/or traffic control facilities which affect a State road (including the shared footway/cycleway and new intersection with Nelson Bay Road) shall be completed to the satisfaction of Council/RTA prior to issue of a subdivision certificate for the stage of which they are a part.

Earthworks

E7 *Retaining Walls and Batters along Southern Boundary*

All retaining walls and batters along the southern boundary are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Subdivision Certificate application for each affected staged of the subdivision and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

E8 *Dilapidation Report*

A dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works for each stage of the project to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report (refer to Condition **C3**) and recommend a course of action to

carry out repairs if required. The report is to be submitted to Council, prior to issue of the Subdivision Certificate for each stage of the project.

E9 *Geotechnical Classification*

Prior to the release of the Subdivision Certificate for each stage, the proponent is to provide a lot classification geotechnical report to Council. The report shall provide each lot with a site classification under AS2870 and take into account site filling and any excavations.

All subdivision geotechnical works shall be in accordance with the recommendations and conditions, as approved by Council, within submitted geotechnical reports.

E10 *Design Guidelines*

Prior to the release of Subdivision Certificate for Stage 4 of the development, the proponent shall update the Design Guidelines (provided in Annex F of the EA) for the future stages of development (4 to 20) to the satisfaction of Council. The updated Design Guidelines shall incorporate the following:

- a) Required measures to effectively minimise the threat posed to fauna by swimming pools. The development must reduce the risk of fauna mortality by drowning in backyard swimming pools. Appropriate measures could include: trailing a length of stout rope (minimum diameter of 50mm), which is secured to a stable poolside fixture, in the swimming pool at all times; designing the pool in such a way that fauna can readily escape; or enclosing the pool with a fence that precludes fauna.
- b) Any fencing associated with the development should not compromise the potential for safe movement of koalas across the site. The preferred option for minimising restrictions to safe koala movement is that there be no fencing, however suitable fencing may include:
 - a. fences where the bottom of the fence is a minimum of 200 mm above ground level that would allow koalas to move underneath;
 - b. fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or
 - c. open post and rail or post and wire. No barbed wire to be used.
- c) Light colours for roofing should be encouraged
- d) Siting of solar panels and water tanks in locations that are visible from the street should not be prevented if this is the most efficient location.

This condition shall be read in conjunction with Statement of Commitment No.3

E11 *Community Land Environmental Management Plan*

Prior to the issue of the Subdivision Certificate for Stage 4 of the development, the *Community Land Environmental Management Plan* (as provided in Annex H of the Submissions Report, dated December 2009) shall be amended to include:

- a) An updated Work Program and commitments related to the on-going activities outlined in the *Community Land Environmental Management Plan* and included as part of the Construction Management Plan (refer to Condition **B20**); and,
- b) A review program is to be established for the CLEMP Annual reviews shall be undertaken for the first three years following release of the subdivision certificate for Stage 4. The timing of reviews beyond this period shall be determined in consultation with Port Stephens Council and the Department of Environment, Climate Change and Water.

E12 Registration of Easements / Restrictions to use / Right of carriageway

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
 - c. Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.
- 3) Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the *Community Land Development Act 1989*, *Strata Schemes Management Act 1996*, *Conveyancing Act 1919*, or other applicable legislation.
- 4) In addition to the above certification, the following is to be included in the Section 88B/E Instrument to accompany the final plan of subdivision.
 - a. To protect native fauna in the locality, a restriction as to user to each lot requiring that:
 - i. No cats may be kept unless completely within the dwelling or in a cattery within the dwelling curtilage at all times (day and night) for the life of the development.
 - ii. Dogs may be kept on the property for the life of the development, , subject to the following:
 1. A maximum of 2 dogs shall be permitted on the property at any one time.
 2. Dogs shall be restrained within the dwelling curtilage during the hours between sunset and sunrise each day by fencing/caging, leashing or physical restraint.
 3. Dogs shall not be permitted to enter areas of indigenous vegetation on or in the vicinity of the property unless restrained.
 - b. A restriction to user is to be created over the portion of any residential lot requiring the provision of Asset Protection Zones (APZs) as identified on Figure 2 – Preferred Project Plan (prepared by ERM, drawing no.0063154hv_planning_AnnexL_01, dated 10 February 2009, provided in Submissions Report dated December 2009). APZs shall be managed as outlined within Section 4.1.3 and Appendix 5 of Planning for Bushfire Protection (RFS 2006).
 - c. A restriction to user to be created for each lot requiring that all finished floor levels should be a minimum of 2.8m AHD.
 - d. A restriction to user requiring the 'Community Conservation Lands' as identified on Figure 2 – Preferred Project Plan (in the PPR, dated December 2009) be managed in perpetuity by the Community Association for conservation and in accordance with the approved Community Lands Environmental Management Plan (condition E8).

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- e. A restriction to user to be created over the Community Lot comprising the Community Conservation Lands (as identified on Figure 2 – Preferred Project Plan of the Submissions Report) to ensure:
 - i. All vegetation within a 100m buffer of the identified Powerful Owl roost tree will be retained (located in the north western part of the site and identified in Figure 4.1 – Vegetation Communities and Threatened Species in the Study Area, provided in the Community Lands Environmental Management Plan, Annex H of the Submissions Report, dated December 2009).
 - f. A restriction to user to be created for each lot to ensure any development or future buildings are located landward of the 100 year hind dune hazard planning line as depicted on Figure 1 – Historic Dune and Shoreline Progression in letter from Umwelt Environmental Consultants (dated January 2010).
- 5) The restrictions are to be clearly marked on the plan of subdivision and Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

E13 Community Management Statement

- 1) A final Community Management Statement setting out the by-laws which control the operation and management of the subdivision must be prepared in accordance with the *Community Land Development Act 1989*, to facilitate the registration of the community subdivision to the satisfaction of the Certifying Authority. The Statement must deal with the management of all community property.
- 2) The draft Community Management Statement (provided in Annex I of the PPR, dated December 2009) is to be amended to include the following:
 - a) Material dealing with the management of all Community property.
 - b) Material dealing with additional items which allow for the effective development, staging and management of the community scheme.
 - c) Necessary documentation for the creation of the road as an Open Access way and any necessary Statutory Service Easements.
 - d) A by-law that establishes that landscaping and revegetation shall be maintained in accordance with the approved Landscaping and Revegetation Plan (refer to Condition **B14**).
 - e) A by-law that is to impose the following duties on the Community Association to comply with the CLEMP:
 - i) To comply with the CLEMP, to keep a copy, to make sure it is updated, and to make it available to all lot owners and subsidiary bodies.
 - ii) To retain a suitably qualified person to ensure compliance with the CLEMP.
 - iii) To carry out such conservation related tasks and programs as are necessary or appropriate.
 - iv) To carry out annual reviews of the CLEMP for the first three years following release of the subdivision certificate for the Stage 4 of the development.
- 3) The final Community Management Statement (CMS) is to include the following plans:
 - a) Design Guidelines (as required by Condition **E10**);
 - b) Community Lands Environmental Management Plan (as required by Condition **E11**);
 - c) An Aboriginal Reserve Cultural Heritage Management Plan (as required by Condition **B23**);

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- d) A Bushfire Management Plan (as required by Condition **B8**). The plan should identify that the Community Association is responsible for the cost of works associated with the community lot;
 - e) A Stormwater and Groundwater Management Plan (as required by Condition **B11**) prepared by a suitably qualified civil engineer, in accordance with the recommendations of section 6 of the *Amended Water Cycle Management Strategy* (prepared by Martens Consulting Engineers, dated December 2009, provided in Annex D of the Submissions Report); and,
 - f) A flood evacuation plan (as required by Condition **B12**).

Note: Ultimately all recreation amenities and the community centre will become the property and responsibility of the Community Association. The management of all areas of open space, any recreation facilities and the community centre will remain the responsibility of the Aspen to manage until all civil construction activities have been completed and the title is registered.

E14 Development Contract

Prior to the issue of a Subdivision Certificate for stage 4, the proponent shall provide to Council a Development Contract prepared in accordance with Part 4 section 26 and Schedule 2 of the *Community Land Development Act*.

Services

E15 Utilities –Telephone and Electricity Services

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate for each stage. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

Dedication of Land

E16 Dedication of Open Space and Community Facilities

Arrangements shall be made for the land required for Open Space to be dedicated for Public Recreation prior to the release of the Subdivision Certificate for the relevant stage and at no cost to Council. The dedication shall occur at the time of registration of the linen plan.

Arrangements shall be made for the land required for Recreational/Community facilities to be dedicated for Community Purposes prior to release of the Subdivision Certificate for the relevant stage and at no cost to Council. The dedication shall occur at the time of registration of the linen plan.

E17 Shared Footway/Cycleway

Prior to the release of the Subdivision Certificate for Stage 4, Council is to inspect and confirm that shared footway/Cycleway required by Condition **B4** is satisfactorily completed. Council is to be provided with certification that all works are in accordance with Condition **B4**.

E18 Dedication of Internal Roads

Arrangements shall be made for all internal to be dedicated to Council as public roads prior to issue of a Subdivision Certificate. The dedication shall occur at the time of registration of the linen plan. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

E19 Provision of Bus Bays and Bus Shelters

Prior to the issue of the Subdivision Certificate for the relevant stage, bus bays and bus shelters shall be constructed in accordance with the approved 'Bus Bay and Bus Shelter Plan' (as required by Condition **B6**).

Monetary Contributions

E20 Section 94 Monetary Contributions

Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the Proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to Section 94 of the *Environmental Planning and Assessment Act (1979)*:

(1) Amount of Contributions

TOTAL CONTRIBUTIONS PAYABLE	General Contribution (per lot)
Public Open Space, Parks and Reserves	\$2046
Sports and Leisure Facilities	\$4821
Cultural and Community Facilities	\$2424
Civic Administration	\$377
Road Works	\$1370
Fire and Emergency Services	\$188
TOTAL (Per Lot)	\$11,226

1) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Port Stephens Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council, shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate for each stage of the project.

2) Section 94 Plans

The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

3) Indexing

The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the, contributions schedule is valid for twelve months from the date of original consent.

4) Indexing

Council may accept land or provide credit for works in kind in lieu of or to partially offset a monetary contribution.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

AN2 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

AN3 Stormwater drainage works or effluent systems

A Construction Certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (2) management of waste.

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN4 Disability Discrimination Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

AN5 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a

significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

06_0250

PROPOSED COMMUNITY TITLED RESIDENTIAL SUBDIVISION

STATEMENT OF COMMITMENTS

(SOURCE: SUBMISSIONS REPORT, DATED DECEMBER 2009)

DRAFT VOLUNTARY PLANNING AGREEMENT

(DATED MAY 2010)

Statement of Commitments

Table 4.1 Revised Statement of Commitments

Item Number	Item	Commitment	Responsibility	Timing
1	Scope of Development	The development of the subdivision will be carried out as outlined in the documentation and subdivision plans detailed below, except where amended by other items of this Statement of Commitments. • Environmental Assessment Report (EA), prepared by ERM, February 2009 and supporting reports; • Subdivision Plans prepared by Daly Smith Pty Ltd; and • Submission Report, prepared by ERM, November 2009 and supporting documentation and plans.	Aspen Group Pty Ltd	Ongoing
2	Statutory Requirements	The following licences, permits and approvals will be obtained and maintained for the subdivision and construction infrastructure: • Construction Certificates for engineering works (including earthworks, soil and water management, road works, and drainage); • Compliance and Subdivision Certificates for each stage; • Telstra Compliance certificate; and • Section 50 Certificates from Hunter Water Corporation.	Aspen Group Pty Ltd	For the duration of subdivision.
3	Urban Design	The Design Guidelines will be updated for Stages 4 - 20 and will consider environmental requirements, including bush fire and ecological issues.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for Stage 4.

Item Number	Item	Commitment	Responsibility	Timing
4	Conveyancing	A final community title and community management statement will be prepared for the development.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for Stage 4
5		Easements will be provided for utility services that encroach onto private land or common space.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
6		Aspen Group will prepare work as executed plans for construction work in each stage and provide such plans to the relevant authority for each stage.	Aspen Group Pty Ltd and the relevant authority.	Prior to the release of the Subdivision Certificate for each stage.
7	Community Association	Any amended to the Community Management Statement (CMS) required as a result of conditions of consent will be prepared prior to the release of Subdivision Certificate for Stage 4. Draft CMS is included in Annex I	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for Stage 4.
8		The draft Community Lands Environmental Management Plan (CLEMP) included in Annex H, will be reviewed and amended to detail the land management requirements for community lands. The draft CLEMP will include plans for the: • Management of threatened species, including their habitat and endangered ecological communities; • Management of retained habitat features within the development footprint, including during the construction phase; • Management of specific habitat enhancement measures;	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for Stage 4.

Item Number	Item	Commitment	Responsibility	Timing
9		• Regeneration and landscaping works; • Weed management; • Pest animal control; • Fencing; • Bushfire management; • Public access management including path maintenance; and • Stormwater management. The indicative work plan in the CLEMP will be updated post approval as timing of measures can not be updated before approval is granted.	Aspen Group Pty Ltd	Prior to release of the Construction Certificate for Stage 4.
10	Construction	Construction of the subdivision will be generally in accordance with the Staging Plan (Sheet 1 of 17) prepared by Daly Smith Pty Ltd or as otherwise approved in Construction Certificate plans.	Aspen Group Pty Ltd	Ongoing.
11		A Construction Environmental Management Plan (CEMP) will be prepared and will include the following: • a description of the work program outlining relevant timeframes and activities; • a description of the roles and responsibilities for all relevant employees involved in the construction phase; • the minimisation of rubbish and debris at the site from development activities during the construction phase;	Aspen Group Pty Ltd	Prior to the commencement of construction for each stage.

Item Number	Item	Commitment	Responsibility	Timing
		- erosion and sediment control during construction; - details of environmental management procedures, monitoring and reporting during construction and operation phases; - details of revegetation to be undertaken following construction activities; - details of statutory and other obligations that must be met during construction and operation, including all approvals and agreement required from authorities and other stakeholders; - an education strategy for construction contractors; and - the construction commitments outlined in the Community Lands Environmental Management Plan (CLEMP)		
12		Construction work shall only be carried out between 7.00am to 6.00pm Monday to Fridays and 7.00am to 12.00 midday on Saturdays.	Aspen Group Pty Ltd	For the duration of the construction of the subdivision.
13		Inspections will be carried out by an accredited certifier and following each inspection, compliance certificates will be forwarded to the Principal Certifying Authority.	Aspen Group Pty Ltd	For the duration of the construction of the subdivision.
14	Flora and Fauna	Update the Community Lands Environmental Management Plan (CLEMP) prepared by ERM, February 2009 to include: maintenance of pedestrian pathways	Aspen Group Pty Ltd	Completed. Reference to Maintenance of pedestrian pathways included in draft CLEMP included in Annex H.

Item Number	Item	Commitment	Responsibility	Timing
15		Implement the Community Lands Environmental Management Plan (CLEMP) prepared by ERM, February 2009 as amended November 2009, Included in Annex H.	Aspen Group Pty Ltd and Community Association	Ongoing
16		The Community Lands Environmental Management Plan (CLEMP) will form part of the Community Management Statement for implementation by the Community Association.	Aspen Group Pty Ltd and Community Association	Ongoing
17		A qualified fauna handler will be on site when clearing occurs.	Aspen Group Pty Ltd	During clearing activities.
18		Suitable koala feed trees will be planted around the areas of the site.	Aspen Group Pty Ltd	At the completion of construction of each stage.
19		All vegetation within 100m of the identified owl roost tree will be retained.	Aspen Group Pty Ltd and Community Association	Ongoing
20		The proponent offers to enter into the Voluntary Planning Agreement (VPA) between Aspen Group Pty Ltd, Winten (No 2) Pty Ltd and DECCW publically notified in accordance with the requirements of section 93G of the EP&A Act 1979, in accordance with the terms contained in the draft planning agreement annexed to the Statement of Commitments.	Aspen Group Pty Ltd, Winten (No 2) Pty Ltd and DECCW	Ongoing
21	Bushfire Management	The measures contained in the Bush Fire Hazard Assessment, prepared by ERM, 2009 (provided in Annex L of the EA) will be implemented.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.

Item Number	Item	Commitment	Responsibility	Timing
22		A restriction to the land use pursuant to Section 88B of the Conveyancing Act 1919 will be placed on all lots which provide and manage an asset protection zone within their boundaries.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
23	Heritage	The development shall adhere to the recommendations of the Aboriginal Heritage Assessment Report, prepared by ERM, April 2005 (and the addendum report dated May 2008) (provided in Annex I of the EA), including the following site specific recommendations: • provision for representatives of the Aboriginal community to recover Aboriginal objects during excavation work. Local Aboriginal community representatives will be invited to monitor ground disturbing works within the project area; • consultation with the Aboriginal community regarding interpretation of archaeological information that could be presented in the form of public display, such as interpretive signage. The endorsement of the Aboriginal stakeholder groups will be sought on the style and content of the signage / displays; • maintain liaisons with the Aboriginal community throughout the development process; • exclusion of the ridgeline marked blue on Figure 3.2 of the Aboriginal Heritage Assessment Report (Annex I of EA) from development and conservation within the proposed Cultural Heritage Reserve; and • follow the procedure identified in the Aboriginal Heritage Assessment Report and associated Addendum (Annex I of the EA) if human skeletal remains are identified during construction works.	Aspen Group Pty Ltd	For the duration of the construction of the subdivision.

Item Number	Item	Commitment	Responsibility	Timing
24		The draft Aboriginal Reserve Cultural Heritage Management Plan (ERM, 2006) will be updated and finalised in consultation with the local Aboriginal community. The plan will identify the management requirements of the existing Aboriginal Cultural Heritage Reserve, as well as the additional Aboriginal Reserve as requested by the Aboriginal community. The Management Plan will form part of the Community Management Statement and will be implemented by the Community Association in consultation with the Aboriginal Community and will include: • A clause relating to the amendment of the Cultural Heritage Management Plan, in consultation with the Aboriginal Community, to include specific reference to the additional cultural heritage reserves; • A commitment confirming that management of the above areas by the Community Association will be approved by the Aboriginal Community; and • Inclusion of a clause relating to the education and induction of construction workers in relation to cultural heritage.	Aspen Group Pty Ltd	Updating of the plan to occur prior to the release of the Construction Certificate for Stage 4.
25		The final Fern Bay Estate Aboriginal Heritage Reserve - Cultural Heritage Management Plan will be implemented by the Community Association through the Community Management Statement.	Community Association	Ongoing

Item Number	Item	Commitment	Responsibility	Timing
26		An Aboriginal Cultural Heritage Reserve shall be created within the Fern Bay Seaside Village in order to retain an area that represents the key aspects of the Aboriginal archaeological record at Fern Bay. A second reserve, as requested by the local Aboriginal community, will also be created at one of the two possible locations identified in Figure 7.5 of the EA. The site selected will be subject to consultation with the local Aboriginal community.	Aspen Group Pty Ltd	Prior to the release of the Construction Certificate for the respective stage of construction.
27	Water Cycle Management	All works will be carried out in accordance with the Stormwater Assessment and Stormwater Management Plan and will reflect the recommendations of the Amended Water Cycle Management Strategy prepared by Martens Consulting Engineers and dated December 2009 for the proposed residential development at Fern Bay, including the following treatment devices to ensure pollutants leaving the site are minimised: • runoff from all catchments would be directed through bio-retention swales that have been designed to treat flows up to and including those with a three month Average recurrence Interval (ARI); • flows up to and greater than three months ARI would overtop the bio-retention swales and pass through vegetated filter zones prior to being discharged into natural drainage lines.	Aspen Group Pty Ltd	Ongoing.
28		Pumping stations will be located to minimise clearing of vegetation in the Community Conservation Lands. In particular pumping stations P3, P5, P6 and P7 will be located in the field to avoid clearance of mature and/or hollow bearing trees. Following construction, the sites will be revegetated and	Aspen Group Pty Ltd	Ongoing

Item Number	Item	Commitment	Responsibility	Timing
29	Erosion and Sediment Control	ongoing maintenance of the areas will be undertaken consistent with the CLEMP. The following management approaches will be taken to limit potential for wind and soil erosion: - construction activities shall be phased to minimise erosion and minimise impacts on stormwater management measures that rely on infiltration processes; - clearing of vegetation shall be minimised; - sediment basins, silt fences and perimeter banks shall be used during construction to minimise erosion and sediment transport to receiving waters; - sediment traps and GPTs shall be installed in stormwater drainage systems; and - vegetated ground cover shall be maintained or restored.	Aspen Group Pty Ltd	For the duration of the construction of the subdivision.
30	Traffic Management and Access	The design of the internal roads will be generally in accordance with Port Stephens Council Subdivision Development Control Plan. Pedestrian laneways will be included in relevant stages to ensure compliance with Port Stephens Council DCP 2007 B1.C11 that a new block in a residential zone must be no more than 80m deep and 160m long. The design and upgrade of the northern intersection with Nelson Bay Road will be undertaken at the developer's expense and will be constructed in accordance with RTA requirements and approvals.	Aspen Group Pty Ltd	For the duration of the construction of the subdivision.
31			Aspen Group Pty Ltd	During Stage 14

Item Number	Item	Commitment	Responsibility	Timing
32		Footpaths will be provided consistent with Port Stephens Council Policy requirements.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
33		Shared Footpath/Cycleway from existing roundabout at the intersection of Nelson Bay Road and Fullerton Cove Road to the bus shelter at Bay Way Village to the south will be constructed during Stage 4 of the Fern Bay Seaside Village.	Aspen Group Pty Ltd	During Stage 4
34		Interim bus stop locations will be discussed with Port Stephens Council on a stage by stage basis with the final bus route outlined in Figure 4.1 of the Traffic Impact Assessment (Annex M of the EA)	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
35		Access to existing Four- Wheel- Drive Track from Seaside Boulevard will be formalised through an easement.	Aspen Group Pty Ltd	Prior to release of the Subdivision Certificate for Stage 4.
36	Infrastructure Provision	Each residential lot will be provided with reticulated water supply, sewerage and underground electricity.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
37		The subdivision will make satisfactory arrangements with Telstra for the provision of telecommunication facilities to each residential lot.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.
38	Developer Contributions	Section 94 contributions will be paid consistent with Port Stephens S94A Development Contributions Plan 2006 as modified September 5 2009.	Aspen Group Pty Ltd	Prior to the release of the Subdivision Certificate for each stage.

Item Number	Item	Commitment	Responsibility	Timing
39	Landscaping	A Landscape Plan will be submitted to Port Stephens Council detailing the proposed landscaping works (including species, location and establishment procedures).	Aspen Group Pty Ltd	Prior to the release of the Construction Certificate for each stage.
40	Community Facilities	Details regarding the proposed children's play equipment will be submitted to Port Stephens Council.	Aspen Group Pty Ltd	Prior to the release of the Construction Certificate for the relevant stage.
41	Commercial facilities	An action plan to facilitate the establishment of commercial facilities on lots identified as commercial development, including staging information, will be developed and implemented. Staging of Commercial lots will be as per the Staging plan included in the Submissions Report.	Aspen Group Pty Ltd	Prior to the release of the Construction Certificate for the relevant stage.