

SCHEDULE 1

PART A—TABLE

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|-----------------------------------|---|
| Application made by: | HillPDA |
| Application made to: | Minister for Planning |
| Project Application Number: | 05_0020 |
| On land comprising: | 3 Tarrant Road, Salamander Bay (formerly 360 Soldiers Point Road) Lot 4 DP 1117732 |
| Local Government Area | Port Stephens Council |
| For the carrying out of: | 34 Lot 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.05_0020

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

CPI means Consumer Price Index.

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 Nat Murray, Andrews Neil P/L, and dated January 2008, including all Appendices.

Minister means the Minister for Planning.

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

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project Report means the Preferred Project Report prepared by Kevin Alker, Hill PDA dated 9 February 2010.

Proponent means HillPDA 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. 05_0020

PART A—ADMINISTRATIVE CONDITIONS

A1 Project Description

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

- 1) 34 lot subdivision, consisting of 33 Torrens title lots, and one environmental conservation lot,
- 2) Stormwater and underground electricity infrastructure,
- 3) Road infrastructure,
- 4) Bushfire asset protection zones,
- 5) Removal of 11Kv powerlines,
- 6) Habitat retention and rehabilitation.

A2 Project in Accordance with Plans

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

| Design Drawings prepared by Monteath and Powys P/L | | | |
|--|----------|--|------------------|
| Drawing No. | Revision | Name of Plan | Date |
| 05/055 – Sheet 1/1 | 1 | Plan of Proposed Subdivision of Lot 4 DP 1117732 at Salamander Bay | 9 February 2010 |
| Engineering Drawings prepared by Cardno Willing | | | |
| Drawing No. | Revision | Name of Plan | Date |
| W4681 | A | Salamander Waters – Stormwater Management Concept | 23 February 2010 |

A3 Project in Accordance with Documents

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

- (1) *Environmental Assessment Report and ALL associated appendices* prepared by HillPDA on behalf of Port Stephens Council, dated 14 February 2008.
- (2) *Preferred Project Report/Response to Submissions* prepared by HillPDA dated February 2010.
- (3) *Integrated Water Cycle Management Plan, Salamander Waters Estate, Stage 1, Salamander Bay* by Cardno (dated December 2009, Job W4830)
- (4) *Amended Bushfire Protection Assessment for the Proposed Residential Subdivision on Part Lot 4, in DP 1117732, by Australian Bushfire Protection Planners P/L* (dated 7 December 2009, report number B091155).
- (5) *Statement of commitments (as per the Preferred Project Report dated February 2010, and included in Schedule 3)*

A4 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 A2 and A3, the conditions of this approval prevail to the extent of the inconsistency.

A5 Building Code of Australia

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

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 Bushfire protection

In order to satisfy "Planning for Bushfire Protection 2006" the subdivision should be designed to ensure compliance with the following:

- 1) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 2) Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- 3) Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

Details of this should be included on plans submitted to and approved by a Certifying Authority prior to the issue of a Construction Certificate.

B2 Disabled Access

Access for people with disabilities to pathways shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Environmental Management Requirements

B3 11Kv powerlines

Methods and details for the removal of the 11Kv powerlines as per the Statement of Commitments shall be provided to the satisfaction of the local energy supplier prior to issue of the Construction Certificate.

B4 Clearing of Vegetation/ Rehabilitation of vegetation

A) General:

A Tree and Vegetation Removal Plan is to be prepared for the development site, excluding Lot 34. The plan must identify methods of removal vegetation to the satisfaction of Council. The plan is to be produced by a suitably qualified arborist/ecologist and address as a minimum:

- 1) Identification of each tree by a number, by species, whether it is hollow bearing and whether it is to be retained or removed and reason for removal;
- 2) Appropriate measures to ensure that once vegetation has been cleared/ trees felled that any wildlife has the opportunity to relocate;
- 3) Artificial nesting boxes shall be provided in at a rate of 2:1 for each hollow/ nest lost, details of nest box location and management shall be provided;
- 4) Safeguards for the protection of fauna and the means of protecting trees and vegetation nominated for retention prior to, during and following construction works; and
- 5) Any other information required by Council.

- 6) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service's *Planning for Bushfire Protection* 2006.

The plan must be submitted to Council for approval, prior to the issue of the Construction Certificate.

B) Lot 34:

- 1) Lot 34 is to be dedicated to/ or retained by Council, and managed in perpetuity for the purpose of conservation of native vegetation and threatened species habitat.

A Vegetation Management Plan is to be prepared by an appropriately qualified and experienced person with minimum qualifications of TAFE Certificate III in Bush Regeneration or Conservation and Land Management - Natural Area Restoration and 4 years bush regeneration experience.

The Vegetation Management Plan is to be approved by the Council prior to the issue of the Construction Certificate.

This Plan is to detail:

- i. Measures to control feral and domestic animals. Domestic animals are to be prohibited from entering Lot 34, signage shall be erected at either end of the east/west pedestrian path and the pedestrian/ emergency access link; and at the entrance to the subdivision advising of this;
- ii. Measures to control weeds;
- iii. Fire management measures and an ecological fire regime;
- iv. Details of fencing design to ensure that vehicles, including trail bikes, are prevented from entering the vegetated area of Lot 34 located outside the APZ. The fencing shall be an open post and rail or open post and steel cable, and a minimum height of 1.2 metres. The fencing shall be erected in the following locations:
 - Along the edge of Lot 34, on the boundary with the road reserve for Road 2, opposite lots 1 to 8;
 - Along the edge of Lot 34, on the boundary with road reserve for Road 1, opposite Lots 32 and 33;
 - Along the edge of Lot 34, along the boundary with the road reserve for Tarrant Road;
 - Along the edge of Lot 34, on the boundary of the road reserve for Road 1 from the entrance of the subdivision to Lot 9. This fence shall allow access to the east/ west pedestrian path;
 - Along the length of the northern edge of the east/ west pedestrian path; and
 - Along the eastern and western edges of the north/ south pedestrian/ emergency link.
 - There should be a space in the fencing allowing for pedestrian movement either side of the locked gates at both ends of the north/south emergency/pedestrian link located on Lot 34 (See **condition B10 (4) (b)**)

Details of the fencing shall be identified on the Landscape Plan (See condition B10).

- v. Tree hollows shall be inspected prior to removal;

- vi. Trees identified as being of high importance to Koalas and other wildlife shall be retained on Lot 34, except where removal is required for Bushfire protection purposes;
- vii. Hollow-bearing trees shall be retained on Lot 34 where possible except where removal is required for Bushfire protection purposes. Inspection of hollows by a suitably qualified person shall occur prior to felling;
- viii. Any of the hollows from felled hollow-bearing trees shall be retained on site as habitat;
- ix. Where hollow bearing trees will be felled, artificial nesting boxes shall be provided at a rate of 2:1 for each hollow/ nest lost, details of nest box location and management shall be provided;
- x. Safeguards for the protection of fauna both prior to, during and following the works, including the presence of a suitably qualified person during the entire felling operation, to ensure the proper management of any Koalas or nocturnal animals or otherwise;
- xi. Mapping and photographs of vegetation condition/weed cover as a baseline from which site rehabilitation/management can be measured;
- xii. Educational/Regulatory style signage, the location of the signage shall be erected to minimise impacts upon Endangered Ecological Communities, other flora; and fauna habitat;
- xiii. A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service's *Planning for Bushfire Protection 2006*;
- xiv. Details of long-term monitoring and implementation including a requirement that a monitoring report is to be submitted to Council annually (1 July), for a period of three years after the completion of all works, the report shall detail the works undertaken in order to comply with the recommendations of the Vegetation Management Plan.

- 2) The Vegetation Management Plan for Lot 34 shall also include a section detailing the rehabilitation of preferred Koala habitat on Lot 34.

The area to be rehabilitated shall be the portion of Old Soldiers Point Road contained within the subject site, up to where it connects with the proposed north - south pedestrian path/ emergency link. This unused portion of road shall be removed to allow for the rehabilitation of Preferred koala Habitat.

This section of the Vegetation Management Plan for Lot 34 shall detail the following:

- ii. Rehabilitation methods in accordance with the Port Stephens Comprehensive Koala Plan of Management.
- iii. Details of the revegetation including:
 - The species planted should form *Preferred Koala Habitat*, in accordance with the definition within the State Environmental Planning Policy 44 – Koala Habitat Protection;
 - Planting layout and densities should be identified; species should include a mix of grasses shrubs and trees;
 - A mix of juvenile and mature species should be planted, details of this shall be identified;
 - Seed/ plant sources should be identified and where possible local seed banks should be used;
 - Revegetation shall not involve planting of exotic species.

- Weed management for this area.
 - iv. The supervision of the rehabilitation shall be by an appropriately qualified person/s, and rehabilitation works shall also be carried out by persons qualified in bush regeneration of environmental restoration techniques. Details of the qualifications of supervisor/s and other workers shall be provided.
 - v. This rehabilitated area shall be maintained by the developer for a period of two years, after rehabilitation works are complete; or until an 80% survival rate for all plantings and a no greater than 5% weed cover is achieved.
- 3) Where any disturbance occurs in relation to the underboring of the overflow pipe under Lot 34, the areas shall be rehabilitated in accordance with species specified in the Vegetation Management plan for Lot 34. (see **condition B17(1)**)

B5 Fire Management Plan

Prior to the issue of a Construction Certificate, a Fire Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council and NSW Rural Fire Service. The Plan shall address the following:

- a) Contact person / department and details; and
- b) Schedule and description of works for the construction of asset protection zones and their continued maintenance.

B6 Mosquito Management

A mosquito management plan shall be prepared in accordance with Port Stephens DCP 2007 and shall be submitted to and approved by the certifying authority.

B7 Weed Management

A Weed Control Plan for the entire site is to be produced by an appropriately qualified person. The Weed Control Plan shall detail weed management to be undertaken by the Proponent across the site until 80% of the lots have been sold. The plan must be submitted to the Certifying Authority for approval, prior to the issue of Construction Certificate. The plan shall also include details of weed management during the construction:

- 1) Controls to prevent the spread of weeds on machinery including a disposal and wash down area;
- 2) An area for storage of contaminated spoil that is separate from clean material;
- 3) Certification that any soil, mulch and plants brought onto the site is free of seeds and weed seeds; and
- 4) Site inductions for all personnel and visitors that includes weed management practices as required by Council.

B8 Cut and Fill

- 1) The minimum ground levels of the site which are associated with residential allotments shall be RL3.4 AHD.
- 2) The Proponent is to submit to Council a Geotechnical Specification for the supply and placement of fill materials for the development, prepared by a N.A.T.A. Registered Geotechnical Engineer and shall include but not be limited to the following:
 - (a) identify the proposed source of fill
 - (b) method of delivery of fill material to the site

- (c) geological/geotechnical/chemical analysis (chemical analysis to be undertaken by a N.A.T.A. accredited laboratory) of the proposed fill material to determine its suitability for residential development
 - (d) Quality Assurance Regime
 - (e) any other relevant matters.
- 3) A Cut and Fill report shall also be prepared to the satisfaction of Council demonstrating that the water table will not be intercepted. If groundwater tables are likely to be intercepted as a result of cut and fill, relevant approvals shall be gained from NSW Office of Water (NOW). Details (including stormwater and drainage structures) and any relevant approvals from NOW are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
 - 4) Should the report referred to in **condition B8 (2)** (above), indicate that the cut and fill of the site will intercept the water table, or involve deep excavation a detailed Acid Sulfate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee, 1998). The Management Plan shall cover the entire site and be submitted to the satisfaction of the Council prior to the issue of a Construction Certificate.
 - 5) Fill shall be selected, placed and tested in accordance with Australian Standard 3798-2007 Guidelines on Earthworks for Commercial and Residential Development, or any updated standard.
 - 6) Where the site is required to be filled or excavated along the southern and eastern boundaries, adjacent to existing residential lots which are accessed by/ and or have frontage to Soldiers Point Road, Kanimbla Drive and Manoora Close, the ground levels shall not increase above the existing natural ground level, in order to protect existing residential amenity.

Landscaping

B9 Landscape Plan

In order to ensure environmental sustainability, an amended landscape plan shall be submitted to the Council for approval prior to the issue of the Construction Certificate. The amended landscape plan shall incorporate the following:

- 1) All Landscaping shall comply with Planning for Bushfire Protection 2006;
- 2) The use of locally endemic native species in all landscaping undertaken for the subdivision construction;
- 3) East -west Pedestrian Link – Lot 34

The proposed pedestrian link on Lot 34 commencing at the north eastern end of proposed Road 2, and emerging at proposed Road 1, opposite Lot 16, shall:

- a) Form the north-western most limit of the Asset Protection Zone. The path is to be surveyed by a registered surveyor, and be generally in accordance with the Plan of Subdivision prepared by Monteath Powys (Revision 1 - dated 9 February 2010) and to comply with Planning for Bushfire Protection 2006.
- b) In order to minimise the amount of impervious surface, the pedestrian path shall not be constructed of concrete, paving or any other hard impervious materials.
- c) Details of the location and construction material of the path shall be identified on an amended landscape plan and submitted to the satisfaction of the Certifying Authority prior to the issue of a construction certificate.
- d) Be designed:

- to minimise tree removal.
- with a minimum width of 2 metres and a maximum slope of 15%.
- to take into account where the path intercepts with drainage infrastructure.
- with provisions for drainage, pram ramps and lighting.

4) North-South Pedestrian/ Emergency Link – Lot 34

The proposed pedestrian/ emergency link, (commencing on proposed Road 2, opposite Lot 4, and emerging in the vicinity of Old Soldiers Point Road, and the Council playing Fields to the north of the site), shall:

- a) The location of the link is to be surveyed by a registered surveyor, and be generally in accordance with the Plan of Subdivision prepared by Monteath Powys (Revision 1 - dated 9 February 2010), and to comply with Planning for Bushfire Protection 2006.
- b) have gates installed at either end of the link, to prevent all but emergency vehicle access. The gates are to be locked with a key/lock system authorised by the local RFS. The location of the gates shall be identified on the amended landscape plan.
- c) Details of the design of the link, where it intercepts the stormwater infrastructure shall be provided.

5) *Treatment of southern end of Road 1*

The end of Road 1, in front of Lot 33, shall have fixed bollards or the like installed to prevent vehicular access, including trail bikes, to the adjacent site to the south.

B10 Street Trees

A street tree concept shall be submitted and approved by Council prior to the issue of the Construction Certificate. One street tree of an appropriate native species shall be provided for every 15 metres of street frontage.

B11 Lighting

External lighting, including street, pedestrian and emergency path is to be designed to limit light spill into adjacent vegetated areas. Details of lighting shall be submitted to Council for approval prior to the issue of the Construction Certificate.

Remediation / Demolition / Earthworks

B12 Phase Two Contamination Assessment

A phase two contamination assessment shall be undertaken in accordance with the DUAP and EPA 1998 document *Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*. The report shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate and any recommendations are to be implemented to the satisfaction of the Certifying Authority prior to issue of a Construction Certificate.

B13 Compliance-Geotechnical Report

- 1) The Applicant shall comply with the recommendations of the Preliminary Geotechnical Report by Douglas Partners (January 2005, Project 39079) contained within "Section 7.6 Summary".
- 2) The studies required to satisfy "Section 7.6 Summary" of the Douglas Partners Report (January 2005) shall be carried out and a report prepared and submitted to the Certifier prior to the issue of the Construction Certificate. The report shall also include, but not restricted to:

- a) Further geotechnical investigation to assess slope instability issues shall be undertaken, any batter slopes used to manage instability issues shall not exceed 2H:1V, details of which shall be identified on a plan;
- b) Relevant engineering plans, which shall be endorsed by and carry the original signatures of the Geotechnical Consultants (ie not photocopies). The endorsement shall state that the proposed works are in accordance with the recommendations of the Geotechnical Report.
- c) Deep subsurface testing shall occur to determine the presence and extent of loose sands, slimes layers and zones. Should the investigation indentify loose sands, slimes layers and zones on the site, the proponent shall ensure that the site is stabilised in order to minimise subsidence of any future dwellings constructed on site. The methods to ensure stability of the site in relation to the loose sands and slimes layers/ zones shall be done in accordance with the methods indicated in "Section 7.2 Loose Sand and Slimes Layers/ lenses" of the Douglas Partners Report (January 2005), excluding the method of "designing footings to accommodate expected settlements".

Construction Management

B14 Construction Management Plan

- 1) Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters 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 measures; and,
 - g) flora and fauna management, including measures of protection for the Endangered Ecological Communities.

B15 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate for each stage of the project, a Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. 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.

The Proponent shall submit a copy of the approved plan to Council.

Infrastructure

B16 Stormwater and Drainage Works Design

- 1) The pipe proposed to be installed for drainage overflow purposes from the site to the adjacent detention basins on the Council owned sporting fields, offsite, shall be installed using under bore methods, in order to minimise impacts upon the vegetation on Lot 34. Details of the methods of installation shall be provided with the Final Design Plans, referred to in **condition B17 (2)**, below. Should any vegetation being disturbed during the placement of the pipe, rehabilitation shall be undertaken in accordance with **condition B4 (b)**.
- 2) Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.

B17 Road Design

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 (with the exception of the access lane to Lots 7 and 8). All Roads shall be designed in consultation with the relevant requirements of Council. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Council for approval prior to the issue of a Construction Certificate.

The Access Lane to lots 7 and 8 shall, shall be designed in accordance with:

- 1) A minimum carriageway width of 4 metres;
- 2) a minimum verge width of 1.2m each side; and
- 3) a minimum reserve width of 8m.

Stormwater and Drainage

B18 Water Quality Management Monitoring Strategy

An appropriately qualified person shall prepare a Water Quality Management Strategy detailing monitoring methods for surface and groundwater quality. Water quality is to meet ANZECC guidelines. Water quality monitoring is to be carried out throughout the length of the project and until two (2) years after 80% of lots have been developed. Details are to be submitted to the satisfaction of the NSW Office of Water prior to the issue of the Construction Certificate.

B19 Groundwater Interception

Stormwater, and other drainage structures such as detention basins, and other water quality control measures, shall be designed so as to prevent interception and/or connection with and/or infiltration of the underlying ground water table. If groundwater tables are likely to be intercepted during construction relevant approvals shall be gained from NSW Office of Water (NOW). Details (including stormwater and drainage structures) and any relevant approvals from NOW are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

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 any works, excavation, shoring or underpinning works on the site for 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*.

C2 Retaining Walls

Prior to commencement of works 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.

Pollution Control

C3 Erosion and Sediment Control

Prior to commencement of work 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

C4 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 the Principal Certifying Authority shall be advised of its location and depth prior to the commencement of works, and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

Contact Details

C5 Contact Telephone Number

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

PART D—DURING CONSTRUCTION

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 PCA.

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 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 – 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 the project.

Environmental Management Requirements

D4 Koala Protection during Construction

All dogs are to be excluded from the development site during construction. Any contract signed for subdivision, building works or subsequent maintenance works on this site is to include this prohibition in the terms and conditions.

D5 Habitat and Vegetation Plans

At the commencement of work vegetation management as required under the following plans is to commence across the entire site:

- 3) the Vegetation Management Plan for Lot 34; and
- 4) the Tree and Vegetation Removal Plan

D6 Weed Management

At the commencement of work weed control works shall also commence in accordance with the Weed Control Plan.

D7 Hollow Bearing or Koala Bearing Tree Removal

Trees with hollows or Koala Habitat trees approved to be felled during the construction phase will be felled in accordance with the Tree and Vegetation Removal Plan.

D8 Retention of Vegetation

All native trees and native vegetation not specifically identified for removal on Tree and Vegetation Removal Plan, within each lot of the subdivision shall be clearly identified, and protected with fencing extending to around the drip line of each tree for the length of the construction.

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 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.

Noise and Vibration

D12 Hours of Work

The hours of construction 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.

D13 Construction Noise Objective

- 1) The construction noise objectives 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.

D14 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
- (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.

D15 Vibration Criteria

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

Heritage

D16 During Excavation/ Site clearing

During the clearing, excavation and development of the site a qualified representative from a local registered Aboriginal Group be present on site to monitor earth works.

D17 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 Department of Environment and Climate Change, the Worimi Local Aboriginal Land Council (LALC) and Moo- Roo- Ma Inc must be informed. These 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 the Department of Environment, Climate Change and Water.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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*.

Monetary Contributions

E2 Section 94 Monetary Contributions

Prior to the endorsement of a Subdivision Certificate, 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

| Contribution Category | Rate Per lot | Total for 33 Lots |
|--------------------------------|--------------------|---------------------|
| Civic Administration | \$377.00 | \$12,441.00 |
| Open Space | \$2046.00 | \$67,518.00 |
| Recreation | \$4821.00 | \$159,093.00 |
| Cultural/ Community Facilities | \$2424.00 | \$79,992.00 |
| Fire Emergency Works | \$188.00 | \$6,204.00 |
| Roadworks | \$1368.00 | \$45,144.00 |
| Total | \$11,224.00 | \$370,392.00 |

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.

3) Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

2) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Port Stephens Council, 116 Adelaide Street (Old Princes Highway), Raymond Terrace.

E3 Compliance Certificate

Compliance certificates from suitably qualified professionals are to be provided prior to the release of the Subdivision Certificate indicating that the following works have been carried out in accordance with the approved design plans and specifications and in accordance with any relevant Australian Standards:

- Vegetation clearing
- Asset Protection Zone creation

- Tree Protection
- Hollow bearing tree removal
- Weed Management
- Vegetation Management for Lot 34
- Earthworks and filling
- Drainage infrastructure, including bridges and culverts
- Pavement subgrade, base course densities and sealing
- Pavement to underside of kerb and gutter
- Kerb and gutter
- Erosion control measures
- Landscaping
- Signage
- Water Quality Monitoring
- Undergrounding of 11Kv powerlines.

E4 East - West Pedestrian Link

The east/ west pedestrian link shall be constructed in accordance with the amended landscape plan, prior to the release of the subdivision certificate.

E5 North - South Pedestrian/ Emergency Link – Lot 34

The link shall be constructed in accordance with the amended landscape plan, and signposted "Vehicular access for Emergency Use Only", prior to the issue of the Subdivision Certificate. Lockable Gates shall be erected at the each end of the emergency link, with copies of the keys to be provided to the Rural Fire Service and all residences with direct access to the link.

E6 Services

Prior to issue of the Subdivision Certificate, written evidence must be submitted from the Hunter Water Corporation, Telstra Australia and Energy Australia that satisfactory arrangements have been made for the provision of their respective services to all lots in the proposed subdivision.

Earthworks

E7 Geotechnical Report

A Geotechnical Engineer's report shall be submitted to and be approved by Council prior to the issue of the Subdivision Certificate. The report shall provide each lot with a site classification under AS 2870 and take into account site filling and any excavations. The site classification to be made only after completion of site works affecting lots. The site classification under AS 2570 shall be placed on title for each allotment.

E8 Batter Slopes

Prior to the issue of the subdivision certificate the Certifying Authority shall ensure that sufficient earthworks have been undertaken to ensure that batter slopes steeper than 2H:1V do not occur within the site.

E9 Filling Works

Prior to the issue of a Subdivision Certificate, a report prepared by the Geotechnical Engineer shall be submitted to Council determining the suitability of each allotment for residential development and its classification.

All filling and testing is to be carried out in accordance with AS 3798 – 1996 Guidelines on Earthworks for Commercial & Residential Developments.

E10 Retaining Walls

All retaining walls 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.

Environmental Management Requirements

E11 Undergrounding of 11kv powerlines

Prior to the issue of a subdivision certificate the existing 11kv powerlines shall be placed underground.

E12 Rehabilitation of Lot 34

The rehabilitation of this allotment shall be complete prior to the release of the subdivision certificate.

E13 Educational signage Lot 34

The Educational signage identifying the wildlife corridor, shall be erected prior to the issue of the Subdivision Certificate.

E14 Domestic Animal Signage – Lot 34

The Signage advising of the prohibition of domestic animals on Lot 34 shall be erected prior to the issue of a subdivision certificate.

E15 Street Trees

Street trees shall be planted in accordance with the "Street tree concept plan" prior to the issue of a subdivision certificate.

Traffic and Access

E16 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is be met in full by the Proponent/developer prior to the issue of any Subdivision Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

E17 Speed Devices for Koala Management

Speed signs or speed limiting devices shall be installed to reduce vehicle speed. The location of the signs and/ or devices shall be installed to the satisfaction of Council.

Bushfire Requirements

E18 Covenants for Asset Protection Zones

- 1) Covenants pursuant to section 88E of the *Conveyancing Act 1919* shall be established for the provision of and maintenance of asset protection zones (APZ) as identified on the drawing prepared by Australian Bush Fire Planners Pty Ltd numbered Plan of Asset Protection Zones, dated 7 December 2009. in accordance with *Planning for Bushfire Protection 2006*, on the title to all lots as required by the RFS.
- 2) A covenant pursuant to section 88E of the *Conveyancing Act 1919* shall be established for the provision of any asset protection zones located outside individual lot boundaries. The covenant shall require the land to be managed in accordance with the Plan of Management for Asset Protection Zones. This does not apply to asset protection zones provided by formed roads.

The purpose of this condition is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

Restrictions on Title

E19 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 and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas
- 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) In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.
 - a. The site classification under AS 2870 and take into account site filling and any excavations shall be specified for each allotment.
- 4) The restriction is 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.

E20 Future Construction for Koala Movement

A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on all lots within the subdivision requiring any construction to have regard to the requirements of the Port Stephens Comprehensive Koala Plan of Management (June 2002) or the equivalent plan.

E21 *Restriction on Cats*

To protect native fauna in the locality, no cats may be kept on any allotment at any time.

Prior to the issue of any subdivision certificate an instrument under section 88E *Conveyancing Act 1919* which includes the restrictive covenant which prohibits the keeping of the said animals, in registerable form shall be prepared by the owner of the land and produced to the Council for approval and execution. Once a subdivision certificate has been issued, the covenant is to be registered on the title to each of the lots. The instrument must stipulate that the only person with the right to release, vary or modify the covenant is the Department. All costs associated with the preparation, execution and registration of the instrument are to be borne by the owner of the land.

Land Dedications

E22 *Dedication- Pedestrian Footpaths/ Verges*

The applicant shall dedicate to Council upon registration of the linen plan of subdivision, at no cost to Council, pedestrian footpaths and verges with a reservation width of 4 metres.

E23 *Lot 34*

Lot 34 is to be dedicated to/ or retained by Council upon registration of the deposited plan for the subdivision.

PART F—ONGOING CONDITIONS – POST SUBDIVISION COMPLETION

Maintenance and Monitoring

F1 Water Quality Monitoring

Water quality monitoring is to be carried out in accordance with the approved Water Quality Monitoring Strategy. Water quality monitoring is to be carried out throughout the length of the project and until two (2) years after 80% of the lots have been developed.

Any failure to meet the specified water quality measures in that document is to be addressed by further mitigation measures which are to be approved the NSW Office of Water.

F2 Habitat and Vegetation Management Plan Monitoring

Management as required under the Vegetation Management Plan for Lot 34, shall be undertaken for the life of the development.

An annual monitoring report is to be submitted to Council no later than 1 July, for three years after the rehabilitation is complete, detailing management undertaken as part of actions required under the above plans.

F3 Weed Management

The proponent shall continue Weed Management across the site until 80% of the lots have been sold.

F4 Gates on Fire Trails

The gates on the fire trails are to be kept locked at all times except in an emergency.

ADVISORY NOTES

AN1 Bushfire - Construction of Buildings

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

AN2 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.

AN3 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.

AN4 Compliance with Building Code of Australia

The Proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN5 Structural Capability for Existing Structures

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN6 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and

- (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN7 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.

AN8 Temporary Structures

An approval under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the *Local Government Act 1993* to certify the structural adequacy of the design of the temporary structures.

AN9 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.

AN10 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 proponents 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

05_0020

34 LOT RESIDENTIAL SUBDIVISION

3 TARRANT ROAD, SALAMANDER BAY

STATEMENT OF COMMITMENTS

(SOURCE: PREFERRED PROJECT REPORT)

Statement of Commitments

Environmental Commitments

- Comply with the Port Stephens Council Koala Management Plan.
- Strengthening the koala corridor by rehabilitation of the section of Old Soldiers Point Road for an approximate distance of 150 metres from the junction with Tarrant Road to a point that intersects with the Pedestrian link/Emergency vehicle access connecting to Road No. 2.
- Underground the 11kv power lines in the section to be rehabilitated for the koala corridor.
- External lighting to be designed to limit the light wash to adjacent bushland.
- Educational signage to be erected to depict the wildlife corridor.

Aboriginal Archaeology

- A cultural and heritage induction be carried out by local Aboriginal groups before earthworks commence.
- Establish a keeping place on site in the event that Aboriginal objects are discovered.
- During construction work if any Aboriginal sites or relics are discovered, work is to stop and the relative Aboriginal groups along with DECCW are to be contacted.

Urban Infrastructure

- Undertake further geotechnical investigation to establish compaction requirements, pavement thicknesses and foundation requirements, during construction.
- A "No Through Road" sign be placed at the entry to the subdivision.