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**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**  
**DETERMINATION OF DEVELOPMENT APPLICATION NO. 78-4-2004**  
**(FILE NO. S04/00818)**

**FOURTEEN LOT RURAL RESIDENTIAL SUBDIVISION PLUS ONE RESIDUE LOT**

I, Chris Wilson, Acting Deputy Director General, Office of Sustainable Development and Assessment Approvals, as delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005 pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10(2) of State Environmental Planning Policy No. 71 – Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure development proceeds in accordance with approved plans;
- (2) To ensure development satisfies the relevant statutory requirements;
- (3) To ensure lots are adequately serviced;
- (4) To ensure public utility services, access and restrictions are legalised over the land;
- (5) To ensure protection of significant areas of vegetation; and
- (6) To ensure a satisfactory standard of traffic safety is achieved.

Chris Wilson  
**Acting Deputy Director General,**  
**Office of Sustainable Development Assessment and Approval**

Sydney,

2006

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## SCHEDULE 1

### PART A—TABLE

<b>Application made by:</b>	TCD Town Planning Consultants & Drafting Services 12 Buddeh Street, Hope Island QLD 4212
<b>Application made to:</b>	Minister for Planning
<b>Development Application:</b>	No. 78-4-2004
<b>On land comprising:</b>	Gumma Road, Gumma NSW Lot 4 DP 816482 & Lot 141 DP 755539
<b>For the carrying out of:</b>	Development described in Condition A1, Part A, Schedule 2
<b>Estimated Cost of Works</b>	N/A
<b>Type of development:</b>	State Significant Development Integrated Development
<b>S.119 Public inquiry held:</b>	No
<b>BCA building class:</b>	N/A
<b>Approval Body / Bodies:</b>	NSW Rural Fire Service
<b>Determination made on:</b>	
<b>Determination:</b>	Development consent is granted subject to the conditions in the attached Schedule 2.
<b>Date of commencement of consent:</b>	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
<b>Date consent is liable to lapse</b>	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> <li>▪ a shorter period of time is specified by the Regulations or</li> <li>▪ a condition in Schedule 2, or</li> <li>▪ the development has physically commenced.</li> </ul>

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## **PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 78-4-2004**

### ***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### ***Appeals***

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid for a development application, within 12 months after the date on which the applicant received this notice

### ***Appeals—Third Party***

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

### ***Legal notices***

Any advice or notice to the consent authority shall be served on the Director-General.

### ***Section 94 Conditions***

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies were imposed in accordance with Nambucca Council's Section 94 Plan. The Nambucca Council Section 94 Plan may be inspected at the following locations during its normal business hours:

- Nambucca Shire Council Chambers, 44 Princess Street, Macksville NSW

## **PART C—DEFINITIONS**

In this consent,

**Act** means the *Environmental Planning and Assessment Act, 1979* (as amended).

**Applicant** means Denis Atkinson Pty Ltd or any party acting upon this consent.

**Approval Body** has the same meaning as within Division 5 of Part 4 of the Act,

**BCA** means the Building Code of Australia.

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

**Council** means Nambucca Shire Council.

**DA No. 78-4-2004** means the development application and supporting documentation submitted by the applicant on 1 April 2004.

**Issuing Authority** means the Minister for Planning or Council.

**Minister** means the Minister for Planning.

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

**Regulation** means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

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

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## SCHEDULE 2

### CONDITIONS OF CONSENT

#### DEVELOPMENT APPLICATION NO. 78-4-2004

#### PART A—ADMINISTRATIVE CONDITIONS

##### **A1 Development Description**

Development consent is granted only to carrying out the development described in detail below:

- (1) Fourteen (14) lot rural residential subdivision plus one (1) residue allotment of Lot 4 DP 816482 & Lot 141 DP 755539 Gumma Road, GUMMA

NB: This consent does not allow for any construction or excavation works to commence on site other than that required by the conditions of this consent. Prior to any additional works being carried out, the appropriate consent must be obtained.

##### **A2 Development in Accordance with Plans**

The development shall be generally in accordance with development application number DA No. 78-4-2004 submitted by the applicant on 1 April 2004, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

<b>Statement of Environmental Effects entitled Statement of Environmental Effects for a 14 Lot Rural Residential Subdivision plus Residue of Lot 4 DP 816482 and Lot 141 DP 755539 Gumma Road, Gumma prepared by Town planning Consultants and Drafting Services P/L and addendum to Statement of Environmental Effects dated 14 April 2005.</b>			
<b>On-Site Effluent Report prepared by Hackett Laboratory Services P/L entitled "Effluent Disposal Design Report" for Town Planning Consultants and Drafting Services P/L for proposed 14 Lot Rural Residential Subdivision of Lot 4 and Lot 141 Gumma Road, Gumma, dated 6 September 2004.</b>			
<b>Survey Drawings prepared by Amos &amp; McDonald:</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
Subdivision Plan	n/a	Proposed subdivision of Lot 4 DP 816482 & Lot 141 DP 755539 Gumma Road, Gumma.	14 April 2005
Buffer & Constraints Plan	n/a	Proposed subdivision of Lot 4 DP 816482 & Lot 141 DP 755539 Gumma Road, Gumma	14 April 2005

*[Reason: To ensure development proceeds in accordance with approved plans]*

##### **A3 Prescribed Conditions**

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

*[Reason: To ensure development proceeds in accordance with approved plans]*

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#### **A4      *Application for Subdivision Certificate***

Prior to the lodgement of the plan of subdivision for registration under Division 3 of Part 23 of the Conveyancing Act 1919, a Subdivision Certificate is to be obtained in accordance with Section 109D (1)(d) of the Act.

*[Reason: To enable separate land Titles to be issued for the proposed lots]*

#### **A5      *Copies of Linen Plan***

The applicant shall submit a linen plan of the final plan of subdivision and 6 copies of that linen plan for endorsement.

#### **A6      *Inconsistencies***

In the event of any inconsistency between the conditions of this consent and the drawings and/or documents referred to above, the conditions of this consent prevail.

### **PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

#### **B1      *Remediation of Land***

- (1) Consideration is to be given to the possible presence of deeper areas of soil contamination in surveyed areas. Should evidence of contaminated land occur during preliminary bulk earth works, the Applicant shall submit to Council, prior to the issue of a Construction Certificate for the relevant stage, a Hazardous Material Survey and if warranted, a Remedial Action Plan. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Department of Environment and Conservation to issue site audit statements.
- (2) Upon completion of the remediation works on the site, if warranted, the Applicant shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the Contaminated Land Management Act 1997 and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

#### **B2      *Fill***

Contour plans indicating the location of proposed fill areas in the subdivision are to be submitted to Council for approval prior to the issue of a Construction Certificate for each stage.

All fill is to be placed in accordance with the requirements of Council's Technical Guidelines for Subdivision and Development and the approved Sediment and Erosion Control Plan. Structures to retain fill onsite are to meet Australian Standards AS4678-2002: Earth Retaining Structures.

#### **B3      *Acid Sulphate Soil Management Plan***

An Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998) and in accordance with Nambucca Shire Council's Acid Sulphate Soil Development Control Plan. The Management Plan shall be submitted to and approved by Nambucca Shire Council prior to the commencement of works.

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#### **B4      *Aboriginal Culture***

Prior to commencement of works the applicant shall undertake a review of the Department of Environment and Conservation's Aboriginal Heritage Information System (AHIMS) to determine the presence of any items of significance. The outcomes of the AHIMS search are to be forwarded to the Nambucca Shire Council when applying for a Subdivision Certificate.

Should the AHIMS search reveal items of Aboriginal significance are present on the site, the applicant shall consult the Department of Environment and Conservation to determine whether a cultural management plan (CMP) should be prepared and if so the contents of the CMP.

*[Reason: To ensure adequate procedures are in place should significant items of Aboriginal heritage be discovered on the site.]*

#### **B5      *Erosion and Sedimentation Control***

All erosion and sediment control measures/works, other pollution control and rehabilitation measures undertaken on the site shall conform to or exceed the specifications and standards contained in the current versions of:

1. Managing Urban Stormwater, Soil and Construction Guidelines (Dept. of Housing 1998).
2. Nambucca Shire Council Code of Practice for Erosion and Sediment Control Works.

#### **B6      *Pre-Construction Dilapidation Reports***

The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to issue of the Construction Certificate.

A copy of the report is to be forwarded to Council.

#### **B7      *Street Tree Planting***

Prior to the issue of a Construction Certificate, a plan prepared by a qualified landscape architect or professional landscape consultant, is to be approved by Council showing street tree planting, which has been prepared in accordance with Council requirements.

#### ***Traffic & Parking***

#### **B8      *Traffic Control Devices***

To ensure safe, efficient and logical movement of vehicles and pedestrian movement to and from the site and its immediate surrounds, suitable traffic control devices eg. Signage, speed hump, line marking, traffic signals, pedestrian crossings shall be installed in accordance with RTA and Council guidelines. Details of the type, location and operation of the device are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

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## **Monetary Contributions and Contributions-in-lieu**

### **B9 Monetary Contributions**

In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following monetary contributions:

#### **(1) Amount of Contribution**

<b>Contribution Category</b>	<b>Rate of Contribution</b>	<b>Amount</b>
Public Reserves and Community Facilities	\$1,778.00 per additional lot	\$21,336.00
Surf Life Saving Equipment	\$73.00 per additional lot	\$876.00
Rural Roads	\$4,300.00 per additional lot	\$51,600.00
<b>TOTAL</b>		<b>\$73,812.00</b>

#### **(2) Timing and Method of Payment**

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

Evidence of the payment to Nambucca Shire Council shall be submitted to the issuing authority prior to the issue of the Subdivision Certificate.

#### **(3) Indexing**

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

*[Reason: To ensure the development contributes towards the cost and provision of community facilities, public works, open space and recreation facilities in accordance with Sections 94 and 94a of the Environmental Planning and Assessment Act 1979 (as amended)]*

### **B10 Sewer and Water Charges**

The applicant shall pay to Council, prior to issue of the Subdivision Certificate, the following contributions for water and sewerage augmentation works, at the current rate of payment. The contribution rates are those that apply at the date of issue of this consent. Rates are adjusted annually on 1 July. Contributions will only be accepted at the rate of applying at the date of payment. Council's Environment and Community Planning Department should be contacted prior to payment to confirm the required development rate.

- (a) Council's water supply system, a contribution of \$48,035 (13 X additional lots @ \$3,695 per lot).

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure the development contributions towards the cost of augmenting Council's services pursuant to Section 64 of the Local Government Act, 1993.]*



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## **Subdivision Works**

### **B11 Land Dedication**

Provision of land for road widening purposes, fronting the sites the subject of this application. Such land shall be dedicated to Council free of cost. The applicant shall supply a detailed plan reduction ratio 1:1000 showing the existing road formation and the existing fences and improvements in the vicinity thereof, related to the boundaries of the road reserve for the land the subject of this application. On receipt thereof, Council will indicate its road widening requirements.

*[Reason: To ensure that adjoining public roadway is contained within the road reserve.]*

### **B12 Land Dedication**

Dedication to Council free of cost, on the survey plan:

- (a) splay corner 5m by 5m, at the intersection of the new access road with Gumma Road within Lots 11 & 25 as public road.

### **B13 Engineering Works**

The provision by the applicant, at his expense, of the following works and services in accordance with Council's Aus-Spec #1 Design and Construction Specifications and its Water and Sewerage Construction Specifications prior to release of the final survey plan.

- (a) Should the applicant request it, a reticulated water supply to serve the development; including installation of water mains and services. All works shall be to the satisfaction of Council's Manager Water and Sewerage.
- (b) Installation of a meter cock, water meter and backflow prevention device to each lot by Council at a cost of \$120.00 each. (Cost is adjusted annually on 1 July. Cost will only be accepted at the rates applying at the date of payment.);
- (c) Submission of certified engineering plans detailing work and services specified by this consent, with the Construction/Subdivision Certificate.
- (d) Erection of street name signs to Council's Standard specifications for all proposed roads. The applicant must make application to Council for the name(s) to be approved in accordance with the guidelines in Council's "Road and Street Name Policy".
- (e) Payment to Council of a maintenance bond at 10% of assessed value of work (\$5000) for repair damage to constructed works and services for a period of 12 months after the date Council approves the release of the Linen Plans.

*[Reason: To ensure the development is undertaken in accordance with accepted service and Engineering Standards.]*

### **B14 Road Design**

Construction of street formation 8m wide and 2 coat bitumen seal pavement 6m wide, within 20m road reserve, together with associated drainage works for the proposed roads, in accordance with Council's Aus-Spec #1 Design and Construction Specifications. The table drains are to be turfed for the full width. The cul-de-sac head shall have minimum sealed radius of 12m.

*[Reason: To ensure adequate standard of access is provided and satisfactory erosion controls are put in place]*

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### **B15 Access**

Location and construction of vehicular access to the site shall be in accordance with the requirements of Council's Aus-Spec #1 Design and Construction Specification. Attention is drawn to the need to obtain Council approval for the location of the access prior to construction.

Direct access to Gumma Road from proposed Lots 11 and 25 shall not be permitted.

### **B16 Public Road Reserve**

A separate application and consent under The Roads Act 1993 is required for any proposed construction work taking place **within** a Public Road Reserve (this includes construction involving machinery working on development **from** an adjacent Public Road Reserve). This consent is to be obtained prior to such works commencing.

A copy of the form is to be completed and returned to Council along with the application and inspection fee of \$88.

*[Reason: To ensure traffic safety and Council's infrastructure is protected].*

### **B17 Right of Carriageway**

All proposed and existing rights-of-carriageway shall be constructed in accordance with Council's Aus-Spec #1 Design and Construction Specifications. The table drains are to be full turfed for the full width.

The full width of the road including the table drains and drainage structures shall be encompassed by a suitable width right-of-carriageway (minimum 10m). A Section 88B Instrument shall be created over such rights-of-carriageway.

The road shall be a 6m carriageway with a 4m wide 2 coat bitumen seal. The seal shall extend 100m from the cul-de-sac head.

*[Reason: To ensure adequate standard of access is provided].*

### **B18 Flooding**

Works associated with the development, such as filling, are not to cause adverse change to flood conditions for adjoining properties. Proposed filling are to address this requirement in the plans and specifications submitted to Council with the Construction Certificate application.

### **Compliance**

### **B19 Compliance Report**

Prior to the commencement of works, the Applicant, or any party acting upon this consent shall submit to the PCA and the Department a report addressing compliance with all relevant conditions of this consent.

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

### **C1 Notice to be Given Prior to Excavation Works**

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning work on the site.

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## ***Construction Management***

### ***C2 Construction Management Plan***

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) traffic management,
- (4) noise and vibration management plan,
- (5) waste management plan,
- (6) erosion and sediment control plan.

### ***C3 Contact Telephone Number***

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

### ***C4 Hazardous Material***

All hazardous materials shall be removed from the site and shall be disposed of at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines prior to commencement of any building works. Details demonstrating compliance with the relevant legislative requirements, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the removal of any hazardous materials.

## ***Compliance Report***

### ***C5 Compliance Report***

Prior to the commencement of works, the Applicant, or any party acting upon this consent shall submit to the PCA and the Department a report addressing compliance with all relevant conditions of this consent.

## **PART D—DURING CONSTRUCTION**

### ***Site Maintenance***

#### ***D1 Erosion and Sediment Control***

Erosion and sediment control measures must be applied during site development to eliminate movement of sediment into adjoining drainage systems in accordance with Council's guidelines as follows:

- a) erosion and sediment control measures shall be installed prior to clearing of site vegetation;
- b) uncontaminated run off shall be intercepted and diverted around all areas to be disturbed or fed through these areas in a controlled manner;

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- c) topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping;
  - d) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any the 50m wetland buffer, drainage line or easement, natural watercourse, footpath, kerb or road surface, or established tree, and shall have measures in place to prevent the movement of such materials onto the areas mentioned;
  - e) runoff detention and sediment interception measures shall be installed and maintained to reduce the flow velocities and to prevent topsoil, sand, aggregate, road-base, spoil or other sediment leaving the site or entering any downstream drainage easements, natural watercourses or water-bodies;
  - f) all disturbed areas shall be progressively re-vegetated or stabilised to prevent erosion;
  - g) trenches shall be backfilled, compacted, capped with topsoil and re-vegetated;
  - h) measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any roads serving the development; and
  - i) the capacity and effectiveness of erosion and sediment and pollution control measures shall be maintained at all times.

*[Reason: To ensure effective environmental management and rehabilitation of the development site]*

## **Construction Management**

### **D2      Approved Plans to be kept On-site**

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

### **D3      Utilities**

Any necessary alterations to public utility installations will be at the applicant's expense and to the requirements of both Council and the appropriate authorities.

### **D4      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 the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, 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

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- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

#### **D5 External Lighting**

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

#### **D6 Protection of Trees On-site**

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.

#### **D7 Dust Control Measures**

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

#### **Noise and Vibration**

##### **D8 Hours of Work**

The hours of construction, 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;

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

#### **D9 Construction Noise Objective**

The construction noise objective for the Project is to manage noise from construction activities (as measured by a  $L_{A10}$  (15minute) descriptor) so it does not exceed the background  $L_{A90}$  noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5<sup>th</sup> week to the 26<sup>th</sup> week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the Statement of Environmental Effects or otherwise identified in the approved Construction Noise and Vibration Management Plan. The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

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

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

#### **D10 Construction Noise Management**

The Applicant shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
  - (a) 9.00 am to 12.00 pm, Monday to Friday;
  - (b) 2.00 pm to 5.00 pm Monday to Friday; and
  - (c) 9.00 am to 12.00 pm, Saturdays and Public Holidays
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.

#### **D11 Vibration Criteria**

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and

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- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

### **D12 Compliance Report**

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to Council and the Department a three monthly report addressing compliance with all relevant conditions of this consent.

## **PART E—PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

### **E1 Plan of Subdivision**

Prior to the issue of a Subdivision Certificate, the applicant is to provide to the issuing authority, a survey plan of subdivision including a copy of the proposed instrument under Section 88B of the *Conveyancing Act 1919*.

*[Reason: To enable separate Land Titles to be issued for the proposed lots]*

### **E2 Title Restrictions – Reticulated Sewer**

Prior to issue of a Subdivision Certificate, a Restriction-as-to-user pursuant to Section 88B of the *Conveyancing Act, 1919* shall be created over all allotments within the development, prohibiting development of more than one dwelling per allotment or further subdivision until reticulated sewer services are available to service the subject allotments.

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure public utility services, access and restrictions are legalised over the land].*

### **E3 Title Restrictions – Building Envelopes**

Prior to issue of a Subdivision Certificate the applicant shall create a Restriction as to user pursuant to Section 88B of the *Conveyancing Act, 1919* over all proposed allotments in the subdivision prohibiting construction of any future dwelling on those allotments outside the identified building envelopes shown on Plan No. 2 prepared by Amos & McDonald Registered Surveyors and dated 14 April 2005.

Nambucca Shire Council shall be nominated on the Restriction as to User as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure compliance with Council's planning provisions]*

### **E4 Title Restrictions – SEPP 14 Coastal Wetlands**

A minimum 50 metre wide buffer shall be established eastward of the SEPP 14 boundary. Prior to issue of a Subdivision Certificate, a Restriction-as-to-user pursuant to Section 88B of the *Conveyancing Act, 1919* over all lots within the subdivision effected by the SEPP 14 Wetlands prohibiting development or physical activity (including stormwater controls or asset protection zones for bushfire protection purposes) within the 50 metre buffer identified on Plan No. 2 prepared by Amos & McDonald Registered Surveyors, dated 14 April 2005.

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Nambucca Shire Council shall be nominated on the Restriction as to User as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure the adjoining SEPP 14 Wetland is protected.]*

**E5 Title Restrictions – Rights of Carriageway**

Prior to issue of a Subdivision Certificate, a Section 88B Instrument shall be created over all relevant allotments in the development requiring all proposed existing rights-of-carriageway to be in accordance with Council's Aus-spec #1 Design and Construction Requirements.

Nambucca Shire Council shall be nominated on the restriction-as-to-user s the sole party to vary, modify or extinguish the Section 88B Instrument.

**E6 Title Restrictions - Flooding**

Prior to issue of a Subdivision Certificate, the applicant shall submit to the issuing authority a plan of subdivision on which the 1:100 year flood line (1% Annual Exceedance Probability) is identified. The applicant shall create a Restriction as to User pursuant to Section 88B of the *Conveyancing Act, 1919* over all relevant allotments in the subdivision prohibiting the construction of dwellings below the 1% Annual Exceedance Probability (AEP) flood level.

Nambucca Shire Council shall be nominated on the Restriction as to User as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To identify flood prone areas. To ensure flood damage is minimised or avoided.]*

**E7 Title Restrictions – Access to Gumma Road**

Prior to issue of a Subdivision Certificate, a Section 88B Restriction-as-to-user shall be placed on Lots 11 and 25 within the development, prohibiting vehicular access from those lots to Gumma Road.

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure safe road access.]*

**E8 Title Restrictions – Clearing of Vegetation**

Prior to issue of a Subdivision Certificate, a Restriction-as-to-user pursuant to Section 88B of the *Conveyancing Act, 1919* shall be created over all allotments in the subdivision prohibiting clearing except within the building envelope and asset protection zone nominated on Plan No. 2 prepared by Amos & McDonald dated 14 April 2005.

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

**E9 Title Restrictions – Acid Sulphate Soils**

Prior to the issue of a Subdivision Certificate, a Restriction-as-to-user pursuant to Section 88B of the *Conveyancing Act, 1919* shall be created over all allotments in the subdivision affected by Acid Sulphate Soils that works below the 3m AHD contour require the consent of Nambucca Shire Council, including works for dams.

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To identify land affected by acid sulphate soils. To ensure every care is taken with any works occurring on the site.]*



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### **E10 Title Restrictions – Water**

Pursuant to Section 88B of the *Conveyancing Act, 1919* easements and restrictions-as-to-user shall be created to achieve the following purposes:

- (a) All requisite water supply easements over Council's existing water supply pipe running through the property;
- (b) All rights of carriageway.

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

### **E11 Easements**

Prior to issue of a Subdivision Certificate, a Section 88B Instrument pursuant to the provisions of the *Conveyancing Act, 1919* shall be created over the relevant lots to establish or obtain the following easements/reserves:

- (a) easements to drain sewerage in favour of Mid-Coast Water over existing and necessary sewer mains and associated works; and
- (b) easements to drain stormwater in favour of Nambucca Shire Council over existing and proposed channels, pipelines and associated works.

Nambucca Shire Council shall be nominated on the Restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure public utility services, access and restrictions are legalised over the land]*

### **E12 Utilities – Telephone and Electricity Services**

Prior to issue of a Subdivision Certificate, documentation shall be submitted to the issuing authority from Country Energy and compliance certificate from Telstra stating that satisfactory arrangements have been made for the supply of electricity and telephone services to the allotments. Easements for electricity purposes, satisfactory to Country Energy, shall be created over existing and proposed electricity lines (pursuant to Section 88B of the *Conveyancing Act, 1919*).

Nambucca Shire Council shall be nominated on the restriction-as-to-user as the sole party to vary, modify or extinguish the Section 88B Instrument.

*[Reason: To ensure public utility services, access and restrictions are legalised over the land. To ensure lots are adequately serviced.]*

## **PART F—GENERAL TERMS OF APPROVAL**

### **F1 NSW Rural Fire Service**

- (i) Access shall be constructed to comply with Section 4.3.1 of Planning for Bushfire Protection 2001.
- (ii) Hydrants shall be installed as per AS2419 and positioned so that they are not greater than 90 metres from the furthest part of any proposed dwelling on the lots. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

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- (iii) Asset Protection Zones shall be located as shown on Plan No. 03246 prepared by Amos & McDonald Surveyors dated 14 April 2005. A Section 88B Restriction-as-to-user shall be placed on these lots requiring the provision of these Asset Protection Zones. Please note as no building envelopes have been nominated for lots 12-16, the Asset Protection Zones are to be positioned so that they extend from the building envelope to the hazard.

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## **ADVISORY NOTES**

### **AN1            *Requirements of Public Authorities for Connection to Services***

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

### **AN2            *Application under Part 4A of the Act***

An application under Part 4A of the Act shall be submitted to the issuing authority along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

### **AN3            *Compliance with Conditions***

The applicant will be required to submit documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 78-4-2004 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of the Subdivision Certificate.

### **AN4            *Future Vehicular Access***

The location and construction of any future vehicular access to the proposed new lots shall be in accordance with the requirements of the Council's Aus-Spec #1 Design and Construction Specification. Attention is drawn to the need to obtain Council approval for any proposed access prior to construction.

### **AN5            *Roads Act, 1993***

A separate application and consent under Sections 138 and 143 of the *Roads Act 1993* is required for any proposed construction work taking place within a Public Road Reserve (including the work required by Conditions C2, C3 and C4 of this consent). The relevant consents required under the *Roads Act 1993* are to be obtained prior to the release of the relevant Construction Certificate.

### **AN6            *Acid Sulfate Soils***

The subject site is identified as potentially containing acid sulphate soils in the categories of Class 4 and Class 5. Written development consent shall be obtained from Nambucca Shire Council where the following activities, works or developments are proposed:

- (1) flood mitigation works
- (2) foundations
- (3) works that may alter groundwater levels
- (4) construction drains
- (5) buildings and structures
- (6) construction of roads
- (7) dewatering of dams or wetlands

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- (8) land forming works
  - (9) engineering works; or
  - (10) construction of artificial water-bodies (including dams and detention basins).

**AN7            *Street Numbering***

In the event that street numbers or a change to street numbers is required, a separate application shall be made to Council.

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with Council's Street Naming Policy, prior to the occupation of the building(s) or commencement of the use.

**AN8            *Bushfire Protection***

The NSW Rural Fire Service has issued a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997. The Bush Fire Safety Authority, dated 29 June 2005, has been issued subject to the conditions in Part D – General Terms of Approval within Schedule 2 of this Instrument of Consent.

**AN9            *Effluent Disposal Management System***

The proposed effluent disposal systems are to be designed, selected and located in accordance with Land Capability Report provided by Hackett Laboratory Services P/L, dated 6 September 2004.