

**PROPOSED MODIFIED APPROVAL**

**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 (NOW LOTS 2, 3 & 4  
DP 1123774), 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 in 17 stages;**
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in **Precinct B**;
- (4) Creation and embellishment of an informal neighbourhood park in **Precinct C**;
- (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, **B** and C to the Council.
- (10) **Identification of Development parcels within Precinct C.**

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.

**Minister for Planning**

Sydney,

2013

## SCHEDULE 1

### PART A—TABLE

Application made by:	Elderslie Property Investments P/L (Now Australian Property Growth Limited ABN 56 111 628 389)
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 (now Lots 2, 3 & 4 DP 1123774)
Local Government Area	Shoalhaven
For the carrying out of:	<ul style="list-style-type: none"><li>(1) Staged subdivision of Precincts A and B into 164 residential allotments in 17 stages;</li><li>(2) Creation of roads to service the subdivision;</li><li>(3) Creation and embellishment of one allotment as a neighbourhood park in Precinct B;</li><li>(4) Creation and embellishment of an informal neighbourhood park in Precinct C;</li><li>(5) Construction of pedestrian/cycle paths through all Precincts;</li><li>(6) Landscaping;</li><li>(7) Revegetation works to riparian zones in all Precincts;</li><li>(8) Provision of services and infrastructure; and</li><li>(9) Associated with the staged subdivision, dedication of lands in Precincts A, B and C to the Council.</li><li>(10) Identification of Development parcels within Precinct C</li></ul>
Type of development:	Project Approval
S.119 Public inquiry held:	No
Determination made on:	
Date approval is liable to lapse:	????

### 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 'Stages 1 & 2' generally comprising a residential subdivision of 23 residential lots and associated works and riparian corridors.

**Precinct B** means the area referred to as 'Stages 3 - 17' generally comprising a residential subdivision of 141 residential lots and 1 neighbourhood park and associated works.

**Precinct C** means the remainder of the land intended to be dedicated to the Council, generally comprising of works for a fire trail, revegetation works, pedestrian and cycle paths, 1 informal park and associated works, services and bio-retention basin and three future development area parcels.

**Proponent** means Elderslie Pty Limited (Now Australian Property Limited ABN 56 111 628 389) 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 in **17 stages**;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct B;
- (4) Creation and embellishment of an informal neighbourhood park in **Precinct C**;
- (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, **B** and C to the Council.
- (10) **Identification of Development Parcels in Precinct C.**

**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:

<b>Subdivision Layout Drawings prepared by Rygate and West</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
<b>U11840M Sheet 1 of 4</b>	<b>C</b>	Plan of Proposed Subdivision of Lot 11 DP 1104789 & Part of Lots 72 & <del>73</del> DP 1073600 (now Lots 2, 3 & 4 DP 1123774) (Note: drawing depicts Indicative Subdivision Layout for <b>Precincts A and B</b> )	<b>16 April 2013</b>
<b>U11840M Sheet 2 of 4</b>	<b>C</b>	Indicative Lot Layout for Precinct A Subdivision	<b>16 April 2013</b>
<b>U11840M Sheet 3 of 4</b>	<b>C</b>	Indicative Lot Layout for Precinct B Subdivision	<b>16 April 2013</b>
<b>U11840M Sheet 4 of 4</b>	<b>C</b>	Plan showing Conceptual Staging for Precincts A & B	<b>16 April 2013</b>



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 2008
L02	-	Landscape Plan – Park	Feb 2008

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 18 February 2008.

**A4 Staging**

The subdivision development shall be carried generally in accordance with the approved staging plans.

**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(s) of the subdivision before any construction work can commence for any stage(s) of the subdivision.

**PART B—GENERAL CONDITIONS**

**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 proposing works below RL3.5 AHD.

X  
quote

**B2 Erosion and Sedimentation Control**

Prior to the issue of a construction certificate for any stage, a Soil and Erosion Control Plan designed in accordance with the document 'Managing Urban Stormwater-Soils and Construction Volume 1 (2004) by Landcom' must be submitted to and approved by the certifying authorities for that stage.

X

**Construction Management**

**B3 Construction Management Plan**

Prior to the issue of a Construction Certificate for any stage, 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:

X

- (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 **for that stage**. 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.

## **Subdivision Works**

### **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.

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

Final design plans of the stormwater drainage systems **for the relevant stage** within the proposed subdivision, prepared by a qualified practicing Civil Engineer **or Registered Surveyor** 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 **for the relevant stage** within the proposed subdivision, incorporating these requirements, prepared by a qualified practicing Civil Engineer **or Registered Surveyor** 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 Stage 17 (see also E13)**.



## **B11 Shoalhaven Water**

Deleted – As Condition E14 covers Shoalhaven Waters' requirements.

## **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 a 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 Stage 3** 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 Precinct B Stage 3**. 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 **Precinct B Stage 5**.



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 **Precinct B Stage 17** of the subdivision. The cost of the works required under the VMP are to be at the proponent's expense.

### ***B19 New Bio-retention Basin***

The new 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 any Construction Certificate **for any Stage of Precinct B which cannot discharge stormwater to the existing water quality control pond.**

### ***B20 Informal Park Embellishment***

An informal park is to be provided **at an agreed location within Precinct C** of the subdivision. The informal park is to be a generally grassed area of a minimum of 1000m<sup>2</sup> 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 B Stage 3** 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 for each applicable stage of the subdivision.

### ***B22 Contamination***

Prior to the issue of a construction certificate for **Precinct A Stage 1**, 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 be 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 Access to Adjoining Land to the South and West***

The engineering design of the perimeter roads must incorporate measures to ensure no unauthorised vehicular access shall be possible to the adjoining land managed by DECC to the south and west of the site.

## **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 Civil Contractor, Principal Certifying Authority and Supervising 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 5<sup>th</sup> week to the 26<sup>th</sup> week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the 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 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.

### **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) Deleted – As the land is to be dedicated to Council as Public Reserve. See E21.

- (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 with 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 plans for all stages of the development.**

#### **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 **can only** be kept within the subdivision **subject to strict conditions that they are restrained within the lots**. 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 plans for all stages of the development**.



#### ***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 Stage 3** 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 relevant stage of the subdivision prior to the release of the Subdivision Certificate for the relevant 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 **for the relevant stage**.

##### **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 **for the relevant stage**.



### ***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(See B18). 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 to be released until 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 revegetation 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***

A s88B 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 (This Condition Cannot Work in this form)***

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 be 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 for each stage.

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