

PROJECT APPROVAL

Section 75P of the *Environmental Planning and Assessment Act 1979*

DETERMINATION OF PROJECT APPLICATION NO. 05_0016

LOT 11, DP1104789 AND PART LOT 72, DP 1073600, DOLPHIN POINT ROAD AND WURU ROAD, DOLPHIN POINT/BURRILL LAKE

I, the Minister for Planning, having considered the following, pursuant to Part 3A of the *Environmental Planning & Assessment Act, 1979*, Section 75J Clause (2) determine the following works, as referred to in the attached Director-General's Environmental Assessment Report, by **giving of approval** to the major project referred to in the attached Schedule 1 subject to the conditions of approval in the attached Schedule 2:

- (1) Staged subdivision of Precincts A and B into 164 residential allotments;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct A;
- (4) Creation and embellishment of an informal neighbourhood park in Precinct B;
- (5) Construction of pedestrian/cycle paths through all Precincts;
- (6) Landscaping;
- (7) Revegetation works to riparian zones in all Precincts;
- (8) Provision of services and infrastructure; and
- (9) Associated with the staged subdivision, dedication of lands in Precincts A and C to the Council.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment as amended by the Preferred Project Report prepared by Turnbull Planning International on behalf of the Elderslie Property Investments Pty Ltd (dated 18 February 2008) and the Proponent's Statement of Commitments in Schedule 3, subject to the modifications in the attached Schedule 2.



Frank Sartor MP
Minister for Planning

Sydney,



2008

SCHEDULE 1

PART A—TABLE

Application made by:	Elderslie Property Investments Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 05_0016
On land comprising:	Wuru Road and Dolphin Point Road, Dolphin Point/Burrill Lake Lot 11 DP 1104789 and Part Lot 72 DP 1073600
Local Government Area	Shoalhaven
For the carrying out of:	(1) Staged subdivision of Precincts A and B into 164 residential allotments; (2) Creation of roads to service the subdivision; (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct A; (4) Creation and embellishment of an informal neighbourhood park in Precinct B; (5) Construction of pedestrian/cycle paths through all Precincts; (6) Landscaping; (7) Revegetation works to riparian zones in all Precincts; (8) Provision of services and infrastructure; and (9) Associated with the staged subdivision, dedication of lands in Precincts A and C to the Council.
Type of development:	Project Approval
S.119 Public inquiry held:	No
Determination made on:	
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.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 05_0016

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.

Council means Shoalhaven City 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 Turnbull Planning International Pty Ltd and dated September 2007.

Minister means the Minister for Planning.

MP No. 05_0016 means the Major Project described in the Proponent's Environmental Assessment.

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

Precinct A means the area referred to as 'Stage 3' generally comprising a residential subdivision of 23 residential lots, one informal park and associated works and riparian corridors.

Precinct B means the area referred to as 'Stage 2' generally comprising a residential subdivision of 141 residential lots and 1 neighbourhood park and associated works.

Precinct C means the area referred to as 'Stage 5' is land intended to be dedicated to the Council, generally comprising of works for a fire trail, revegetation works, pedestrian and cycle paths, services and bio-retention basin, services and three future development area parcels.

Proponent means Elderslie Property Investments Pty Ltd or any party acting upon this approval.

Public means the general public and is not limited to the residents of the community title subdivision

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

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

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 05_0016

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

- (1) Staged subdivision of Precincts A and B into 164 residential allotments;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct A;
- (4) Creation and embellishment of an informal neighbourhood park in Precinct B;
- (5) Construction of pedestrian/cycle paths through all Precincts;
- (6) Landscaping;
- (7) Revegetation works to riparian zones in all Precincts;
- (8) Provision of services and infrastructure; and
- (9) Associated with the staged subdivision, dedication of lands in Precincts A and C to the Council.

A2 *Development in Accordance with Plans*

The development will be undertaken in accordance with the Environmental Assessment dated September 2007 prepared by Turnbull Planning International Pty Ltd as amended by the Preferred Project Report dated 18 February 2008 prepared by Turnbull Planning International Pty Ltd including all Appendices and the following drawings:

Subdivision Layout Drawings prepared by <i>Rygate and West</i>			
Drawing No.	Revision	Name of Plan	Date
U11840M Sheet1 of 4	B	Plan of Proposed Subdivision of Lot 11 DP 1104789 & Part of Lots 72 & 73 DP 1073600 (Note: drawing depicts Indicative Subdivision Layout for Stages 2 and 3)	12 February 2008
U11840M Sheet 2 of 4	B	Indicative Lot Layout for Stage 2 Subdivision	12 February 2008
U11840M Sheet 3 of 4	B	Plan Showing Conceptual Staging for Stage 2 Subdivision	12 February 2008
U11840M Sheet 4 of 4	B	Indicative Lot Layout for Stage 3 Subdivision	12 February 2008

Road Cross Section Drawings prepared by <i>Rygate and West</i>			
Drawing No.	Revision	Name of Plan	Date
U11840 Sheet 1 of 1	A	Typical Road Cross Sections	6 February 2008
Landscape Drawings prepared by <i>HLS Pty Ltd</i>			
Drawing No.	Revision	Name of Plan	Date
L01	-	Landscape Plan – Street Trees	Feb 08
L02	-	Landscape Plan – Park	Feb 08

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in Shoalhaven Local Environmental Plan 1985 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.

A3 Development in Accordance with Documents

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

- (1) *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock of Turnbull Planning International Pty Ltd on behalf Elderslie Property Investments, dated September 2007;
- (2) *Transport Report for Proposed Subdivision Dolphin Point* prepared by Colston Budd Hunt & Kafes and dated September 2006 (Appendix to *Environmental Assessment*);
- (3) *Residential Subdivision Dolphin Point, Stages 2 & 3 Water Management Strategy* prepared by Patterson Britton & Partners Pty Ltd and dated September 2006 (Appendix to *Environmental Assessment*);
- (4) *Bushfire Protection Assessment Subdivision Stage 2 Dolphin Point/Burrill Lake City of Shoalhaven* prepared by Bushfire and Environmental Services and dated May 2006 (Appendix to *Environmental Assessment*);
- (5) *Flora and Fauna Assessment Proposed Mixed Use, Residential, Commercial & Recreational Development (Stages 2, 3 and 5) Lot 1 DP 1045990 Princes Highway, Dolphin Point* prepared by Bushfire and Environmental Services and dated October 2006 (Appendix to *Environmental Assessment*);
- (6) *Proposed Stage 2 & 3 Residential Subdivision Lot 1 DP 1045990 Princes Highway, Dolphin Point Shoalhaven* prepared by Network Geotechnics Pty Ltd and dated August 2006 (Appendix to *Environmental Assessment*);
- (7) *Sub-Surface Archaeological Investigation of Stages 2-4 of "The Dairy", a Proposed Residential Development at Dolphin Point, Near Burrill Lake, on the South Coast of New South Wales* prepared by South East Archaeology Pty Ltd and dated June 2005 (Appendix to *Environmental Assessment*);
- (8) *The Dairy Stages 2-5, Dolphin Point Aboriginal Heritage Management Plan* prepared by South East Archaeology Pty Ltd and dated June 2005 (Appendix to *Environmental Assessment*); and
- (9) The Statement of Commitments contained within the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock of Turnbull Planning International Pty Ltd, dated September 2007; and

- (10) As amended by the Preferred Project Report (including attachments), prepared by Turnbull Planning International Pty Ltd and dated 18February 2008.

A4 *Staging*

The order of staging of the development is to be reversed, with Precinct A to be completed prior to Precinct B and works in Precinct C to be at the stage as nominated in the conditions below.

A5 *Inconsistency between documents*

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

A6 *Prescribed Conditions*

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

A7 *Construction Certificates for each Stage*

A Construction Certificate must be obtained from either the Council or an accredited certifier for each stage of the subdivision before any subdivision work can commence for any stage on the site.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Remediation / Demolition / Earthworks

B1 *Acid Sulphate Soil Management Plan*

An Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998) to address any works located below RL3.5 AHD. The Management Plan shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for any stage, for works below RL3.5 AHD.

B2 *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 any stage.

Construction Management

B3 *Construction Management Plan*

Prior to the issue of a Construction Certificate for the first stage (Precinct A), 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 (see also B4below),
- (4) noise and vibration management (see also B5 below),
- (5) waste management (see also B6 below),
- (6) erosion and sediment control (see also B2), and
- (7) flora and fauna management.

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

B4 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate for any stage, a Traffic and Pedestrian Management Plan for that stage, 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, and
- (4) pedestrian and traffic management methods.

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

B5 Noise and Vibration Management Plan

Prior to the issue of a Construction Certificate for any stage, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority, for that stage. 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) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (4) Noise and vibration monitoring, reporting and response procedures,
- (5) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (6) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (7) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.
- (8) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (9) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and
- (10) 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.

B6 Construction Waste Management Plan

Prior to the issue of a Construction Certificate, for any stage the Proponent shall submit to the satisfaction of the Certifying Authority a Waste Management Plan prepared by a suitably qualified person in accordance with Shoalhaven City Council's Development Control Plan No. 93, for that stage. The Proponent shall submit a copy of the plan to the Council.

B7 Security Bond – Protection of Works

- (1) A Security Bond/Bank Guarantee of \$ 30,000, or an amount as otherwise agreed to by Council, for the protection of the road surface of Dolphin Point Road and the constructed portion of Wuru Drive shall be deposited with Council prior to the issue of a Construction Certificate for Precinct A. If any damage is caused to the road surface of Dolphin Point Road or the constructed portion of Wuru Drive, which is not rectified by the developer upon request from Council, Council shall deduct from the Security Bond the reasonable cost of rectification of the works.
- (2) The condition of the road surface at Dolphin Point Road and the constructed portion of Wuru Drive prior to commencement of construction shall be established with the agreement of the Council through the preparation of a dilapidation report.

Subdivision Works

B8 Stormwater and Drainage Works Design

Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Shoalhaven City Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for each stage. The hydrology and hydraulic calculations shall be based on the most appropriate methods described in the current edition of Australian Rainfall and Runoff. Stormwater and Drainage Works shall be consistent with the Preferred Project Report (Attachment 2 – Letter from Worley Parsons entitled 'Response to Part 3A Application Comments – Dolphin Point Stages 2 & 3', dated 5 February 2008).

B9 Road Works Design

The collector road (road to the south of Precinct C) and the perimeter road are to be constructed with a 9m road pavement width. All roundabouts are to be designed to make provision for pedestrians to cross the road at all splitter islands in accordance with the Austroads guidelines. Traffic control devices are to be incorporated into the design of roads in accordance with the requirements of Element RE4 of Shoalhaven DCP 100.

Final design plans of the roads within the proposed subdivision, incorporating these requirements, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Shoalhaven City Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for each stage.

B10 Construction of Collector Road Connection

The collector road connection to the adjoining site to the east (Lot 171 DP 1081810) is to be constructed at the cost of the proponent up to the crossing of the creek. Funding of half the cost of the creek crossing is to be provided by the proponent. Should the collector road connection between the subject site and Dolphin Point Road through the adjoining property to the east (Lot 171 DP 1081810) not be constructed prior to the completion of construction of the final stage of subdivision covered by this approval, a bank guarantee covering the cost of the abovementioned works is to be provided to Council, prior to the issue of a Construction Certificate for Precinct B (see also E12).

B11 Shoalhaven Water

The authority issuing the Construction Certificate for each stage of the development shall obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued.

B12 Design of Watercourse Crossing

The design and construction of the watercourse crossing over Creek 1 (western) and Creek 2 (eastern) are to be undertaken in accordance with the *Department of Primary Industry's Policy and Guidelines for Fish Friendly Waterway Crossings (2004)* and *Why Do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (2004)*. Details of the compliance of the design with the policies are to be provided prior to the release of any Construction Certificate for any stage of the subdivision containing those works.

Bushfire Protection

B13 Water, Electricity and Gas

Water, electricity and gas supplies are to comply with sections 4.1.3 and 4.2.7 of *Planning for Bushfire Protection*. Details are to be provided for approval prior to the release of the Construction Certificate for each stage of the subdivision.

B14 Road Design

Public road access is to comply with section 4.1.3(1) and all property access roads are to comply with section 4.1.3(2) of *Planning for Bushfire Protection*. Internal roads are to comply with section 4.2.7 of *Planning for Bushfire Protection*. Details are to be provided for approval prior to the release of the Construction Certificate for each stage of the subdivision.

B15 Fire Trail

An alternative access/egress road shall be provided (generally following the path shown in the plan referred to as Option 3 attached to the letter from Bushfire and Environmental Services dated 22 January 2008) to comply with section 4.1.3 of *Planning for Bushfire Protection*. Details are to be provided for approval prior to the release of any Construction Certificate for Precinct B of the subdivision.

Offset Planting

B16 Vegetation Management Plan

A vegetation management plan (VMP) is to be prepared addressing the revegetation of the riparian corridors (eastern and western creeks) up to the foreshore of the dam (to be retained as a water quality pond) and land in Precinct C. The VMP is to be prepared by a suitably qualified and experienced expert and is to provide for offset planting of a minimum of 1ha. The offset planting is to focus within the riparian zones and is to extend and connect the existing occurrences of the Swamp Sclerophyll Forest on the site and provide connectivity of habitats along the riparian zones. The VMP is to be provided to Council for approval prior to the release of the Construction Certificate for the first stage of the subdivision (Precinct A). The works are to be at the proponent's expense.

B17 Pedestrian and Cycle Paths

A plan showing the location of the proposed pedestrian and cycle paths through Precinct C is to be submitted to Council for approval prior to the release of the Construction Certificate for Substage 2 of Precinct B subdivision.

The plan is to locate the paths so as to minimise loss of native vegetation and to minimise impacts upon the EEC and riparian zones. The paths are to be located outside the EECs, riparian zones and the wetland to the greatest extent possible. Where appropriate, the path should follow the path of the bushfire trail. The path should provide a reasonably direct path of travel and should be accessible in accordance with the standards contained within AS1428. The plans are to identify any necessary landscaping required adjoining the paths to rehabilitate the land after construction of the path. The works are to be at the proponent's expense.

B18 Vegetation Management Plan – Bushfire Trail

A vegetation management plan (VMP) is to be prepared addressing the removal and revegetation of the fire trail within Precinct C. The VMP is to be prepared by a suitably qualified and experienced expert. The VMP is to be provided to Council for approval prior to the release of the Construction Certificate for the final stage of the subdivision. The cost of the works required under the VMP are to be at the proponent's expense.

B19 Bio-retention Basin

The bio-retention basin is to be located outside the riparian zone for both creeks on the site. Details are to be provided prior to the release of the Construction Certificate for Precinct B.

B20 Informal Park Embellishment

An informal park is to be provided between the dam, Road 2 and proposed Lot 407 within Precinct A of the subdivision. The informal park is to be a generally grassed area of a minimum of 1000m² with scattered trees (with one grassed area of suitable size for informal ball sports) and is to be embellished with a minimum of 4 x picnic table and chair sets under shelter, 2 x gas operated BBQs, 1 x bubbler, 2 x rubbish bins and 1 unisex accessible toilet. An accessible path of travel between the road, the picnic tables, the BBQs and the toilet is to be provided. The informal park area is to be separated from the dam by a childproof fence that satisfies the Australian Standard for swimming pool fencing. Plans showing these embellishments are to be provided for the approval of Council prior to the release of the Construction Certificate for Precinct A of the subdivision.

B21 Accessibility

The footpaths, neighbourhood park (including child play equipment), informal park and paths in Precinct C are all to be designed to be appropriately accessible in accordance with the standards of AS1428. Details and an accessibility report are to be provided prior to the release of the Construction Certificate each applicable stage of the subdivision.

B22 Contamination

Prior to the issue of a construction certificate for Precinct A, water and sediment testing of the existing large dam (to be used as the water quality control pond) is to occur to determine whether any sediments or the water is contaminated. Should either the sediments or water be found to contain unacceptable levels of contamination (in relation to the residential use of the land or the water quality for release into the wetland or Burrill Lake), the sediments and/or water is to be appropriately treated. Such works are to be the subject of a remediation report which must be approved by the Director General. Any works required are to be certified as having been completed prior to the release of the subdivision certificate for the first stage of the development under this approval.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 Contact Telephone Number

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

C2 Boundary Fencing

Prior to the commencement of the works, the Proponent shall construct boundary fencing around the adjoining land managed by DECC (to the south and west of the site) to prevent unauthorised access.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with Condition B2, 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.

Construction Management

D2 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and Statements of Commitments 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.

D3 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (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.

D4 *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.

D5 *Protection of Trees – On-site Trees*

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

D6 *Dust Control Measures*

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

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

Noise and Vibration

D7 *Hours of Work*

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

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

Works may be undertaken outside these hours where:

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

D8 Construction Noise Objective

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

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 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 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.

D9 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.

D10 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 6841- 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.

D11 Water Quality Monitoring

- (1) The water quality of water discharged from the sediment control/water quality pond is to be monitored throughout the course of the construction works and for a period of 12 months after the release of the final Subdivision Certificate under this approval.

Water quality testing is to be carried out immediately after each significant phase of construction or at 3 monthly intervals.

- (2) The water quality is to be compared with the target levels contained in the *Residential Subdivision Dolphin Point, Stages 2 & 3 Water Management Strategy* prepared by Patterson Britton & Partners Pty Ltd and dated September 2006. Copies of the monitoring results are to be forwarded to Council on a quarterly basis.
- (3) Should the water quality not comply with the target levels, works are to be carried out to ensure compliance with the levels.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

E1 Staging of Part 4A Certificates

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979*. Separate subdivision certificates for each stage may be obtained provided the applicable conditions of this approval for each stage have been complied with and separate construction certificates have been issued for each stage.

E2 Restrictions on use of Precinct C land

In accordance with the concept plan approval for this site:

- (1) a Section 88B instrument is to be created over the Precinct C land, with the exception of the three potential development areas restricting the use of the land for purposes only for landscaping, roads, drainage works, provision of services, pathways, bushfire trails and bushfire hazard reduction works. The restriction is to cover the area identified in the Figure on Page 5 of *Urban Design Review*, prepared by Urbis JHD, dated 17 October 2006, Development Parcels, being Annexure 4 of the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock on behalf of prepared by Turnbull Planning International Pty Ltd, dated September 2007.
- (2) a Section 88B instrument is to be created over the three potential development areas identified in the Figure on Page 5 of *Urban Design Review*, prepared by Urbis JHD, dated 17 October 2006, being Annexure 4 of the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock on behalf of prepared by Turnbull Planning International Pty Ltd, dated September 2007. The instrument is to restrict the use of the land for purposes other than community facilities and structures for educational and recreational purposes which assist in promoting and interpreting the area's ecological values and Aboriginal heritage.
- (3) The draft wording of the 88B instruments is to be lodged with the Director-General and with the Council for approval and Council is to be made a party to the instrument, whose approval is required for any alterations to the instrument. The 88B instrument is to be registered with the registration of the subdivision plan for the final stage of the subdivision.

E3 Services

Documentary easements for services and drainage must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

E4 Materials and Colours

A restriction as to user is to be created over all residential lots in all stages of the subdivision requiring that the material and colours used in the erection of buildings of the lots be predominantly of muted shades that will blend in with the surrounding bushland. The draft wording of the instrument is to be lodged to Council for approval and Council is to be made a party to the covenant, whose approval is required for any alterations to the covenant. The covenant is to be registered with the registration of the subdivision plan.

E5 Restriction on Cats and Dogs

A Section 88B instrument is to be created over all residential lots in all stages of the subdivision requiring that cats and dogs cannot be kept within the subdivision (with the exception of companion and assistance animals). The draft wording of the instrument is to be lodged with Council for approval and Council is to be made a party to the instrument, whose approval is required for any alterations to the instrument. The instrument is to be registered with the registration of the subdivision plan.

Bushfire Protection

E6 Construction of Fire Trail

The fire trail required by condition B15 is to be constructed prior to the release of the first Subdivision Certificate related to Precinct B of the development. An easement is to be created over the path of the fire trail and is to be worded such that the easement can be extinguished upon the construction of the linking collector road with Dolphin Point Road through Lot 171 DP 1081810, Highview Drive, Dolphin Point.

E7 Creation of Asset Protection Zone

Asset Protection Zones in accordance with the inner protection zone requirements of the *Planning for Bushfire Protection 2006* are to be created around each stage of the subdivision prior to the release of the Subdivision Certificate for that stage.

E8 Asset Protection Zone Maintenance

A restriction as to user is to be created over the portion of any residential lot over which the Asset Protection Zones fall requiring the owner to maintain the Asset Protection Zone in perpetuity in accordance with the inner protection area requirements of the Rural Fire Services *Standards for Asset Protection Zones* document.

The draft wording of the instrument is to be lodged to Council for approval and Council is to be made a party to the covenant, whose approval is required for any alterations to the covenant. The covenant is to be registered with the registration of the subdivision plan

E9 Construction Requirements for Buildings

A positive covenant is to be created over all residential lots requiring any building erected to comply with the relevant construction requirements of *Planning for Bush Fire Protection 2006*, or any document that replaces it, unless other construction requirements are approved by the Rural Fire Service.

The draft wording of the covenant is to be lodged to Council for approval and Council is to be made a party to the covenant, whose approval is required for any alterations to the covenant. The covenant is to be registered with the registration of the subdivision plan

E10 Revegetation of Fire Trail

Upon construction of the collector road connection between the subject site and Dolphin Point Road through the adjoining property to the east (Lot 171 DP 1081810), the fire trail through the Precinct C land is to be removed and revegetated in accordance with the approved VMP. Should the construction of the road not occur prior to the completion of construction of the final stage of subdivision, a Subdivision Certificate is not be released until the VMP is approved, the works contained in the VMP are costed and the proponent has provided a bank guarantee to Council to cover the cost of the works.

Upon construction of the above collector road, the works are to be funded by the bank guarantee. Should the above road not be constructed within 5 years of the release of the Subdivision Certificate for the final stage of the subdivision, the bank guarantee is to be released by Council.

Flooding Levels

E11 Freeboard Level

An 88B instrument is to be created for all residential lots requiring the floor level of any habitable building to be set at or above RL3.25 AHD (i.e, the 100 year ARI Flood level plus 500mm freeboard).

E12 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 Subdivision Certificate.

Note: Should the works not be carried out by the developer to the satisfaction of Council, and 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.

E13 Construction of Collector Road Connection

Should the collector road connection referred to in Condition B10 between the subject site and Dolphin Point Road through the adjoining property to the east (Lot 171 DP 1081810) not be constructed prior to the completion of construction of the final stage of subdivision covered by this approval, a bank guarantee covering the cost of the abovementioned works is to have been provided to Council

Upon construction of the above road through the adjoining property, the works are to be funded by the bank guarantee. Should no subdivision works commence on the adjoining land within 5 years of the release of the Subdivision Certificate for the final stage of the subdivision, the bank guarantee is to be released by the Council.

Shoalhaven Water

E14 Shoalhaven Water

All conditions listed on the Shoalhaven Water Development Application Notice under the heading "PRIOR TO RELEASE OF PLAN OF SURVEY (SUBDIVISION RELEASE)" must be complied with and accepted by Shoalhaven Water.

A Compliance Certificate (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage for the development have been made with Shoalhaven Water. A Certificate of Compliance shall be obtained from Shoalhaven Water

after satisfactory compliance with all conditions of this approval and prior to the lodgement of an application for the issue of a Subdivision Certificate. A copy of the Certificate of Compliance must accompany the application for Subdivision Certificate.

Offset Planting

E15 Western Riparian Zone

The offset planting within the riparian zone of the western creek, up to the bank of the dam (to be retained as the water quality pond) is to be carried out in accordance with the approved VMP prior to the release of the Subdivision Certificate for Precinct A of the development. Certification is to be provided by a suitably qualified and experienced expert that the works are in accordance with the VMP. The riparian zone is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council.

E16 Eastern Riparian Zone

The offset planting within the riparian zone of the eastern creek is to be carried out in accordance with the approved VMP prior to the release of the Subdivision Certificate for Substage 4 of Precinct B of the development. Certification is to be provided by a suitably qualified and experienced expert that the works are in accordance with the VMP. The riparian zone is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council.

E17 Cycle and Pedestrian Path – Precinct C

The construction of the cycle and pedestrian paths through Precinct C are to be carried out in accordance with the approved plans and Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for Substage 2 of Precinct B of the development. Any landscaping associated with the provision of the pathways is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council.

E18 Neighbourhood Park

The neighbourhood park is to be constructed and embellished in accordance with the approved plans and provided with an appropriate level of lighting in accordance with the relevant Australian Standard. Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for Substage 3 of Precinct B of the development. The park is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council, which is to occur upon registration of the linen plan for Substage 2 of Precinct B.2.

E19 Informal Park

The informal park required by Condition B20 is to be constructed and embellished in accordance with the approved plans and provided with an appropriate level of lighting in accordance with the relevant Australian Standard. Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for Stage Precinct A of the development. The park and facilities are to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council, which is to occur before or upon registration of the linen plan for the final stage of the subdivision.

E20 Pedestrian and Cycle Connections

The pedestrian and cycle connections within Substages 4 and 5 of Precinct B are to be constructed and landscaped and provided with an appropriate level of lighting in accordance with the relevant Australian Standard in accordance with the approved plans. Council is to provide written certification that the works are of a suitable standard, prior to the release of the Subdivision Certificate for the respective stages. The landscaping is to be maintained and weeded for a minimum period of 6 months after completion of the landscaping and up until the land is dedicated to Council, which is to occur upon registration of the linen plan for the respective stages.

E21 Precinct C Land and Riparian Zones

The Precinct C land and riparian zones, together with the land containing the future link road to the east is to be dedicated to Council, prior to or upon registration of the final stage of the subdivision.

E22 Bus Stops

The proponent is to identify potential locations for bus stops (maximum of 400m apart) along the collector road and is to cost the installation of seats and shelters (to include lighting). A bank guarantee for the estimated cost is to be provided to Council prior to the release of the Subdivision Certificate for the last stage of the subdivision under this approval.

Upon provision of a bus service through the subdivision, the funds are to be utilised to construct the bus shelters and seats. Should no bus service be provided through the subdivision within 5 years of the release of the Subdivision Certificate for the final stage of the subdivision, the bank guarantee is to be released by Council.

E23 Signage

Suggestions for street names are to be provided for approval to Council. Street signs, including all traffic signs and markings, are to be installed to Council's satisfaction prior to the release of the Subdivision Certificate for the stage in which the streets are located.

Monetary Contributions and Contributions-in-lieu

E24 Monetary Contributions

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

(1) Amount of Contribution

Contribution Category	Rate of Contribution	Precinct B	Precinct A	Total
Tennis, Football, Cricket & Netball (Area 5) 05AREC0001	\$1,558.14per lot	\$218,139.60	\$35,837.22	\$253,976.82
Leisure Centre Heated Indoor Swimming Pool 05AREC0002	\$178.79 per lot	\$25,030.60	\$4,112.17	\$29,142.77
Southern Shoalhaven Branch Library 05CFAC0010	\$236.93 per lot	\$33,170.20	\$5,449.39	\$38,619.59
Hockey Facilities CWAREC0003	\$249.67 per lot	\$34,953.80	\$5,742.41	\$40,696.21
Stage 1 Shoalhaven City Library Extensions CWCFA0001	\$264.43 per lot	\$37,020.20	\$6,081.89	\$43,102.09
Stage 2 Shoalhaven City Arts Centre CWCFA0001	\$23.92 per lot	\$3,348.80	\$550.16	\$3,898.96
Stage 3 Shoalhaven Mobile Childrens Service CWCFA0001	\$7.84 per lot	\$1,097.60	\$180.32	\$1,277.92
S94 Administration CWMGT2001	\$398.10per lot	\$55,734.00	\$9,156.30	\$64,890.30
Embellishment of Icon and District Parks and Walking Tracks CWCFA0001	\$7.84 per lot	\$1,097.60	\$180.32	\$1,277.92
S94 Administration CWOREC0001	\$153.32per lot	\$21,464.80	\$3,526.36	\$24,991.16
TOTAL	\$4,928.12per lot	\$429,959.60	\$71,176.22	\$500,595.82

(2) Timing and Method of Payment

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

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

(3) Indexing

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

(4) Works-in-Kind

In accordance with Division 6 of Part 4 of the Act, the Proponent shall undertake the following works in kind:

- (a) Construction of child play equipment within the neighbourhood park in accordance with plans L02, entitled Landscape Plan – Park, dated Feb 08; prior to the release of the Subdivision Certificate for Sub-stage 3 in Precinct B and

- (b) Construction of the informal park required by Condition B20, prior to the release of the Subdivision Certificate for Precinct A.

ADVISORY NOTES

AN1

Variations to Statement of Commitments

The Statement of Commitments as lodged and exhibited with the original EA (no revised Statement was lodged as part of the Preferred Project) are modified by the conditions of approval including as follows:

Commitment No 5 is no longer necessary as a landscape plan has now been submitted and is considered acceptable.

Commitment No. 7 in relation to speed control devices on roads is supplemented by Condition B9.

Commitment No 8 in relation to maintenance of APZs is replaced by Condition E8.

Commitment Nos 12, 14, 15, 22 and 23 in relation to stormwater control devices are altered by the recommended conditions to refer to the amended stormwater plans given the change to the layout.

Commitment No. 18 is altered by the recommended Conditions D1 and D11 requiring a period of maintenance of the water quality control devices and monitoring of water quality by the developer.

Commitment No. 30 is replaced by the requirement to dedicate the land to Council, Condition E18.

Commitment No. 32 in relation to the revegetation of riparian corridors is supplemented by Conditions B16, E 15 and E16.

Commitment No. 35 in relation to the provision of fencing to the adjoining nature reserve is to be supplemented by Condition C2.

Amended Commitment Nos 2 and 4 in relation to the payment for the collector road connection with the site to the east and provision of the works within Stage 5 are replaced by Conditions B15, B17, B18, E6, E10, E13, E17 and E21.

AN2

Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the approval authority showing that the 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,
- (2) the approval authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN3

Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, 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.

AN4 *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.

AN5 *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.

AN6 *Excavation – Aboriginal Objects*

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

AN7 *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.

AN8 *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.

AN9 *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.

AN10

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 proponents 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.

End of conditions

SCHEDULE 3

MP 05_0016

RESIDENTIAL SUBDIVISION

**PART LOT 11, DP1104789 AND PART LOT 72, DP 1073600, DOLPHIN POINT
ROAD AND WURU ROAD, DOLPHIN POINT/BURRILL LAKE**

**STATEMENT OF COMMITMENTS AND ADDITIONAL COMMITMENTS FROM
PREFERRED PROJECT REPORT**

(SOURCE: ENVIRONMENTAL ASSESSMENT)

COMMITMENTS RELATING TO ENVIRONMENTAL ASSESSMENT- DOLPHIN POINT (extract from Environmental Assessment of Sept 2007)

Roadways

1. The engineering design of all roads will be in accordance with Shoalhaven Council's *Engineering and Design Specification*, Chapter D2 and in accordance with the Australian Model Code for Residential Development (AMCORD) Guidelines. An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with these documents. All roads will be completed prior to the release of the linen plan.
2. The width of the collector road identified through Stages 2 and 3 will be designed for a minimum pavement width of 9 metres to accommodate future public transport routes.
3. The local street network for Stages 2 and 3 will cater for the provision of public utility networks including water, sewerage, electricity, telecommunications, street lighting and gas. The provision of utility services will be in accordance with Shoalhaven Council's *Engineering and Design Specification*, Chapters D10 and D11. An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with this document. All public utility networks will be completed prior to the release of the linen plan.
4. The street component consisting of carriageway widths, verge widths, kerb type, longitudinal gradients and pavement treatments for each local and collector street will be in accordance with Tables 1 and 3 of Shoalhaven Council's Development control Plan No 100. The only variation to this will be in respect of the perimeter road. The width of this road will be 20 metres in order to achieve the appropriate width for the asset protection zone.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with this document. All roads will be completed prior to the release of the linen plan.

5. A landscape plan will be submitted to Shoalhaven Council for Stages 2 and 3 showing: The street reserve and indicative location of the carriageway; location, species and general character of tree planting and hard and soft landscape treatment. All landscaping work will be completed in accordance with Council's requirements. The landscaping works will be completed prior to the release of a linen plan.
6. A footpath including wheelchair/pram ramps at the intersections and crossing points will be constructed on all roads. The footpath will be completed in accordance with Shoalhaven Council's Engineering and

Design Specification Chapter 2. This work will be completed prior to the release of a linen plan for the subdivision.

7. Speed control devices will be placed on longer perimeter roads as required.

Bushfire

8. A section 88B instrument will be prepared by the proponent requiring the residential front yards of those allotments that form part of the asset protection zone to maintain the front yard to asset protection zone standards. This will include:

- Any landscaping or plantings are to be local endemic mesic species or other low flammability species. Any plantings are to be well spread out and are not to form a contiguous pathway to the dwellings.
- Any structures (eg fences, garden sheds, decks, pergolas, carports etc) within the asset protection zone are to be non-combustible as defined by Australian Standard 1530.1 and not deemed combustible pursuant to Clause C1.12 of Volume 1 of the Building Code of Australia.
- Any structures storing combustible materials such as firewood must be sealed to prevent entry of during debris.
- Gutters, roofs and roof gullies are to be kept free of leaves and other debris.
- A minimum ground fuel is to be maintained to include either mown grass, paving, concrete, bare ground or less than 3 tonnes per hectare of fire fuel (ie material of <6mm in diameter).

A copy of the Section 88B Instrument will be provided to Shoalhaven Council prior to the release of a linen plan for the subdivision.

9. The perimeter road for stages 2 and 3 will comply with the road construction standards for public roads as identified in the document entitled Planning for Bushfire Protection Guidelines (NSW Rural Fire Services) 2001.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with this document prior to the release of the linen plan.

10. Fire hydrants are to be installed in Stages 2 and 3 in accordance with Australian Standard AS2419.1-1994 and Section 6.4 of the document entitled Planning for Bushfire Protection Guidelines (NSW Rural Fire Services) 2001.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with this document prior to the release of the linen plan.

11. The Section 88B Instrument will also require that development on the perimeter lots to the north-west within Stage 2 will require a Level 1 construction standard under AS3959. Dwellings on the southern, eastern and western perimeters will require a Level 2 construction standard under AS3959.

A copy of the Section 88B Instrument will be provided to Shoalhaven Council prior to the release of a linen plan for the subdivision.

Water Quality Control Measures

12. Two water quality control ponds will be provided on the site in accordance with Figure 3 in the report prepared by Patterson Britton and Partners. The primary function of these water quality control ponds is to act as a stormwater quality treatment measure.

The proponent will complete this work prior to the release of the linen plan.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the report provided by Patterson Britton and Partners prior to the release of the linen plan.

13. The existing dam will be one of the water quality control ponds. Remediation work to the dam will include:

- Planting suitable vegetation, including macrophytes;
- Providing edge treatment to minimise mosquito habitat; and
- Construction of a suitable outlet/spillway.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to the release of the linen plan.

14. The second water quality control pond will be constructed downstream of the existing dam. This will have a surface area of approximately 5000m² and include the following;

- Extensive planting including macrophytes;
- Suitable edge treatment to minimise mosquito habitat;
- Constructed outlet; and
- An average minimum depth of 1 metre.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to the release of the linen plan.

15. Gross pollutant traps will be installed in accordance with Figure 3 in the Patterson Britton & Partners report.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to the release of the linen plan.

16. An assessment of the existing dam and the second water quality control pond will be carried out during subdivision earthworks. The assessment will include water and sediment quality prior to off site discharge of retained water and/or removal of onsite use of sediments from the dams.

An appropriately qualified person prior to the subdivision earthworks being completed will complete this assessment. Details of the findings will be submitted to Shoalhaven Council within 72 hours of the assessment being undertaken. Details of any required remediation measures will also be submitted to the Council and this work will be completed immediately.

17. A Section 88B instrument will be prepared requiring each dwelling to provide a 4000L rainwater tank that will capture the stormwater collected from the roof of future dwellings. The rainwater tank design will be as follows:

- A minimum 4m³ volume rainwater tank designed to collect the majority of roof runoff and store it for irrigation, clothes washing and toilet flushing purposes would be installed for each of the dwellings on the site;
- The tanks are to incorporate a first flush device, inspection/cleanout hatch and cleanout valve;
- The tanks are to incorporate an outlet tap for connection to an irrigation system driven by the tank head (if possible);
- All tank overflow should be directed to the formal piped stormwater drainage system to prevent nuisance flooding;
- All rainwater tanks should be installed and maintained so as to prevent cross connection with the portable water supply;
- A topping up device (from the potable water supply) shall be provided to supplement roof runoff during periods of little rainfall or high water use;
- A backflow prevention device shall be installed;
- All rainwater services shall be clearly labelled "non portable water" with appropriate hazard identification;
- Pipe work used for rainwater services shall be coloured purple in accordance with AS1345. All valves and apertures shall be clearly and permanently labelled with safety signs to comply with AS1319.

A copy of the Section 88B Instrument will be provided to Shoalhaven Council prior to the release of a linen plan for the subdivision.

18. Maintenance of the gross pollutant traps will be undertaken by the landowner of the Stage 5 land.

19. The following maintenance program for the site's water quality control measures will consist of the following:

- Periodic (6 month) inspection and removal of any gross pollutants and coarse sediment that is deposited in the water quality control pond and replacement of vegetation as necessary;
- Periodic (3 month) and episodic (post storm greater than 1 year ARI) inspection and removal of trapped pollutants from all GPT's; and

An appropriately qualified person verifying that this maintenance program has occurred will provide certification to Shoalhaven Council on an ongoing basis.

Sediment Control

20. Prior to any works commencing on the site the proponent will implement the erosion and sediment controls as identified in Figures 6 and 7 of the report by Patterson Britton and Partners. The erosion and sediment control measures will be constructed in accordance with the recommendations in Sections 4.7 and 4.8 of the above report.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to any further works occurring on the site.

21. The sediment and erosion control devices will be maintained in the following manner;

- Sediment and erosion control devices would be regularly maintained and accumulated sediment removed before 50% of the capacity is used. Accumulated sediment would be re-used or disposed of in an acceptable manner off-site.
- Sediment fences would be checked regularly for rips, excessive build up of sediment behind the fence, and breaches by construction activities. Damage to the fences would be repaired immediately on detection.
- Surface water flows would be diverted around the designated site access to prevent sediment trapped within the access being re-suspended and transported offsite. Sediment that bypasses the stabilised site access, and is deposited on the nearby public streets would be cleaned up promptly by means other than washing into the drainage system.

- Sediment and erosion control devices would be maintained until the disturbed areas have been adequately reinstated or new vegetation is sufficiently established.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the maintenance of the sediment control measures prior to the release of the linen plan.

Drainage Management

22. The stormwater drainage concept plan for the site will be in accordance with Figure 3 and the details provided in the water management strategy report prepared by Patterson Britton and Partners Pty Limited.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to the release of the linen plan.

23. The design and construction of the major and minor storm drainage systems will be in accordance with Shoalhaven Council's *Engineering and Design Specification*, Chapter D5. This work will be completed in accordance with the report prepared by Patterson Britton and Partners.

An appropriately qualified person will provide certification to Shoalhaven Council to demonstrate compliance with the Patterson Britton and Partners report prior to the release of the linen plan.

Services

24. Underground electricity supply and telephone service will be provided to Stages 2 and 3. The provision of these services will be in accordance with the requirements of the relevant authorities.

Certification will be provided by an appropriately qualified person demonstrating compliance with the relevant authorities requirements to Shoalhaven Council prior to the release of the linen plan.

Aboriginal Sites or Objects

25. If any previously unrecorded Aboriginal sites or objects are detected during the course of the development which are not covered by the existing Section 90 Consent, work will cease immediately and findings will be reported to the Department of Environment Conservation and Climate Change (NSW) and advice sought as to the appropriate course of action.

26. An Aboriginal Heritage Management Plan will be prepared, submitted to DoP for endorsement and implemented by the proponent.

General

27. A subdivision certificate will be prepared and submitted to Shoalhaven Council in respect of the proposed development. As part of the subdivision certificate, a linen plan will be prepared as well as any Section 88B Instruments.
28. Any future development of stage 5 will be contained within the areas identified as development parcels in the Urban Design Review prepared by Urbis JHD. Approval to these projects in no way endorses the findings of Urbis as regards future development parcels.

Vegetation and Habitat Management

29. The extent of Swamp sclerophyll forest and Coastal saltmarsh to be retained and offset will be marked in the field by an appropriately qualified person and the vegetation boundaries surveyed by a registered surveyor.

Certification will be provided to Shoalhaven Council by an appropriately qualified person demonstrating that this has occurred prior to the release of a linen plan.

30. The management of retained and offset Swamp sclerophyll forest and Coastal saltmarsh will be secured via positive covenants placed on the titles of the affected land requiring implementation of the approved vegetation management plan by the affected landowners.

Details of the positive covenants will be included in the linen plan.

31. An appropriate perimeter fence will be constructed around areas of retained and offset Swamp sclerophyll forest. The perimeter fencing will be constructed in consultation with an appropriately qualified flora expert and will be established prior to any earthworks occurring within stages 2, 3 and 5.

32. Riparian vegetation will be re-established on either side of the creek in the west (southern part of Stage 3) wherever possible, to maximise the width of the riparian corridor.

33. A vegetation management plan will be prepared by a suitably qualified person for the retained and offset Swamp sclerophyll forest and Coastal saltmarsh and for re-established riparian vegetation. The vegetation management plan will address a number of matters including, but not limited to, protection and maintenance of the Swamp sclerophyll forest and Coastal saltmarsh, weed control, vegetation enhancement, control of access, monitoring and fire management.

The vegetation management plan will be submitted to Shoalhaven Council prior to any works occurring on the site.

34. The water cycle management and water quality treatment systems for the proposal will be designed such that they maintain the existing hydrologic regime in the areas of the Swamp sclerophyll forest and Coastal saltmarsh and protect these communities from adverse water quality impacts.
35. A vehicle proof fence designed and constructed in consultation with the Department of Environment and Conservation (DEC) will be constructed along the western and southern boundaries of stages 2 and 3 where they adjoin lands managed by the DEC. This fencing will be established prior to the release of the linen plan.
36. Trees will be retained within the proposal wherever possible.
37. All trees and vegetation to be retained will be appropriately protected from compaction of root systems, damage to trunks, and the build-up of soil around tree bases, by appropriate work practices during the construction phase of the proposal. The appropriate protection measures are to be in accordance with the recommendations of an appropriately qualified arborist or similar. These protection measures are to be implemented prior to earthworks occurring on the site.
38. All vegetation to be retained will be protected from unauthorised access during the construction phase of the proposal. An induction program for workers will be developed and implemented to inform them of the limitations of the construction site. Temporary fencing will be installed along the edges of vegetation to be retained and workers will be instructed to avoid encroaching into such vegetation.
39. Trees with hollows to be felled during the construction phase, will be felled in accordance with the following procedures:
 - A fauna specialist appropriately licensed under the *NSW National Parks and Wildlife Act, 1974*, for the purpose of rescuing displaced animals, will supervise felling.
 - The fauna specialist will be suitably attired with protective clothing and have suitable equipment to undertake the work.
 - An appropriately skilled local wildlife carer must be notified at least 24 hours prior to the tree felling, that animals may be captured and that these animals may need care.
 - Any non-hollow-bearing trees around those with tree hollows to be felled will be removed first. At least one day will be left between clearing of the non-hollow-bearing trees and the hollow-bearing trees to allow fauna time to vacate the trees.
 - Prior to the felling of the identified and marked hollow-bearing trees, the trees will be shaken or nudged by tree-felling equipment to encourage any fauna to vacate the trees.

- If no animal emerges from the hollows after shaking or nudging, then the tree will be felled and lowered to the ground if possible.
- If an animal emerges from a hollow following shaking or nudging of the tree, then at least 30 minutes will be allowed for the animal to leave the tree. If the animal comes to the ground, or when it is on the lower trunk, attempts will be made to capture the animal using a net. Captured animals will be immediately transferred to a suitably sized cotton bag and checked for obvious injury during the transfer process.
- Captured animals will be placed in individual bags unless they are a family group to which separation would risk the survival of the young.
- Once the tree has been felled, a search will be made of the branches around the tree for any fleeing fauna and hollows should be inspected with a torch for the presence of any animals. Attempts will be made to capture any fleeing fauna with a net, and animals inside hollows should be extracted by hand. Captured animals will be immediately transferred to a suitably sized cotton bag and checked for obvious injury during the transfer process.
- Injured, shocked or immature captured animals will be placed in a cotton bag secured at the top. Bags will be wrapped in appropriate insulating material such as blankets and placed in a quiet, warm and preferably dark place until the wildlife carer can collect them. Details on the location of the capture and proposed release areas will be provided to the wildlife carer.
- Uninjured animals will be released in appropriate habitat as soon as practicable (at night for nocturnal species).

Landscaping

40. Exotic perennial grasses will not be sown in any areas that abut native vegetation to be retained or re-established within the proposal or native vegetation on adjoining lands. If grasses are to be used in these areas, for landscaping or soil stabilisation purposes, then indigenous native species or non-invasive exotic species will be used.
41. Native plants as detailed in the flora and fauna assessment completed by Bushfire and Environmental Services will be included in any landscaping for the proposal.
42. Black She-oak *Allocasuarina littoralis* sourced from local nurseries will be preferentially used in landscaping for the proposal.
43. No known environmental weeds, noxious weeds or known invasive plants species will be planted with the site in association with the proposal.

**ADDITIONAL COMMITMENTS – PREFERRED PROJECT
LOT 11 DP 1104789 AND PART LOT 72 DP 1073600 DOLPHIN POINT
MAJOR PROJECT MP05_0016**

1. The proponent hereby commits to dedication of the land proposed to be zoned 7(d2) (Special Scenic) zone currently comprising part of Lot 11 in DP 1104789 and as shown in the plans submitted herewith.
2. The proponent will contribute a proportion as agreed with Malbec or subsequent owners in title of the cost for construction of the 'connector road' as proposed on Lot 11 in DP 1104789 to link it with Lot 171 in DP 1081810 in the location generally as shown in the submitted subdivision drawings. The proponent will pay a bond in the amount of \$50,000 for the purpose of ensuring that the connector road is constructed in accordance with consent authority standards and specifications. The bond will be paid to the consent authority prior to the issue of any Construction Certificate that may be issued for any component of the development. The land comprising Stage 5 will be dedicated to Council subject to land being reserved for construction of a roadway generally in accordance with the subdivision drawings submitted herewith.
3. The proponent hereby agrees to the construction of a child play area in accordance with landscape drawings L01 and L02 prepared by HLS Pty Limited and dated Feb 08 submitted herewith. The land comprising Lot 306 will be dedicated to the Council at no cost and the dedication will be effected following construction of the child play area. Construction of the child play area will take place concurrent with construction of Stage 3 in the plan prepared by Rygate and West "Plan showing conceptual Staging for Stage 2 Subdivision" Ref No U11840M Sheet 3.
4. The proponent hereby commits to the dedication of Stage 5 land and land proposed to be zoned 7(d2) as depicted in the accompanying plans. Dedication will be effected following construction of the cycleway/pedestrian pathways and the connector road with the adjoining development (should that latter development proceed) over Stage 5. These works will take place concurrent with Stage 3 in the plan prepared by Rygate and West "Plan showing conceptual Staging for Stage 2 Subdivision" Ref No U11840M Sheet 3 and will be the responsibility of the proponent.
5. The proponent hereby commits to provision of medium density development over Lots 315 - 322 within Stage 2 in the subdivision (refer accompanying subdivision plans).
6. The proponent hereby commits to provision of an accessibility report prior to commencement of subdivision works.
7. The proponent hereby commits to retention of existing trees in riparian areas and road reserves (other than carriageway and pedestrian/cycleway areas). All other trees are proposed to be removed.
8. The proponent hereby commits to undertaking works as referred to in the report of Worley Parsons dated 1 February 2008 under the heading "Water Quality Control Pond".
9. The proponent hereby commits to construction of a fire trail generally in accordance with a plan that accompanies a letter from Bushfire and Environmental Services dated 22 January 2008 referred to as Option 3. Construction of the fire trail will take place prior to dedication of Stage 5 land to the Council.
10. The proponent hereby agrees to provide an appropriate design for a bus route and alternative bus route through Stages 2 and 3 prior to issue of any construction certificate.