

Notice of Modification

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant
Executive Director
Key Site and Industry Assessments

Sydney 26 April 2017

SCHEDULE 1

Development Consent:	DA 485-12-2002 granted by the Minister Assisting the Minister for Infrastructure and Planning on 3 August 2005
For the following:	40 lot residential subdivision including: • 39 residential lots; • 1 open space lot; • creation of roads; and • vegetation clearing.
Applicant:	Allen, Price & Scarratts Pty Ltd
Consent Authority:	Minister for Planning
The Land:	Lot 5 in DP 788159, Nadine Street, Sanctuary Point
Modification:	DA 485-12-2002 MOD 1: the modification includes: • increase of eight residential lots (from 39 to 47 lots) and associated amendments to lot dimensions; • deletion of on-site detention basin and provision of drainage reserve; • deletion of building setbacks; • amendment of road layout, design and road reserve width; and • remove the requirement to stage the development.

SCHEDULE 2 CONDITIONS OF CONSENT

The above approval (DA 485-12-2002) is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions, Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A1 Development Description

Development consent is granted only to carrying out the development described in detail below:

- 1) **40 Residential lot land** subdivision including: ~~(a) 39 47~~ residential lots; **and**
- 2) ~~(b) 1 lot for the purposes of open space and stormwater detention basin, drainage reserve;~~
- 2 3**) creation of roads; and
- 3 4**) vegetation clearing.

- (b) Schedule 2 Part A – Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A2 Development in Accordance with Plans

The development shall be in accordance with:

- a)** development application number 485-12-2002 submitted by the applicant on 30 December, 2002, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:
- i)** Statement of Environmental Effects entitled Report and Statement of Environmental Effects Over Lots 5 DP788159 Nadine Street Sanctuary Point prepared by Allen, Price & Associates Land and Development Consultants, dated December 2002.
 - ii)** Bushfire Protection Assessment Report for Proposed Subdivision over Lot 5 DP 788159 Nadine Street, Sanctuary Point prepared by Bushfire and Environmental Services, dated December 2002.
 - iii)** Flora and Fauna Assessment for Lot 5 DP 788159 The Park Drive, Sanctuary Point prepared by Gunninah Environmental Consultants, dated October 2002.
 - iv)** Additional Fauna Assessment for proposed residential subdivision prepared by Bushfire and Environmental Services, dated September 2004.

<u>Subdivision Drawings prepared by Allen, Price & Associates</u>			
<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<u>23794</u>		<u>Sketch Plan of Proposed Residential Subdivision over Lot 5 DP 788159 at Nadine Street Sanctuary Point for Tracey Norton & Others</u>	<u>11.11.02</u>

- b)** **modification application 485-12-2002 MOD 1 prepared by Allen, Price & Scarratts Pty Ltd and dated 30 September 2016, as amended by response to submissions documents dated 19 December 2016, 8 February 2017, 9 March 2017 and email dated 16 March 2017; and**
- c)** **the following drawings:**

<u>Subdivision Drawings prepared by Allen, Price & Associates</u>			
<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<u>26522-03</u> <u>(Sheet 1 of 1)</u>	<u>2</u>	<u>PROPOSED RESIDENTIAL SUBDIVISION OVER LOT 5 DP 788159 AT NADINE STREET SANCTUARY POINT FOR NADINE ST PTY LTD</u>	<u>06.09.2016</u>

<u>26522-406</u> <u>(Sheet 1 of 1)</u>	<u>0</u>	<u>TREES RETAINED UNDER CC16/1533</u> <u>PROPOSED RESIDENTIAL</u> <u>SUBDIVISION OVER LOT 5 DP 788159</u> <u>AT NADINE STREET SANCTUARY</u> <u>POINT FOR NADINE ST PTY LTD</u>	<u>DECEMBER</u> <u>2016</u>
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- (c) Schedule 2 Part A – Administrative Conditions, is amended by deleting the following Condition A3

A3 Staged Development

~~The development may proceed and be released in two stages, Stage 1 being lots 1-28 and Stage 2 being lots 29-39. The staging of the development is to be in accordance with the conditions of this consent. All services, utilities, roadways, pavements and driveways are to be provided with Stage 1 of the proposed development.~~

- (d) Schedule 2 Part B – Prior to Construction Certificate, Condition B2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B2 Road, Drainage and Pavement Works

Prior to the issue of a Construction Certificate for the road, drainage and pavement works, final plans are to be submitted to and approved by Council, which meet the following requirements:

- (a) The residential streets ~~between lots 1-14 & 29-36~~ are to ~~each~~ have a carriageway of 5 metres. The pavement is to be designed for a traffic loading of 6x10⁴ ESA and to be surfaced with a layer of asphalt. The pavement thickness is to be determined from the charts in APRG Report No. 21. The pavement is to be contained with layback kerb and gutter. Subsoil drainage is to be provided behind the kerb line.
- ~~(b) The cul-de-sacs at Lots 28 and 37 are to each have a radius of 9 metres.~~
- ~~(c) A concrete pavement is to be incorporated on the plans, which is 5 metres wide fronting lots 24-27 and connecting the cul-de-sacs having a minimum concrete slab thickness of 125mm reinforced single layer of F72 fabric, 25Mpa concrete over a base of 75mm of DGB20 compacted to 98% modified density.~~
- (d) Where the subdivision is to be staged, a temporary turning circle is to be constructed at the end of the constructed pavement. The turning circle is to have a minimum radius of 8 metres, the pavement to be constructed of 200mm of compacted fine crushed rock. The turning circle is to be guide posted in accordance with MR265 (metric).
- (e) Street direction signage is to be erected at all street intersections and in accordance with Council approved street names. Street signs shall be in accordance with requirements of Council's Subdivision Code and as amended by any further Council requirements.
- (f) Concrete kerb and gutter and associated shoulder seal is to be constructed fronting the proposed new lots **7, 15, 11, 12, 13, 14** & 29 together with associated stormwater drainage. The kerb and gutter shall have a layback profile. The kerb and gutter shall have an absolute minimum grade of 0.3%. The shoulder crossfall shall range between 3%-5%. The kerb alignment shall provide for a 7.0metre carriageway. The road shoulder shall be bitumen sealed or sealed with 25mm of AC from the lip of the kerb to the edge of the existing bitumen seal on a pavement having minimum compacted thickness of 300mm.
- ~~(g) Standard concrete vehicular gutter crossing at the driveway entrance 3 metres wide in accordance with Plan No. G202605. The access shall be constructed with a centrally placed 3 metre wide concrete pavement having a depth of 125mm, reinforced with F72 using 20mpa concrete. The slab is to be located over 75mm of compacted fine crushed rock.~~

- (h) The provision of road, drainage and piping of drainage easements for a 1:5 year rainfall recurrence interval and in accordance with Council's Subdivision Code. This includes interallotment drainage where necessary. ~~Lots that contain natural flow paths are to be provided with building setbacks so as to contain the 1:100 year flow. The construction of the detention basin to match that to the north and to limit total runoff to 1 in 20 year rural flow. A low flow drainage line is to be constructed within the detention basin and connected to the existing outlet structure. Drainage and detention design must be in accordance with Council's current standard.~~
- (i) The provision of drainage easements and/or drainage reserves including interallotment drainage easements to serve all lots that cannot naturally drain to the roads. All interallotment drainage lines shall benefit upstream lots. Interallotment drainage easements are to be 1 metre wide.
- (j) Roads are to be constructed to meet the public road construction requirements outlined in Section 4 of the Planning for Bushfire Protection Guidelines (RFS, 2001).
- (k) The drainage system is to optimise the control of any accumulation of silts and is to control blockages by debris of inlet structures and joints.
- (l) Pedestrian access in the form of footpaths/walkways is to be provided along **both** newly constructed roads in accordance with Council requirements. Wheelchair/pram ramps are to be provided at intersections and crossing points.
- (m) The applicant shall obtain written approval from Council's City Services Group for works within the road reserve.

Final design plans of the stormwater drainage systems within the proposed subdivision, are to be prepared by a suitably qualified practicing professional to the satisfaction of Council. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

- (e) Schedule 2 Part B – Prior to Construction Certificate, Condition B3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B3 Shoalhaven Water Requirements - Water Supply and Sewer

- (a) The applicant shall apply to Shoalhaven Water for a Certificate of Compliance under Section 307 of the Water Management Act 2000.
- (b) As part of the Certificate of Compliance application all plans and specifications for proposed sewerage works and water supply works are to be submitted to and approved by Shoalhaven Water prior to the issue of the Construction Certificate. The plans and specifications are to incorporate the requirements of Shoalhaven Water.
- (c) Shoalhaven Water is to be consulted in the preparation of the plans and specifications identified in (b) above, prior to their submission.
- ~~(d) A Section 64 (water headworks – Project No. 42W4TR0001) contribution of \$2,300.00¹ per lot (03/04) is payable for this application.~~
- ~~(e) A Section 64 (sewerage headworks – Project No. 77SEWR0001) contribution of \$1,893.00¹ per lot (03/04) is payable for this application.~~

Notes:

- (i) Contributions/fees/charges payable will be those applicable at the time of payment and in accordance with Council's then current Management Plan (List of Fees, Charges and Rentals). The above stated fees are likely to be amended and as such the applicant should contact Council to confirm the correct fees prior to payment.
- (ii) Shoalhaven Water has issued Development Application Notice Form No. DA1/6A, Council Reference SF9367 in respect of this subdivision development. Shoalhaven Water requires that the conditions in that Notice be satisfied prior to making an application for a Certificate of Compliance under the *Water Management Act 2000*. Shoalhaven Water should be contacted in respect to meeting or changing those

requirements. Shoalhaven Water's Development Application Notice is attached as **Appendix 1** to these conditions for the reference of the Applicant.

- (f) Schedule 2 Part B – Prior to Construction Certificate, Condition B4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B4 Vegetation Clearance and Retention Plan

Prior to the commencement of any clearing a Vegetation Clearance and Retention Plan shall be submitted to and approved by the Team Leader, Urban Assessments. The Plan shall incorporate the following and be prepared in the following format:

- (a) An accurate survey of habitat trees and feed trees on the site including feed trees or the glossy black cockatoo and yellow bellied glider in addition to all hollow bearing trees and den trees, shall be undertaken and a survey plan prepared.
- (b) In order for the survey to be carried out a suitably qualified flora/fauna specialist is to clearly mark on-site all appropriate trees to be identified on the survey plan indicating the type of tree (habitat / feed tree) and to which species the tree is significant (eg: a similar format to figure 5 of the Additional Fauna Assessment could be utilised);
- (c) The survey plan is to form the basis for the Vegetation Clearance and Retention Plan on which:
 - (i) All habitat trees and feed trees to be retained are to be clearly and accurately identified;
 - (ii) All habitat trees and feed trees to be cleared are to be clearly and accurately identified;
 - (iii) All subdivision boundaries, roadways and building envelopes are to be identified on the plan.
- (d) The objective of the Plan is to maximise the retention of significant vegetation (habitat and feed trees as identified in figure 5 of the Additional Fauna Assessment) on the site and the Plan submitted to the Team Leader, Urban Assessments, is to be accompanied by written justification as to how this objective has been achieved;
- (e) For each habitat tree to be cleared the plan is to identify suitable compensatory habitat.
- (f) In all cases and as far as possible all building envelopes, access ways, services and stormwater detention measures are to be located to avoid the clearance of any significant trees identified on the Plan and to achieve the objective of the Vegetation Clearance and Retention Plan.
- (g) ~~For each lot on which a tree is identified for retention, a s88B Restriction as to User is to be effected on the lot. The tree to be retained is to be clearly identified on the survey plan for the lot and identified on the title as follows:~~

All trees identified on the lot survey plan for retention are to be retained for the purposes of habitat, except in the case that they present a real and significant risk to life, limb or property.

- (g) Schedule 2 Part B – Prior to Construction Certificate, Condition B6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B6 Landscape Plan Open Space and Streetscape Areas

- (a) A landscape plan shall be prepared by a qualified landscape architect and included in the documentation forming part of the Construction Certificate application. Where the PCA is not Council, the plan shall be submitted to Council for approval prior to lodging the Construction Certificate application with the PCA. The landscape plan is to be approved by Council prior to the commencement of any clearing on the site

and a copy of the approved Vegetation Clearance and Retention Plan shall be submitted to Council with the draft landscape plan.

- (b) The submitted landscape plan will detail the proposed landscaping for all streetscapes and open spaces areas within the subdivision.
- (c) The landscape plan shall include the following:
 - (i) The identification of all trees earmarked for retention in accordance with condition B4;
 - ~~(ii) The plan will identify more precisely the stormwater detention basin area in order to identify areas of the open space lot able to be landscaped;~~
 - ~~(iii)~~ ii) Native flora species that currently occur on the site (refer to Appendix 1 of the Flora and Fauna Assessment Report) are to be used for landscaping works, in particular Black She-oak, *Allocasurina littoralis* are to be incorporated; and
 - ~~(iv)~~ iii) All streets shall be landscaped at the rate of two trees per allotment.

Reason for this condition: This condition has been issued to minimise impacts on the threatened fauna species, which presently utilise the site, and to minimise the impact of the development on local amenity.

- (h) Schedule 2 Part B – Prior to Construction Certificate, is amended by the insertion of Condition B10 as follows:

B10 Amendments to lot widths and boundaries

Prior to the issue of a construction certificate the subdivision plan shall be amended as follows:

- a) **the east-west oriented lots (being Lots 40 to 46 incl.) shall each be increased in width by 1.0m (from 15m to 16m); and**
- b) **where a tree is located on the common lot boundary of Lots 18 and 19, the entire boundary shall be shifted so that the tree is wholly contained within a single lot.**

The amended subdivision plan shall be included in the documentation forming part of the Construction Certificate application. Where the PCA is not Council, the plan shall be submitted to Council for approval prior to lodging the Construction Certificate application with the PCA.

- (i) Schedule 2 Part E – Prior to Subdivision, Condition E7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

E7 Creation of Lots and Public Reserve

Prior to the issue of any subdivision certificate, the proposed lots are to be **shown on the subdivision plans** as per the approved plan(s) **as amended by the relevant conditions** ~~together with the detention basin area as public reserve.~~

- (j) Schedule 2 Part E – Prior to Subdivision, Condition E11 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

E11 Monetary Contributions - Additional Services and Facilities

This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan ~~1993~~ **2010**, as itemised in the following table.

Project	Description	Calculation	Rate	Qty	Amount Total	GST	GST Incl
01 FIRE 0009	City Wide - fire control/state emergency services	\$26.78 *38	<u>\$40.66</u>	<u>46</u>	\$1,017.60 <u>\$1,870.36</u>	<u>\$0.00</u>	<u>\$1,870.36</u>
03 AREC 0001	Tennis, Football, Cricket, Basketball & Netball (Area 3)	\$1,596.96 *38	<u>\$2,424.52</u>	<u>46</u>	\$60,684.42 <u>\$111,527.92</u>	<u>\$0.00</u>	<u>\$111,527.92</u>
03 AREC 0003	Amend. No.17: Bay & Basin Leisure Centre	\$405.65 *38	<u>\$615.86</u>	<u>46</u>	\$15,414.80 <u>\$28,329.56</u>	<u>\$0.00</u>	<u>\$28,329.56</u>
03 CFAC 0001	S94 CP AMENDMENT No.67: Bay and Basin District Community Centre and Branch Library	\$592.11 *38	<u>\$898.96</u>	<u>46</u>	\$22,500.12 <u>\$41,352.16</u>	<u>\$0.00</u>	<u>\$41,352.16</u>
03 CFAC 0003	S94 CP AMENDMENT No.67: Bay and Basin District Recreational & Cultural Hall (Vincentia HS)	\$14.24 *38	<u>\$21.62</u>	<u>46</u>	\$541.03 <u>\$994.52</u>	<u>\$0.00</u>	<u>\$994.52</u>
03 FIRE 0002	Sanctuary Point - fire control	\$33.13 *38	<u>\$50.29</u>	<u>46</u>	\$1,258.84 <u>\$2,313.34</u>	<u>\$0.00</u>	<u>\$2,313.34</u>
03 OREC 0003	Sanctuary Point	\$1,396.86 *38	<u>\$2,120.75</u>	<u>46</u>	\$53,080.55 <u>\$97,554.50</u>	<u>\$0.00</u>	<u>\$97,554.50</u>
03 ROAD 0021	Amend. No. 29: ST. GEORGES BASIN - Construct Bypass.	\$510.17 *38	<u>\$774.57</u>	<u>46</u>	\$19,386.63 <u>\$35,630.22</u>	<u>\$0.00</u>	<u>\$35,630.22</u>
03 ROAD 0053	Wool Lane Construction (Anson St - Wool Rd)	\$433.33 *38	<u>\$657.90</u>	<u>46</u>	\$16,466.55 <u>\$30,263.40</u>	<u>\$0.00</u>	<u>\$30,263.40</u>
CW AREC 0003	Hockey Facilities	\$193.73 *38	<u>\$294.11</u>	<u>46</u>	\$7,361.79 <u>\$13,529.06</u>	<u>\$0.00</u>	<u>\$13,529.06</u>
CW CFAC 0001	S94 CP AMENDMENT No.67: Stage 1: Shoalhaven City Library Extensions	\$218.68 *38	<u>\$331.99</u>	<u>46</u>	\$8,309.83 <u>\$15,271.54</u>	<u>\$0.00</u>	<u>\$15,271.54</u>
CW CFAC 0001	S94 CP AMENDMENT No.67: Stage 2: Shoalhaven City Arts Centre	\$19.78 *38	<u>\$30.03</u>	<u>46</u>	\$751.81 <u>\$1,381.38</u>	<u>\$0.00</u>	<u>\$1,381.38</u>
CW CFAC 0001	S94 CP AMENDMENT No.67: Stage 3: Shoalhaven Mobile Children's Services	\$6.50 *38	<u>\$9.84</u>	<u>46</u>	\$246.81 <u>\$452.64</u>	<u>\$0.00</u>	<u>\$452.64</u>
CW MGMT 0001	Project Management Costs	\$164.40 *1	<u>\$249.58</u>	<u>46</u>	\$164.40 <u>\$11,480.68</u>	<u>\$0.00</u>	<u>\$11,480.68</u>

MA CFAC 0001	Northern Shoalhaven Integrated Children's Services Cnr Osborne and Worrigee Street, Nowra New Project	\$35.48 *38	<u>\$53.87</u>	<u>46</u>	\$1,348.08 <u>\$2,478.02</u>	<u>\$0.00</u>	<u>\$2,478.02</u>
MA CFAC 0002	S.94 CP AMENDMENT No.67: Northern Shoalhaven Community Transport and Family Support Services Park Road, East Nowra New Recoupment Project	\$10.17 *38	<u>\$15.43</u>	<u>46</u>	\$386.29 <u>\$709.78</u>	<u>\$0.00</u>	<u>\$709.78</u>
SUB TOTAL: GST TOTAL: TOTAL							<u>\$208,919.51</u> <u>\$395,139.08</u> <u>\$0.00</u> <u>\$395,139.08</u>

Contribution rates are adjusted annually on 1 July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment.** (i.e. contributions are calculated on the rate applicable at the date of payment, not the date of development consent.)

A total contribution, assessed at the sum of ~~\$208,919.51 (i.e. 2004/2005 rate)~~ \$395,139.08 or as indexed in future years shall be paid to Council before the issue of a construction certificate.

Shoalhaven Contributions Plan **1993 2010** may be inspected at the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

- (k) Schedule 2 Part E – Prior to Subdivision, is amended by the insertion of Condition E21 as follows:

In conjunction with the issue of any subdivision certificate creating a residential allotment, a Section 88B or 88E Instrument creating a Positive Covenant, and Restriction as to User as necessary shall be created burdening each residential allotment to the benefit of Council, to ensure that on site detention is provided on each residential lot in conjunction with the erection of any dwelling and maintained in perpetuity, and that on site detention is in the form of a rain water tank(s) which are at least 7kL in addition to any BASIX requirements for the site.

- (l) Schedule 2 Part H – General Terms, is amended by deleting the following Condition H2:

H2 Section 88B Restriction – Development of Dwellings

Lots 23-33 are to be burdened by way of a Restriction on Use pursuant to Section 88B of the Conveyancing Act in the favour of Council, requiring that development for the purpose of erecting a dwelling can not occur until the adjoining land to the south and south-west has been developed. The restriction is to be in place prior to the sale or release of those Lots.

- (m) Schedule 2 Part H – General Terms, Condition H3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

H3 Section 88B Restriction – Sale of Lots Bushfire Management

~~All Lots within the subdivision (also including proposed Lots 23-33) are to be burdened by way of a Restriction on Use pursuant to Section 888 of the Conveyancing Act in the favour of Council, requiring that the lots can not be sold until they are hazard reduced so that all proposed lots have the vegetation managed as an Outer Protection Area (OPA) as outlined in section 4.2.2 in Planning for Bushfire Protection 2001. The section 888 restriction as to user shall also include that the land is to be maintained as an OPA until development occurs. Prior to the issue of subdivision certificate and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.~~

End of Modification
(DA 485-12-2002 MOD 1)