

Modification of Project Approval

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.



Keiran Thomas
**Director Regional Assessments
Planning and Assessment**

Sydney

16 November 2020

SCHEDULE 1

Concept Approval: **06_0143** granted by the Minister for Planning on 10 July 2008

For the following: Project Approval involving a residential subdivision of land into 524 lots, site earthworks (cut and fill), the provision of roads and associated infrastructure, open space, recreation facilities and playing fields, and a pedestrian/cycleway network.

Consent Authority: Minister for Planning

The Land: Lots 1 and 2 DP 725785, Moonee Beach in the Coffs Harbour local government area

Modification: **MP 06_0143 MOD 4:** amendments to the bulk earthworks plan.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part A – ADMINISTRATIVE CONDITIONS, Condition A3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

A3 Project in Accordance with Plans

The project shall be undertaken generally in accordance with the following drawings:

Project and Engineering Drawings prepared by Auspacific Engineers			
Drawing No.	Revision	Name of Plan	Date
P1	F	Preliminary Lot Layout	February 2009
P3 <u>16083-SK015</u>	€	Bulk Earthworks and Noise Attenuation Barriers	December 2008 <u>13.05.2020</u>
P3/1	A	Typical Noise Attenuation Barrier Sections	17 April 2008
P4	A	Roadworks Typical Sections	April 2008
P5	C	Stormwater Drainage and Catchment Plan	April 2008
P6	B	Stormwater Outlets and Swale Sections	September 2007
P7	A	Conventional Sewerage Reticulation Concept Plan	April 2008
P9	C	Water Reticulation Concept Plan	April 2008
Engineering Drawings prepared by Gilbert & Sutherland			
Drawing No.	Revision	Name of Plan	Date
GJ0339.5.3a		Stormwater Management Plan	30 July 2007
GJ0339.5.4		Typical Bioretention Swale Cross Section	30 July 2007
Project and Landscape Drawings prepared by ERM			
Annex B (05025/3)		Bushfire Risk Assessment Map (Resource Design & Management)	December 2008 (12 Nov 2008)
Annex E		Staging of Open Space Dedication to Council	December 2008
Annex H – Plan 1		Active Recreation Node 1	December 2008
Annex H – Plan 2		Passive Recreation Node 2	December 2008
Annex H – Plan 3		Broad Scale Open Space Types	December 2008
Annex H – Plan 4		Vegetation Management	December 2008
Annex H – Plan 5		Streetscape (Street Tree Planting)	December 2008

Annex H – Plan 6		Path Network and Development Facilities	December 2008
Annex H – Plan 7		Landscape Concept Plan	December 2008
Annex H – Plan 8		Landscape Staging Plan (fencing details)	December 2008
Annex H – Plan 10		Permanent Fence Option 1	December 2008
Annex H – Plan 11		Temporary/Permanent Fence Options 2 & 3	December 2008
Annex K		Additional Potential Wallum Froglet Habitat	November 2008
Annex L		Engineering Details (Typical Street/Road Sections)	December 2008
Figure 3.2		Preliminary Erosion and Sediment Control Plan (in Construction Environmental Management Plan, Preferred Project Report September 2008)	November 2006

- (b) Schedule 2 Part A – ADMINISTRATIVE CONDITIONS, Condition A4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

A4 Project in Accordance with Documents

The project shall be undertaken generally in accordance with the following documents:

- 1) *Environmental Assessment Report* prepared by ERM on behalf of Rothwell Boys Pty Ltd, dated November 2007; and,
- 2) *Preferred Project Report* prepared by ERM on behalf of Rothwell Boys Pty Ltd, dated September 2008.
- 3) *Post Preferred Project Submission* prepared by ERM on behalf of Rothwell Boys Pty Ltd, dated December 2008.
- 4) Section 75W modification application and supporting documents from Environmental Resources Management Australia, dated 2 June 2011.
- 5) Section 75W modification application and supporting documents prepared by Rothwell Boys Pty Ltd and dated 26 November 2014.
- 6) **Section 75W modification application and supporting documents prepared by Resource Design & Management Pty Ltd (RDM) on behalf of Rothwell Boys Ltd and dated April 2019; Section 75W Modification – MP06 0143 MOD 4 the Glades Estate, Moonee Beach - Response to Submissions (ref 16083-LE250520) and supporting documents prepared by Resource Design & Management Pty Ltd (RDM) on behalf of Rothwell Boys Pty Ltd (Winten Property Group) dated 25 May 2020; and further Response to Submissions (ref 16083-LE130720) and supporting documents prepared by Resource Design & Management Pty Ltd (RDM) on behalf of Rothwell Boys Pty Ltd (Winten Property Group) dated 13 August 2020.**

- (c) Schedule 2 Part B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE, Condition B4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

B4 Traffic & Pedestrian Management Plan

- 1) Prior to the issue of a Construction Certificate for each stage of the project, a Traffic and Pedestrian Management Plan (as it relates to that stage) shall be prepared by a TfNSW ~~an RTA~~ accredited person in accordance with AS1742 and TfNSW / RMS ~~RTA~~ publication 'Traffic Control at Works Sites' ~~Version 2~~, 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:
 - i) evidence of agreement from the RTA for any temporary construction access to and from the Pacific Highway, and compliance with their requirement for this access,
 - ii) ingress and egress of vehicles to the site,
 - iii) loading and unloading, including construction zones,
 - iv) predicted traffic volumes, types and routes, and
 - v) pedestrian and traffic management methods,
 - vi) any traffic management procedures relating to the safe exportation of fill from the site.
- 2) The Proponent shall submit a copy of each of the approved plans to Council.
Note: Refer to Condition B2 in respect to provision of temporary construction access to and from the Pacific Highway.

- (d) Schedule 2 Part A – ADMINISTRATIVE CONDITIONS, Condition B10 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

B10 Stormwater and Drainage Works Design

Final design plans of the stormwater drainage systems within the project, 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 for each stage of the project. The hydrology and hydraulic calculations shall be based on modals described in the current edition of *Australian Rainfall and Runoff*.

The final design plans shall be generally in accordance with the stormwater drainage concept plans prepared by Auspacific Engineers, refer to condition A3.

The final design plans shall be generally in accordance with Coffs Harbour City Council Water Sensitive Urban Design Guideline.

- (e) Schedule 2 Part B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE, Condition B12 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

B12 Construction Management Plan

- 1) Prior to the issue of a Construction Certificate for each stage of the project, a Construction Management Plan (as it relates to that stage) 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:
 - i) hours of work;
 - ii) contact details of site manager;
 - iii) traffic and pedestrian management;
 - iv) noise and vibration management;
 - v) construction waste management;
 - vi) dust management;
 - vii) erosion and sediment control;
 - viii) flora and fauna management, and

- ix) **reproduce the unexpected finds procedure (conditions D12 and D13) outlining the management protocol for Aboriginal and non-Aboriginal objects:**
- 2) All cut and fill areas are to be topsoiled and seeded immediately after completion to protect and exposed areas from water and wind erosion. The earthwork staging details are to be shown on the Construction Certificate.
 - 3) Erosion and sediment controls and management strategies shall be certified by a qualified Environmental or Engineering consultant in accordance with the Landcom publication "Managing Stormwater, Soils and Construction" 2004 (the 'Blue Book').
- (f) Schedule 2 Part B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE, Condition B15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

B15 Vegetation Management Plan

- 2) The VMP shall be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration/stream rehabilitation practices and who are members of the Australian Association of Bush Regenerators (AABR). The VMP is to be in accordance with **Coffs Harbour City Council Development Control Plan Appendix 2 Guideline for Preparing Vegetation Management Plans** the guideline: "How to Prepare a Vegetation Management Plan – Version 4" (former Department of Natural Resources, undated).
- (g) Schedule 2 Part D – DURING CONSTRUCTION, Condition D6 - is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

D6 Filling of the Site

- 1) ~~All residential allotments shall be filled to a minimum of the design flood level plus minimum 600mm freeboard, with minimum fill levels of RL 4.75m AHD in accordance with the approved plans.~~
 - a) **All parts of residential lots suitable for dwellings must be finished to be above the scenario 5 extents (1% AEP Catchment + 5% AEP Ocean + climate change flood levels) plus 500mm freeboard (between 4.03 and 4.68m AHD).**
 - b) **All residential roads must be finished to be above the scenario 5 extents (1% AEP Catchment +5% AEP Ocean + climate change flood levels)**

Note: Reference to the "scenario 5 extents (1% AEP Catchment + 5% AEP ocean + climate change" flood levels is made in accordance with drawing PS01-K210 (REV. B) as per the Flood Assessment: The Glades Development, Lot 1 and 2 DP 725785, Pacific Highway, Moonee Beach NSW, prepared by Martens Consulting Engineers.

- 2) ~~Fill platforms must be set at a minimum of 2 metres above the 1 in 100 year flood level or the water table (whichever is the higher) in the southern open space areas that contain stormwater infrastructure, in accordance with AusPacific Engineers advice dated 4 April 2008. Finished levels must be to the satisfaction of Council.~~
- 3) Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.
- 4) During filing operations,
 - i) No fill is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

- ii) All fill and cut batters shall be contained wholly within the site.
 - iii) All topsoil to be re-spread and the site to be grassed and landscaped, including battered areas.
- (h) Schedule 2 Part D – DURING CONSTRUCTION, Condition D13 - is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

D13 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

- 1) In the event that future works during any stage of the project disturb Aboriginal artefacts or relics, 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, Coffs Harbour, the Coffs Harbour Local Aboriginal Land Council (LALC), the Yarrawarra Aboriginal Corporation, **Jagun Aged and Community Care** and the Garby Elders 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 and Climate Change.
- (i) Schedule 2 Part D – DURING CONSTRUCTION, Condition D14 - is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

D14 Excavated Material

Where excavated material is to be exported from the site, it is to be disposed of at an approved landfill facility. Alternatively, where it is proposed to dispose of the excavated material at another location, no material is to leave the site until:

- a. **Council has been advised in writing of the destination site(s);**
- b. **Council has been advised of the quantity and makeup of the material; and**
- c. **Council has issued written approval for disposal to the alternate location(s).**

The exportation of fill or soil from the site must be in accordance with the provisions of the Protection of the Environment Operations Act (POEO) 1997 and the Office of Environment and Heritage “Waste Classification Guidelines” and shall comply with the terms of any approval issued by Council.

- 2) Schedule 2 Part E – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE, Condition E7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E7 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, benefitting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easement 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 Instrument to accompany the final plan of subdivision.
 - i) A Restriction as to User within Lots 475 and 484-498 in Stage 9 of the subdivision, adjoining the Zone 3 vegetation to the south west of the site, allowing for the creation of a 10 metre wide Asset Protection Zone, measured from the southern boundary of these lots. This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.
 - ii) A Restriction as to User allowing for the creation and maintenance of a Bushfire Asset Protection Zone (APZ) on all affected lots (including roads and open space areas to be dedicated to Council), as shown on Drawing No.05025/3 Bushfire Risk Assessment Map, prepared by RDM, 12 November 2008. This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.
 - iii) A Restriction as to User on all allotments marked in yellow (Level 2 construction) or red (Level 3 construction) on Drawing No.05025/3 Bushfire Risk Assessment Map, prepared by RDM, 12 November 2008 requiring the construction of dwelling houses on the specified allotments to be Level 2 or Level 3 Construction Standard (AS3959).
 - iv) A Restriction as to User on any allotments identified as a result of the revised acoustic assessment (refer to conditions B3 and E17) requiring the imposition of the specified internal noise criteria.
 - v) A Restriction as to User that no cats shall be permitted to be kept within the site.
 - vi) A Restriction as to User to enforce adopted design guidelines for the site, generally as set out in the Draft Design Guidelines, Annexure S of the Environmental Assessment.
 - vii) **A Restriction as to User on any allotments affected by the 1% AEP, restricting the use of any part of the lot affected by the 1% AEP for any habitable building or structure.**
- 5) The restrictions are to be clearly marked on the plan/s of subdivision and Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.
- 6) Schedule 2 Part E – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE – Condition E16 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E16 Fill Contour Plan

Prior to the release of a Subdivision Certificate for the first stage of the project to be released a final contour plan shall be submitted to Council showing the location, depth and type of fill located on the site. ~~This shall include fill platforms of minimum of 2 metres above the 1 in 100 year flood level or the water table (whichever is the higher) in the southern open space areas that contain stormwater infrastructure, in accordance with AusPacific Engineers advice dated 4 April 2008~~ **This shall include platforms (where relevant) in the southern open space areas that contain stormwater infrastructure.**

- 7) Schedule 2 Part E – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE – Condition E20 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E20 Provision of Flood Model Files

- 1) **Prior to the release of a Subdivision Certificate for the first stage of the project a copy of the flood model data files must be provided to council.**

End of Modification