

Project Approval

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

The Planning Assessment Commission of New South Wales (the Commission), under the instrument of delegation dated 20 May 2011, having considered all relevant matters prescribed under Section 75J(2) of the *Environmental Planning and Assessment Act 1979*, including those relevant matters prescribed by Section 75I(2) as contained in the Director General's Environmental Assessment report determine to grant approval to the project application (08_0167) described in Schedule 1 subject to the conditions of approval in Schedule 2, pursuant to Section 75J(1) of the *Environmental Planning and Assessment Act 1979*.

This approval applies to the plans, drawings and documents cited by the proponent in its Environmental Assessment, Preferred Project Report and the Proponent's revised Statement of Commitments (Schedule 3), subject to the conditions of approval in the attached Schedule 2.

The reasons for the imposition of these conditions are:

- (1) To ensure the site is appropriately managed for the proposed use;
- (2) To adequately mitigate the environmental and construction impacts of the development;
- (3) To reasonably protect the amenity of the local area; and
- (4) To protect the public interest.



Member of the Commission



Member of the Commission

Sydney

3rd day June, 2011

SCHEDULE 1

Application No.:	08_0167
Proponent:	Malbec South West Rocks Pty Ltd
Approval Authority:	Minister for Planning and Infrastructure
Land:	Lot 1 DP 1128633; Lot 2 DP 1128633; and Lot 84 DP 792945, Belle O'Connor Street, South West Rocks
Project:	Saltwater Residential Subdivision, involving: <ul style="list-style-type: none">• 269 low density residential lots constructed throughout eleven stages of development;• One medium density residue lot;• Internal public road network;• Public open space areas with recreation facilities;• A network of pedestrian and cyclist pathways;• A 14.9ha of conservation zone;• Two stormwater treatment areas; and,• On-site landscaping works.

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NOTES RELATING TO THE DETERMINATION OF 08_0167

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.

DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval

BCA means Building Code of Australia

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise

Council means Kempsey Shire Council

CPI means Consumer Price Index

Department means the Department of Planning and Infrastructure or its successors

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

Environmental Assessment means the Environmental Assessment prepared by EDAW and dated 21 August 2009, including all Appendices

Minister means the Minister for Planning and Infrastructure or delegate

OEH means the NSW Office of Environment and Heritage

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

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

Preferred Project Report means the Preferred Project Report prepared by AECOM Australia Pty Ltd dated 5 August 2010

Proponent means Malbec Properties Pty Ltd or any party acting upon this approval

Regulation means the *Environmental Planning and Assessment Regulation 2000*

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

VMP means Vegetation Management Plan

SCHEDULE 2

CONDITIONS OF APPROVAL

PART A—ADMINISTRATIVE CONDITIONS

A1 Project Description

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

- 1) Subdivision of land into 270 lots, including 269 low density residential lots and 1 medium density residue lot;
- 2) Extension of the Belle O'Connor Street road reserve and construction of the internal road network (consisting of Roads 1 to 14);
- 3) Creation of a 3,025m² neighbourhood park with children's playground;
- 4) Creation of a 2,481m² bushland exercise park with picnic and barbeque facilities;
- 5) Creation of two stormwater treatment wetlands of 2,100m² and 2,128m² in size;
- 6) Creation of six stormwater treatment swales;
- 7) A network of pedestrian and cyclist pathways;
- 8) On-site landscaping works; and
- 9) Works to connect to reticulated services, including water, sewerage and telecommunications.

A2 Project in Accordance with Plans

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

Design Drawings prepared by AECOM Australia Pty Ltd	
Name of Plan	Date
Malbec/Saltwater Development – South West Rocks – Subdivision Plan	27 September 2010
Malbec/Saltwater Development – South West Rocks – Staging	22 November 2010
Malbec/Saltwater Development – South West Rocks – Bushfire Constraints Plan	03 August 2010
Engineering Drawings prepared by AECOM Australia Pty Ltd	
Name of Plan	Date
Belle O'Connor Street – South West Rocks – Site Analysis	02 March 2010
Malbec/Saltwater Development – South West Rocks – Road Sections	08 March 2010
Landscape Drawings prepared by AECOM Australia Pty Ltd	
Name of Plan	Date
Malbec/Saltwater Development – South West Rocks – Landscape Plan	03 August 2010
Survey Drawings prepared by AECOM Australia Pty Ltd	
Name of Plan	Date
Belle O'Connor Street – South West Rocks – Site Analysis	02 March 2010

A3 *Project in Accordance with Documents*

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

- (1) *Environmental Assessment* prepared by EDAW on behalf of Malbec South West Rocks Pty Ltd, dated 21 August 2009; and,
- (2) *Preferred Project Report* prepared by AECOM Australia Pty Ltd on behalf of Malbec South West Rocks Pty Ltd, dated 5 August 2010.

A4 *Inconsistency between documents*

In the event of any inconsistency between:

- (1) The conditions of this approval and the Statement of Commitments (at Schedule 3), the conditions of this approval prevail;
- (2) The conditions of this approval and the drawings/documents referred to in conditions A2 and A3 the conditions of this approval prevail; and
- (3) Any drawing/document listed in conditions A2 and A3 and any other drawing/document listed in conditions A2 and A3, the most recent document shall prevail to the extent of the inconsistency.

A5 *Limits on release of lots pending new road connection*

- (1) A Construction Certificate for subdivision works may only be issued for the first 48 lots (Stages 1 and 2). Construction Certificates for Stage 3 (and beyond) may be issued once the Burrawong Drive extension to Road No.14 is constructed.
- (2) Notwithstanding (1), if further traffic analysis demonstrates to the satisfaction of the Council that the intersection of Belle O'Connor Street and Road No.14 is operating at an acceptable level of service and safety, the Council may allow the release of further Construction Certificates beyond the first 48 lots, even though the future road network extension has not yet been constructed.
- (3) The Proponent is required to close access to the site from Road No. 14 where it connects to the Belle O'Connor Street roundabout following construction of Council's preferred access route. The preferred route will connect to Road No. 14 via an extension of Burrawong Drive. A cul-de-sac is to be created at the western end of Road No. 14 where it connects to Belle O'Connor Street, with all access to and from the site provided via a new intersection at Burrawong Drive and Road No. 14.

Note: The proposed layout of the new road connection has been generally outlined in Council's draft Saltwater Development Control Plan.

A6 *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 work has physically commenced on the site, on or before the lapse date.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Remediation / Earthworks

B1 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); Council's DCP No.30 – *Exempt and Complying Development*; and, having regard to the *Acid Sulfate Soils Assessment* prepared by Martens Consulting Engineers dated June 2010. The Management Plan shall cover the entire site and be submitted to the satisfaction of Council prior to the issue of a Construction Certificate for Stage 1.

B2 Pre-Construction Dilapidation Reports

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining infrastructure and roads. The report shall be submitted to the satisfaction of Council prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to Council.

Construction Management

B3 Construction Management Plan

- 1) Prior to the issue of a Construction Certificate for the project, a Construction Management Plan prepared in accordance with the Department's publication entitled *Guideline for the Preparation of Environmental Management Plans (2004)* shall be submitted to and approved by the Certifying Authority. Notwithstanding, where any work is to be undertaken in stages, the Proponent may, stage the submission of the management plan consistent with the staging of activities relating to that work. A copy of the approved plan shall also be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
 - a) hours of work;
 - b) contact details of site manager;
 - c) traffic and pedestrian management in accordance with Condition B4;
 - d) noise and vibration management;
 - e) construction waste management;
 - f) erosion and sediment control; and,
 - g) flora and fauna management.

B4 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate for each stage of the project, a Traffic and Pedestrian Management Plan in accordance with AS 1742.3 and RTA publication 'Traffic Control at Works Sites' Version 4, Issue 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods.

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

B5 Filling of Lots

- (1) The Proponent is to submit to Council, a Geotechnical Specification for the supply and placement of any fill materials, prepared by a N.A.T.A. Registered Geotechnical Engineer and shall include but not be limited to the following:
 - (a) Identification of the proposed source of fill;
 - (b) method of delivery of fill material to the site;
 - (c) geological/geotechnical analysis of the proposed fill material to determine its suitability;
 - (d) Quality Assurance Regime; and
 - (e) any other relevant matters.
- (2) Haulage route(s) for the importation of fill are to be agreed to by Council's Director of Shire Services, prior to the issue of a Construction Certificate for filling.
- (3) Fill shall be selected in accordance with Australian Standard 3798-2007 Guidelines on Earthworks for Commercial and Residential Development, or any updated standard.

B6 Stormwater Treatment Swales

The site is to include grassed treatment swales at a rate of 125 linear metres of swale per hectare of the site (excluding the conservation zone). Swales are to be designed so that no less than 95% of the total developed site drains through them. Swales are to have a minimum width of 2.5m and sized for hydraulic conveyance of design flows. Swales are to be provided as road side swales or, where required, as interallotment drainage features.

B7 Stormwater Treatment Wetlands

In addition to grassed treatment swales, onsite wetlands are to be provided to treat flows from the two main treatment swales traversing south to north. The wetlands are to have a combined area of no less than 3,400m².

B8 Stormwater and Drainage Works Design

Final design plans of the stormwater drainage systems within the site, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council, shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.

Note: Should detailed design considerations result in a change to the adopted water quality solution shown on the subdivision plans, remodelling using MUSIC, with parameters as adopted in the *Amended Water Cycle Management Plan* prepared by Martens Consulting Engineers and dated July 2010 (provided with the PPR), shall be required in order to verify the adequacy of redesigned components. Any further modelling shall demonstrate that post-development mean load pollutants (Total Suspended Solids, Total Nitrogen and Total Phosphorus) to the downslope vegetation from the site and upslope catchments post development, do not exceed pre-development loads. A modification to this approval will be required should any components of the stormwater and drainage works design differ from the requirements as outlined in Conditions B6 and B7.

B9 Road Design

Kerb and gutter, stormwater drainage, full road width pavement and paved footpaths shall be constructed along the full length of all roads within the site. The roads shall be designed in accordance with the relevant requirements of Kempsey Shire Council's DCP No. 36 and

current applicable Australian Standards. Final road design plans shall be submitted and approved by Council prior to the issue of a Construction Certificate for each stage.

B10 Roundabout Construction

The roundabout to be provided at the intersection of Belle O'Connor Street and Road No. 14 shall be designed and constructed in accordance with relevant RTA and AUSTRROADS standards to the satisfaction of and at no cost to Council. Prior to the issue of any Construction Certificate, the Proponent is to liaise with both the RTA and Council to ensure the roundabout is designed in such a way that allows for an acceptable level of safety for future road users and appropriate sight distances are achieved. Final roundabout design plans shall be submitted to and approved by Council.

B11 Street Names

Prior to the issue of each Construction Certificate, the Proponent is to submit to Council a street name application relevant to the Construction Certificate being sought. Street names are to be applied in accordance with Section 162 of the NSW *Roads Act 1993* and current Council policy.

Water Quality

B12 Water Quality Management

The Proponent is to prepare a Water Quality Monitoring Program. This Program is to be prepared by a suitably qualified person(s) and is to be submitted to and approved by Council prior to the issue of the first Construction Certificate. The Program is to include, but not be limited to:

- (1) details of a baseline study to establish the pre-development water quality which includes weekly monitoring for four consecutive weeks and measuring the parameters identified below. The average value of each parameter is to be taken as the benchmark of the pre-development water quality;
- (2) locations at which monitoring will be undertaken;
- (3) identification of the parameters/ pollutants to be monitored at each location, including, but not limited to pH, temperature, dissolved oxygen, total nitrogen and turbidity; procedures and protocols for the sampling and analysis methodology to be undertaken;
- (4) a program for the periodic monitoring of the parameters/ pollutants at each of the monitoring locations. As a minimum, monitoring must occur quarterly throughout the life of the project; and,
- (5) details of water quality limits that would indicate the project is having a detrimental effect on the water quality and a contingency plan in the event that the water quality is diminished.

B13 Water Quality Management

A report on the water quality is to be submitted with each application for a Construction Certificate for each stage of the project. A construction certificate must not be issued unless the water quality is shown to be equal or better than pre-development water quality discharging from the site.

Environmental Management

B14 Management of Conservation Zone

The Proponent is to prepare a comprehensive Vegetation Management Plan (VMP) for all land within the site zoned 7(a)(Wetlands Protection Zone) and 7(b)(Environmental Protection (Habitat) Zone), in consultation with Council and OEH. The Plan is to be prepared having

regard to Appendix G of the *Ecological Issues & Assessment Report* prepared by Whelans InSites Pty Ltd (dated March 2009). The VMP is to be submitted to and approved by Council prior to the issue of a Construction Certificate for any stage.

B15 Artificial Wetlands

Prior to the issue of a Construction Certificate for Stages 1 and 6, the Proponent is to provide details and specifications to the satisfaction of the Certifying Authority detailing how the artificial wetlands are to be lined in order to avoid groundwater interception and potential contamination of the groundwater. All wetland areas are to be constructed in accordance with OEH's Constructed Wetlands Manual.

B16 Groundwater Monitoring

The Proponent is to prepare a Groundwater Monitoring and Contingency Program to monitor and assess the impact of the project on the quality of the groundwater. This Program is to be prepared in consultation with the NSW Office of Water and is to be submitted to and approved by Council prior to the issue of a Construction Certificate.

Bushfire Management

B16 Asset Protection Zones

Asset Protection Zones (APZs) are to be provided in accordance with *Malbec/Saltwater Development – South West Rocks – Bushfire Constraints Plan* prepared by AECOM Australia Pty Ltd and dated 03 August 2010. Details of the APZs (as it relates to each stage of the project) are to be provided to the satisfaction of the Certifying Authority prior to the release of the Construction Certificate for each stage of the project.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Notification Requirements

C1 *Notice to be Given Prior to Commencement / Excavation*

- 1) The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- 2) The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

Pollution Control

C2 *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 including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

Services

C3 *Existing Services*

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

Contact Details

C4 *Contact Telephone Number*

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

PART D—DURING CONSTRUCTION

Construction Management

D1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- 1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- 2) The approved hours of work;
- 3) the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- 4) a statement that unauthorised entry to the site is not permitted.

D3 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction of any stage of the project, shall be replaced, to the satisfaction of Council.

D4 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction of any stage of the project.

Site Maintenance

D5 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works for each stage of the project, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D6 Disposal of Seepage and Stormwater

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

D7 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 related 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 works.

Noise and Vibration

D8 Hours of Work

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

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
- (6) the work is approved through the Construction Noise and Vibration Management Plan and residents likely to be affected by those works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D9 Construction Noise Objective

The Proponent shall minimise noise emission 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.

Heritage

D10 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D11 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

If during the course of future works, any evidence of any unexpected Aboriginal archaeological site or relic is found, all work likely to affect that site or relic must cease immediately. Temporary fencing must be erected around the site or relic and the material must be identified by an independent and appropriately qualified archaeological consultant. The OEH must be informed who will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the OEH.

D12 Findings 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 OEH 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 OEH. 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.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

E1 Part 4A Certificate

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

E2 Compliance Certificate

Prior to the application for a Subdivision Certificate for each stage of the project a Compliance Certificate or Certificates shall be obtained from Council for the following:-

- a) Compliance Certificate - Roads
- b) Compliance Certificate - Water Reticulation
- c) Compliance Certificate - Sewerage Reticulation
- d) Compliance Certificate – Drainage

E3 Traffic and Access

In order to ensure appropriate access arrangements to the site have been made, the roundabout at the intersection of Belle O'Connor Street and Road No. 14 shall be constructed to the relevant RTA and AUSTRROADS standards prior to the release of a Subdivision Certificate for Stage 1.

E4 Asset Protection Zones

The Asset Protection Zones are to be inspected and certified for compliance by an appropriately qualified bushfire planning consultant prior to the release of the Subdivision Certificate for each relevant stage of the subdivision; the certificate is to accompany the application for the Subdivision Certificate for each relevant stage.

E5 Registration of Easements / Restrictions to use / Right of carriageway

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
 - c. A Restriction as to User burdening all future lots: a minimum finished floor level of 4.1m AHD is to be achieved for all future habitable structures.
 - d. A Restriction as to User allowing for the creation of a 20 metre wide Asset Protection Zone, measured from the boundary of the conservation zone shall burden the following Lots:
 - Lots 207, 209, 211, 213, 215, 217, and 220 (Stage 2);
 - Medium Density Lot (Stage 3);
 - Lots 424 – 429 inclusive (Stage 4);
 - Lots 501 – 506 inclusive (Stage 5);
 - Lots 623 – 626 inclusive (Stage 6);

- Lots 701 – 704 inclusive (Stage 7);
- Lots 801 – 803 inclusive (Stage 8);
- Lots 901 and 902 (Stage 9);
- Lots 1013 – 1015 inclusive (Stage 10); and,
- Lot 1127 (Stage 11).

This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.

- e. A Restriction as to User within Stage 11 of the subdivision, burdening Lots 1116 – 1118 inclusive allowing for the creation of a 10 metre wide Asset Protection Zone, measured from the southern site boundary. This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.
- 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.

Services

E6 Utilities –Telephone and Electricity Services

The project is to be connected to all available services (water, electricity and telephone). A clearance letter from each authority is required prior to issue of a Subdivision Certificate for each stage. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

Dedication

E7 Dedication of Public Open Space

The Proponent must make necessary arrangements for the dedication of the public open space areas as shown on the plan prepared by AECOM Australia Pty Ltd, titled *Malbec/Saltwater Development – South West Rocks – Subdivision Plan* (dated 27 September 2010) to Council prior to release of the Subdivision Certificate. This includes the 3,025m² neighbourhood park and 2,481m² bushland exercise park and associated recreational facilities.

E8 Dedication of Conservation Zone

The Proponent must make necessary arrangements for the dedication of the conservation zone, as shown on the plan prepared by AECOM Australia Pty Ltd, titled *Malbec/Saltwater Development – South West Rocks – Subdivision Plan* (dated 27 September 2010) to Council prior to release of the Subdivision Certificate.

E9 Dedication of Internal Roads

All internal roads shall be constructed by the Proponent and progressively dedicated to Council as public roads prior to issue of a Subdivision Certificate for that relevant stage. Street numbering is to be determined in accordance with Council's street numbering policy.

Monetary Contributions

E10 Section 94 Monetary Contributions

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

1) Amount of Contribution

Name of Contribution Plan	Number of ET	\$ per ET	Total
Community Services – Library	269	\$ 744.50	\$ 200,270.50
Community Services – MPB	269	\$ 913.36	\$ 245,693.84
Open Space Acquisitions	269	\$ 890.19	\$ 239,461.11
Open Space Increased Capacity	269	\$ 2,358.95	\$ 634,557.55
Bushland	269	\$ 63.09	\$ 16,971.21
Traffic and Transport Management	269	\$ 2,704.00	\$ 727,376.00
Public Domain Improvements	269	\$ 383.16	\$ 103,070.04
Stormwater Management	269	\$ 2,597.40	\$ 698,700.60
Support Services - Bushfire	269	\$ 72.32	\$ 19,454.08
Support Services – Surf Lifesaving	269	\$ 88.65	\$ 23,846.85
Plan Studies	269	\$ 152.08	\$ 40,909.52
Kempsey Public Domain	269	\$ 982.69	\$ 264,343.61
Total		\$ 11,950.39	\$ 3,214,654.91
Section 94 Contribution Plan – Project Administration		6% x \$ 3,214,654.91	\$ 192,879.29
Grand Total	269	\$ 12,667.41	\$ 3,407,534.20

2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council, shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate for each stage of the project.

3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Kempsey Shire Council Chambers – 22 Tozer Street, West Kempsey.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

AN2 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of the relevant utility provider 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 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.

AN4 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 Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

PROJECT NUMBER 08_0167

270 LOT RESIDENTIAL SUBDIVISION

BELLE O'CONNER STREET, SOUTH WEST ROCKS, KEMPSEY LGA

STATEMENT OF COMMITMENTS

(SOURCE: PREFERRED PROJECT REPORT)

4.0 Revised Statement of Commitments

In response to submissions received and amendments to the proposal, the Proponent has amended and finalised its Statement of Commitments (SoC). In accordance with the EA requirements under Part 3A of the EP&A Act, the following SoC is provided. The SoC sets out the Proponents environmental commitments and details on the environmental management and monitoring of the proposed during its construction and operational activities.

Table 5 Revised Statement of Commitments

Issue	Statement of Commitment
Vegetation Management Plan	A Vegetation Management Plan (VMP) should be prepared for the 7(a) and 7(b) zoned Conservation Area within the site. The VMP should be based on the Vegetation Management Principles Plan prepared for the Conservation Area, located at Appendix G of the Ecological Issues & Assessment Report prepared by Whelans Insites, dated August 2009.
	The VMP is to also include an appropriate monitoring regime for dealing with issues that may arise, for instance; outbreaks of weed infestation, predation by domestic pets, uncontrolled access by people into the Conversation Area.
	The VMP is to include a protocol for the salvage and re-use of hollow-bearing trees in accordance with recommendations outlined in the Response to Submissions Report prepared by Whelans Insites dated July 2010.
	The VMP should be prepared in consultation with Kempsey Shire Council and DECCW.
Mosquito Monitoring	Monitoring of the stormwater control system which has been designed for the proposed development (particularly the drainage swales and detention basins) should be undertaken to identify any potential increase in mosquito breeding opportunities, and to appropriately deal with the risk of mosquito activities.
Bushfire Management	A Fire Management Plan is to be prepared in coordination with the proposed VMP. The management prescriptions of the Fire Management Plan shall address those measures required to meet the provisions of Section 63 of the <i>Rural Fires Act 1997</i> whilst specifically recognising the need to protect the plant communities within the Conservation Zone. The Fire Management Plan is to include recommendations relating to the provision and management of APZs, 88B Covenants, construction standards to future buildings, standards relating to public access roads provision of fire trails and water supply and staging of development, as detailed within the Bushfire Protection Assessment prepared by Australian Bushfire Protection Planners dated October 2008.
Landscaping Management	A Landscape Management and Maintenance Plan is to be developed to guide appropriate management and maintenance of open space and public domain areas within the 2(a) Residential zone.
Visual Impact	A Street Tree Planting Scheme is to be developed for the 2(a) Residential zone and would incorporate the following: <ul style="list-style-type: none"> trees with heights at least 50% higher than the heights of the proposed buildings; and trees with dense foliage, e.g. <i>Melaleuca quinquenervia</i>, or broad canopies, e.g. <i>Eucalyptus racemosa</i>, both at reasonably close spacings, e.g. 10 – 12m centres.
Water Cycle Management	Stormwater is to be managed as outlined within the Amended Water Cycle Management Plan prepared by Martens (July 2010).
Water Quality Monitoring	Monitoring of downstream receiving environments should occur during the construction phase and during the revegetation establishment phase (up to 6 months after development is completed). Water Quality Monitoring is to be undertaken as outlined within the Amended Water Cycle Management Plan prepared by Martens (July 2010).
ASS management	Works proposed at depths below or likely to result in water table changes below 2m below ground level are to be undertaken in accordance with the Acid Sulfate Soil Management Plan prepared by Martens (June 2010).
Indigenous Heritage	All construction contractors and their employees are to be advised of their legal

Issue	Statement of Commitment
	<p>obligations with regard to Aboriginal Cultural Material. This advice is to form a component of a Construction and Environmental Management Plan (CEMP) prepared for the Site, and the CEMP should be forwarded to the DEC Northern Aboriginal Heritage Unit (Coffs Harbour) for its records.</p> <p>In the event that identified or suspected Aboriginal cultural materials are detected with during Aboriginal monitoring or elsewhere:</p> <ul style="list-style-type: none"> • Disturbance in the vicinity of the find should immediately cease and temporary protective fencing would be erected around the find to define a 'no-go' zone. • The developer would contact the Aboriginal stakeholder groups and the DECCW to inspect the find so that appropriate actions and management recommendations can be formulated, In the event that findings consist of or include possible or identified Aboriginal skeletal remains, the NSW Police Department would be contacted. • Work may proceed at an agreed distance from the find, in consultation with Aboriginal stakeholders and the DECCW. <p>If the find is identified as an Aboriginal object, work causing disturbance or destruction of the object may not recommence until an appropriate archaeological inspection/investigation has been carried out to the satisfaction of the DECCW and the DoP.</p>
Traffic	<p>Internal roads are to be designed in accordance with AMCORD and Council's Guidelines for Engineering and Subdivision works.</p>
Construction management	<p>A Construction Environment Management Plan (CEMP) would be developed prior to the commencement of works and should address:</p> <ul style="list-style-type: none"> • induction and training of contractors, subcontractors, delivery contractors and all other staff on site; • reporting and induction of visitors to site; • emergency and clean-up procedures; • noise mitigation (operational and machinery) through temporary noise walls; • maintenance of machinery; • location and storage of all fluids/oils/fuels on site for machinery to be in bunded areas; • use of sediment traps; • minimisation of stockpiling and correct management practices; • soil and dust management; • traffic management measures, including management of truck and machinery movements, to and from the Site; • disruption of services; • mosquito Management; and • waste disposal. <p>The CEMP would be kept on site at all times. The CEMP would be prepared in partnership with local Aboriginal community groups.</p>
Soil and Water Management	<p>A site specific Soil and Water Management Plan (SWMP) should be prepared at the construction certificate stage of the development, following the finalisation of the development layout, and should be developed in conjunction with the engineering plans for the sub-division in accordance with the provisions outlined in Landcom (2004).</p>
Waste Management	<p>A Waste Management Plan (WMP) to be developed as part of the construction phase of the development. The plan is to include (but is not limited to) disposal of demolition materials, recycling options, location of approved waste disposal depots or approved landfill sites which would be utilised for disposal and treatment and disposal of waste water in accordance with relevant pollution control legislation and guidelines. The WMP should specify that no wastes (including building rubble,</p>

Issue	Statement of Commitment
	garbage, contaminants, fuels, oils, paints or other chemicals) are discharged from the construction area, and that all such wastes and contaminants are appropriately managed.
Open Space Management	The Proponent is to enter into a Voluntary Planning Agreement (VPA) with Kempsey Shire Council under Section 75F(6) of the EP&A Act in regards to the management and dedication of the 7(a) and 7(b) zoned Conservation Area on the site.