

# Project Approval

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

I, the Minister for Planning, approved the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the proponent's Statement of Commitments in the attached Schedule 3.

These conditions are required to:

- Adequately mitigate the environmental impact of the project;
- Protect ecologically significant land;
- Maintain the amenity of the local area; and
- Encourage good subdivision design

This consolidated instrument includes a modification approved under section 75W of the *Environmental Planning and Assessment Act 1979*, as follows:

(a) (MP 07\_0026 MOD 1) approved on 22 December 2008;

The Hon Kristina Keneally MP  
**Minister for Planning**

Sydney,

2008

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## SCHEDULE 1

### PART A—TABLE

<b>Application made by:</b>	Petrac Pty Ltd
<b>Application made to:</b>	Minister for Planning
<b>Project Application:</b>	07_0026
<b>On land comprising:</b>	Montwood Drive, Lennox Head Lot 234 DP 1104071
<b>Local Government Area</b>	Ballina
<b>For the carrying out of:</b>	A 63 lot subdivision comprising 54 residential lots, 6 super lots for future development, 2 open space lots and a residual lot.
<b>Type of development:</b>	Major Project
<b>Determination made on:</b>	
<b>Date approval is liable to lapse:</b>	5 years from the date of determination unless works have physically commenced in accordance with Section 75Y of the Act.

### PART B—NOTES RELATING TO THE DETERMINATION OF APPLICATION 07\_0026

#### Responsibility for other consents and approvals / 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* (as amended).

#### 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* (as amended).

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## **PART C—DEFINITIONS**

In this approval,

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

**Council** means Ballina Shire 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 *Petrac Pacific Pines Estate Part 3A Application Environmental Assessment Report* prepared by GeoLINK and dated March 2008.

**Minister** means the Minister for Planning.

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

**Proponent** means Petrac Pty Ltd or any party acting upon this approval.

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

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

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## SCHEDULE 2

### CONDITIONS OF APPROVAL

#### PART A—ADMINISTRATIVE CONDITIONS

##### **A1**     *Project Description*

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

A 63 lot residential subdivision comprising:

- (a) 54 residential lots ranging in size from 632m<sup>2</sup> to 907m<sup>2</sup>;
- (b) 6 super lots for future development as follows:
  - (i) Super Lot 1 (1.43ha)
  - (ii) Super Lot 2 (5730m<sup>2</sup>)
  - (iii) Super Lot 3 (2050m<sup>2</sup>)
  - (iv) Super Lot 4 (1649m<sup>2</sup>)
  - (v) Super Lot 5 (8.18ha)
  - (vi) Super Lot 6 (2380m<sup>2</sup>)
- (c) 2 open space lots of 910m<sup>2</sup> and 641m<sup>2</sup>;
- (d) Earthworks;
- (e) Associated roads and civil works; and
- (f) Landscaping.

##### **A2**     *Staging*

The project shall be undertaken in three stages:

- (1) Stage 1A - Subdivision of 54 residential lots and 2 open space lots and associated roads and landscaping in the south of the site;
- (2) Stage 1B – Subdivision of 6 super lots, the extension of Montwood Drive and the construction of Main Street; and
- (3) Stage 1C - Construction of Hutley Drive and the western link for the playing fields adjacent to the site.

Staging can be varied with the written approval of the Director-General.

##### **A3**     *Project in Accordance with Plans*

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

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
06115-P3A 2K		Illustration P1 Stage 1 Project Application	12/08/08
6501-DA2	I	Illustration P2 Stage 1 Subdivision Plan	26/08/08

06115-P3A 13H		Illustration P3 Stage 1 Landscape Plan	14/08/08
		Illustration P4 Stage 1 Stormwater Concept Plan	15/08/08
		Illustration P5 Stage 1 Proposed Bulk Earthworks Plan	27/08/08
		Illustration P6 Stage 1 Design Contour Plan	26/08/08
		Illustration P7 Stage 1 Erosion and Sediment Control Plan	15/08/08
		Illustration P8 Stage 1 Erosion and Sediment Control Details	27/11/07
<b>Servicing Drawings prepared by Ardill Payne and Partners</b>			
T01-A-S		Services Layout Plan Stage 1	02/06/08
T01-B-S		Services Layout Plan Stage 1B	29/05/08
T01-C-S		Services Layout Plan Stage 1C	02/06/08
<b>Road Long Section Drawings prepared by Ardill Payne and Partners</b>			
T01-INT-01		Location Plan Intersection Layout	02/06/08
T01-A-R		Road Layout Plan Stage 1A	02/06/08
T01-A-L1		Road Longsection Stage 1A	02/06/08
T01-A-L2		Road Longsection Stage 1A	02/06/08
T01-B-R		Road Layout Plan Stage 1B	02/06/08
T01-B-L1		Road Longsection Stage 1B	02/06/08
T01-B-L2		Road Longsection Stage 1B	02/06/08
T01-C-R		Road Layout Plan Stage 1C	02/06/08
T01-C-L1		Road Longsection Hutley Drive Stage 1C	02/06/08

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in *Ballina Shire Development Control Plan – Exempt and Complying Development* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

#### **A4 Project in Accordance with Documents**

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

Environmental Assessment Documentation

- a) *Petrac Pacific Pines Estate Part 3A Application Environmental Assessment Report* prepared by GeoLINK on behalf of Petrac Pty Ltd, dated March, 2008;

Preferred Project Report Documentation

- b) *Preferred Project Report* prepared by GeoLINK and dated June 2008;

Additional Information

- c) Correspondence prepared by GeoLINK dated 18 August 2008;

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- d) Correspondence prepared by GeoLINK dated 29 August 2008; and
  - e) Correspondence prepared by GeoLINK dated 3 September 2008.

**A5      *Inconsistency between documents***

- (1) In the event of any inconsistency between:
  - a) The conditions of this approval and the Statement of Commitments (at Schedule 3), the conditions of this approval prevail;
  - b) The conditions of this approval and the drawings/documents referred to in conditions A3 and A4, the conditions of this approval prevail; and
  - c) Any drawing/document listed in conditions A3 and A4 and any other drawing/document listed in conditions A3 and A4, the most recent document shall prevail to the extent of the inconsistency.
- (2) Notwithstanding (1) if there is any inconsistency between this project approval and the concept plan approval for the Pacific Pines Estate concept plan, the concept plan approval shall prevail to the extent of the inconsistency.

**A6      *Duplex Lots***

Lots 45 and 53 are designated as duplex lots.

**A7      *Low-voltage power reticulation***

All low-voltage power reticulation within the site shall be provided underground.

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## **PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE FOR STAGE 1A**

### ***B1 Environmental Management Plan***

The Environmental Management Plan (EMP) referred to in condition B1 of the concept plan approval shall be submitted to and approved by the Department prior to the issue of a construction certificate for Stage 1A.

### ***B2 Design Modifications***

The following modifications shall be made to the subdivision:

- (1) The distance between the retained ecological corridor and the boundary of the residential lots is modified to be a minimum of 15m;  
Note: the retained ecological corridor generally encompasses the Freshwater Wetlands endangered ecological community
- (2) The boundary of super lot 5 is to be modified such that:
  - (a) There is a minimum distance of 15m between the lot boundary and the eastern extent of the water quality control pond (under average operating conditions); and
  - (b) The southern boundary does not encroach on the basin to the south of the water quality control pond.
- (3) The road based on road type I is to be modified so that it is consistent with the requirements for an 'access street' in the *Northern Rivers Local Government Development Design and Construction Manuals*.

The modified plans shall be submitted to the Department for approval prior to the issue of the construction certificate for Stage 1A.

### ***B3 Stormwater Management Plan***

The stormwater management plan required by condition B5 of the concept plan approval is to be approved by Council prior to issue of the Construction Certificate for Stage 1A.

### ***B4 Water Quality Control Pond***

The proponent shall submit the Works-as-Executed Drawings for the water quality control pond in accordance with DA2002/333 for Council's approval prior to the issue of a Construction Certificate for Stage 1A.

### ***B5 Erosion and Sediment Control Plan***

The Erosion and Sediment Control Plan (Illustration P7 of correspondence from GeoLINK dated 18 August 2008) shall be updated so that all control measures and diversion drains are outside of the retained ecological corridor (as shown on the plan required by condition B1(1) of the concept plan approval). The updated plan is to be submitted to and approved by Council prior to the issue of the Construction Certificate for Stage 1A. The approved plan shall be included in the Construction Management Plan required by condition E20 of this approval.

### ***B6 Intersection Analysis***

The proponent is to undertake a safety analysis of the intersection of Montwood Drive and North Creek Road in accordance with AUSTROADS *Guide to Traffic Engineering Practice* –

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*Part 5: Intersections at Grade.* Any upgrade required shall be undertaken in accordance with AUSTRROADS guidelines to the satisfaction of the Roads and Traffic Authority.

**B7      *Open Space***

The open space plan required by condition B16 of the concept plan approval is to be approved by Council prior to issue of the Construction Certificate for Stage 1A.

**B8      *Local Flooding***

The proponent must submit a schedule of finished levels for works, public infrastructure and buildings for the site and local flood contour mapping that is consistent with the findings of the Stormwater Management Plan (required by conditions B5 of the concept plan approval).

**PART C—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE FOR STAGE 1B**

**C1      *Compensatory Plan***

The Compensation Plan required by condition B3 of the concept plan approval is to be approved by the Department prior to the issue of a Construction Certificate for Stage 1B, or as otherwise agreed by the Department.

**C2      *Ecological Compensation***

The proponent shall prepare a brief for the research to be undertaken with the monies provided for ecological compensation (refer to condition B2 of the concept plan). The brief is to be prepared in consultation with the Department of Environment and Climate Change and Council and approved by the Department prior to the issue of a Construction Certificate for Stage 1B.

**C3      *Traffic Management Plan***

The traffic management plan required by condition B6 of the concept plan approval is to be approved by Council prior to issue of the Construction Certificate for Stage 1B.

**C4      *Fire Management Plan***

The Fire Management Plan required by condition B7 of the concept plan shall be approved by Council prior to the issue of a Construction Certificate for Stage 1B.

**C5      *Water Reservoir***

The details relating to the future water reservoir, required by condition B17 of the concept plan approval shall be approved by Council prior to the issue of a Construction Certificate for Stage 1B.

**C6      *Earthworks***

A detailed earthworks report shall be prepared (in accordance with Council's Subdivision Code and the *Northern Rivers Local Government Development Design and Construction Manuals*) including, but not limited to (where relevant):

- (1) The methods for winning material;
- (2) Movement and handling of soil;



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- (3) Mitigative works and measures;
  - (4) Haulage routes and rates;
  - (5) Equipment to be used.

The report shall include details of all earthworks to be undertaken as part of Stage 1B and 1C of this project approval and be submitted to and approved by Council prior to the issue of a Construction Certificate for Stage 1B.

## **PART D—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE FOR STAGE 1C**

### ***D1 Hutley Drive***

Hutley Drive is to be constructed for its full length and ultimate width within the site. Detailed designs are to be provided to Council for approval prior to the issue of the Construction Certificate for Stage 1C.

## **PART E—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE FOR ANY STAGE**

### ***E1 Detailed Design Drawings***

Engineering design drawings shall be submitted to and approved by Council under Section 138 of the *Roads Act 1993* for the road and drainage assets. The design shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of lodgement of the construction certificate) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the Manuals. Where details are not addressed in the Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

### ***E2 Temporary Turnaround Facilities***

Temporary turnaround facilities shall be provided at the appropriate stage boundaries of the road network. Such turnaround facilities shall include a single coat spray seal or as otherwise approved by Council's engineer. Details are to be included on the engineering design plans.

### ***E3 Acid Sulfate Soil Management Plan***

An 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 be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

### ***E4 Stormwater Implementation Strategy***

The proponent shall develop a Stormwater Implementation Strategy detailing the implementation of the Stormwater Management Plan (required by condition B5 of the concept plan approval). A detailed report shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

Note: Weldmesh pedestrian fencing to 1.6m high is required around the perimeter of stormwater assets where:

- (1) the depth of water is greater than 600mm;
- (2) The velocity depth product is greater than 0.6; or
- (3) The internal side slopes are steeper than 1:3.

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### **E5 Stormwater Works Process Strategy**

The proponent shall develop a Stormwater Works Process Strategy to maintain the performance of the stormwater system during the construction phase. This strategy shall include, but not be limited to the following:

- (1) The water quality performance targets to be achieved;
- (2) The proposed treatment system for each stage of the project;
- (3) The proposed water quality testing regime and frequency of site inspections; and
- (4) The reporting requirements to Council.

Details are to be approved by Council prior to issue of a Construction Certificate.

### **E6 Stormwater Treatment Assets**

Stormwater treatment assets shall be designed and constructed to the approval of Council's engineers and make due provision for all weather access and vehicle turning facilities. Detailed design plans are to be approved by Council prior to issue of a Construction Certificate.

### **E7 Stormwater**

The proponent shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The project shall be required to provide a suitable drainage system and demonstrate that the pre development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and approved by Council prior to issue of a Construction Certificate.

### **E8 Erosion and Sedimentation Control Measures**

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction Volume 1 (2004)* by Landcom. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

The proponent is to ensure:

- (1) All loose material does not wash into any roadways, gutters or watercourses;
- (2) Service trenches are to be backfilled as soon as practicable;
- (3) Downpipes are to be connected as soon as practicable;
- (4) Buffer vegetation zones are to be retained adjoining roadways, stormwater drains or watercourses;
- (5) Soil is not to be placed in the street gutter to provide access;
- (6) Suitable erosion barriers ie. Cloth fencing or hay bales are to be provided where soil may wash into street gutter, drains or watercourses; and
- (7) The erosion control systems are to be maintained throughout the building process and beyond by the owner where necessary.

### **E9 Earthworks**

Earthworks shall be carried out in accordance with *AS 2870-1996 Residential Slabs and Footings Code* and *AS 3798-1996 Guidelines for Earthworks for Commercial and Residential Developments*. Details of bulk earthworks, road levels and associated drainage are to be

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included on the engineering design plans submitted to Council prior to the issue of a Construction Certificate.

#### **E10 Driveway Access**

Driveway access design is to be in accordance with AS 2890.1:2004 with regard to grade and site visibility. The design plans are to be approved by Council prior to the issue of the Construction Certificate.

#### **E11 Water Supply**

Water supply shall be provided to the project in accordance with the Stage 1 Servicing Plans at Appendix G of the Preferred Project Report. The Servicing Plans shall be updated for the approved subdivision layout. The design shall comply with the requirements of the *Northern Rivers Local Government Development Design and Construction Manuals* (as current at the time of lodgement of Construction Certificate application) and the minimum requirements of Council's *Water Reticulation Specification 2004* (as current at the time of lodgement of Construction Certificate application). Engineering design drawings are to be approved by Council prior to the issue of the Construction Certificate.

#### **E12 Dual Reticulation**

Dual reticulation shall be provided to the project generally in accordance with the Stage 1 Servicing Plans at Appendix G of the Preferred Project Report. The Servicing Plans shall be updated for the approved subdivision layout. The design shall comply with the minimum requirements of Council's *Water Reticulation Specification 2004* (as current at the time of construction works commencing). Engineering design drawings are to be approved by Council prior to the issue of the Construction Certificate.

#### **E13 Sewer Connection**

Sewerage services shall be provided to the project in accordance with the Stage 1 Servicing Plans at Appendix G of the Preferred Project Report. The Servicing Plans shall be updated for the approved subdivision layout and the system shall be designed without the need for a sewer pumping station. The design shall comply with the minimum requirements of the NSW Department of Commerce design criteria as set out in the *Manual of Practice – Sewer Design*. Design plans are to be approved by Council prior to the issue of the Construction Certificate.

#### **E14 Sewer Gravity Mains**

Sewer gravity mains are not to exceed a final design depth of 3.5 metres unless otherwise approved by Council's engineer.

#### **E15 Sewer Easements**

Easements are to be provided over all sewer mains in accordance with Council's *Subdivision Code* (as current at the time of commencement of construction works). Details are to be approved prior to issue of the Construction Certificate.

#### **E16 List of Public Infrastructure**

In connection with the "Works-as-Executed" drawings the proponent shall submit a listing of all road, stormwater and sewer assets generated by the project. The format of the list shall conform to the proforma in Council's *Subdivision Code* (as current at the time).

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### **E17     *Utilities and Public Works***

- (1) The proponent shall identify (including, but not limited to the position and level of service) all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas that are associated with, and/or adjacent to the site, or are likely to be affected by any activity associated with the project..
- (2) The proponent shall consult with the relevant provider of the utilities identified in condition E17(1) and make arrangements to adjust and/or relocate their services as required. The cost of any such adjustment and/or relocation of services shall be borne by the proponent.

Details are to be provided to the Certifying Authority prior to the issue of a Construction Certificate

### **E18     *Landscape Plan***

The proponent shall submit a detailed landscape plan to Council for approval, prepared in accordance with Policy Statement No. 6 of *Ballina Shire Council Development Control Plan No. 1 – Urban Land*. The plan is to show the following details:

- (1) mature height, location, quantity and species of all plantings;
- (2) soil conditions;
- (3) planting and maintenance program;
- (4) location of existing and proposed utility services;
- (5) location and materials for pedestrian footpaths; and
- (6) location and details of park furniture and play equipment.

### **E19     *Traffic Control during Construction***

All traffic control during construction shall be in accordance with the Roads and Traffic Authority – *Traffic Control at Work Sites*. A Traffic Control Plan shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

### **E20     *Construction Management Plan***

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be approved by Council. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) erosion and sediment control (as required by condition B5),
- (4) traffic management,
- (5) noise and vibration management,
- (6) waste management, and
- (7) flora and fauna management.

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## **PART F—PRIOR TO COMMENCEMENT OF WORKS FOR ANY STAGE**

### ***F1      Notice of commencement***

The proponent is to submit to Council at least two (2) days prior to the commencement of any works notification of the date of commencement of work.

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## **PART G—DURING CONSTRUCTION FOR ANY STAGE**

### ***G1 Inspections***

- (1) Inspection and approval of the road works within the road reserve is required by Council's engineer at the time of excavation and prior to the sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the proponent shall be required to remove the unsuitable material for a further depth of 700mm and replace with approved sand fill.
- (2) Council's engineer shall inspect and approve construction works associated with the connection of the project to Council's water and sewer mains. The proponent shall contact Council's engineer at the time of excavation and connection.
- (3) Council's Engineer must inspect all assets to be dedicated to Council and approve all construction works in accordance with Council's Subdivision Code and Construction manuals. The proponent shall contact Council's Engineer at the relevant hold points during construction.

### ***G2 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.

### ***G3 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.

### ***G4 Contact Telephone Number***

The Proponent shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the project.

### ***G5 Burning of Vegetation***

No burning of cleared vegetation or other waste is to occur on site during the construction phase of the project. All waste should be removed to a licensed waste management facility, unless Council grants prior written approval.

### ***G6 Protection of existing vegetation***

During construction works all vegetation and/or trees to be retained (as identified in the Environmental Management Plan required by condition B1 of the concept plan approval) are to be protected with temporary fencing and flagging tape. Fencing is to be established a

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minimum of 5 metres outside of the identified critical root zone areas and/or drip line zone which ever is greater.

**G7      *Revegetation of Disturbed Areas***

All disturbed and exposed areas are to be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the project.

**G8      *Vegetation Removal and Pruning***

- a)      Vegetation pruning is to be kept to a minimum and is to be conducted in a manner that ensures the ongoing environmental integrity of the area. All pruning activities are to conform to Australian Standard AS4373-2007 Pruning of Amenity Trees. All vegetation pruning is to be overseen by a qualified arborist.
- b)      All vegetation removal is to be undertaken in a manner that ensures the ongoing integrity of the vegetated canopy to be retained and/or adjacent native plants.

**G9      *Damage to be Reinstated***

Any damage caused to public infrastructure (identified in condition E17 of this approval) as a result of the project shall be repaired to the satisfaction of Council, or relevant utility provider and within such period as specified by the Council, or relevant utility provider.

**G10     *Storage of Chemicals***

A secure, covered and bunded area shall be provided on site for the storage of chemicals, including chemical flocculant.

**G11     *Waste Management***

All construction waste (including soil and fill) is to be transported and disposed of to an approved waste facility. If alternative disposal methods are sought, details are to be provided to and approved by Council.

**G12     *Discharge of Sediment***

The discharge of sediment and waste materials including concrete waste, paint, plaster and the like material into any roadway, natural or constructed drainage system, watercourse and/or adjoining land is not permitted at any time.

**G13     *Erosion and Sediment Control***

All erosion and sediment control measures, as designed in accordance with Condition E8, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works 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.

**G14     *Topsoiling***

At the commencement of each section of civil works, all topsoil within the road formation of that section is to be stripped and stockpiled and used for topsoiling all disturbed areas including road cut and fill batters.

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### **G15    *Pollutant incident***

In the event of a pollution incident on the premises, that has caused, is causing, or is likely to cause harm to the environment, the proponent shall report the incident to Council immediately as they, or their onsite representative, become aware of the incident.

### **G16    *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 shall 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,
- (9) A water truck designed to suppress dust from exposed surfaces and access roads shall be available at the site or in the immediate vicinity. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation,
- (10) Suitable covering and protection shall be provided to all stockpiles to ensure that no material is removed by wind from the site, causing a nuisance to neighbouring properties, and
- (11) All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.

### **G17    *Hours of Operation***

The hours of operation for construction (including delivery of materials to and from the site) are to be limited to within the following times:

- |      |                  |                  |
|------|------------------|------------------|
| (i)  | Monday to Friday | 7.00am to 6.00pm |
| (ii) | Saturday         | 8.00am to 1.00pm |

No construction activities are to take place on Sundays or public holidays.

### **G18    *Construction Noise Objective***

The construction noise objective for the Project is to manage noise from construction activities (as measured by a  $L_{Aeq\ (15\text{minute})}$  descriptor) so it does not exceed the rating background level by not more than 10dB(A).



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Background noise levels are those identified in the Environmental Noise Impact Assessment (Appendix E to Preferred Project Report). The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective shall be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

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) shall be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

### ***G19 Construction Noise Management***

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 Noise and Vibration 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 shall only be installed where approved in the Construction Noise and Vibration Management Plan.

### ***G20 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects***

If any archaeological relics are uncovered during the course of the work in any stage of the project, then all works shall cease immediately in that area and the NSW Heritage Office contacted.

### ***G21 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects***

If Aboriginal cultural objects are uncovered due to the construction activities, all works shall halt in the immediate area to prevent any further impacts to the find or finds. A qualified archaeologist and Aboriginal community representatives shall be contacted to determine the significance of the find(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS; managed by the Department of Environment and Climate Change) and the management outcome for the site included in the information provided to the AHIMS. Aboriginal community representatives shall be consulted in developing and implementing management strategies for all sites, with all necessary information required for informed consent being given to the representatives.

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## **PART H- PRIOR TO SUBDIVISION CERTIFICATE FOR STAGE 1A**

### ***H1 Monetary Contributions***

Prior to the issue of a Subdivision Certificate for Stage 1A, total payment to Council of non-refundable monetary contribution is to be made towards the provision of public services and amenities, which are required as a result of the project. These contributions are required in accordance with s94 of the Act, and Council's adopted Contribution Plans. The relevant plans are:

- Ballina Shire Contributions Plan 2008; and
- Ballina Road Contribution Plan.

The current amounts required are:

- **\$62,160** for community facilities;
- **\$174,552** for roads.

Note: These rates are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contribution Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

### ***H2 Water Supply Contributions***

Prior to this issue of a Subdivision Certificate for Stage 1A, the proponent will have obtained, or at least be eligible to obtain, a certificate of compliance for development. To be eligible, all necessary water supply, sewerage and stormwater infrastructure would be completed and the proponent will have paid the following:

- **\$170,912** for the augmentation of water supply mains and storage within Ballina Shire,
- **\$232,232** for the augmentation of sewerage headworks.

Note: These developer charges are levied in accordance with Section 64 of the *Local Government Act 1993* and Section 306 of the *Water Management Act 2000*. The developer charges are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contributions Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

### ***H3 Infrastructure Development Servicing Contribution***

Prior to the issue of the subdivision certificate for Stage 1A payment is required to Council (as collection agent for Rous Water), of a non-refundable monetary contribution towards the provision of infrastructure development servicing in accordance with Section 64 of the *Local Government Act 1993* and Section 306 of the *Water Management Act 2000* for an amount of:

- **\$201,600** for the amplification and provision of water supply infrastructure to meet the demands generated by new development on headworks and distribution works.

Note: This rate is reviewed periodically and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Development Servicing Plan may be inspected at the Council Chambers, however all enquiries in relation to the Rous Water Supply Development Servicing Plans should be directed to Rous Water (Lismore).

### ***H4 Restrictive Covenants***

A suitable restriction as to user (pursuant to section 88B of the *Conveyancing Act 1919*) is to be placed over the title of lots 53 and 54 requiring maximum indoor sound levels within future

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dwellings to accord with the requirements of *AS/NZS 2107:2000 'Acoustics – Recommended Design Sound Level and Reverberation Times for Building Interiors*.

Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

#### ***H5      Dedication of Open Space***

The Proponent shall make necessary arrangements for the dedication of the open space areas to Council with the subdivision.

#### ***H6      Development Consent DA2004/1113***

Prior to the release of the subdivision certificate for Stage 1A, the proponent shall complete the Stage 1 works approved by development consent DA 2004/1113 (as modified) ~~and then surrender the consent~~.

### **PART I - PRIOR TO SUBDIVISION CERTIFICATE FOR STAGE 1B**

#### ***I1      Monetary Contributions***

Prior to the issue of a Subdivision Certificate for Stage 1B, total payment to Council of non-refundable monetary contribution is to be made towards the provision of public services and amenities, which are required as a result of the project. These contributions are required in accordance with s94 of the Act, and Council's adopted Contribution Plans. The relevant plans are:

- Ballina Shire Contributions Plan 2008; and
- Ballina Road Contribution Plan.

The current amounts required are:

- **\$6,660** for community facilities; and
- **\$18,702** for roads.

Note: These rates are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contribution Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

#### ***I2      Water Supply Contributions***

Prior to this issue of a Subdivision Certificate for Stage 1B, the proponent will have obtained, or at least be eligible to obtain, a certificate of compliance for development. To be eligible, all necessary water supply, sewerage and stormwater infrastructure would be completed and the proponent will have paid the following:

- **\$18,312** for the augmentation of water supply mains and storage within Ballina Shire,
- **\$24,882** for the augmentation of sewerage headworks.

Note: These developer charges are levied in accordance with Section 64 of the *Local Government Act 1993* and Section 306 of the *Water Management Act 2000*. The developer charges are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contributions Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

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### ***I3 Infrastructure Development Servicing Contribution***

Prior to the issue of the subdivision certificate for Stage 1B payment is required to Council (as collection agent for Rous Water), of a non-refundable monetary contribution towards the provision of infrastructure development servicing in accordance with Section 64 of the *Local Government Act 1993* and Section 306 of the *Water Management Act 2000* for an amount of:

- **\$21,600** for the amplification and provision of water supply infrastructure to meet the demands generated by new development on headworks and distribution works.

Note: This rate is reviewed periodically and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Development Servicing Plan may be inspected at the Council Chambers, however all enquiries in relation to the Rous Water Supply Development Servicing Plans should be directed to Rous Water (Lismore).

### ***I4 Earthworks***

The land is to be filled in accordance with Ballina Shire Council's development consent DA1999/248. The "Works-as-Executed" drawings are to be submitted to Council prior to the issue of the Subdivision Certificate.

### ***I5 Finished Floor Levels***

A suitable restriction as to user is to be placed over the title of the 6 super lots restricting all proposed buildings to be erected with a finished floor level of 2.65 metres AHD or above.

Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

### ***I6 Dedication of Open Space***

The proponent shall make necessary arrangements for the dedication of the open space areas to Council with the subdivision.

A deed of agreement shall be prepared with Council to allow the proponent to carry out management and maintenance works on this land identified by the Environmental Management Plan (refer to condition B1 of the concept approval) following construction, prior to Council maintaining this area.

### ***I7 Ecological Compensation***

The first payment of \$30,000 for ecological research (referred to in condition B2 of the concept plan) shall be paid to the selected research body prior to the issue of the subdivision certificate for stage 1B. Evidence of the payment shall be submitted to the Department.

Two additional payments shall be made on or before the anniversary of the first payment. Evidence of these subsequent payments will also be given to the Department following payment.

## **PART J - PRIOR TO SUBDIVISION CERTIFICATE FOR STAGE 1C**

### ***J1 Development Consent DA2004/1113***

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete all the works approved by development consent DA 2004/1113 (as modified) and then surrender the consent.

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**J2      *Development Consent DA1999/248***

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete the works approved by development consent DA 1999/248 and then surrender the consent.

**J3      *Development Consent DA2002/333***

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete the works approved by development consent DA 2002/333 and then surrender the consent.

**PART K—PRIOR TO SUBDIVISION CERTIFICATE FOR ANY STAGE****K1      *Part 4A Certificate***

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Subdivision Certificate shall be obtained.

**K2      *Dedication of Internal Roads***

All internal roads shall be constructed by the proponent and dedicated to Council as public roads.

**K3      *Street Lighting***

The proponent is responsible for the design and installation of public street lighting within the site. All street lighting shall be designed in accordance with AS/NZS 1158 and based on the installation of Country Energy Style 1 lanterns fitted with low energy bulbs. Engineering design plans and specifications shall be approved by Council. All street lighting is to be fitted with shields or yellow filters to minimise mosquito nuisance. All works shall be completed and commissioned in accordance with the approved plans prior to release of the Subdivision Certificate.

Note: If themed lighting is proposed, details of the proposed lighting mast and post are to be submitted to and approved by Council.

**K4      *Road Names***

Prior to the issue of a Subdivision Certificate, the proponent shall submit for Council's approval a list of proposed road names for all new roads created as a result of the subdivision. The proponent shall give consideration to the requirements of the Department of Lands document "Guidelines for the Naming of Roads".

**K5      *Road Signs***

The proponent is responsible for the installation of all road signage including street name signs. All road signs shall comply with the requirements of AS 1742, 1743 and 1744. All road signs shall be approved by Council's engineer prior to manufacture and installation.

**K6      *Access***

Documentary easements for access shall be created over the appropriate lots in the subdivision to provide for public access and created pursuant to Section 88B of the *Conveyancing Act 1919*.

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**K7 Services**

Documentary easements for services, drainage, support and shelter, use of plant, equipment, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, shall be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

**K8 Erection of Buildings**

Easements shall be created prohibiting the erection of buildings\structures over or adjacent to sewer and stormwater pipelines. The prohibition on the erection of buildings\structures shall extend horizontally on each side of the pipeline for a distance equal to the depth of the pipeline from the invert level to finished surface level. The minimum width of such easement shall be 3.0 metres. Details are to be in accordance with the policy "Building over Council Assets" and approved by council prior to issue of the Subdivision Certificate.

**K9 Bus Stops**

The proponent shall submit a design identifying the proposed location of bus shelters and bus stops within the project. Bus stops shall be provided at the proponent's cost, at approximately 400 m intervals or as otherwise approved by Council. Installation of the approved bus stops shall be completed prior to the release of the Subdivision Certificate.

**K10 Earthworks**

Certification from a suitably qualified practicing geotechnical engineer is to be provided to Council verifying that earthworks have been undertaken in accordance with *AS 2870-1996 Residential Slabs and Footings Code* and *AS 3798-1996 Guidelines for Earthworks for Commercial and Residential Developments* and that the land has adequate bearing capacity for building construction.

**K11 Civil works**

Construction of all approved water, sewer works and reclaimed water systems for this project are to be completed before a Certificate of Compliance is issued by Council under Section 21 of the *Local Government (General) Regulation 2005*. All water, sewer works and reclaimed water systems are to be completed with inspections and approvals given by Council for these works prior to issue of this Certificate.

**K12 Water Supply and Sewer Works**

The proponent shall complete all water supply and sewer works in accordance with the approved plans and in accordance with Council's *Subdivision Code* (as current at the time of construction works commencing). All works are to be approved by Council prior to issue of the Subdivision Certificate.

**K13 Stormwater Works**

Prior to the issue of a Subdivision Certificate certification is to be provided to Council that all stormwater works have been provided in accordance with the approved plans and the approved Stormwater Implementation Strategy (required by condition E4). This certification is to be provided by a registered certified practicing Civil Engineer competent in the field of stormwater design and familiar with all aspects of the project.

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#### **K14     *Management of Stormwater Controls***

Prior to issue of a Subdivision Certificate, Council is to be provided with a comprehensive maintenance and management plan for all stormwater controls and assets to be inherited by Council. This management plan is to be prepared by a suitably qualified registered practicing engineer experienced in stormwater management.

#### **K15     *Survey marks***

Where permanent survey marks have been placed or existing survey marks have been connected to the Australian Height Datum under the requirements of the Surveying Regulation 2006, those values are to be provided to Council and shown on the Works-as-Executed drawings.

#### **K16     *Landscaping***

Prior to the release of a Subdivision Certificate, the site is to be landscaped in accordance with the approved landscape plan. The landscaping is to include the turfing of the site and the undertaking of appropriate plantings generally in accordance with Policy Statement No. 6 of *Ballina Shire Council Development Control Plan No. 1 – Urban Land*.

#### **K17     *Maintenance Bond***

Prior to the issue of a Subdivision Certificate, the following maintenance bond shall be paid to Council which includes the amount of Goods and Services Tax payable. The bond is subject to review and may vary at the actual time of payment:

**Maintenance Bond:** Equal to 5% of the estimated cost of the civil works (min \$1000)

Note: A maintenance period of 12 months will apply from the date of issue of a Subdivision Certificate. The bond may be used by Council to maintain, repair or rectify works that are failing. The bond will be refunded upon completion of the 12 month period should no such failure occur.

#### **K18     *Electricity and Telecommunications***

Certification is to be provided that electricity and telephone services have been provided to each lot to the satisfaction of the relevant authorities.

#### **K19     *Drainage***

Certification by a Registered Surveyor is required, prior to Subdivision Certificate, that all services and domestic drainage lines are wholly contained within the respective lots.

#### **K20     *Signage***

Suitable signage shall be erected around all civil drainage infrastructure (eg. ponds, dams, weirs, basins, creeks) prohibiting swimming and notifying that the water is untreated and therefore, unsafe. Details are to be approved by Council prior to issue of a Subdivision Certificate.

#### **K21     *Works As Executed Drawings***

Prior to the release of the Subdivision Certificate, the proponent shall submit to Council a copy of a 'Works-as-Executed' (WAE) drawings and a computer disk copy of the WAE information. Separate drawings shall be provided for sewer and stormwater drainage. Such drawings are to be at a scale of 1:500 on transparent material. The proponent shall be

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deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

In connection with the "Works-As-Executed" drawings the proponent shall submit an electronic listing of all road, stormwater, water and sewer assets generated by the project. The proponent shall be required to contact Council's Engineer to obtain an electronic copy of the information required and the template to be used.



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**SCHEDULE 3**

**MP 07\_0026**

**63 LOT SUBDIVISION**

**MONTWOOD DRIVE, LENNOX HEAD**

**STATEMENT OF COMMITMENTS**

**(SOURCE: CORRESPONDENCE DATED 18 AUGUST 2008)**