

# Project Approval

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

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

These conditions are required to:

- Adequately mitigate the environmental impact of the project and maintain the principles of ecologically sustainable development;
- Adequately mitigate the potential bushfire hazard and provide for the safety of future residents on site, create workable open space, and maintain the ecological integrity of the site and adjacent Bilambil Creek; and
- Appropriately manage potential impacts from construction of the project to minimise environmental effects and protect the environment.



The Hon Anthony Kelly MP  
**Minister for Planning**

Sydney,

- 8 JUL 2010 2010

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## SCHEDULE 1

### PART A — TABLE

<b>Application made by:</b>	Jackson International Pty Ltd
<b>Application made to:</b>	Minister for Planning
<b>Project Application Number:</b>	08_0034
<b>The site:</b>	Lots 2 and 3 DP244652 - bounded by Uriup Road, Bilambil Creek, Hogan's Road and Bilambil Road, Bilambil Village.
<b>Local Government Area:</b>	Tweed
<b>For the carrying out of:</b>	Residential subdivision
<b>Type of development:</b>	Project Application
<b>Determination made on:</b>	
<b>Date approval is liable to lapse:</b>	5 years from the date of determination

### PART B—NOTES RELATING TO THE DETERMINATION OF PROJECT NO. 08\_0034

#### ***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 project but do not form a part of this approval.

***Council*** means Tweed Shire Council

***Department*** means the Department of Planning or its successors

***DECCW*** means Department of Environment, Climate Change and Water

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**Director-General** means the Director-General of the Department, or delegate

**Environmental Assessment** means the *Environmental Assessment Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated August 2008 (revised June 2009)

**Minister** means the Minister for Planning, or delegate

**Principal Certifying Authority** has the same meaning as in Part 4A of the Act

**Certifying Authority** has the same meaning as in Part 4A of the Act

**Preferred Project Report** means the *Preferred Project Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated December 2009; includes the *Addendum to the Preferred Project Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated March 2010; and includes further information and plans submitted to the Department by Plateau Nominees Pty Ltd on 7 June 2010.

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

**Proponent** means Jackson International 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

## SCHEDULE 2

### CONDITIONS OF APPROVAL

#### MAJOR PROJECT NO. 08\_0034

#### PART A—ADMINISTRATIVE CONDITIONS

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

(1) The project is described in detail below:

- 48 residential lots ranging in size from 476m<sup>2</sup> – 704m<sup>2</sup>;
- One lot for a proposed commercial use (childcare centre) (Lot 50) – 1,300m<sup>2</sup>;
- Dedication of foreshore as public reserve, and re-vegetation of the area adjacent to Bilambil Creek (Bilambil Creek Foreshore, Lot 52) – 8,160m<sup>2</sup>;
- Provision of embellished open space – 2,625m<sup>2</sup>;
- Creation of an easement for electricity transmission lines 40m wide over the existing overhead transmission lines through the site adjacent to Hogan's Road;
- Construction of proposed roads within the project and upgrading of certain surrounding roads to Council standard;
- Construction of a sewer pumping station on-site (Lot 53 - 200m<sup>2</sup>); and
- Earthworks, re-contouring and preparation of the site, including vegetation clearing and weed removal, establishment of water, stormwater and other services.

The project will be constructed in one stage.

Note 1: A Development Application for the construction and operation of the proposed childcare centre will be lodged separately.

Note 2: The approval and construction of future dwellings will occur at a later stage.

##### **A2 Project Amendments**

The project shall be amended as follows:

- (1) Proposed Lot 1 is to be deleted and the area (467m<sup>2</sup>) incorporated into proposed Lot 2 to give a final area for Lot 2 of 1,132m<sup>2</sup>.

Note: it is the intention of this condition (A2(1)) to enable the Asset Protection Zone to be entirely provided for within private property, and provide a greater width to ensure the ongoing ecological integrity of the riparian zone (Lot 52).

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

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

Engineering Drawings prepared by CLA Consultants Civil & Structural Engineers			
Drawing No.	Revision	Name of Plan	Date
08418 001	F	Site plan, Drawing Schedule & Notes	25/11/2009
08418 002	G	General Arrangement	25/11/2009

08418 003	F	Earthworks Plan	25/11/2009
08418 003A	B	Earthworks – Isopache Details	25/11/2009
08418 004	E	Earthworks Cross Sections, Sheet 1 of 2	29/6/2009
08418 005	E	Earthworks Cross Sections, Sheet 2 of 2	29/6/2009
08418 006	C	Road #1 Longitudinal Sections	15/3/2009
08418 007	C	Road #2 Longitudinal Sections	15/3/2009
08418 008	E	Water Quality Management construction Phase	25/11/2009
08418 009	D	Construction Management Plan	15/3/2009
08418 010	E	External Sewer Rising Main Alignment	29/6/2009
08418-012	-	Lot 50 Earthworks Concept	24/2/2010
<b>Landscape Drawings prepared by Donald Irving and Andrew Gold Landscape Architecture</b>			
<b>Drawing No.</b>	<b>Amendment</b>	<b>Name of Plan</b>	<b>Date</b>
A1.DD.3	B	Landscape Concept Plan	24/2/2010
<b>Survey Drawings prepared by B &amp; P Surveys Consulting Surveyors</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
17154 D	G	Proposed Subdivision Plan, Sheet 2 of 3	15/2/2010
17154 D	J	Proposed Subdivision Plan, Sheet 3 of 3	2/6/2010
17628 D	B	Proposed Layout of Proposed Lots 2,3,9,10,29 and 30, Sheet 1 of 2	15/5/2009
17628 D	B	Proposed Layout of Proposed Lots 2,3,9,10,29 and 30, Sheet 2 of 2	15/5/2009
17532 D	C	Showing Indicative Building Envelopes, Sheet 1 of 2	17/3/2009
17532 D	C	Showing Indicative Building Envelopes, Sheet 2 of 2	17/3/2009

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

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

- (1) *Environmental Assessment Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated August 2008 (revised June 2009); and
- (2) *Preferred Project Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated December 2009, including *Addendum to the Preferred Project Report* (and all associated Annexures) prepared by Darryl Anderson Consulting Pty Ltd on behalf of Jackson International Pty Ltd, dated March 2010; and including further information and plans submitted to the Department by Plateau Nominees Pty Ltd on 7 June 2010.

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### **A5 Inconsistency between documents**

In the event of any inconsistency between:

- (1) The conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail to the extent of the inconsistency;
- (2) Any document listed in Condition A4, the most recent document shall prevail to the extent of the inconsistency; and
- (3) The conditions of this approval and the proponent's Statement of Commitments, the conditions of this approval prevail to the extent of the inconsistency.

### **A6 Building Code of Australia**

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

### **A7 Certification**

- (1) Construction Certificate: Prior to the commencement of subdivision works, the proponent must obtain the appropriate Construction Certificate(s) for the proposed works from either the Council or an accredited certifier.
- (2) Subdivision Certificate: Prior to registration of the plan of subdivision of the project, under Division 3 of Part 23 of the *Conveyancing Act 1919*, a Subdivision Certificate pursuant to Section 109C(1)(d) of the EP&A Act must be obtained from the Council.

### **A8 Lapsing of Approval**

In order that the approval remains relevant to the planning intent for the area, the approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval unless the proponent has demonstrated to the satisfaction of the Director-General that work has physically commenced.

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## PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### *Further design details*

#### **B1 Sewerage Infrastructure**

- (1) Prior to the issue of any construction certificate the proponent is required to demonstrate to the satisfaction of Council that satisfactory arrangements have been made to enable reticulated sewerage to be connected to the site and the adjacent community hall (Lot 1 DP937212).

Note 1: Additional connections for other properties in Bilambil Village will be the subject of further request, negotiation and approvals between the relevant landowner(s) and the owner/operator of the system.

Note 2: Condition E10 of this approval requires sewerage reticulation to be physically in place prior to the issue of subdivision certificate.

- (2) The satisfactory arrangements required by condition B1(1) shall ensure all necessary infrastructure including sewerage pump stations, sewer rising mains, gravity mains, odour and septicity control facilities, storage and generator sets as may be necessary is provided.

Note: The rising main may only be located in sections of road reserve if Council determines that such location will not adversely affect the stability, functionality and operation of the road. The portion of Scenic Drive from Bilambil Heights to Gollan Drive is not available for the route of the rising main.

- (3) The proponent shall ensure that the sewerage system is designed to minimise the risk of overflow and shall be subject to the same risk assessment criteria as applied to Council's Sewerage System in accordance with the *Licensing Guidelines for Sewage Treatment Systems* published by the NSW Environment Protection Authority, July 2003, or any subsequent version thereof.

#### **B2 Environmental Management**

- (1) The *Vegetation Rehabilitation Plan* for the riparian zone (Lot 52) prepared by James Warren and Associates and dated December 2009, shall be amended by a person qualified in ecological restoration to include the following:
  - (a) An Asset Protection Zone of at least 10m in accordance with *Planning for Bushfire Protection 2006* shall be provided for within the new Lot created by condition A2(1);
  - (b) Planting density across the site shall be a maximum of 1.5m spacing for both tree and shrub species;
  - (c) To monitor the success of the *Vegetation Rehabilitation Plan* in achieving its specific objectives for the riparian zone, appropriate performance indicators shall be established for the following:
    - (i) Effectiveness of weed treatment measures (including Camphor laurel),
    - (ii) Native species richness and diversity,
    - (iii) Percentage canopy cover of native species,
    - (iv) Survival rate of planted stock and naturally recruited native species,
    - (v) Growth rates of rainforest plantings and cover,
    - (vi) Colonisation and use of the site by native fauna,
    - (vii) Impacts of access by pedestrians and vehicles, and
    - (viii) Stream bank erosion.

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- (d) Monitoring and reporting against the objectives and performance criteria shall utilise at least three permanent quadrats and one floating quadrat of dimensions 5m x 5m, or as otherwise agreed by the Director-General;
  - (e) The Implementation Strategy in section 9 of the above report shall be amended to include the continuation of primary weed treatment for Camphor Laurels (*Cinnamomum camphora*) within the riparian zone (Lot 52) up to and including Years two (2) and three (3);
  - (f) Detail of the staged control of Camphor Laurel (*Cinnamomum camphora*) shall be provided for the entire site;
  - (g) Detail of measures proposed to reduce the potential impact of the development on native fauna (e.g. platypus) inhabiting or passing through Bilambil Creek adjacent to the site;
  - (h) Low-growing species on the slope batter adjacent to the internal road shall be replaced with appropriate sub-tropical rainforest species, including, but not limited to, those species listed in section 4.2 of the *Vegetation Rehabilitation Plan*; and
  - (i) Detail of appropriate low-growing native species to be planted within the 40m wide easement for the 110kV overhead transmission line required by condition E7.
- (2) The amended *Vegetation Rehabilitation Plan* required by condition B2(1) shall be approved by the Director-General prior to the issue of a construction certificate for the project.

### **B3 Detailed Landscape Design**

- (1) Detailed landscape plans must be submitted for Lots 51 (the local park) and 53 (the site of the sewage pumping station), all internal streetscapes, and the abutting streetscapes of Bilambil Road, Hogan's Road, and Uriup Road. All landscape plans will require approval from Council and the Director-General prior to the issue of construction certificate. Landscape plans must be generally consistent with Tweed Shire Council's *DCP 2008 – Section A5 Subdivision Manual*, Council's *Development Design Specification D14 – Landscaping Public Space*, and the *Playground Audit for Tweed Shire Council 2009*. The plan is to show:
- (a) The existing site features, including north point, access roads and any trees to remain in the vicinity located to scale and identified by botanical and common names.
  - (b) Proposed and existing site services, including but not limited to water, gas, electricity, sewer, and stormwater and any easements on or adjacent to the site.
  - (c) View lines to and from the project and details of pedestrian access and circulation areas within and around the project, including seating, fences, gates, decorative features, retaining or noise walls etc.
  - (d) Existing and proposed ground levels (shown as spot heights and/or contours over the site and direction and degree of slope) indicating the site boundaries, and the base of the trees proposed to be planted or that are to be retained (if applicable).
  - (e) Design details of the playground and central activity zone, paving, edging, fencing, screening, panels and other hard landscape components.

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- (f) A detailed plant schedule (consistent with the *Vegetation Rehabilitation Plan* required by condition B2) and plan at a scale of 1:100 to 1:1000 indicating the location of all proposed plantings and any existing vegetation to be retained on the site. The plan is to include a detailed plant schedule which shall include:
    - (i) species listed by botanical and common names, with at least 95% of plants constituting local native species;
    - (ii) specific locations, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.
  - (g) Maintenance methods including the use of drip irrigation and mulching or groundcovers to reduce bare soils areas and including a maintenance schedule for a minimum period of one year after completion of landscaping on site.
- (2) No structures or signs are to be erected on public land or road reserves to define an entry statement to the project.

#### **B4 Development Specifications**

- (1) The project is to be carried out generally in accordance with Council's *Development Control Plan Part A5 - Subdivision Manual* and Council's relevant Development Design and Construction Specifications.
- (2) Notwithstanding any other condition of this approval, separate Construction Certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works subject to compliance with the following conditions.
- (3) Prior to the issue of a Construction Certificate for civil works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Certifying Authority for approval:
  - a. copies of compliance certificates relied upon.
  - b. four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - i. earthworks
    - ii. roadworks/furnishings
    - iii. stormwater system
    - iv. water supply works
    - v. sewerage works
    - vi. landscaping works
    - vii. erosion and sediment control plans
    - viii. location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

#### **B5 Contaminated Land**

- (1) The proponent shall comply with all recommendations of the report *Detailed Site Investigation: Lots 2 & 3 on DP244652 Uriup Road, Bilambil, NSW* prepared by Precise Environmental, and dated 6 August 2008.
- (2) If any asbestos and /or other contaminating material is identified as a consequence of further investigation works carried out in accordance with the recommendations of the detailed Site Investigation Report then a Remediation Action Plan and Site Validation Report are to be prepared by an appropriately qualified contaminated land consultant and submitted to Council for consideration and approval.

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- (3) No structures are to be erected on any land the subject of a Remediation Action Plan (and Site Validation Report) without the approval of the Certifying Authority.

#### **B6 Earthworks**

- (1) No soil, sand, gravel, clay or other materials shall be disposed of off-site unless otherwise approved by the relevant authority.
- (2) No earthworks are to be undertaken within 5m of the high bank of Bilambil Creek.
- (3) Site regrading must be undertaken in accordance with *Tweed Shire Council's Development Design Specification D6 – Site Regrading*.
- (4) The site shall be filled (where required) such that it complies with Council's *Development Control Plan Part A3 – Development of Flood Liable Land* and graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system.

#### **B7 Acid Sulfate Soil Management Plan**

A detailed Acid Sulfate Soil Management Plan for the entire site 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 Certifying Authority prior to the issue of a Construction Certificate.

#### **B8 Stormwater and Drainage Works Design**

- (1) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the project prepared by a suitably qualified person(s). This plan shall be prepared for the entire site and shall:
  - (a) Provide detailed modelling for both stormwater quality and quantity that:
    - (i) Demonstrates that the project will not concentrate or lead to an increase in the volume or rate of flow of stormwater discharged from the site over and above pre-development flow conditions; and
    - (ii) Demonstrates that the project will not increase the average annual load of key stormwater pollutants (e.g. Total Suspended Solids, Total Phosphorus, Total Nitrogen etc.) in stormwater discharged from the site over and above pre-development conditions. In particular the project shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan*;
  - (b) Address the effects of the stormwater discharge from the project into the Bilambil Creek receiving environment. The SWMP will include, but not be limited to, impacts on the stability of creek banks, water quality and flow, and impacts on the riparian zone (Lot 52) adjacent to Bilambil Creek.
  - (c) Provide mitigation measures in the design, and placement of the stormwater system in order to minimise ecological impacts, scour, bank erosion, construction effects etc
  - (d) Incorporate water sensitive urban design principles and (where practicable), integrated water cycle management initiatives. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention/detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- (2) The stormwater systems, including road drainage, inter-allotment drainage and overland flow paths identified in the SWMP, shall be designed by a qualified

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practicing Civil Engineer in accordance with the requirements of *Tweed Shire Council's Development Design Specifications D5 - Stormwater Drainage Design and D7 - Stormwater Quality*. Detailed engineering plans shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for the Civil Works.

- (3) Where subdivision drainage discharges to existing public drainage infrastructure, engineering calculations by a qualified professional must demonstrate adequate excess capacity to accept the increased flows for both minor and major storm events, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

#### **B9 Stormwater Monitoring Plan**

- (1) In order to demonstrate that the stormwater system satisfactorily complies with the intended design and the requirements of:
  - (a) *Tweed Shire Council's Development Control Plan 2008: Development Design Specifications D5 - Stormwater Drainage Design and D7 - Stormwater Quality*;
  - (b) The *Tweed Urban Stormwater Quality Management Plan*; and
  - (c) The approved SWMP required by condition B8

A Stormwater Monitoring Plan shall be submitted to the Director-General for approval prior to issue of the Construction Certificate for the first stage of the project. The overall objective of the Stormwater Monitoring Plan shall be to ensure water quality in Bilambil Creek is not diminished as a result of the project.

#### **Roadworks**

##### **B10 General Road and Pavement Design**

- (1) Notwithstanding any other conditions in this approval, all roads required under this approval shall be designed in accordance with the relevant requirements of Council. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to and approved by Council prior to the issue of a Construction Certificate.
- (2) Road and footpath pavement design detail shall be submitted to and approved by Council prior to the issue of a Construction Certificate for such works.

##### **B11 Regulatory Signage**

All traffic regulatory signage and line marking is to be shown on the Construction Certificate application for the project.

##### **B12 Site Specific Road and Pavement Design**

- (1) 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 internal roads.
- (2) Internal Roads #1 and #2 shall provide a 7.5m wide pavement (with barrier kerb and gutter) within a 14.5m road reserve.
- (3) Hogan's Road, Urliup Road and Bilambil Road are to be upgraded generally in accordance with Drawing 001 Revision F and Drawing 002 Revision G, prepared by CLA Consultants, dated 25 November 2009.

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- (4) Urliup Road shall be re-graded by approximately 800mm to achieve acceptable sight distance to the project.
  - (5) The project's intersection with Hogan's Road shall provide a Type BA right turning treatment in accordance with Figure 6.37 from *Austroads - Part 5*. Minor vegetation clearing will be required in order to achieve a satisfactory level of sight distance for the proposed intersection.
  - (6) The project's intersection with Urliup Road is required to be of an Urban Standard.
  - (7) Direct vehicular access onto Urliup Road and Hogan's Road shall be prevented for all residential allotments fronting those roads.

### **B13 Driveways**

The construction Certificate is to demonstrate that all lots can be serviced by a complying driveway generally in accordance with Council's Development Control Plan A2 – *Site Access and Parking Code* and Development Design Specification – *Driveway Access to Property* – Part 1, June 2004.

### **B14 Footpaths**

- (1) A 1.2m wide concrete footpath on a compacted base shall be constructed in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013 in the following locations:
  - (a) on one side of all internal roads (Road #1 and Road #2); and
  - (b) along Hogan's Road, Bilambil Road and Urliup Road as shown on Drawing 002 Revision G, prepared by CLA Consultants, dated 25 November 2009.
- (2) A 4.0m wide concrete footpath on a compacted base shall be constructed in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013 between allotments 10, 11, 12, 50. This pathway shall also be designed to convey Q100 overland flow to Bilambil Road without impacting on neighbouring property.
- (3) No footpaths or engineering structures are to be constructed within 20m of Bilambil Creek.

### **B15 Evacuation Access**

In accordance with Council's Development Control Plan A3 – *Development of Flood Liable Land*, all residential allotments in the project must have adequate access to a high level flood evacuation route above the Probable Maximum Flood event. Details of the flood evacuation route must be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

### **Construction Management**

#### **B16 Site Management Plan**

Prior to the commencement of works a Site Management Plan (SMP) shall be submitted to and approved by the Certifying Authority. The SMP shall include, but not be limited to, details of the following matters:

- a. hours of work, in accordance with condition D12;
- b. a liaison officer to be appointed by the Proponent to consult with potentially affected property owners before, during and post-construction works. A 24-hour contact telephone number shall be provided to all adjoining owners and occupants;

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- c. traffic and pedestrian management, in accordance with the requirements of condition B17;
  - d. noise and vibration management, in accordance with the requirements of condition B18;
  - e. construction waste management (including the proposed method and location of excess spoil from bulk earthworks);
  - f. erosion and sediment control;
  - g. dust management;
  - h. dewatering management (if applicable), in accordance with the requirements of condition B16; and
  - i. flora and fauna management during construction.

Note: other conditions in this approval may specify relevant requirements for any of the matters listed in B15a-i above.

### ***B17 Dewatering Management***

The site shall not be dewatered, unless a Dewatering Management Plan is prepared and submitted as part of the SMP required under condition B16. Any Dewatering Management Plan shall specifically consider any potential off-site impacts as a result of the dewatering operations and contain mitigation controls to effectively treat any discharge waters to prevent offsite pollution of any receiving waters.

### ***B18 Traffic & Pedestrian Management Plan***

A Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA's publication *Traffic Control at Works Sites Version 2* shall be prepared by an RTA accredited person(s), and shall be submitted for approval as part of the Site Management Plan required under condition B15. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- a. ingress and egress of vehicles to the site,
- b. loading and unloading, including construction zones,
- c. predicted traffic volumes, types and routes,
- d. pedestrian and traffic management methods,
- e. Washing facilities for trucks on the site (including a vehicle shakedown area), and
- f. Hours of access to the site.

This Plan shall be incorporated into the overall SMP required by condition B16.

### ***B19 Noise and Vibration Management Plan***

A Noise and Vibration Management Plan to detail measures to minimise noise emissions associated with the construction of the project shall be submitted for approval as part of the Site Management Plan required under condition B15. The Plan must include, but not necessarily be limited to:

- a. identification of all major sources of noise that may be emitted as a result of the construction of the project;
- b. specification of appropriate noise criteria as it applies to a particular activity;
- c. identification and implementation of best practice management techniques for minimisation of noise and vibration emissions;
- d. procedures for the monitoring of noise emissions; and
- e. a description of the procedures to be undertaken if any non-compliance is detected.

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## **PART C—PRIOR TO COMMENCEMENT OF WORKS**

### **C1 Notification**

- (1) Adjoining and affected residents shall be provided with a minimum 72 hours notice prior to the commencement of works.
- (2) The Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of all works on the site for the project.
- (3) The 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 Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

### **C2 Retaining Walls**

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

### **C3 Translocation of *Macadamia tetraphylla***

The translocation of the Rough-Shelled Bush nut tree (*Macadamia tetraphylla*) to the riparian zone adjacent to Bilambil Creek (Lot 52) shall occur:

- (1) as per the requirements of the approved *Translocation Plan (as Amended)* prepared by James Warren and Associates, and dated May 2009;

prior to bulk earthworks commencing on-site.

### **C4 Erosion and Sediment Control**

Prior to commencement of work on the site for each stage of the project, all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

### **C5 Existing Services**

The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Certifying Authority advised of its location and depth prior to commencing works for the project and ensure there shall be no conflict between the project and existing infrastructure prior to start of any works.

### **C6 Aboriginal Cultural Heritage Induction Training**

All construction personnel involved in initial ground surface disturbance activities within the area of the dune system shall undergo an Indigenous Cultural Heritage Induction before commencing any construction activities. The Induction should be presented by an appropriately qualified person and provide specific information in relation to the processes to be followed should any Indigenous items be uncovered as well as the types of and identification criteria for cultural heritage material that may be uncovered.

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**C7 Public Risk Liability**

- (1) The proponent shall provide to the Principal Certifying Authority copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.
- (2) Where the construction work is on or adjacent to public roads, parks or drainage reserves the project shall provide and maintain all warning signs, lights, barriers and fences in accordance with *AS 1742 (Manual of Uniform Traffic Control Devices)*. The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

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## **PART D—DURING CONSTRUCTION**

### **D1 Construction Management**

Notwithstanding any conditions in this approval, all works are to comply with the appropriate Australian Standards, the approved Site Management Plan, and any WorkCover NSW requirements.

### **D2 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 Certifying Authority.

### **D3 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 Contractor and Certifying Authority;
- (2) The approved hours of work;
- (3) The name of the site manager and/or liaison officer, the Proponent's name, a 24-hour contact phone number for any inquiries or complaints; and
- (4) A statement that unauthorised entry to the site is not permitted.

### **D4 Site Security**

The site should be secured by suitable fencing during construction works to prevent unauthorised access.

### **D5 Protection of Trees**

All trees on the site that are not approved for removal or translocation 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.

### **D6 Bulk earthworks**

- (1) Notwithstanding anything else in this approval, proposed earthworks shall be carried out in accordance with *AS 3798 – 2007: Guidelines on Earthworks for Commercial and Residential Developments* and in accordance with the recommendations contained within the *Geotechnical Engineering Assessment* report, prepared by Border Tech and dated 29 July 2008.
- (2) The earthworks shall be monitored by a suitably qualified Geotechnical Engineer to a Level 1 standard in accordance with *AS 3798 - 2007: Guidelines on Earthworks for Commercial and Residential Developments*.
- (3) Any uncontrolled fill material identified on-site in accordance with *AS 2870 – 1996 Residential Slabs and Footing – Construction*, shall be inspected by a suitably qualified Geotechnical Engineer during the stripping stage of the earthworks to determine its suitability for re-use.
- (4) During filling operations,
  - (a) All fill and cut batters shall be contained wholly within the subject land.

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- (b) All topsoil to be re-spread and the site to be grassed and landscaped including battered areas.

Note: It is the proponent's responsibility to ensure that all imported fill material bought to the site is free of any contaminants that may result in the site becoming contaminated to an extent unacceptable for the proposed use.

## ***Erosion and Sediment Management***

### ***D7 Erosion and Sediment Control Measures***

All erosion and sediment control measures, as designed in accordance with the approved Site Management Plan 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.

### ***D8 Construction Stormwater Management***

All activities on the site shall be undertaken with the objective of preventing discharge of sediment-laden contaminated stormwater off-site, where practicable. The proponent shall ensure adequate measures are taken to prevent sediment-laden contaminated stormwater from adversely affecting the water quality of Bilambil Creek.

### ***D9 Disposal of Seepage and Stormwater***

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

### ***D10 Dust Control Measures***

All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from leaving the site, including traffic-generated dust. Should such visible dust emissions occur at any time, the proponent shall identify and implement all practicable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during demolition.

### ***D11 Surrounding Road Carriageways***

The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the proponent's expense and any such costs are payable prior to the issue of a Subdivision Certificate.

## ***Noise and Vibration Management***

### ***D12 Hours of Work***

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

- (1) between 7:00 am and 5:00 pm, Mondays to Saturdays inclusive;
- (2) no work is to be undertaken on Sundays and public holidays.

Works may be undertaken outside these hours where:

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- (3) the delivery of materials is required outside these hours by the Police or other authorities;
  - (4) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
  - (5) the work is approved through the Site Management Plan; and
  - (6) residents likely to be affected by the works are notified of the timing and duration of these works as soon as possible.

### **D13 Construction Noise Management**

The Proponent shall minimise noise emissions from plant and equipment operated on the site in relation to the project by installing and maintaining, wherever practicable, efficient silencers, low-noise mufflers (residential standard) and replacement of reversing alarms on vehicles with alternative silent measures.

### **D14 Rock Breaking**

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 Site Management Plan:
  - (a) 9.00 am to 12.00 pm, Monday to Saturday;
  - (b) 2.00 pm to 5.00 pm Monday to Saturday; and
- (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 Site Management Plan.

### **D15 Vibration Criteria**

- (1) 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)*.
- (2) The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

### **D16 Use of Crushing Plant Machinery**

The use of crushing plant machinery, mechanical screening or mechanical blending of materials must be subject to a separate development application with Council.

## **Heritage**

### **D17 Aboriginal Cultural Heritage**

Should any future works associated with the site uncover evidence of any unexpected Aboriginal archaeological site or relic, all work likely to affect that site or relic must cease immediately. Temporary fencing must be erected around the find and the material must be identified by an independent and appropriately qualified archaeologist. The DECCW must be notified as soon as possible who will then advise of the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of DECCW.

Note: The provisions of the *National Parks and Wildlife Act 1974* (as amended) state that it is illegal to damage, deface or destroy a relic without written permission of the Director of the Service. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration

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to a site or to archaeological material may be prosecuted under the *National Parks and Wildlife Act 1974*, as amended.

**D18 *Finding of Human Remains***

If human remains are located during the project, all works must halt in the vicinity of the find must cease immediately in order to prevent any further impact on the find. The NSW Police and DECCW are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the NSW Police consider the site not an investigation site for criminal activities, then works shall not recommence in the vicinity of the find until written consent is granted from the DECCW. In the event that a criminal investigation ensues, works shall not recommence in the vicinity of the find until written consent is granted from the NSW Police.

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## 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 Act for the project.

### **E2 Civil works**

- (1) All civil works approved with the Construction Certificate(s) are to be completed to the satisfaction of the Certifying Authority prior to issue of a Subdivision Certificate for each stage of the project. All works are to be completed in accordance with Council's Subdivision Code (as current at the time of commencement).
- (2) Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of Council's *Development Control Plan A5 - Subdivisions Manual* and Council's *Development Design and Construction Specification, D13 - Engineering Plans*.
- (3) The plans are to be endorsed by a Registered Surveyor or a Consulting Engineer Certifying that:
  - (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
  - (b) the plans accurately reflect the Works as Executed.

Note: Where works are carried out by Council on behalf of the proponent it is the responsibility of the proponent to prepare and submit works-as-executed plans.

### **E3 Damage to Council or Public Authority Assets**

- (1) Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the project shall be repaired in accordance with Council's adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate for each stage of the project.
- (2) The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the site as a result of construction works associated with the approved project, is to be met in full by the Proponent.

### **Monetary Contributions**

#### **E4 Section 94 Monetary Contributions**

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

Section 94 Plan No. 4 – Tweed Road Contribution Plan, December 2009		
No. of Trips	\$ per Trip	Sub-total
312	1,829	570,648
Section 94 Plan No. 5 – Local Open space, November 2009 (Structured)		
Equivalent Tenements (ET)	\$ per ET	Sub-total
47	602	28,294

<b>Section 94 Plan No. 11 - Shirewide Library Facilities</b>		
47	688	32,336
<b>Section 94 Plan No. 12 - Bus Shelters:</b>		
47	60	2,820
<b>Section 94 Plan No. 13 - Environ Cemetery:</b>		
47	120	5,640
<b>Section 94 Plan No. 18 - Council Administration Offices &amp; Technical Support Facilities</b>		
47	1,759.9	82,715.3
<b>Section 94 Plan No. 26 – Shirewide Regional Open Space (Casual)</b>		
47	1,031	48,457
<b>Section 94 Plan No. 26 – Shirewide Regional Open Space (Structured):</b>		
47	3,619	170,093
<b>TOTAL CONTRIBUTIONS PAYABLE per ET</b>	<b>7,879.9</b>	
<b>SUB-TOTAL</b>	<b>370,355.3</b>	
<b>TOTAL (including Road Contributions)</b>	<b>941,003.3</b>	

(2) Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of *Tweed Road Contribution Plan No. 4 - Version 5.1.1* shall be made prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$$\text{\$Con}_{\text{TRCP - Heavy}} \quad \text{heavy haulage contribution}$$

and:

Prod.        projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist.        average haulage distance of product on Shire roads (trip one way)

\\$Unit        the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin.        Administration component is to be 5% - see Section 6.5

(3) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Tweed Shire 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 the project.

(4) Works in Kind

The proponent may apply to Council for the consideration of the dedication and embellishment of the riparian zone (Lot 52) to be credited against the total contributions identified in condition E4(1) above.

(5) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

**E5 Section 64 Monetary Contributions**

- 1) Contributions plans relevant to the project include:
  - a) Development Servicing Plan for Sewerage Services, 2007
  - b) Development Servicing Plan for Water Supply Purposes, 2007
- 2) Prior to the endorsement of a Subdivision Certificate for the project, the Proponent must pay, in proportion to the additional lots created, the following contributions to Council pursuant to Section 64 of the *Local Government Act 1993*.

Water Supply		Sewerage Services	
Calculation	TOTAL	Calculation	TOTAL
10,709 x 47ET	503,323	5,146 x 49ET	252,154

- 3) These charges to remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.
- 4) A copy of the Section 64 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Note: A certificate of compliance under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the project have been made with the Tweed Shire Council.

**E6 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 the project and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 *Earth Retaining Structures* and are structurally sound.

**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 inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.

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- (c) Documentary easements for access must be created over the appropriate lots in the project 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.

Note: 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.

- (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) A Restriction as to User burdening Lots 9, 10, 11, 12: External glazing of first floor living areas and bedrooms (if constructed) along the north, east and south facing dwelling facades be constructed of a minimum of 6.38mm laminate glass in acoustic frames to achieve an Rw rating of 29. All habitable rooms shall have provision of air conditioning or sealed mechanical ventilation, to allow occupants to close windows and doors and still have a supply of fresh air. The installed plant shall not reduce the acoustic performance of the building shell.
- (b) A Restriction as to User burdening Lots 14, 16, 18, 20, 22, 24, 26, and 28: All habitable first floor living areas and bedrooms (if constructed) along the north, east and south facing dwelling facades shall have provision of air conditioning or sealed mechanical ventilation, to allow occupants to close windows and doors and still have a supply of fresh air. The installed plant shall not reduce the acoustic performance of the building shell.
- (c) A Restriction as to User burdening Lots 51, 52, 53, 30, and 31: All dwellings shall be located outside the 40m wide easement for the 110kV overhead transmission line identified in the Proposed Subdivision Plan, Sheet 3 of 3, Drawing 17154 D Revision G, dated 15 February 2010 and, where practicable, as far as possible from the 110kV overhead transmission line.
- (d) A Restriction as to User burdening Lots 30 and 31: Future dwellings shall be constructed so as to minimise exposure to Electro-Magnetic Fields within the home. Where practicable, the measures identified in Table 7 of the *Preliminary Assessment of Potential Impact of Electric and Magnetic Fields from Overhead Power Lines*, prepared by HMC Environmental Consulting, dated July 2008 shall be incorporated into construction.
- (e) A Public Positive Covenant in relation to each lot to be sewered by a pressure sewer system shall be created pursuant to Section 88B of the *Conveyancing Act 1917* to provide Tweed Shire Council with rights to construct, install and maintain the pressure sewerage infrastructure. The terms of the Covenant shall be drawn up to the satisfaction of Council.
- (f) A Restriction as to User within the new Lot created by condition A2(1) allowing for the creation of a 10m wide Asset Protection Zone to the riparian vegetation on the adjacent public reserve (Lot 52). 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.
- (g) A Restriction as to User preventing direct vehicular access onto Urliup Road and Hogan's Road for all residential allotments fronting such roads
- (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.

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## **Infrastructure and Services**

### **E8 Utilities – Telephone and Electricity Services**

- (1) The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate. Such connections, and any extension of services required to the project, are to be carried out at full cost to the Proponent.
- (2) Prior to the issue of a Subdivision Certificate, written evidence must be provided from the local telecommunications authority that satisfactory arrangements have been made for the provision of their respective services to all relevant lots in the project.
- (3) Prior to the issue of a Subdivision Certificate, the proponent shall provide written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity has been provided adjacent to the front boundary of each relevant allotment. The reticulation includes the provision of electric street lights installed to the relevant Australian Standard. Such lights are to be capable of being energised following a formal request by Council.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

### **E9 Utilities – Water Supply**

Prior to issuing a Subdivision Certificate, reticulated water supply (including household connections) shall be provided to all lots within the project in accordance with Council's Development Control Plan Part A5 - *Subdivisions Manual*, Councils Development Design and Construction Specifications and the Construction Certificate approval.

Note: Fire Hydrants spacing, sizing and pressures shall comply with Council's DCP – Section A5 – Subdivision Manual, associated Development Design and Construction Specifications and AS2419.1-2005.

### **E10 Sewerage Reticulation**

- (1) Prior to issuing a Subdivision Certificate, outfall sewerage reticulation (including household connections) shall be constructed and provided to all appropriate lots within the project and to the boundary of the adjacent Bilambil Community Hall (Lot 1 DP 937212) in accordance with Council's Development Control Plan Part A5 - *Subdivisions Manual*, Councils Development Design and Construction Specifications and the Construction Certificate approval. The proponent must provide evidence to the satisfaction of Council that all relevant consents and approvals required to construct and install the sewerage system for the project have been obtained.
- (2) For each lot serviced by the pressure sewer system, a capital contribution of \$14,805 shall be provided to Council for the installation of individual pressure sewer pump stations at a suitable location within each lot at the time of construction of the dwelling on that lot.

Note: Where a subdivision is to be seweraged by a pressure sewer system, Council prefers to take a capital contribution at subdivision stage for the installation of pressure sewer pumps, to be installed by Council on each property when the dwelling is being constructed. These units will be Council's property and hence responsibility to maintain. The subdivider will provide the rising main and connection points as part of the subdivision works.

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### **E11 Sewage Pumping Station**

- (1) An accurate plan of the sewage pumping station site (Lot 53) shall be submitted to Council at 60 days prior to lodgment of the Application for Subdivision Certificate to allow the land to be classified.
- (2) The site of the sewage pumping station (Lot 53) shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.

### **Dedication of Land**

#### **E12 Dedication of Open Space**

- (1) The Proponent shall make necessary arrangements for dedication of the local park (Lot 51) and the riparian zone (Lot 52) within the project to Council prior to release of the Subdivision Certificate.
- (2) Proposed Lot 51 (the local park) shall be suitably embellished at no cost to Council in accordance with Council's *Development Design Specification D14: Landscaping Public Space*, the recommendations of the *Playground Audit for Tweed Shire Council 2009*, and the approved detailed landscaping plans required by Condition B3. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.

Note: the proposed location of the playground in the very south-east corner of Lot 51 abutting Hogan's Road and Bilambil Road may require additional safety measures to be installed in accordance with the risk management approach adopted in the *Playground Audit for Tweed Shire Council 2009* e.g. a safety barrier and additional landscaping.

#### **E13 Dedication of Internal Roads**

All internal roads shall be constructed by the proponent and dedicated to Council as public roads prior to issue of a Subdivision Certificate. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

#### **E14 Street Names**

The proponent shall obtain the written approval of Council for the proposed road/street names. These must be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate. The proposed road/ street names are to comply with Council's *Road Naming Policy*.

Note: Application for road naming shall be made on Council's Property Service Form and be accompanied by the prescribed fees as tabled in Tweed Shire Council's current *Revenue Policy - Fees and Charges*.

#### **E15 Landscaping**

Prior to the issue of a Subdivision Certificate, the site is to be landscaped in accordance with the approved detailed landscape plans required by condition B3.

#### **E16 Noise Mitigation**

Prior to the issue of a Subdivision Certificate the proponent shall construct a 1.8m high acoustic barrier along the frontage of Bilambil Road and around Lot 50. The barrier shall be constructed generally in accordance with:

- (1) The recommendations contained in section 6.2 of the *Environmental Noise Impact Report* prepared by Carter Rytenskiid Group, dated 7 July 2009;

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- (2) Sketch No.1 of Appendix A of the *Environmental Noise Impact Report* prepared by Carter Rytenskild Group, dated 7 July 2009; and
  - (3) The Landscape Concept Plan dated 24 February 2010 and any further detail regarding acoustic treatment set out in the detailed landscape plans required by condition B3.

Note: it is the intention of this condition to ensure amenity for all future residents in dwellings along the Bilambil Road frontage and surrounding proposed Lot 50 is not adversely affected by road traffic and other noise from any potential future use of Lot 50.

### ***E17 Contaminated Land***

A Subdivision Certificate shall not be granted for the site unless a Site Validation Report (if required), has been approved by the Certifying Authority.

### ***E18 Geotechnical Certification***

Prior to issue of a Subdivision Certificate, the proponent is to provide certification from a suitably qualified person(s) that all lots in the project are suitable for building construction purposes, classifying the soil type, and addressing the adequate bearing capacities of the soils in accordance with AS 2870, *Residential Slabs and Footings Construction*. The submission shall include soil compaction and bearing capacity test results. Particular attention is to be given to the south-western portion of the site where existing uncontrolled fill has been identified.

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## **PART F—ONGOING CONDITIONS POST-SUBDIVISION COMPLETION**

### ***Environmental Management***

#### ***F1 Macadamia tetraphylla***

The proponent shall undertake monitoring and management of the *Macadamia tetraphylla* species on-site for a period of no less than five (5) years from the date of commencement of this approval, in accordance with all recommendations of the *Translocation Plan (as Amended)* prepared by James Warren and Associates, and dated May 2009.

#### ***F2 Vegetation Management***

- (1) The proponent shall undertake vegetation management actions, monitoring and reporting in accordance with all recommendations of the approved Vegetation Rehabilitation Plan required by condition B3 for a period of no less than five (5) years from the date of issue of the first Construction Certificate.
- (2) Upon completion of the five (5) year monitoring and reporting programme, a final monitoring report assessing the success of the Vegetation Rehabilitation Plan against its objectives shall be submitted to the Director-General for approval. If the final report is deemed to be unsatisfactory, the proponent shall undertake such actions as are necessary to remedy the issue.
- (3) The proponent shall undertake a programme of regular weed control to keep the site largely free of weeds until at least 80% of the lots are sold.

#### ***F3 Stormwater Quality Monitoring***

In order to confirm the efficacy of the stormwater management system with regard to its effects on Bilambil Creek, the proponent is required to submit an annual stormwater monitoring report (as per the requirements of condition B9) to the Director-General for a period of five (5) years from the date of issue of the first Construction Certificate. If the overall objective of the Stormwater Management Plan is not being met to the satisfaction of the Director-General, the proponent shall undertake any measures necessary to achieve that objective.

#### ***F4 Noise Monitoring***

In order to confirm the efficacy of the acoustic barrier required by condition E16, the proponent shall provide a noise monitoring report to the satisfaction of the Director-General no more than one (1) year after the construction of the first dwelling on any affected lot within the site. Should the report identify that the noise mitigation measures are not sufficient to ensure residential amenity is preserved for the affected dwellings, the proponent shall install all reasonably required noise mitigation measures to the satisfaction of the Director-General.

Note: it is the intention of this condition to ensure residential amenity for all future dwellings within the development is not unduly adversely affected by road traffic and other external noise.

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## ADVISORY NOTES

### **AN1 Compliance Certificate - Water Management 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 site is located within.

The Proponent 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 certifying authority prior to occupation.

### **AN2 Requirements of Public Authorities for Connection to Services**

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

### **AN3 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.

### **AN4 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.

### **AN5 Commonwealth Environment Protection and Biodiversity Conservation Act 1999**

The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponent's responsibility to consult the Department of the Environment, Water, Heritage and the Arts 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

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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.

***AN6 Compliance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

The Proponent is advised that future applications for development consent, complying development certificates or construction certificates on the site may be subject to BASIX requirements in accordance with the above policy. For further information refer to the BASIX website - [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).

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**SCHEDULE 3**

**08\_0034**

**RESIDENTIAL SUBDIVISION**

**URLIUP ROAD, HOGANS ROAD, BILAMBIL ROAD – BILAMBIL VILLAGE**

**STATEMENT OF COMMITMENTS**

Source: Proponent's Preferred Project Report

REVISED DRAFT STATEMENT OF COMMITMENTS – ENVIRONMENTAL MANAGEMENT, MITIGATION & MONITORING					
Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
1. Erosion and Sediment Control (Construction Phase)	<p>1.1 Minimise the escape of wind-borne particles by complying with the Erosion and Sedimentation Control Plan prepared by Campbell Leonard &amp; Associates (<b>Annexure 19</b>)</p> <p>1.2 Minimise mobilisation of sediments by complying with the Erosion and Sedimentation Control Plan, prepared by Campbell Leonard &amp; Associates (<b>Annexure 19</b>)</p>	<p>1.1.1 Minimise disturbance area</p> <p>1.1.2 Promptly rehabilitate disturbed areas</p> <p>1.1.3 Regularly water disturbed areas of the site</p> <p>1.2.1 Erect sedimentation fences, inlet filters, hay bale barriers and diversion drains.</p> <p>1.2.2 The controls shall be maintained during the construction phase and defects liability period.</p>	<p>To ensure that air pollution does not exceed DECC standards</p> <p>To ensure that water quality in receiving waters is not decreased in quality by sediment and nutrient loads</p>	<p>Ongoing during the construction phase</p> <p>All sediment and erosion control measures to be in place prior to commencing site work or demolition.</p>	<p>Any complaints to be recorded in the Complaints Register and valid claims to be acted on within one hour. Details to be provided in the monthly Compliance Report.</p> <p>Visual monitoring shall be carried out by the Project Manager on a weekly basis and after each storm event. Details to be contained in the monthly Compliance Report.</p>
2. Permanent Stormwater Management	<p>2.1 Ensure that water quality in Bilambil Creek is not diminished.</p>	<p>2.1.1 Install permanent water quality control measures in accordance with the Stormwater Management Plan prepared by Campbell Leonard &amp; Associates (<b>Annexure G</b>).</p>	<p>To ensure that water quality in receiving waters is not decreased in quality by sediment and nutrient loads</p>	<p>All permanent stormwater measures to be in place prior to the issue of a Subdivision Certificate.</p>	<p>Project Manager to ensure compliance.</p>
3. Site Safety	<p>3.1 Minimise risk of injury to contractors and employees.</p>	<p>3.1.1 The principal contractor shall prepare a Health and Safety Plan and submit the Plan to the Project Manager for approval. The contractor shall comply with the approved Plan.</p> <p>3.1.2 The principal contractor shall prepare a Traffic and Pedestrian Management Plan for approval by the Project Manager.</p>	<p>To ensure that Occupational Health and Safety Act 2000, Occupation Health and Safety Regulation 2001 and relevant Codes of Practices are complied with.</p> <p>To ensure that traffic and pedestrian management during the construction phase complies with the RTA Traffic Control Worksite Manual and AS1742.3</p>	<p>Prior to commencing any work on the site.</p> <p>Prior to commencing work on site.</p>	<p>Monitoring and reporting incidents to be recorded in the Incident Register and details to be included in the monthly Compliance Report.</p> <p>Work Cover to be notified in appropriate circumstances.</p> <p>As above.</p>
4. Acid Sulphate Soil	<p>4.1 Minimise disturbance of acid sulphate soils by limiting excavations to approximately 2 metres in depth.</p>	<p>4.1.1 Comply with the provisions of the Acid Sulphate Soils Manual (ASSMAC, 1998) and the Acid Sulphate Soil Assessment prepared by Border Tech (<b>Annexure 18</b>) of the Environmental Assessment including the preparation of a Management Plan prior to work commencing.</p>	<p>To ensure that significant volumes of acid sulphate soils are not disturbed.</p>	<p>Prior to the issue of a Construction Certificate.</p>	<p>Project Manager to monitor excavation and address compliance in the monthly Compliance Report.</p>

REVISED DRAFT STATEMENT OF COMMITMENTS – ENVIRONMENTAL MANAGEMENT, MITIGATION & MONITORING					
Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
5. Contamination	5.1 Minimise disturbance of potentially contaminated soils by complying with the Detailed Site Investigation, Precise Environmental, (Annexure 13) of the Environmental Assessment.	<p>5.1.1 A general site clean-up is required. This includes the removal of all general waste, rubbish and disused building materials that are present on the site.</p> <p>5.1.2 Additional test pits are to be excavated either prior to or during the construction phase of the development in the southern filled area of the site. If asbestos and/or other potentially contaminating material and/or rubbish are identified in the test pits (particularly in the vicinity of TP6 &amp; TP10), the material must be excavated, stockpiled, classified and removed to landfill. This work is to be supervised by an appropriately qualified contaminated land consultant.</p>	To ensure that any contaminated soil is suitably remediated.	Prior to erection of any permanent structures over the contaminated material.	Compliance to be addressed in the monthly Compliance Report.
6. Construction of New Building and Subdivision Works	6.1 Minimise noise, dust and vibration and amenity impacts by generally complying with the Construction Noise Management Plan and the Health and Safety Plan.	<p>6.1.1 The Contractor shall prepare a Construction Noise Management Plan in accordance with the recommendations contained in Section 6.3 of Annexure 12 of the Environmental Assessment.</p> <p>6.1.2 The Contractor shall prepare a Construction Management Plan.</p>	<p>To mitigate adverse construction impacts.</p> <p>To designate suitable areas for a construction compound including workers' amenities and employee parking.</p> <p>Ensure that small areas only are disturbed at any one time and are promptly revegetated following completion of earthworks.</p> <p>Ensure that appropriate dust abatement measures are implemented during the construction phase including appropriate use of water carts.</p> <p>Ensure that vibratory compaction equipment is not used within 100m of existing dwelling houses.</p>	<p>During construction.</p> <p>Prior to the issue of a Construction Certificate.</p>	<p>Project Manager to address compliance in monthly Compliance Report.</p> <p>As above.</p>

REVISED DRAFT STATEMENT OF COMMITMENTS – ENVIRONMENTAL MANAGEMENT, MITIGATION & MONITORING					
Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
7. Operational Noise	7.1 To minimise impacts on the amenity of the neighbourhood.	7.1.1 Comply with the recommendations contained in Section 6.2 of Annexure 12 of the Environmental Assessment. 7.1.2 Comply with the provisions of Section 6.1 of Annexure 12 of the Environmental Assessment.	Prior to construction commencing ensure that an inspection of existing buildings adjacent to the construction site is completed and any existing faults are documented. Ensure that waste materials suitable for recycling are stockpiled and suitably disposed of. To mitigate adverse amenity impacts.	Prior to the issue of a Construction Certificate and ongoing.	As above.
8. Comply with the Building Code of Australia including Part J	8.1 Ensure that the design and operation of the building achieved energy efficiency and water efficiency requirements.	8.1.1 Comply with the Building Code of Australia including Part J relating to Commercial Buildings	To achieve energy efficiency objectives.	Prior to issue of a Construction Certificate.	Project Manager to address compliance in monthly Compliance Report.
9. Landscaping and Embellishment	9.1 Soften the visual impact of the development and surrounding hardstand areas	9.1.1 Carry out site landscaping in accordance with the Site Landscaping Plan at Annexure B.	To soften the appearance of the development and hardstand areas and provide a more attractive pedestrian environment and car parking area.	Prior to the issue of a final Occupation Certificate for the building.	Project Manager to address compliance in monthly Compliance Report.
10. Traffic	10.1 To ensure that safe and efficient vehicular and pedestrian access is provided to the site.	10.1.1 Construct all proposed streets and pathways to Tweed Shire Council's standards. 10.1.2 Manage traffic during the construction phase in accordance with the Construction Management Plan prepared by CLA Consultants (Annexure G). 10.1.3 Comply with the recommendations contained in the Traffic Impact Assessment Report (Annexure 21) of the Environmental Assessment.	To comply with relevant standards.	Prior to the issue of a Subdivision Certificate.	Project Manager to address compliance in monthly Compliance Report.
11. Utilities	11.1 Protect existing utilities in an adjacent to the site.	11.1.1 Clearly mark the location of underground utilities with permanent markers. 11.1.2 Notify relevant utility authorities if any damage occurs.	To ensure that infrastructure is not damaged.	Prior to commencing construction.	Project Manager to address compliance in monthly Compliance Report.

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Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
		<p>11.1.3 Ensure that power, telephone, water and sewer reticulation is provided to each allotment in accordance with Tweed Shire Council's normal policies.</p> <p>11.1.4 Rehabilitate disturbed areas including public roads.</p>	<p>To ensure that appropriate services are provided to each new lot.</p> <p>To ensure that any damaged areas are repaired.</p>	<p>Prior to the issue of a Subdivision Certificate.</p> <p>Prior to the issue of a Subdivision Certificate.</p>	<p>Project Manager to address compliance in monthly Compliance Report.</p> <p>Project Manager to address compliance in monthly Compliance Report.</p>
12. Sewer	12.1 Connect to the existing Council sewerage reticulation system at Pump Station No. 2018 or an alternative location approved by Council.	<p>12.1.1 The developer will construct a sewer pump station on the development site to the satisfaction of the Director of Community Services and Natural Resources.</p> <p>12.1.2 The developer will construct a Sewer Rising Main (SRM) from the new pump station to Sewer Pump Station (SPS) 2018 at Gollan Drive, including necessary odour control and septicity control facilities.</p> <p>12.1.3 In the event that the Sewer Network Analysis currently being undertaken by Tweed Shire Council determines that a connection point south west of Sewer Pump Station 2018 (closer to the development site) is feasible, the sewer rising main shall be connected to that point, to the satisfaction of the Director of Community Services and Natural Resources.</p> <p>12.1.4 On completion of the Sewer Network Analysis and the subsequent identification of the appropriate connection point, the Developer shall provide to Tweed Shire Council for approval the proposed route for the construction of the required pipework.</p>	<p>To ensure that all lots are connected to the reticulated sewerage system in accordance with the details contained in <b>Annexure G</b>.</p>	<p>Prior to the issue of a Subdivision Certificate.</p>	<p>Project Manager to address compliance in monthly Compliance Report.</p>

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Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
		<p>The alignment of the sewer rising main shall be located either in the road reserve or in easements on adjacent private land along the Bilambil Road section. The rising main may only be located in sections of the road reserve if the Director of Engineering and Operations determines that such location will not adversely impact on the stability, functionality and operation of the road. The Developer shall address such issues to the satisfaction of the Tweed Shire Council in association with the application for the issue of a Construction Certificate.</p> <p>The remaining sections to Gollan Drive SPS 2018 will not be via Scenic Drive but rather through a route to be agreed with Tweed Shire Council prior to the issue of a Construction Certificate to Councils SPS 2038 at the north eastern end of Peninsula Drive. Then via the foreshore of Terranora Broadwater parallel to Council's existing 300mm SRM to the northern end of Scenic Drive. Then finally to Gollan Drive SPS 2018 via road reserve to the satisfaction of the Director of Engineering and Operations.</p> <p>12.1.5 Detailed plans shall be provided with the Construction Certificate Application addressing slope stability within Bilambil Road and other areas as may be necessary, together with a Detailed Traffic Management Plan and the alignment of other future services in relation to construction of the sewer rising main.</p>			

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Project Component	Environmental Outcome (Commitment)	Measure (Commitment)	Purpose of Measure	Timing for Completion	Monitoring and Reporting
13. Flora & Fauna	13.1 Protect existing threatened species of flora and fauna.	<p>12.1.6 The developer will provide detailed plans as part of the Construction Certificate which will incorporate Reduced Inflow / Infiltration Gravity Sewers (RIGS) to Councils requirements.</p> <p>13.1.1 Comply with the Translocation Plan Macadamia tetraphylla (Annexure C).</p> <p>13.1.2 Rehabilitate the Bilambil Creek foreshore area in accordance with the Vegetation Rehabilitation Plan (Annexure D).</p>	<p>To avoid the loss of the existing Macadamia tetraphylla.</p> <p>To protect water quality in Bilambil Creek and bank stability by appropriate revegetation of the riparian zone.</p>	<p>Prior to the issue of a Subdivision Certificate.</p> <p>Prior to the issue of a Subdivision Certificate.</p>	<p>Project Manager to address compliance in monthly Compliance Report.</p> <p>Project Manager to address compliance in monthly Compliance Report.</p>
14. Cultural Heritage	14.1 Comply with the recommendations of the Preliminary Cultural Heritage Assessment.	<p>14.1.1 That no further cultural heritage assessments (e.g. site inspection; cultural heritage survey) of the Project Area are required;</p> <p>14.1.2 Workers employed on the project, particularly any jobs associated with initial vegetation clearance / topsoil stripping, should undergo a cultural heritage induction so that they are aware of the types of cultural heritage material that may be uncovered and the process to follow in the event that cultural heritage material is uncovered. The cultural heritage induction should be presented by a suitably qualified person;</p> <p>14.1.3 Should future activities associated with the development of Lots 2 and 3 DP 244652, Hogans, Ufilup and Bilambil Roads, Bilambil, uncover anything which may be interpreted as Aboriginal in origin, work in the vicinity of the find should cease immediately and the developer should inform the Department of Environment and Climate Change (NSW), Cofts Harbour, as soon as possible, for discussion, negotiation and direction.</p>	<p>To comply with Legislative requirements.</p>	<p>Prior to work commencing and ongoing.</p>	<p>Project Manager to address compliance in monthly Compliance Report.</p>

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		The provisions of the <i>National Parks and Wildlife Act of 1974</i> (as amended) state that it is illegal to damage, deface or destroy a relic without written permission of the Director of the Service. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the <i>National Parks and Wildlife Act 1974</i> , as amended.			
15. Geotechnical	15.1 Achieve a stable landform.	15.1.1 Comply with the recommendations contained in Section 8 of the Geotechnical Report at <b>Annexure 20</b> of the Environmental Assessment.	Ensure that geotechnically stable lots and infrastructure are created.	Prior to the issue of a Subdivision Certificate.	Project Manager to address compliance in monthly Compliance Report.
16. Playground Equipment	16.1 Provide suitable play facilities for children.	16.1.1 Install appropriate playground equipment within the Billambil Sports Fields adjacent to the site.	Ensure that suitable equipment is installed to the satisfaction of Council.	Prior to the issue of a Subdivision Certificate.	Project Manager to address compliance in monthly Compliance Report.