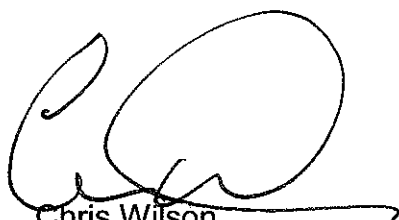


Modification of Minister's Approval

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

I, the Executive Director, Major Project Assessments, as delegate for the Minister for Planning modify, under s.75W of the *Environmental Planning and Assessment Act 1979*, the project approval referred to in Schedule 1 in the manner set out in Schedule 2.



Chris Wilson
Executive Director
Major Project Assessments

Dated this 17 day of June 2008

05_0009 MOD 1
File no. S07/01991

SCHEDULE 1

PART A—TABLE

Application made by:	Sundowner Developments (NSW) Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	05_0009
On land comprising:	256 - 274 River Street, Ballina Lot 1 DP 781715, Lot 4A and 4B DP 398716, Lots 6, 11 and 12 Section 4A DP 758047, Lot 6, 7 and 8 DP 23897, Lot 8 and 9 DP 251206 and Lot A DP 397985, Lot 1 DP 499510, Lot 10 DP 244352
Local Government Area	Clarence Valley
For the carrying out of:	Staged Mixed Use Commercial and Residential and strata subdivision, including a 84 room hotel, 84 residential apartments distributed over 4 buildings, an amenities building and 1,053m ² of ground floor retail space, including a café
Estimated Cost of Works	\$70 million
Type of development:	Project Approval
S.119 Public inquiry held:	No
Determination made on:	20 June 2007
Date approval is liable to lapse:	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act.
Section 75W Application	Modification MOD1 to modify 05_0009 in the following manner: <ul style="list-style-type: none"> • Alteration of the basement parking from two levels to one, comprising 288 car parking spaces as well as 1 service/loading bay and 1 car wash bay. • Provision of onsite at grade loading facilities and subsequent amendments to the thru-site links, changes to building layout as required by Condition B1. • Changes to wording or reference to plan numbers in Conditions A1, A2, A3, B18, B28, B30, B32, B39, D1, D9 and E18 • Addition of new conditions B1, B46, B47, B48, D22, F11, F12 and F13.
Modified on:	17 June 2008

PART B—NOTES RELATING TO THE DETERMINATION OF MP No. 05_0009

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* (as amended).

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

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* (as amended).

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

Community Facilities Contributions Plan means *Ballina Shire Council's Community Facilities Contribution Plan*

Council means Ballina Shire Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by Newton Denny Chapelle and dated 21 August 2006

Height is as defined by the *Ballina Shire Council Local Environmental Plan 1987*, in relation to a building the topmost floor of which has a ceiling, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

Minister means the Minister for Planning.

MP No. 05_0009 means the Major Project described in the Proponent's Environmental Assessment.

Open Space Contribution Plan means the Ballina Shire Council *Section 94 Contributions Plan: Public Garden & Recreation Space Enhancement* Undated

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

Proponent means Sundowner Developments (NSW) Pty Ltd or any party acting upon this approval.

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

Roads Contribution Plan means the *Ballina Road Contribution Plan* Version 2 October 2002, Adopted 24 October 2002

Rous Water means *Rous Water Fees and Charges 2006/2007*

Sewer Infrastructure DSP means *Ballina Shire Council Sewerage Infrastructure Development Servicing Plans, May 2004*

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

Water Supply Infrastructure DSP means *Ballina Shire Council Water Supply Infrastructure Development Servicing Plans, May 2004.*

SCHEDULE 2

The above approval is modified as follows:

(a) Delete Condition A1 and replace with the following:

A1 Development Description

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

- (1) A staged mixed use development comprising:
 - 84 room 5 storey tourist hotel – Building A (Max RL 17.80m AHD to 5th storey ceiling; GFA 3,488m²);
 - 85 apartments distributed over 4 residential buildings in the following arrangement:
 - (a) Building B – 13 apartments (Max RL 17.80m AHD to 5th storey ceiling; 4/5 storeys; GFA 2,715m²);
 - (b) Building C – ground floor retail (GFA 547m²), 3 floors of 10 dual key apartments and 8 residential apartments (Max RL 15.1m AHD to 3rd storey ceiling; 3/4 storeys; GFA 2,825m²);
 - (c) Building D – 44 residential apartments (Max RL 20.8m AHD to 6th storey ceiling; 6 storeys; GFA 7,373m²);
 - (d) Building F – 9 residential apartments (Max RL 17.80m AHD to 5th storey ceiling; 4/5 storeys; GFA 2,091m²)
 - Amenities building – Building E - with ground floor retail (331m²), pool and gym and manager's apartment (Max RL 15.1m AHD to 4th storey ceiling; 4 storeys; GFA 928m²);
 - Waterfront café – Building G - (Max RL 6.10m AHD to ceiling / 1 storey; GFA 175m²);
 - Subterranean single level basement car park comprising 228 car parking spaces (inclusive of 1 courier space) and 1 car wash bay and 1 loading/service bay; and,
 - Landscaping.
- (2) The development is to be constructed in 3 stages for partial occupation and use on progress as follows:
 - (a) Stage 1
 - (i) Demolition of existing residential and commercial buildings;
 - (ii) Construction of basement car park Stage 1;
 - (iii) Construction of 4 storey retail and amenity Building E;
 - (iv) Construction of 4/5 storey waterfront residential Building F;
 - (v) Construction of single storey waterfront café Building G;
 - (vi) 14m wide public open space created and embellished in front of Building G and F;
 - (vii) Construction of pedestrian bridges across the eastern slipway.
 - (b) Stage 2
 - (i) Demolition of existing motel buildings and all other remaining structures on site;
 - (ii) Construction of basement car park Stage 2;
 - (iii) Construction of 5 storey hotel Building A;

- (iv) Construction of 4/5 storey waterfront residential Building B;
 - (v) 14m wide public open space created and embellished in front of Building B;
 - (vi) Construction of pedestrian bridges across the western slipway; and,
 - (vii) Construction of boardwalk along western and southern site boundary (off-site works) (subject to Department of Lands' approval).
- (c) **Stage 3**
- (i) Construction of the central 6 storey residential Building D; and,
 - (ii) Construction of the 4 storey retail / residential building on River Street.
- (3) Separate development consent shall be obtained for the following:
- (a) Fit out of the commercial premises and any food premises pursuant to the *Ballina Local Environmental Plan 1987*;
 - (b) Fit out of the café pursuant to the provisions of the *Ballina Local Environmental Plan 1987*; and,
 - (c) Strata subdivision of the 85 residential apartments.

(b) Delete Condition A2 and replace with the following:

A2 Development in Accordance with Plans

The development will be undertaken in accordance with the Environmental Assessment dated 21 August 2006 prepared by Newton Denny Chapelle including all Appendices and the following drawings:

Architectural (or Design) Drawings prepared by <i>Crone Partners</i> at Appendix 2 of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
SITE PLANS			
Z-0001	Rev A	Existing Site Plan	14 August 2006
Z-0002	Rev D	Proposed Site Plan	22 May 2008
Z-0003	Rev A	Context / Location Plan	14 August 2006
Z-0004	Rev A	Site Analysis Plan	14 August 2006
FLOOR PLANS			
Z-1099	Rev H	Basement 1 Floor Plan	2 April 2008
Z-1100	Rev H	Ground Floor Plan Public Domain	14 February 2008
Z-1101	Rev G	Level 1 Floor Plan	31 January 2008
Z-1102	Rev E	Level 2 Floor Plan	14 February 2008
Z-1103	Rev E	Level 3 Floor Plan	14 February 2008
Z-1104	Rev F	Level 4 Floor Plan	14 February 2008
Z-1105	Rev E	Level 5 Floor Plan	14 February 2008
Z-1106	Rev D	Roof Plan	23 November 2007
Z-1111	Rev C	Ground Floor Plan Showing Boardwalk	22 May 2008
Z-1112	Rev C	Ground Floor Plan Showing Public Accessible Domain	22 May 2008

INDIVIDUAL APARTMENTS			
Building A – Hotel			
ASKZ 1500	Rev B	Cover Sheet	14 May 2007
ASKZ 1511	Rev A	1 Bed Guestroom	10 August 2006
ASKZ 1511.1	Rev B	1 Bed Guestroom	14 February 2008
ASKZ 1511.2	Rev B	1 Bed Guestroom	14 February 2008
ASKZ 1511.3	Rev A	1 Bed Guestroom	14 February 2008
ASKZ 1512.1	Rev B	Typical Guestroom	14 May 2007
ASKZ 1513	Rev B	Corner Guestroom	14 May 2007
ASKZ 1514	Rev B	Disabled Guestroom	14 May 2007
ASKZ 1515	Rev B	Guestroom (no balcony)	14 May 2007
Building B – Waterfront Buildings			
ASKZ 1521	Rev B	3 bed Apartment Ground Floor	14 May 2007
ASKZ 1522	Rev B	3 bed Apartment Ground Floor	14 May 2007
ASKZ 1523	Rev B	2 bed Apartment	14 May 2007
ASKZ 1524	Rev B	3 bed Apartment	14 May 2007
ASKZ 1525	Rev B	3 bed Apartment	14 May 2007
ASKZ 1526	Rev C	B-401 (adaptable apartment)	28 May 2008
ASKZ 1527	Rev B	B-402 (adaptable apartment)	28 May 2008
Building C – Residential			
ASKZ 1531	Rev B	2 bed dual key	14 May 2007
ASKZ 1532	Rev B	2 bed dual key	14 May 2007
ASKZ 1533	Rev A	1 bed apartment	14 May 2007
ASKZ 1534	Rev A	1 bed apartment	14 May 2007
ASKZ 1535	Rev A	1 bed apartment	14 May 2007
ASKZ 1536	Rev A	1 bed apartment	14 May 2007
ADAZ 1535	Rev B	C-307 (adaptable apartment)	28 May 2008
Building D – Residential			
ASKZ 1541	Rev C	3 bed apartment	14 February 2008
ASKZ 1542	Rev B	2 bed apartment	14 May 2007
ASKZ 1543	Rev B	3 bed apartment	14 May 2007
ASKZ 1544	Rev B	2 bed apartment	14 May 2007
ASKZ 1545	Rev B	2 bed apartment	14 May 2007
ADAZ 1546	Rev c	Building D (adaptable apartment)	28 May 2008
ASKZ 1547	Rev B	3 bed apartment	14 May 2007
ASKZ 1548	Rev B	2 bed apartment	14 May 2007
ASKZ 1549	Rev B	3 bed (adaptable)	14 May 2007
ASKZ 1549.1	Rev A	3 bed (adaptable)	

ADAZ 1550	Rev C	Building D (adaptable apartment)	28 May 2008
ASKZ 1551	Rev C	3 bed apartment	14 February 2008
ASKZ 1552	Rev B	2 bed apartment	14 May 2007
ASKZ 1553	Rev B	3 bed apartment	14 May 2007
ASKZ 1554	Rev B	3 bed apartment	14 May 2007
Building F – Residential			
ASKZ 1561	Rev B	3 bed apartment	14 May 2007
ASKZ 1562	Rev B	3 bed apartment	14 May 2007
ASKZ 1563	Rev B	3 bed apartment	14 May 2007
ASKZ 1564	Rev B	3 bed apartment	14 May 2007
ASKZ 1565	Rev A	3 bed penthouse	14 May 2007
ADAZ 1565	Rev b	F-401 (adaptable apartment)	28 May 2008
Building E – Residential			
ASKZ 1571	Rev A	Manager's Apartment	14 May 2007
ELEVATIONS			
Z-2001	Rev E	North and South Elevations	14 February 2008
Z-2002	Rev E	East and West Elevations	14 February 2008
Z-2003	Rev E	Building D Elevations	14 February 2008
Z-2004	Rev E	Waterfront Building North Elevation Building A and B East Elevations	14 February 2008
SECTIONS			
Z-3001	Rev E	Section A & B	14 February 2008
Z-3002	Rev E	Section C & D	14 February 2008
Z-3003	Rev E	Section E	14 February 2008
DETAILED SECTIONS			
Z-3101	Rev B	Detailed Section - Buildings B & F	14 May 2007
Z-3102	Rev B	Detailed Section – Building C	14 May 2007
Z-3103	Rev B	Detailed Section – Building D	14 May 2007
SHADOW DIAGRAMS			
Z-3901	Rev B	Shadow Diagrams – December 21	14 May 2007
Z-3902	Rev B	Shadow Diagrams – March/September 21	14 May 2007
Z-3903	Rev B	Shadow Diagrams – June 21	9 February 2007
GFA CALCULATIONS PLANS			
Z-1602	Rev E	Ground Floor Plan Public Domain Showing GFA	22 May 2008
Z-1603	Rev D	Level 1 Floor Plan Showing GFA	14 February 2008
Z-1604	Rev D	Level 2 Floor Plan Showing GFA	14 February 2008
Z-1605	Rev D	Level 3 Floor Plan Showing GFA	14 February 2008

Z-1606	Rev D	Level 4 Floor Plan Showing GFA	14 February 2008
Z-1607	Rev D	Level 5 Floor Plan Showing GFA	14 February 2008
FPA CALCULATION PLANS			
Z-1701	Rev D	Basement 1 Floor Plan Showing FPA	14 February 2008
Z-1702	Rev E	Ground 1 Floor Plan Public Domain Showing FPA	22 May 2008
Z-1703	Rev D	Level 1 Floor Plan Showing FPA	14 February 2008
Z-1704	Rev D	Level 2 Floor Plan Showing FPA	14 February 2008
Z-1705	Rev D	Level 3 Floor Plan Showing FPA	14 February 2008
Z-1706	Rev D	Level 4 Floor Plan Showing FPA	14 February 2008
Z-1707	Rev D	Level 5 Floor Plan Showing FPA	14 February 2008
PHOTOMONTAGE IMAGES			
Z-9001	Rev D	Aerial 3D Perspective	14 May 2007
Z-9002	Rev C	View from East End of River Street	14 May 2007
Z-9003	Rev C	View from West End of River Street	14 May 2007
Z-9004	Rev C	View from the Richmond River	14 May 2007
Z-9007	Rev B	3D Perspective	14 May 2007
Z-9008	Rev C	3D Perspective	14 May 2007
Landscape Drawings prepared by <i>CONTEXT Landscape Design</i> at Section B of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
LWD-101	Rev K	Landscape Masterplan	June 2008
Survey Drawings prepared by Newton Denny Chapelle at Section A – Architectural Drawings of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
4	Rev A	Job No.03/728	6/10/04

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in the *Ballina Local Environmental Plan 1987* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

(c) Delete Condition A3 and replace with the following:

A3 Development in Accordance with Documents

The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Newton Denny Chapelle on behalf of Sundowner Developments (NSW) Pty Ltd, dated 21 August 2006;
- (2) *Response to Submissions Report* prepared by Cronepartners Architecture Studios on behalf of Sundowner Developments (NSW) Pty Ltd, dated 22 December 2006;

- (3) *Preferred Project Report* prepared by Cronepartners Architecture Studios on behalf of Sundowner Developments (NSW) Pty Ltd, dated 9 February 2007;
- (4) *Draft Statement of Commitments* prepared by Newton Denny Chapelle dated August 2006 Version D – Amended May 2007
- (5) *Architectural Design Statement* prepared by Cronepartners Architecture Studios dated August 2006 (Appendix 2 to the Environmental Assessment);
- (6) *Access Review Report* prepared by Cronepartners Architecture Studios dated August 2006 (Appendix 3 to the Environmental Assessment);
- (7) *Public Domain and Landscape Masterplan Report* prepared by CONTEXT Landscape Design Revision E dated 31 July 2006 (Appendix 4 to the Environmental Assessment);
- (8) *Traffic Impact Assessment* prepared by Newton Denny Chapelle dated August 2006 (Appendix 5 to the Environmental Assessment);
- (9) *Waste Management Report for Ballina Gateway Project* prepared by MACK Group Waste Management Consultants, dated 12 July 2006 (Appendix 6 to the Environmental Assessment);
- (10) *Design Compliance Report* prepared by EMF Griffiths dated 1 August 2006 (Appendix 7 to the Environmental Assessment);
- (11) *ESD Requirements* prepared by EMF Griffiths dated 1 August 2006 (Appendix 8 to the Environmental Assessment);
- (12) *Wind and Reflectivity Assessment* by Heggies Australia dated 4 August 2006 (Appendix 9 to the Environmental Assessment);
- (13) *Infrastructure and Engineering Report for Ballina Gateway River Street Ballina* prepared by Ardill Payne & Partners dated July 2006 (Appendix 10 to the Environmental Assessment);
- (14) *Crime Prevention Through Environmental Design Report* prepared by Crone Partners Architecture Studios dated July 2006 (Appendix 11 to the Environmental Assessment);
- (15) *Ecological Assessment Report (Final – July 26 2006)* prepared by Place Environmental dated 27 July 2006 (Appendix 14 to the Environmental Assessment);
- (16) *Ballina Gateway Mixed Use Development Economic Impact Assessment* prepared by Hill PDA Consulting dated July 2006 (Appendix 15 to the Environmental Assessment);
- (17) *Environmental Noise Impact Assessment* prepared by Carter Rytenskild Group dated 27 April 2007;
- (18) BASIX Certificates as follows (appendix 14 to *Environmental Assessment*):

Certificate No.	Project Name	Address
85471M	Ballina Gateway Block B & F	Cnr River and Kerr Streets, Ballina
85782M	Ballina Gateway Block C	Cnr River and Kerr Streets, Ballina
85610M	Ballina Gateway Block D	Cnr River and Kerr Streets, Ballina

- (19) Correspondence prepared by Ardill Payne & Partners to Crone Partners Architecture Studios dated 21 February 2007, with respect to the management of acid sulfate soils and groundwater management.

As amended by the following documents and the following conditions of approval:

- (20) Letter from Carter Rytenskild Group, headed "*Gateway Ballina Alterations to Loading Dock Arrangement Noise Issues*", dated 8 February 2008.

- (21) Letter from Newton Denny Chapelle, headed "*Request for Information – Clarification of General Parking Matters and S94 Parking Impacts*", dated February 2008.
- (22) Letter from Morris Goding Accessibility Consulting, headed "*Ballina Gateway Project – Accessibility Issues*", dated 29 January 2008.

(d) Delete Condition B1

(e) Delete Condition B18 and replace with the following:

B18 Riverbank Stability

- (1) Prior to the issue of a Construction Certificate for each stage of the development, a geotechnical investigation shall be undertaken to investigate how the stability of the riverfront will be maintained pre- and post-construction. The report shall be prepared by a suitably qualified geotechnical expert and submitted to the Certifying Authority. The investigation should include the following:
 - (a) If the existing wall is to be retained a geotechnical assessment will be required to determine if the existing structure is adequate.
 - (b) If a wall structure is proposed a geotechnical investigation will be required to determine what settlement is likely to occur.
 - (c) Assessment of the suitability of the boardwalk design (refer Condition A1(2)(b)(vii)).
- (2) Prior to the issue of a Construction Certificate for each stage of the development, a pre-construction survey of the riverbank shall be undertaken. The survey shall be submitted to the satisfaction of the Certifying Authority.
- (3) Prior to the issue of a Construction Certificate for each stage of the development, the engineering design of the Richmond River retaining wall for the relevant frontage of the site to the river shall be submitted to and approved by the Certifying Authority. Such design shall be certified by a suitably qualified engineer stating that the proposed structure shall withstand the flood forces of a probable maximum flood.

(f) Delete Condition B28 and replace with the following:

B28 Road Design

- (1) Kerb and gutter, stormwater drainage, road pavement widening including traffic facilities (median islands, roundabout splitter islands, arms and pedestrian refuges etc.) and paved footpaths shall be constructed along the full length of River and Kerr Streets where they extend adjacent to the development site. All Roads shall be designed in consultation with the relevant requirements of Ballina Shire Council and the RTA. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to Ballina Shire Council prior to the issue of a Construction Certificate for below ground works for each stage of the development.
- (2) Prior to the Issue of the Construction Certificate for below ground works for Stage 1 of the development, engineering design drawings shall be submitted to and approved by Council under Section 138 of the *Roads Act 1993* for the following civil works. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.
 - (a) Concrete median in River Street from Kerr Street to Grant Street.

- (3) Prior to the Issue of the Construction Certificate for below ground works for Stage 2 of the development, engineering design drawings shall be submitted to and approved by Council under Section 138 of the *Roads Act 1993* for the road pavement widening of Kerr Street. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.
- (4) These works are to include kerb and guttering, associated drainage and a minimum 300mm depth of compacted road base on approved suitable sub-grade material. The surface layer is to be a minimum of 25mm depth asphaltic concrete. Inspection of the road widening by Council's Engineer (Ph. 6686 4444) is required at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory sub-grade material, the developer shall be required to remove the unsuitable material for a further depth of 700mm and replace with approved sand fill.
- (5) The provision of a footpath and gutter crossing for the development. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*. The design plans are to be approved by Council prior to issue of the Construction Certificate.
- (6) The provision of pedestrian path for the full footpath width along the River and Kerr Street frontages. The footpath is to be designed and constructed in accordance with Council's requirements and on an alignment to the approval of Council's Engineer. Any temporary or unnecessary footpath resulting from the development is to be removed and the area restored in accordance with Council's requirements.
- (7) Removal of redundant driveway crossings in River and Kerr Streets

(g) Delete Condition B30 and replace with the following:

B30 Number of Car Spaces

A minimum of 255.3 spaces are to be provided for the development, with 228 spaces to be accommodated on site (including 1 courier space), with the remaining 27.3 spaces to be accommodated off site by payment of Section 94 Contributions to Ballina Shire Council pursuant to Council's Parking Contribution Plan. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2. Onsite allocation of parking is to be in accordance with the following table.

Car parking allocation	Number
Residential car parking spaces, including 1 space for manager's residence	119
Retail car parking spaces (to be allocated as a minimum of 1 space per retail suite and 4 spaces for café for staff parking - with other spaces and accessible space to be shared parking for retail customers and residential visitors and 1 courier space for use by all retail suites – courier space included in total parking provision)	22
Commercial Spaces (Hotel)	70
Visitor Spaces (for use by retail and residential visitors to the site)	17
Accessible spaces (included in total parking provision, 1 space to be allocated to each of 9 adaptable apartments, 2 spaces for use by retail customers and residential visitors and 3 spaces for allocation to the	14

hotel/restaurant use)	
Car Wash Bay (excluded from total parking provision)	1

(h) Delete Condition B32 and replace with the following:

B32 Number of Loading Bays

A minimum of 2 loading bays are to be provided for the development. At least 1 of these bays shall be capable of accommodating 11 metre trucks. Details of the loading arrangements shall be consistent with Drawing No. Z-1099 Rev G Basement 1 Floor Plan, dated 14 February 2008 and Z-1100 Rev H Ground Floor Plan, dated 14 February 2008 and be submitted to the Certifying Authority prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2. Plans submitted should clearly demonstrate that a large rigid vehicle can enter and leave the site in a forward direction.

(i) Delete Condition B39 and replace with the following:

B39 Section 94 Monetary Contributions

The Proponent shall pay the following monetary contributions for each stage of the development:

Amount of Contribution

Section 94 Contributions – Stage 1

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
43.22 ERA *	\$1,297	\$56,062.57	92.36 ERA	\$119,790.92	\$0
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
7.2 ET **	\$1,045	\$7,524.00	2 ET	\$2,090	\$5,434.00
TOTAL					\$5,434.00

Section 94 Contributions – Stage 2

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
80.14 ERA *	\$1,297	\$103,940.98	64.86 ERA	\$84,123.42	\$19,817.56
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
9.36 ET **	\$1,045	\$9,781.20	0 ET	\$0	\$9,781.20
TOTAL					\$29,598.76

Section 94 Contributions – Stage 3

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
80.22 ERA *	\$1,297	\$104,041.52	0 ERA	\$0	\$104,041.52
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
44.64 ET **	\$1,045	\$46,648.80	0 ET	\$0	\$46,648.80
s94 Ballina Parking Contributions Plan					
Payment for 27.3 parking spaces					\$682,500
TOTAL					\$833,190.32

* Equivalent Residential Allotments

** Equivalent Tenements

1. Contribution Credit

The subject site has a Section 94 Contribution credit based on 2 existing residential dwellings, a 26 unit motel and 1,457sqm of mixed retail. Contributions for each stage are calculated on the difference.

2. Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Ballina 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 Construction Certificate for above ground works for each stage of the development.

3. Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations. The contribution(s) as assessed will apply for 12 months from the date of this approval. The contribution amounts will be subject to review in accordance with the provisions of the existing adopted Development Contributions Plan / Development Servicing Plans.

(j) Delete Condition D1 and replace with the following:

D1 Erosion and Sediment Control

All erosion and sediment control measures for each stage of the development, as designed in accordance with Condition B20, 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.

(k) Delete Condition D9 and replace with the following:

D9 Protection of Trees – Street Trees

All street trees (not required to be removed to provide for new vehicular crossings) shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

(l) Delete Condition E18 and replace with the following:

E18 Foreshore Access

Documentary easements for public access must be created over the three north-south and the east-west pedestrian links through the development in accordance with Drawing No. Z-1112 Rev B dated 14 February 2008 to provide public access to the Richmond River and foreshore via an 88B Instrument under the *Conveyancing Act 1919*. The easement is to permit both pedestrian and bicycle access and must be created prior to the issue of an Occupation Certificate for each stage of the development.

(m) The addition of the following conditions:

B1 Hotel Pick-up/Set-down Area

The pick-up/set-down area for the hotel to be located on Kerr Street is to be appropriately signposted, line marked and the pavement surface coloured or otherwise treated to make it easily visible to patrons, to the satisfaction of Council. Details are to be approved by Council prior to the release of the Construction Certificate for Stage 2 of the development.

B46 Accessibility

The following additional measures are to be provided to ensure equitable accessibility throughout the development:

- a. Lobby E is to be a publicly accessible lobby at the basement and ground floor levels;
- b. All accessible paths of travel and entrances to buildings (where not the main entrance to the building) are to be suitably signposted for identification;
- c. Access through Lobby A from the basement to the ground floor is to be provided for restaurant and hotel patrons, with appropriate directional signage provided; and
- d. A ramp or wheelchair lift is to be provided to allow access between the two levels of the restaurant within the hotel.

Details of compliance with the above and with the other recommendations of the letter from Morris Goding Accessibility Consulting, headed "*Ballina Gateway Project – Accessibility Issues*", dated 29 January 2008, are to be provided prior to the issue of any Construction Certificate, together with certification that the design of the accessible paths of travel are compliant with AS1428, where relevant.

B47 Acoustic Treatment

The attenuation measures for the buildings described in the letter from Carter Rytenskild Group, headed "*Gateway Ballina Alterations to Loading Dock Arrangement Noise Issues*", dated 8 February 2008 to achieve an Rw rating of up to Rw 39 are to be provided for Building D to achieve compliance with the 45dB(A) noise criteria. Details are to be submitted prior to the release of a Construction Certificate for that building.

B48 Vehicular Crossing Design

The designs of the entry/exit driveways to the site are to be in accordance with AS2890.1 (2004) *Parking Facilities Part 1 – Off Street Car Parking Figure 3.3* to ensure an appropriate level of pedestrian safety for pedestrians using Kerr and River Streets. Details for the relevant driveways are to be provided prior to the release of any Construction Certificate.

D22 Relocation of Power Poles/Services

The relocation of any power poles or services required as a result of the development is to occur at the cost of proponent and to the appropriate authority's satisfaction.

F11 Operation of Ground Level Loading Area

Signage indicating a 5 km/h speed limit, that the loading area is a pedestrian zone allowing limited truck access in the specified hours and prohibiting reversing manoeuvres is to be erected at the entrance of the loading area off River Street.

The keys for use of the removable bollards to the ground level loading area are to be held by the onsite manager and the management of the hotel and are to be provided to the garbage removal services providers only.

Truck movements within the ground level loading area are to occur only between 7am and 6pm Monday to Saturday and between 9am and 1pm on Sundays and Public Holidays.

A management plan is to be prepared by the onsite manager in consultation with the hotel management to ensure compliance with the operational aspects of this condition and the onsite manager is to implement a booking system for onsite users (retail and residential) to utilise the ground level loading facility.

F12 Retail Garbage Holding Area

The residential garbage holding area is to be used for temporary storage of garbage from the retail tenancies on the day of collection, which is to be a different day from the day the residential garbage is collected. No retail garbage is to be collected from River Street.

F13 Garbage Holding Area

The onsite manager is to ensure garbage containers for the retail and residential components of the site are placed in the holding areas no earlier than the day before collection and are to be returned to the relevant storage areas on the same day as the collection.

SCHEDULE 2

CONSOLIDATED CONDITIONS OF APPROVAL

Major Project No. 05_0009 (as modified by MP05_0009 MOD 1 on)

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

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

- (1) A staged mixed use development comprising:
 - 84 room 5 storey tourist hotel – Building A (Max RL 17.80m AHD to 5th storey ceiling; GFA 3,488m²);
 - 85 apartments distributed over 4 residential buildings in the following arrangement:
 - (a) Building B – 13 apartments (Max RL 17.80m AHD to 5th storey ceiling; 4/5 storeys; GFA 2,715m²);
 - (b) Building C – ground floor retail (GFA 547m²), 3 floors of 10 dual key apartments and 8 residential apartments (Max RL 15.1m AHD to 3rd storey ceiling; 3/4 storeys; GFA 2,825m²);
 - (c) Building D – 44 residential apartments (Max RL 20.8m AHD to 6th storey ceiling; 6 storeys; GFA 7,373m²);
 - (d) Building F – 9 residential apartments (Max RL 17.80m AHD to 5th storey ceiling; 4/5 storeys; GFA 2,091m²)
 - Amenities building – Building E - with ground floor retail (331m²), pool and gym and manager's apartment (Max RL 15.1m AHD to 4th storey ceiling; 4 storeys; GFA 928m²);
 - Waterfront café – Building G - (Max RL 6.10m AHD to ceiling / 1 storey; GFA 175m²);
 - Subterranean single level basement car park comprising 228 car parking spaces (inclusive of 1 courier space) and 1 car wash bay and 1 loading/service bay; and,
 - Landscaping.
- (2) The development is to be constructed in 3 stages for partial occupation and use on progress as follows:
 - (a) Stage 1
 - (i) Demolition of existing residential and commercial buildings;
 - (ii) Construction of basement car park Stage 1;
 - (iii) Construction of 4 storey retail and amenity Building E;
 - (iv) Construction of 4/5 storey waterfront residential Building F;
 - (v) Construction of single storey waterfront café Building G;
 - (vi) 14m wide public open space created and embellished in front of Building G and F;
 - (vii) Construction of pedestrian bridges across the eastern slipway.
 - (b) Stage 2
 - (i) Demolition of existing motel buildings and all other remaining structures on site;

- (ii) Construction of basement car park Stage 2;
 - (iii) Construction of 5 storey hotel Building A;
 - (iv) Construction of 4/5 storey waterfront residential Building B;
 - (v) 14m wide public open space created and embellished in front of Building B;
 - (vi) Construction of pedestrian bridges across the western slipway; and,
 - (vii) Construction of boardwalk along western and southern site boundary (off-site works) (subject to Department of Lands' approval).
- (c) **Stage 3**
- (i) Construction of the central 6 storey residential Building D; and,
 - (ii) Construction of the 4 storey retail / residential building on River Street.
- (3) Separate development consent shall be obtained for the following:
- (a) Fit out of the commercial premises and any food premises pursuant to the *Ballina Local Environmental Plan 1987*;
 - (b) Fit out of the café pursuant to the provisions of the *Ballina Local Environmental Plan 1987*; and,
 - (c) Strata subdivision of the 85 residential apartments.

A2 Development in Accordance with Plans

The development will be undertaken in accordance with the Environmental Assessment dated 21 August 2006 prepared by Newton Denny Chapelle including all Appendices and the following drawings:

Architectural (or Design) Drawings prepared by <i>Crone Partners</i> at Appendix 2 of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
SITE PLANS			
Z-0001	Rev A	Existing Site Plan	14 August 2006
Z-0002	Rev D	Proposed Site Plan	22 May 2008
Z-0003	Rev A	Context / Location Plan	14 August 2006
Z-0004	Rev A	Site Analysis Plan	14 August 2006
FLOOR PLANS			
Z-1099	Rev H	Basement 1 Floor Plan	2 April 2008
Z-1100	Rev H	Ground Floor Plan Public Domain	14 February 2008
Z-1101	Rev G	Level 1 Floor Plan	31 January 2008
Z-1102	Rev E	Level 2 Floor Plan	14 February 2008
Z-1103	Rev E	Level 3 Floor Plan	14 February 2008
Z-1104	Rev F	Level 4 Floor Plan	14 February 2008
Z-1105	Rev E	Level 5 Floor Plan	14 February 2008
Z-1106	Rev D	Roof Plan	23 November 2007
Z-1111	Rev C	Ground Floor Plan Showing Boardwalk	22 May 2008
Z-1112	Rev C	Ground Floor Plan Showing Public Accessible Domain	22 May 2008

INDIVIDUAL APARTMENTS			
Building A – Hotel			
ASKZ 1500	Rev B	Cover Sheet	14 May 2007
ASKZ 1511	Rev A	1 Bed Guestroom	10 August 2006
ASKZ 1511.1	Rev B	1 Bed Guestroom	14 February 2008
ASKZ 1511.2	Rev B	1 Bed Guestroom	14 February 2008
ASKZ 1511.3	Rev A	1 Bed Guestroom	14 February 2008
ASKZ 1512.1	Rev B	Typical Guestroom	14 May 2007
ASKZ 1513	Rev B	Corner Guestroom	14 May 2007
ASKZ 1514	Rev B	Disabled Guestroom	14 May 2007
ASKZ 1515	Rev B	Guestroom (no balcony)	14 May 2007
Building B – Waterfront Buildings			
ASKZ 1521	Rev B	3 bed Apartment Ground Floor	14 May 2007
ASKZ 1522	Rev B	3 bed Apartment Ground Floor	14 May 2007
ASKZ 1523	Rev B	2 bed Apartment	14 May 2007
ASKZ 1524	Rev B	3 bed Apartment	14 May 2007
ASKZ 1525	Rev B	3 bed Apartment	14 May 2007
ASKZ 1526	Rev C	B-401 (adaptable apartment)	28 May 2008
ASKZ 1527	Rev B	B-402 (adaptable apartment)	28 May 2008
Building C – Residential			
ASKZ 1531	Rev B	2 bed dual key	14 May 2007
ASKZ 1532	Rev B	2 bed dual key	14 May 2007
ASKZ 1533	Rev A	1 bed apartment	14 May 2007
ASKZ 1534	Rev A	1 bed apartment	14 May 2007
ASKZ 1535	Rev A	1 bed apartment	14 May 2007
ASKZ 1536	Rev A	1 bed apartment	14 May 2007
ADAZ 1535	Rev B	C-307 (adaptable apartment)	28 May 2008
Building D – Residential			
ASKZ 1541	Rev C	3 bed apartment	14 February 2008
ASKZ 1542	Rev B	2 bed apartment	14 May 2007
ASKZ 1543	Rev B	3 bed apartment	14 May 2007
ASKZ 1544	Rev B	2 bed apartment	14 May 2007
ASKZ 1545	Rev B	2 bed apartment	14 May 2007
ADAZ 1546	Rev c	Building D (adaptable apartment)	28 May 2008
ASKZ 1547	Rev B	3 bed apartment	14 May 2007
ASKZ 1548	Rev B	2 bed apartment	14 May 2007
ASKZ 1549	Rev B	3 bed (adaptable)	14 May 2007
ASKZ 1549.1	Rev A	3 bed (adaptable)	

ADAZ 1550	Rev C	Building D (adaptable apartment)	28 May 2008
ASKZ 1551	Rev C	3 bed apartment	14 February 2008
ASKZ 1552	Rev B	2 bed apartment	14 May 2007
ASKZ 1553	Rev B	3 bed apartment	14 May 2007
ASKZ 1554	Rev B	3 bed apartment	14 May 2007
Building F – Residential			
ASKZ 1561	Rev B	3 bed apartment	14 May 2007
ASKZ 1562	Rev B	3 bed apartment	14 May 2007
ASKZ 1563	Rev B	3 bed apartment	14 May 2007
ASKZ 1564	Rev B	3 bed apartment	14 May 2007
ASKZ 1565	Rev A	3 bed penthouse	14 May 2007
ADAZ 1565	Rev b	F-401 (adaptable apartment)	28 May 2008
Building E – Residential			
ASKZ 1571	Rev A	Manager's Apartment	14 May 2007
ELEVATIONS			
Z-2001	Rev E	North and South Elevations	14 February 2008
Z-2002	Rev E	East and West Elevations	14 February 2008
Z-2003	Rev E	Building D Elevations	14 February 2008
Z-2004	Rev E	Waterfront Building North Elevation Building A and B East Elevations	14 February 2008
SECTIONS			
Z-3001	Rev E	Section A & B	14 February 2008
Z-3002	Rev E	Section C & D	14 February 2008
Z-3003	Rev E	Section E	14 February 2008
DETAILED SECTIONS			
Z-3101	Rev B	Detailed Section - Buildings B & F	14 May 2007
Z-3102	Rev B	Detailed Section – Building C	14 May 2007
Z-3103	Rev B	Detailed Section – Building D	14 May 2007
SHADOW DIAGRAMS			
Z-3901	Rev B	Shadow Diagrams – December 21	14 May 2007
Z-3902	Rev B	Shadow Diagrams – March/September 21	14 May 2007
Z-3903	Rev B	Shadow Diagrams – June 21	9 February 2007
GFA CALCULATIONS PLANS			
Z-1602	Rev E	Ground Floor Plan Public Domain Showing GFA	22 May 2008
Z-1603	Rev D	Level 1 Floor Plan Showing GFA	14 February 2008
Z-1604	Rev D	Level 2 Floor Plan Showing GFA	14 February 2008
Z-1605	Rev D	Level 3 Floor Plan Showing GFA	14 February 2008

Z-1606	Rev D	Level 4 Floor Plan Showing GFA	14 February 2008
Z-1607	Rev D	Level 5 Floor Plan Showing GFA	14 February 2008
FPA CALCULATION PLANS			
Z-1701	Rev D	Basement 1 Floor Plan Showing FPA	14 February 2008
Z-1702	Rev E	Ground 1 Floor Plan Public Domain Showing FPA	22 May 2008
Z-1703	Rev D	Level 1 Floor Plan Showing FPA	14 February 2008
Z-1704	Rev D	Level 2 Floor Plan Showing FPA	14 February 2008
Z-1705	Rev D	Level 3 Floor Plan Showing FPA	14 February 2008
Z-1706	Rev D	Level 4 Floor Plan Showing FPA	14 February 2008
Z-1707	Rev D	Level 5 Floor Plan Showing FPA	14 February 2008
PHOTOMONTAGE IMAGES			
Z-9001	Rev D	Aerial 3D Perspective	14 May 2007
Z-9002	Rev C	View from East End of River Street	14 May 2007
Z-9003	Rev C	View from West End of River Street	14 May 2007
Z-9004	Rev C	View from the Richmond River	14 May 2007
Z-9007	Rev B	3D Perspective	14 May 2007
Z-9008	Rev C	3D Perspective	14 May 2007
Landscape Drawings prepared by <i>CONTEXT Landscape Design</i> at Section B of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
LWD-101	Rev K	Landscape Masterplan	June 2008
Survey Drawings prepared by Newton Denny Chapelle at Section A – Architectural Drawings of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
4	Rev A	Job No.03/728	6/10/04

except for:

- (3) any modifications which are 'Exempt and Complying Development' as identified in the *Ballina Local Environmental Plan 1987* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (4) otherwise provided by the conditions of this approval.

A3 Development in Accordance with Documents

The development will be undertaken in accordance with the following documents:

- 1) *Environmental Assessment Report* prepared by Newton Denny Chapelle on behalf of Sundowner Developments (NSW) Pty Ltd, dated 21 August 2006;
- 2) *Response to Submissions Report* prepared by Cronepartners Architecture Studios on behalf of Sundowner Developments (NSW) Pty Ltd, dated 22 December 2006;
- 3) *Preferred Project Report* prepared by Cronepartners Architecture Studios on behalf of Sundowner Developments (NSW) Pty Ltd, dated 9 February 2007;

- 4) *Draft Statement of Commitments* prepared by Newton Denny Chapelle dated August 2006 Version D – Amended May 2007
- 5) *Architectural Design Statement* prepared by Cronepartners Architecture Studios dated August 2006 (Appendix 2 to the Environmental Assessment);
- 6) *Access Review Report* prepared by Cronepartners Architecture Studios dated August 2006 (Appendix 3 to the Environmental Assessment);
- 7) *Public Domain and Landscape Masterplan Report* prepared by CONTEXT Landscape Design Revision E dated 31 July 2006 (Appendix 4 to the Environmental Assessment);
- 8) *Traffic Impact Assessment* prepared by Newton Denny Chapelle dated August 2006 (Appendix 5 to the Environmental Assessment);
- 9) *Waste Management Report for Ballina Gateway Project* prepared by MACK Group Waste Management Consultants, dated 12 July 2006 (Appendix 6 to the Environmental Assessment);
- 10) *Design Compliance Report* prepared by EMF Griffiths dated 1 August 2006 (Appendix 7 to the Environmental Assessment);
- 11) *ESD Requirements* prepared by EMF Griffiths dated 1 August 2006 (Appendix 8 to the Environmental Assessment);
- 12) *Wind and Reflectivity Assessment* by Heggies Australia dated 4 August 2006 (Appendix 9 to the Environmental Assessment);
- 13) *Infrastructure and Engineering Report for Ballina Gateway River Street Ballina* prepared by Ardill Payne & Partners dated July 2006 (Appendix 10 to the Environmental Assessment);
- 14) *Crime Prevention Through Environmental Design Report* prepared by Crone Partners Architecture Studios dated July 2006 (Appendix 11 to the Environmental Assessment);
- 15) *Ecological Assessment Report (Final – July 26 2006)* prepared by Place Environmental dated 27 July 2006 (Appendix 14 to the Environmental Assessment);
- 16) *Ballina Gateway Mixed Use Development Economic Impact Assessment* prepared by Hill PDA Consulting dated July 2006 (Appendix 15 to the Environmental Assessment);
- 17) *Environmental Noise Impact Assessment* prepared by Carter Rytenschild Group dated 27 April 2007;
- 18) BASIX Certificates as follows (appendix 14 to *Environmental Assessment*):

Certificate No.	Project Name	Address
85471M	Ballina Gateway Block B & F	Cnr River and Kerr Streets, Ballina
85782M	Ballina Gateway Block C	Cnr River and Kerr Streets, Ballina
85610M	Ballina Gateway Block D	Cnr River and Kerr Streets, Ballina

- 19) Correspondence prepared by Ardill Payne & Partners to Crone Partners Architecture Studios dated 21 February 2007, with respect to the management of acid sulfate soils and groundwater management.

As amended by the following documents and the following conditions of consent:

- 20) Letter from Carter Rytenschild Group, headed "*Gateway Ballina Alterations to Loading Dock Arrangement Noise Issues*", dated 8 February 2008.
- 21) Letter from Newton Denny Chapelle, headed "*Request for Information – Clarification of General Parking Matters and S94 Parking Impacts*", dated February 2008.

- 22) Letter from Morris Goding Accessibility Consulting, headed "*Ballina Gateway Project – Accessibility Issues*", dated 29 January 2008.

A4 *Inconsistency between documents*

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

A5 *Prescribed Conditions*

The Proponent shall comply with the prescribed conditions of development approval under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 *Hotel Pick-up/Set-down Area*

The pick-up/set-down area for the hotel to be located on Kerr Street is to be appropriately signposted, line marked and the pavement surface coloured or otherwise treated to make it easily visible to patrons, to the satisfaction of Council. Details are to be approved by Council prior to the release of the Construction Certificate for Stage 2 of the development.

B2 *Staging*

In order to ensure that the development provides for a continuous foreshore open space corridor along the Richmond River, the staging of the development is amended such that the following works are also undertaken prior to the issue of an Occupation Certificate for the Stage 1 buildings:

- (1) 14 metres of public open space dedicated to Ballina Council in front of Building B, F and G extending along the southern site boundary from the eastern to the western site boundary; and,
- (2) 5.57m of public open space dedicated to Ballina Council along the western site boundary extending from the southern site boundary to the gardens on the southern side of Building A (refer blue shading in Drawing No.Z-1100 Rev C at Annexure A to this approval).
- (3) The area of land to be dedicated shall be verified by a surveyor and plans lodged with the Land Titles Office

Details of Materials, Colours and Finishes

B3 *Reflectivity*

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works for each stage of the development.

B4 *Outdoor Lighting*

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works for each stage of the development.

B5 Design Verification Statement – Residential Flat Buildings

Prior to the issue of a Construction Certificate for above ground works for each stage of the development, the Proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

B6 BASIX

Prior to the issuing an Construction Certificate for each stage of the development, plans and specification of all requirements listed in the relevant BASIX Certificate for the subject development shall be submitted to and approved by the Certifying Authority.

B7 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate for below ground works for each stage of the development, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B8 Substation

Prior to the issue of a Construction Certificate for above ground works for Stage 1 of the development, the Proponent shall submit to the Certifying Authority design details of the substation holding area.

B9 Roof Modulation

The roof of Buildings B and F may be modulated in the upper most apartments over living areas to enhance solar access, natural lighting and cross-ventilation to these apartments in addition to creating architectural and visual interest to the roof form. The modulations are to be in accordance with the approved plans to a maximum height of 0.5m (RL 18.30m AHD) from the upper most ceiling. Services shall be kept within the roofs or behind parapets.

Flooding

B10 Minimum Floor Levels

All ground floor levels are to be not less than 2.1 metres above Australian Height Datum in accordance with Council's Flood Plain Management Policy. A surveyor's certificate verifying compliance with this requirement is to be submitted to Council at completion of the floor prior to work proceeding beyond these stages.

B11 Flood Evacuation and Flood Management Plan

A Flood Evacuation Plan and Flood Management Plan are to be submitted to the Certifying Authority for approval prior to the issue of Construction Certificate for above ground works for each stage of the development.

B12 Site Levels

Site levels are to be not less than 1.8 metres above Australian Height Datum in accordance with Council's Flood Plain Management Policy. A surveyor's certificate verifying compliance with this requirement is to be submitted to Council at completion of footings / slab formwork (prior to concrete pour) prior to work proceeding beyond these stages.

B13 Filling

No fill is to be placed on the site that is likely to cause surface water flooding of any adjoining property.

Remediation / Demolition / Earthworks

B14 Contamination

Prior to the issue of a Construction Certificate for below ground works for each stage of the development, a further SEPP 55 contaminated land assessment is required to isolate contaminated areas and remediate the areas of contamination to threshold levels stipulated as suitable for proposed land uses in the relevant guidelines. Investigations shall ascertain the full extent of contamination on site and to determine an appropriate management and remediation strategy for any contaminated soils. Further assessment shall including the following:

- (1) Further investigations are carried out to investigate the site in accordance with the relevant sections of the NSW EPA (1995) Sampling Design Guidelines. The Guidelines recommend 21 sampling locations for a site of about 1.0ha and these should be spread across the four Areas of Environmental Concern and in particular, target the area around BH5 and the known and suspected underground storage tanks (USTs).
- (2) The USTs and associated infrastructure (such as fuel lines and filler points) shall be removed by an experienced contractor and disposed to a location approved by Ballina Shire Council. Excavated soil impacted by petroleum hydrocarbons, shall be appropriately remediated either through bio-remediation techniques or disposal to a licensed landfill. The resulting excavation shall be validated in accordance with current NSW DEC guidelines by a suitably qualified environmental consultant.
- (3) Groundwater monitoring and sampling shall be carried out to assess temporal and seasonal variations in groundwater levels and chemicals of concern, in particular, concentrations of TPH and PAH.

B15 Remediation of Land

- (1) Prior to the issue of a Construction Certificate for below ground works for each stage of the development, the Proponent shall submit to the Certifying Authority a Remedial Action Plan and a Hazardous Materials Survey. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Department of Environment, Conservation and Climate Change to issue Site Audit Statements.
- (2) Upon completion of the remediation works on the site for each stage of the development, the Proponent 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 Department of Environment, Conservation and Climate Change to issue Site Audit Statements. The site audit must verify that the land is suitable for the proposed uses.

B16 Acid Sulphate Soil Management Plan

- (1) An Acid Sulphate Soil Management Plan developed in consultation with the contamination investigations report (refer Condition B11) shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be submitted to the satisfaction of Council prior to the issue of a Construction Certificate for below ground works for each stage of the development.

- (2) Excavations must be enclosed laterally to minimise the intrusion of groundwater into the site as detailed by the "fully tanked" option in section 7.3 of Coffey Geosciences report.
- (3) All excavated soil shall be limed at a rate of 60kg/m³ in a manner described in the ASS Management Plan by Coffey Geosciences dated 25 November 2005.
- (4) Departures from this liming rate to be according to sampling carried out in accordance with the ASS Manual. Sampling is to be conducted by an independent environmental engineer/scientist. Sampling is to be logged in a field book, including date, site & location, depth, soil type. Samples are to be analysed according to the Laboratory Methods 2004 at a NATA-registered laboratory for the relevant tests. Results and response, including variations from the liming rate are to be reported to Ballina Shire Council.
- (5) The treatment of ASS is not to occur off site without the prior approval of Ballina Shire Council.

B17 Dewatering

- (1) Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the *Water Act 1912* must be obtained from the Department of Water and Energy. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- (2) A Dewatering Management Plan for all dewatering activities to be carried out on the site shall be submitted to and approved by Ballina Shire Council prior to release of the Construction Certificate for below ground works for Stage 1. The plan is to give consideration to the contamination issues on site and the impact that this may have on groundwater and dewatering activities proposed.
- (3) An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the *Water Act 1912*.
- (4) When the Department of Water and Energy grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- (5) All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- (6) All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- (7) The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- (8) All vegetation clearing must be authorised under the *Native Vegetation Conservation Act 1997*, if applicable.
- (9) The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- (10) A license fee calculated in accordance with the *Water Act 1912* must be paid before a license can be granted.
- (11) If and when required by the Department of Water and Energy, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.

- (12) All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department of Water and Energy to ensure its accuracy.
- (13) Works for construction of bores must be completed within such period as specified by the Department of Water and Energy.
- (14) Within 2 months after the works are completed the Department of Water and Energy must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- (15) Officers of the Department of Water and Energy or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- (16) Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
- (17) The use of water shall be conditional on no tailwater drainage being discharged into or onto:
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
- (18) The work shall be managed in accordance with the constraints set out in the letter from Ardill Payne & Partners to Crone Partners Architecture Studies dated 21 February 2007 with respect to the management of acid sulfate soils and groundwater management.
- (19) The volume of groundwater extracted as authorised must not exceed 10 megalitres.
- (20) The Department of Water and Energy has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- (21) The licence shall lapse within six (6) months of the date of issue of the licence.

Geotechnical

B18 Riverbank Stability

- (1) Prior to the issue of a Construction Certificate for each stage of the development, a geotechnical investigation shall be undertaken to investigate how the stability of the riverfront will be maintained pre- and post-construction. The report shall be prepared by a suitably qualified geotechnical expert and submitted to the Certifying Authority. The investigation should include the following:
 - (a) If the existing wall is to be retained a geotechnical assessment will be required to determine if the existing structure is adequate.
 - (b) If a wall structure is proposed a geotechnical investigation will be required to determine what settlement is likely to occur.
 - (c) Assessment of the suitability of the boardwalk design (refer Condition A1(2)(b)(vii)).
- (2) Prior to the issue of a Construction Certificate for each stage of the development, a pre-construction survey of the riverbank shall be undertaken. The survey shall be submitted to the satisfaction of the Certifying Authority.

- (3) Prior to the issue of a Construction Certificate for each stage of the development, the engineering design of the Richmond River retaining wall for the relevant frontage of the site to the river shall be submitted to and approved by the Certifying Authority. Such design shall be certified by a suitably qualified engineer stating that the proposed structure shall withstand the flood forces of a probable maximum flood.

B19 Geotechnical Report

Prior to the issue of a Construction Certificate for Stage 1 of the development, a detailed geotechnical and hydrogeological report shall be prepared and submitted to the approval of the Certifying Authority. The report must address the following:

- (1) Investigation of geotechnical conditions below the proposed depth of excavation and/or founding depth of the development. If possible the depth to bedrock should be established.
- (2) The presence of groundwater must be investigated. The groundwater levels must be measured and monitored.
- (3) Recommendations must be made as to appropriate temporary and permanent site support and retention measures.
- (4) Prediction of ground settlement in areas adjacent to the development site resulting from temporary and permanent site support and retention measures and demonstrate that settlement will have no adverse impact on the surrounding properties and infrastructure.
- (5) Hydrogeology, including cumulative effects should the adjacent site also be redeveloped with basement car parking;
- (6) The method of dewatering, including the location and disposal of site dewaterings, including seepage and stormwater trapped in excavations;
- (7) That there will be no adverse effect on surrounding property and infrastructure as a result of changes on local hydrogeology created by the development, during or after construction.

B20 Erosion and Sedimentation Control

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

B21 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 buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for below ground works for each stage of the development. A copy of the report is to be forwarded to Council.

Construction Management

B22 Construction Management Plan

Prior to the issue of a Construction Certificate for each stage of the development, 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,
- (5) waste management,
- (6) erosion and sediment control, and,
- (7) flora and fauna management.

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

B23 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate for each stage of the development, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. 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,
- (4) provision on site for parking of tradespersons vehicles during construction; and,
- (5) pedestrian and traffic management methods.

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

B24 Noise and Vibration Management Plan

Prior to the issue of a Construction Certificate for each stage of the development, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this approval,
- (4) The construction vibration criteria specified in the conditions of this approval,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.

- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

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

B25 Construction Waste Management Plan

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority a Waste Management Plan prepared by a suitably qualified person in accordance with Ballina Shire Council's *Combined Development Control Plan*. The Proponent shall submit a copy of the plan to Council.

Noise

B26 Building Design

The acoustic consultant shall provide Ballina Shire Council with certification that the final construction and building design plans, including external plant and machinery, comply with the acoustic specifications identified in the Environmental Noise Impact Assessment prepared by Carter Rytenschild Group, dated 27 April 2007, prior to the release of the Construction Certificate for above ground works for each stage.

Engineering

B27 Stormwater and Drainage Works Design

- (1) A revised Stormwater Management Plan that has been developed in conjunction with the findings of the contamination report must be submitted to and approved by the Ballina Shire Council prior to the release of a Construction Certificate for below ground works for each stage of the development.
- (2) Final design plans of the stormwater drainage systems within the development, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Ballina Shire Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for below ground works for each stage of the development. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.
- (3) Stormwater quality and quantity modelling shall be undertaken to demonstrate compliance with Chapter 13 of *Ballina Shire's Combined Development Control Plan* prior to the release of a Construction Certificate for below ground works for each stage of the development. This is to include the shaping of driveways and paved areas to drain to landscaped/vegetated areas with infiltration strips.
- (4) Pervious paving is to be provided where possible. Details are to be shown on the design plans.

B28 Road Design

- (1) Kerb and gutter, stormwater drainage, road pavement widening including traffic facilities (median islands, roundabout splitter islands, arms and pedestrian refuges etc.) and paved footpaths shall be constructed along the full length of River and Kerr Streets where they extend adjacent to the development site. All Roads shall be designed in consultation with the relevant requirements of Ballina Shire Council and the RTA. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to Ballina Shire Council prior to the issue of a Construction Certificate for below ground works for each stage of the development.
- (2) Prior to the Issue of the Construction Certificate for below ground works for Stage 1 of the development, engineering design drawings shall be submitted to and approved by Council under Section 138 of the *Roads Act 1993* for the following civil works. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.
 - (a) Concrete median in River Street from Kerr Street to Grant Street.
- (3) Prior to the Issue of the Construction Certificate for below ground works for Stage 2 of the development, engineering design drawings shall be submitted to and approved by Council under Section 138 of the *Roads Act 1993* for the following civil works. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.
 - (a) Road Pavement Widening of Kerr Street
- (4) These works are to include kerb and guttering, associated drainage and a minimum 300mm depth of compacted road base on approved suitable sub-grade material. The surface layer is to be a minimum of 25mm depth asphaltic concrete. Inspection of the road widening by Council's Engineer (Ph. 6686 4444) is required at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory sub-grade material, the developer shall be required to remove the unsuitable material for a further depth of 700mm and replace with approved sand fill.
- (5) The provision of a footpath and gutter crossing for the development. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*. The design plans are to be approved by Council prior to issue of the Construction Certificate.
- (6) The provision of pedestrian path for the full footpath width along the River and Kerr Street frontages. The footpath is to be designed and constructed in accordance with Council's requirements and on an alignment to the approval of Council's Engineer. Any temporary or unnecessary footpath resulting from the development is to be removed and the area restored in accordance with Council's requirements.
- (7) Removal of redundant driveway crossings in River and Kerr Streets

Traffic & Parking

B29 Traffic Control Devices

A Traffic Management Plan is to be submitted to and approved by Ballina Shire Council to ensure that vehicles exit the site in a safe manner and that appropriate signage is installed and clearly visible at the upper threshold of the driveways to River Street and Kerr Street in accordance with relevant Australian standards. Details of the type, location and operation of the device are to be submitted to the satisfaction of Ballina Shire Council prior to the issue of the Construction Certificate for above ground works for each stage of the development.

B30 Number of Car Spaces

A minimum of 255.3 spaces are to be provided for the development, with 228 spaces to be accommodated on site (including 1 courier space), with the remaining 27.3 spaces to be accommodated off site by payment of Section 94 Contributions to Ballina Shire Council pursuant to Council's Parking Contribution Plan. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2. Onsite allocation of parking is to be in accordance with the following table.

Car parking allocation	Number
Residential car parking spaces, including 1 space for manager's residence	119
Retail car parking spaces (to be allocated as a minimum of 1 space per retail suite and 4 spaces for café for staff parking - with other spaces and accessible space to be shared parking for retail customers and residential visitors and 1 courier space for use by all retail suites – courier space included in total parking provision)	22
Commercial Spaces (Hotel)	70
Visitor Spaces (for use by retail and residential visitors to the site)	17
Accessible spaces (included in total parking provision, 1 space to be allocated to each of 9 adaptable apartments, 2 spaces for use by retail customers and residential visitors and 3 spaces for allocation to the hotel/restaurant use)	14
Car Wash Bay (excluded from total parking provision)	1

B31 Number of Bicycle Spaces

A minimum of 20 bicycle spaces are to be provided for the development. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2 of the development.

B32 Number of Loading Bays

A minimum of 2 loading bays are to be provided for the development. At least 1 of these bays shall be capable of accommodating 11 metre trucks. Details of the loading arrangements shall be consistent with Drawing No. Z-1099 Rev G Basement 1 Floor Plan, dated 14 February 2008 and Z-1100 Rev H Ground Floor Plan, dated 14 February 2008 and be submitted to the Certifying Authority prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2. Plans submitted should clearly demonstrate that a large rigid vehicle can enter and leave the site in a forward direction.

33 Car Park and Service Vehicle Layout

- (1) The design of all disabled car parking spaces is to be in accordance with the Australian Standards AS/NZS 2890.1: 1993 and Australian Standards AS/NZS 2890.5: 1993.
- (2) The design of all carparking and vehicular accesses is to be in accordance with the Australian Standards AS/NZS 2890.1: 2004. Design plans are to be certified by a suitably qualified consultant.
- (3) The layout of the service vehicle areas shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (4) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate for below ground works for Stages 1 and 2.
- (5) Details demonstrating the operation of the car park to allow unrestricted access by the public to the basement car parking, in accordance with Ballina Council's combined DCP, is to be submitted to and approved by Ballina Shire Council prior to the issue of a Construction Certificate for below ground works for Stages 1 and 2.

B34 Carwash Bay

The car wash bay is to be graded and drained to a pre-treatment device prior to discharge to the sewer. Details of the pre-treatment device are to be submitted to and approved by Ballina Council prior to the release of the Construction Certificate for below ground works for Stage 1. All drainage works associated with the car wash bay are to be incorporated into the hydraulic plans.

Landscaping

B35 Landscape Plan

- (1) A revised Landscape Plan for the site shall be submitted to and approved by Council prior to the issue of a Construction Certificate for above ground works for Stage 1. The Landscape Plan shall be in accordance with Council's specifications.
- (2) The landscaped areas between the Richmond River and the property boundaries of Buildings B and F shall be a space that is level and actively useable by the public and should include seating and shade trees with a combination of paved and grassed areas.
- (3) Visual buffering may be provided at the building frontages to the satisfaction of Ballina Shire Council.

B36 Open Space

Prior to the issue of a Construction Certificate for Stage 1 of the development, the proponent shall prepare a Draft Plan of Management in consultation with Ballina Shire Council addressing the use and management of communal (publicly accessible) open space within the site.

Health

B37 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works for each stage of the development.

Operational Waste Management

B38 Storage and Handling of Operational Waste

- (1) The design and management of facilities for the storage and handling of operational waste must comply with the requirements of Council's *Combined Development Control Plan*. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works for each stage of the development.
- (2) Adequate provision must be made on site for the storage and disposal of solid and liquid wastes from the development including the main restaurant/bar and the retail premises. Details of the sizing of the locations and method of storing and disposing of solid and liquid wastes including the area for waste collection must be submitted to and approved by Council prior to the release of the Construction Certificate for below ground works for Stage 1.

Monetary Contributions

B39 Section 94 Monetary Contributions

The Proponent shall pay the following monetary contributions for each stage of the development:

Amount of Contribution

Section 94 Contributions – Stage 1

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
43.22 ERA *	\$1,297	\$56,062.57	92.36 ERA	\$119,790.92	\$0
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
7.2 ET **	\$1,045	\$7,524.00	2 ET	\$2,090	\$5,434.00
TOTAL					\$5,434.00

Section 94 Contributions – Stage 2

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
80.14 ERA *	\$1,297	\$103,940.98	64.86 ERA	\$84,123.42	\$19,817.56
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
9.36 ET **	\$1,045	\$9,781.20	0 ET	\$0	\$9,781.20
TOTAL					\$29,598.76

Section 94 Contributions – Stage 3

s94 Ballina Road Contributions Plan (2002)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
80.22 ERA *	\$1,297	\$104,041.52	0 ERA	\$0	\$104,041.52
s94 Ballina Community Facilities Contributions Plan					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
44.64 ET **	\$1,045	\$46,648.80	0 ET	\$0	\$46,648.80
s94 Ballina Parking Contributions Plan					
Payment for 27.3 parking spaces					\$682,500
TOTAL					\$833,190.32

* Equivalent Residential Allotments
** Equivalent Tenements

4. Contribution Credit

The subject site has a Section 94 Contribution credit based on 2 existing residential dwellings, a 26 unit motel and 1,457sqm of mixed retail. Contributions for each stage are calculated on the difference.

5. Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Ballina 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 Construction Certificate for above ground works for each stage of the development.

6. Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations. The contribution(s) as assessed will apply for 12 months from the date of this approval. The contribution amounts will be subject to review in accordance with the provisions of the existing adopted Development Contributions Plan / Development Servicing Plans.

B40 Section 64 Monetary Contributions

The Proponent shall pay the following monetary contributions for each stage of the development:

Amount of Contribution

Section 64 Contributions – Stage 1

s64 Water Supply Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
8.774 ET *	\$2,889	\$25,348	4.914 ET	\$14,197	\$11,151.54
s64 Sewerage Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
9.986 ET	\$6,259	\$62,502	6.371 ET	\$39,876	\$22,626.29
s64 Rous Water Fees and Charges					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
8.437 ET	\$3,375	\$28,475	3.457 ET	\$11,667	\$16,807.50
TOTAL					\$50,585.33

Section 64 Contributions – Stage 2

s64 Water Supply Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
31.558 ET	\$2,889	\$91,171	6.5 ET	\$18,779	\$72,392.56
s64 Sewerage Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
32.713 ET	\$6,259	\$204,751	6.5 ET	\$40,684	\$164,067.17
s64 Rous Water Fees and Charges (2006-2007)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
31.558 ET	\$3,375	\$106,508	6.5 ET	\$21,938	\$84,570.75
TOTAL					\$321,030.48

Section 64 Contributions – Stage 3

s64 Water Supply Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
42.918 ET	\$2,889	\$123,990.10	0 ET	\$0	\$123,990.10
s64 Sewerage Infrastructure Development Servicing Plan (May 2004)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
43.607 ET	\$6,259	\$272,936	0 ET	\$0	\$272,936.21
s64 Rous Water Fees and Charges (2006-2007)					
No. of Units	\$ per unit	Sub-Total	Less Unit Credit	Credit (\$)	Total
42.229 ET	\$3,375	\$142,523	0 ET	\$0	\$142,522.88
TOTAL					\$539,449.19

* Equivalent Tenements

1. Contribution Credit

The subject site has a Section 64 Contribution credit based on 2 existing residential dwellings, a 26 unit motel and 1,457sqm of mixed retail. Contributions for each stage are calculated on the difference.

2. Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Ballina 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 Construction Certificate for above ground works for each stage of the development.

The contributions are to be paid to Council as follows prior to issue of the Construction Certificate for below ground works.

3. Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations. The contribution(s) as assessed will apply for 12 months from the date of this approval. The contribution amounts will be subject to review in accordance with the provisions of the existing adopted Development Contributions Plan / Development Servicing Plans.

B41 Section 94 Open Space Contributions

In accordance with Ballina Shire Council's *Section 94 Contributions Plan: Public Garden & Recreation Space Enhancement (1992)*, the proponent is exempt from paying any Section 94 contributions that would otherwise be levied for Public Garden & Recreation Space Enhancement. This is an offset against the embellishment of the dedicated area of foreshore open space (refer Condition E1) as the proponent is undertaken 'works in kind'.

Road Works

B42 Intersection Upgrade

The Proponent shall pay an amount of \$220,000 to Ballina Shire Council toward the upgrade of the River/Kerr Streets/Pacific Highway intersection.

1. Timing and Method of Payment

The payment shall be paid in the form of cash or bank cheque, made out to Ballina Shire Council.

Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for above ground works for Stage 2 of the development.

2. Indexing

The payment will apply for 12 months from the date of this approval. Payments not received by Council within 12 months of the date of this notice **will be adjusted** in accordance with CPI.

B43 Road Works

The Proponent shall construct a central median on River Street between Kerr and Grant Streets to allow a left-in left-out only access to and from the development, to the satisfaction of Council prior to the issue of an Occupation Certificate for Stage 1 of the development.

B44 Water Supply and Sewer Servicing

- (1) The connection of Council's reticulated water supply system to the development in accordance with Council's *Subdivision Code* (as current at the time of construction works commencing). Design plans are to be approved by Council prior to issue of the Construction Certificate for below ground works for Stage 1.
- (2) The connection of Council's sewer system to the development in accordance with Council's *Subdivision Code* (as current at the time of construction works commencing). Design plans are to be approved by Council prior to issue of the Construction Certificate for below ground works for Stage 1.
- (3) Easements are to be provided over all sewer mains in accordance with Council's *Subdivision Code* (as current at the time of commencement of construction). Details are to be approved by council prior to issue of the construction Certificate for below ground works for Stage 1.
- (4) Separate water meters shall be installed for each building.
- (5) Individual water meters are to be provided within the property to each residential unit and located for ease of meter reading purposes. These requirements shall be discussed with Council's Civil Services Section to consider options which affect the costing and rating of services prior to issue of the Construction Certificate for below ground works for Stage 1.

B45 Inspection Fee and Maintenance Bond

Prior to issue of the Construction Certificate, the following fees and bonds for civil works are to be paid to Council (including the amount of goods and Services Tax payable):

- (1) Inspection Fee: equal to 3% of the estimated cost of the related civil works
- (2) Maintenance bond: equal to 5% of the estimated cost of the related civil works. A maintenance period of 12 months will apply to all related works from the date of issue of an Occupation Certificate. The bond may be used by Council to maintain, repair or rectify works that are failing.

B46 Accessibility

The following additional measures are to be provided to ensure equitable accessibility throughout the development:

- a. Lobby E is to be a publicly accessible lobby at the basement and ground floor levels;
- b. All accessible paths of travel and entrances to buildings (where not the main entrance to the building) are to be suitably signposted for identification;
- c. Access through Lobby A from the basement to the ground floor is to be provided for restaurant and hotel patrons, with appropriate directional signage provided; and
- d. A ramp or wheelchair lift is to be provided to allow access between the two levels of the restaurant within the hotel.

Details of compliance with the above and with the other recommendations of the letter from Morris Goding Accessibility Consulting, headed "*Ballina Gateway Project – Accessibility Issues*", dated 29 January 2008, are to be provided prior to the issue of any Construction Certificate, together with certification that the design of the accessible paths of travel are compliant with AS1428, where relevant.

B47 Acoustic Treatment

The attenuation measures for the buildings described in the letter from Carter Rytenskild Group, headed "*Gateway Ballina Alterations to Loading Dock Arrangement Noise Issues*", dated 8 February 2008 to achieve an Rw rating of up to Rw 39 are to be provided for Building D to achieve compliance with the 45dB(A) noise criteria. Details are to be submitted prior to the release of a Construction Certificate for that building.

B48 Vehicular Crossing Design

The designs of the entry/exit driveways to the site are to be in accordance with *AS2890.1 (2004) Parking Facilities Part 1 – Off Street Car Parking Figure 3.3* to ensure an appropriate level of pedestrian safety for pedestrians using Kerr and River Streets. Details for the relevant driveways are to be provided prior to the release of any Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Demolition Works

C1 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works for each stage of the development.

Excavation Works

C2 Notice to be Given Prior to Excavation

The PCA 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 development.

Structural Works

C3 Structural Details

Prior to the commencement of construction for each stage of the development, the Proponent shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant development approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C4 Contact Telephone Number

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

Hazardous Materials

C5 Removal of Hazardous Materials

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 the commencement of any building works for each stage of the development. 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.

C6 Site Audit

Prior to the commencement of building works for each stage of the development, a Site Audit conducted by a suitably qualified person shall be undertaken to ascertain that all identified hazardous materials have been removed from the site and shall be submitted to the PCA.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

All erosion and sediment control measures for each stage of the development, as designed in accordance with Condition B20, 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.

D2 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, for each stage of the development.

Structural Works

D3 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application for each stage of the development.

Construction Management

D4 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, for each stage of the development.

D5 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 for each stage of the development. 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
- (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.

D6 Contact Telephone Number

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

D7 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 Proponent shall submit to the approval authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition for each stage of the development.

D8 Crown Land

- (1) A licence that provides for exclusive possession of all Crown lands off-site and a buffering area (into the Richmond River) must be obtained from the Department of Lands for the period of construction.
- (2) No waters from the site, during construction or operation are to be discharged to Crown land

D9 Protection of Trees – Street Trees

All street trees (not required to be removed to provide for new vehicular crossings) shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

D10 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction for each stage of the development. 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

D11 Hours of Work

- (1) The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows (for each stage of the development):
 - (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
 - (b) between 8:00 am and 1:00 pm, Saturdays;
 - (c) no work on Sundays and public holidays.

- (2) Works may be undertaken outside these hours where:
 - (a) the delivery of materials is required outside these hours by the Police or other authorities;
 - (b) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
 - (c) the work is approved through the Construction Noise and Vibration Management Plan; and
 - (d) 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.
- (3) This condition over-rides Commitment 3.1 in the proponent's Statement of Commitments.

D12 Construction Noise Objective

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

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th 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 *Environmental Noise Impact Assessment* prepared by Carter Rytenskild Group (dated 27 April 2007) or otherwise identified in the approved Construction Noise and Vibration Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective 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.

D13 Construction Noise Management

The Proponent shall:

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

D14 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
- (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.

D15 Vibration Management

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

D16 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

If any Aboriginal archaeological objects are exposed during construction works, the Proponent shall immediately notify the Department of Environment, Conservation and Climate Change (DECC) and obtain any necessary approvals to continue the work. The Proponent shall comply with any request made by the DECC to cease work for the purposes of archaeological recording.

Ecologically Sustainable Development

D17 Recycling of Concrete

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the PCA.

Waste

D18 Waste Management

All demolition, construction or the like, waste is to be transported and disposed of to an approved waste facility or if alternative disposal methods are sought, that written approval is granted by Council.

D19 Fill

The applicant shall ensure that any fill material imported to the site for the proposed development shall only be obtained from other fill sources with approved testing. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

D20 Sediment and Erosion

A single all weather access way is to be provided on site that extends from the kerb to the building construction site. All construction vehicles are to enter and exit the site via this access way so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways (if required provide a 'shake down' grid area for truck wheel washing). When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material. Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.

D21 Environmental

In the event of a pollution incident on the premises, that has caused, is causing, or is likely to cause harm to the environment, the occupier shall report the incident to Council immediately the occupier or occupier's managers on site become aware of the incident.

D22 Relocation of Power Poles/Services

The relocation of any power poles or services required as a result of the development is to occur at the cost of proponent and to the appropriate authority's satisfaction.

PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Design Verification Statement – Residential Flat Buildings

E1 Dedication of Foreshore Open Space

- (1) The proponent shall dedicate to Ballina Shire Council an area of 1,444sqm of land along the Richmond River foreshore comprising the following areas of land within the site boundary:
 - (a) a 14 metre wide corridor along the southern site boundary extending from the eastern site boundary to the western site boundary. An area of approximately 1,238 sqm. This land shall be dedicated to Council prior to the issue of an Occupation Certificate for Stage 1 of the development.
 - (b) a 5.57 metre wide corridor along the western site boundary extending from the southern boundary of Building B to the northern boundary of Building B. An area of approximately 206 sqm. This land shall be dedicated to Council prior to the issue of an Occupation Certificate for Stage 2 of the development.
- (2) Refer area shaded in blue in Drawing Z-1100D at Annexure A to this approval.
- (3) The area of land to be dedicated is approximate and shall be verified by a surveyor and plans lodged with the Land Titles Office.
- (4) This land shall be embellished at each relevant stage in accordance with Council requirements.
- (5) This condition over-rides Commitment 2.17 in the proponent's Statement of Commitments.

E2 Boardwalk

The 4 metre wide boardwalk along the western and southern site boundaries must be constructed prior to the issue of an Occupation Certificate for Stage 2 of the development.

E3 Design Verification Statement

Prior to the issue of any Occupation Certificate for any stage of the development, the Proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

E4 Treatment of Vehicular Entry

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible.

Engineering

E5 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate for each stage of the development. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the PCA.

E6 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received for each stage of the development.

E7 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the Proponent shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate for each stage of the development, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The development approval and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

E8 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises for each stage of the development. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

E9 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate for each stage of the development.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

E10 Riverbank Stability

- (1) Following completion of the river bank stabilisation works for each stage of the development, the following investigations shall be undertaken:

- (a) A geotechnical investigation shall be undertaken to investigate the stability of the river front. The report shall be submitted to the satisfaction of the PCA prior to issue of an Occupation Certificate for each stage of the development.
 - (b) A post-construction survey of the river bank shall be undertaken to determine if a slope of 2:1 has been achieved. The survey shall be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate for each stage of the development.
- (2) All riverbank stability works are to be certified by a practising geotechnical expert and submitted to Ballina Shire Council.

E11 Crown Land

- (1) Prior to issue of an Occupation Certificate for Stage 1, the proponent must apply for a lease to cover occupation of the alfresco deck areas and boardwalks and any other structures (like piles) located off-site;
- (2) If the slipway areas are to be enclosed from vessel traffic by fixed boardwalks then such a lease must cover those enclosed waterway areas.

E12 Mosquito Management

All residential buildings are to be provided with effective insect screening to all external windows and doors.

E13 Stormwater and Drainage Works

Certification by a qualified practising civil engineer is to be submitted to Ballina Council verifying that the stormwater and drainage works are satisfactorily implemented and operational in accordance with the approved designs prior to the issue of any Occupation Certificate.

E14 Road Works

All civil works approved under Section 138 of the *Roads Act 1993* with the Construction Certificate are to be completed to the satisfaction of Council prior to issue of an Occupation Certificate for each stage of the development. All works are to be completed in accordance with the Northern Rivers Local Government Development *Design and Construction Manuals* (as current at the time of construction works commencing). Where details are not addressed in these Manuals, the construction is to comply with the requirements of Council's *Subdivision Code*.

E15 Water and Sewer

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

E16 Car Parking

- (1) The construction of all car parking and vehicular accesses is to be in accordance with the approved design plans and the Australian Standards AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate for each stage of the development.
- (2) The design of all disabled car parking spaces is to be in accordance with the Australian Standards AS/NZS 2890.1: 1993 and Australian Standards AS/NZS 2890.5: 1993. All works are to be completed prior to issue of the Occupation Certificate for each stage of the development.

E17 Utility Services

- (1) List of Public Infrastructure: In connection with the "Works as Executed" drawings the proponent shall submit a listing of all road, stormwater and sewer assets generated by the development. The format of the list shall conform to the proforma in Council's Subdivision Code (as current at the time).
- (2) Telephone and Electricity: Prior to the release of the Occupation Certificate for each stage of the development, the proponent shall submit to Council written evidence stating that telephone and electricity services are available to each allotment created.

Easements

E18 Foreshore Access

Documentary easements for public access must be created over the three north-south and the east-west pedestrian links through the development in accordance with Drawing No. Z-1112 Rev B dated 14 February 2008 to provide public access to the Richmond River and foreshore via an 88B Instrument under the *Conveyancing Act 1919*. The easement is to permit both pedestrian and bicycle access and must be created prior to the issue of an Occupation Certificate for each stage of the development.

E19 Registration of Easements

Prior to the issue of any Occupation Certificate, the Proponent shall provide to the PCA evidence that all easements required by this approval, approvals, and other consents have been or will be registered on the certificates of title.

BASIX

E20 BASIX

Prior to the Principal Certifying Authority issuing an Occupation Certificate for each stage of the development, completion of all requirements listed in the relevant BASIX Certificate for the subject development shall be completed/installed.

Flooding

E21 Flood Management

Prior to the issue of any Occupation Certificate, the Proponent shall provide to the PCA for approval, a Flood Emergency and Management Plan prepared by a suitably qualified person.

Consolidation of Lots

E22 Consolidation Plan

- (1) The proponent shall prepare a staged consolidation plan including the associated easements and preparation of a Building Management Statement for development for those titles, within the respective stages of the development. The Plan and Building management Statement shall be in a form capable of being registered and shall be lodged with the Land Titles Office prior to the issue of the Occupation Certificate for Stage 1.
- (2) This condition over-rides Commitment 3.2 – Subdivision in the proponent's Statement of Commitments.

Landscaping

E23 Landscape Management

Prior to the issue of an Occupation Certificate for each stage of the development, the Proponent shall provide to the PCA evidence that all landscaping, including foreshore embellishment works, have been undertaken in accordance with the approved Landscape Management Plan.

Noise

E24 Noise

The acoustic consultant shall provide Council with certification that the development including all plant and machinery complies with the acoustic specifications identified in the Environmental Noise Impact Assessment by Carter Rytenskild Group, dated 27 April 2007 and as amended in additional reports, prior to the release of any Occupation Certificate for each stage of the development.

Second Dilapidation Report

E25 Post-construction Dilapidation Report

- (1) The Proponent shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works for each stage of the development. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- (2) The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required by Condition B11, and
 - (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- (3) A copy of this report is to be forwarded to the Council.

General

E26 Cigarette Butts

Prior to the issue of an Occupation Certificate for each stage of the development, and to prevent littering and the pollution of waters, cigarette butt bins must be provided externally on site for the disposal of cigarette butts. Positioning must be in convenient locations to the car park areas and the entry and exits to the development but at a sufficient distance that smoke does not enter the building structure.

PART F—POST OCCUPATION

Fire Safety

F1 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the buildings for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

F2 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

F3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Noise

F4 Hours of Operation

(1) The hours of operation of the café shall be restricted to between:

Day	Commencement time	Cessation time
Monday	7am	10pm
Tuesday	7am	10pm
Wednesday	7am	10pm
Thursday	7am	10pm
Friday	7am	10pm
Saturday	7am	10pm
Sunday	7am	10pm
Public Holidays	7am	10pm

(2) The hours of operation of the restaurant shall be restricted to between:

Day	Commencement time	Cessation time
Monday	7am	Midnight
Tuesday	7am	Midnight
Wednesday	7am	Midnight
Thursday	7am	Midnight
Friday	7am	Midnight
Saturday	7am	Midnight
Sunday	7am	Midnight
Public Holidays	7am	Midnight

F5 Noise Control – Licensed Premises

- (1) Should the proposed restaurant or café within the site be used as a licensed premises (subject to separate approval), the LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 7:00am and 12 midnight and 12 midnight to 7:00am at the boundary of any affected residence.

- (2) Notwithstanding the requirements of this condition, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00am.

F6 Noise Control – Function Room

- (1) Noise associated with amplified music in the Function room be limited to a maximum of 100 dB(A) at 1m from any speaker – it should be stressed that this level must not have a high bass component, which precludes most forms of live entertainment;
- (2) Empty bottle disposal should be limited to 10am to 4pm Monday to Friday only.
- (3) Use of the alfresco dining area is limited to 7am to 8pm.
- (4) No amplified music is to be provided in Alfresco dining areas;
- (5) These facilities or any part of the hotel building must not be used as a Place of Public Entertainment.

F7 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

Public Access

F8 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

F9 Through Site Links

Public access must be provided through the development north-south and east-west links from River Street and Kerr Street to the Richmond River at a minimum between sunrise and sunset. The locations and design of any gates must be submitted to and approved by the Certifying Authority.

Facilities

F10 Swimming Pool

The swimming pool is to be operated and maintained in accordance with the requirements outlined in the NSW Health Department “*Public Swimming Pools and Spa Pools Guidelines*” published 1996.

F11 Operation of Ground Level Loading Area

Signage indicating a 5 km/h speed limit, that the loading area is a pedestrian zone allowing limited truck access in the specified hours and prohibiting reversing manoeuvres is to be erected at the entrance of the loading area off River Street.

The keys for use of the removable bollards to the ground level loading area are to be held by the onsite manager and the management of the hotel and are to be provided to the garbage removal services providers only.

Truck movements within the ground level loading area are to occur only between 7am and 6pm Monday to Saturday and between 9am and 1pm on Sundays and Public Holidays.

A management plan is to be prepared by the onsite manager in consultation with the hotel management to ensure compliance with the operational aspects of this condition and the onsite manager is to implement a booking system for onsite users (retail and residential) to utilise the ground level loading facility.

A management plan is to be prepared by the onsite manager in consultation with the hotel management to ensure compliance with the operational aspects of this condition and the onsite manager is to implement a booking system for onsite users (retail and residential) to utilise the ground level loading facility.

F12 Retail Garbage Holding Area

A residential garbage holding area is to be used for temporary storage of garbage from the retail tenancies on the day of collection, which is to be a different day from the day the residential garbage is collected. No retail garbage is to be collected from River Street.

F13 Garbage Holding Area

The onsite manager is to ensure garbage containers for the retail and residential components of the site are placed in the holding areas no earlier than the day before collection and are to be returned to the relevant storage areas on the same day as the collection.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

A Compliance Certificate shall be provided to the approval authority showing that the development 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 for each stage of the development, and,
- (2) the principal certifying authority prior to occupation for each stage of the development.

AN2 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, 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 Proponent. 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 for each stage of the development.

AN3 Compliance with Building Code of Australia

The Proponent is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate for each stage of the development.

AN4 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN5 Application for Hoardings and Scaffolding

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design;
- (2) Structural certification prepared and signed by a suitably qualified practising structural engineer.

The Proponent shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works for each stage of the development.

AN6 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN7 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN8 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of approval.

AN9 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN10 Excavation – Aboriginal Objects

Should any Aboriginal objects be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Department of Environment, Conservation and Climate Change shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN11 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

AN12 Compliance with Conditions

The Proponent will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Major Project No. MP05_0009 and of compliance (or a Compliance Certificate) with the conditions of that approval prior to the issuing of an Occupation Certificate for each stage of the development.

AN13 Remediation and Validation Report

Following the completion of remediation works on the site a Remediation and Validation Report is to be prepared by a suitably qualified environmental consultant. This report, together with a final Site Audit Statement by an Department of Environment, Conservation and Climate Change accredited environmental consultant, including Notice of Completion statement, pursuant to clauses 17(2) and 18 of *State Environmental Planning Policy No.55—Remediation of Land*, is to be submitted to the satisfaction of the approval authority prior to occupation of the building.

AN14 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act 1997*, or exceed approved noise limits for the site.

AN15 Street Numbering

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 *Combined Development Control Plan*, prior to the occupation of the building(s) or commencement of the use.

If street numbers or a change to street numbers are required, a separate application shall be made to Council.

AN16 Food Premises

- (1) A separate development application is required to be submitted to and approved by Council for the fitout and construction of any commercial food premises. Plans and specifications showing details of layout and construction of the food premises, method of installation of all fittings and fixtures are to be incorporated into the plans.
- (2) The construction and fit-out of commercial premises shall be in accordance with the provisions of the Australian Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 and the AS 4674 – 2004 "Design, Construction and fit-out of food premises".
- (3) The provision for mechanical ventilation and adequate drainage is required to be installed on the retail shops nominated as a potential commercial food premises. Details of such are to be included in the hydraulic and construction plans for the development.

- (4) If the store room located on basement 1 is to store food and food related products then direct access off the airlock is not permitted, as this air lock also provides for direct access to the garbage room.

AN17 Compliance with National Code for Construction and fitout of food premises

A Proponent shall obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the *National Code for the Construction and Fitout of Food Premises*. The Proponent shall provide evidence of receipt of the certificate to the satisfaction of the PCA prior to the occupation of the building(s) or commencement of the use.

AN18 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
- (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.

AN19 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN20 Disability Discrimination Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

AN21 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

MP 05_0009

BALLINA GATEWAY MIXED USE DEVELOPMENT

256 - 274 RIVER STREET, BALLINA

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)