

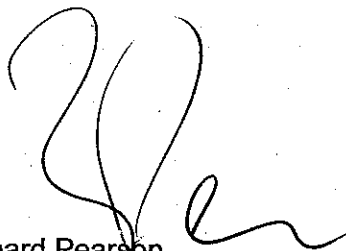
## **APPENDIX B. INSTRUMENT OF CONCEPT REVOCATION**

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# Revoke Concept Authorisation

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

I, the Deputy Director-General, Development Assessment and Systems Performance as delegate for the Minister for Planning under Instrument of Delegation dated 25 January 2010, revoke the Concept Authorisation issued on 30 June 2006, for 95 Lot residential subdivision in two stages, for Lot 4 DP 1117732, 3 Tarrant Road, Salamander Bay (formerly 360 Soldiers Point Road, Lot 59 DP 831253).



Richard Pearson  
**Deputy Director General**  
**Development Assessment & Systems Performance**

Sydney,

1 Apr 2010

2010

## **APPENDIX C. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

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**Attachment 1**  
**Director-General's Environmental Assessment Requirements**  
*Section 75F of the Environmental Planning and Assessment Act 1979*

<b>Application number</b>
05_0020
<b>Project</b>
<b>Proposed Residential Subdivision at 360 Soldiers Point Road, Salamander Bay</b> <b>Project Application:</b> Subdivision of Stage 1 into 29 lots and associated services.
<b>Location</b>
Part Lot 59 DP 831253, 360 Soldiers Point Road, Salamander Bay NSW
<b>Proponent</b>
Hill PDA
<b>Date issued</b>
10 JANUARY 2008
<b>Expiry date</b>
2 years from date of issue
<b>General requirements</b>
<p>The Environmental Assessment (EA) for the <b>Project Application</b> must include:</p> <ol style="list-style-type: none"> <li>1. An executive summary;</li> <li>2. An outline of the scope of the project including: <ul style="list-style-type: none"> <li>• any development options;</li> <li>• justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;</li> <li>• outline of the staged implementation of the project if applicable;</li> </ul> </li> <li>3. A thorough site analysis including constraints mapping and description of the existing environment;</li> <li>4. Consideration of the consistency of the project with the objects of the <i>Environmental Planning and Assessment Act 1979</i></li> <li>5. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans.</li> <li>6. Consideration of impacts, if any, on matters of national environmental significance under the <i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>;</li> <li>7. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;</li> <li>8. The plans and documents outlined in <b>Attachment 2</b>;</li> <li>9. A signed statement from the author of the Environmental Assessment certifying that the</li> </ol>

information contained in the report is neither false nor misleading;	
10. A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project; and	
11. An assessment of the key issues specified below and a table outlining how these key issues have been addressed.	
<b>Key Issues</b>	
The EA must address the following key issues:	
<b>1. Subdivision Design, Layout and Desired Future Character</b>	
2.1	Demonstrate the consistency of the proposal with the character of existing development in terms of the locality, street frontage, scale, building envelopes and future built form controls, aesthetics, energy and water efficiency and safety.
2.2	Demonstrate the consistency of the proposed subdivision design and layout with the <i>Coastal Design Guidelines for NSW</i> , <i>NSW Coastal Policy 1997</i> and <i>SEPP 71 – Coastal Protection</i> .
2.3	Identify the type of subdivision proposed across the site ie. community, Torrens, strata.
2.4	Provide details of potential building envelope, built form and design quality controls and the means for implementing them.
2.5	Provide details of any staging that demonstrates the lots will be released in an orderly and coordinated manner.
2.6	Outline the long-term management and maintenance of any areas of open space or conservation including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management.
<b>2. Infrastructure Provision</b>	
4.1	Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.
4.2	Address and provide the likely scope of an planning agreement and/or developer contributions with Council/ Government agencies.
<b>3. Traffic and Access</b>	
5.1	Prepare a traffic impact study in accordance with Table 2.1 of the RTA's Guide to Traffic Generating Developments which addresses, but is not limited to the following matters: <ul style="list-style-type: none"> <li>• The capacity of the road network to safely and efficiently cater for the additional traffic generated;</li> <li>• Access to and within the site;</li> <li>• Connection to Port Stephens Drive is considered undesirable;</li> <li>• Intersection site distances;</li> <li>• Connectivity to existing developments;</li> <li>• Impact on public transport (including school bus routes);</li> <li>• Provision of access for pedestrians and cyclists to, through and within the site; and</li> <li>• Identify suitable mitigation measures, if required to ensure the efficient functioning of the road network.</li> </ul>
5.2	Protect existing public access to and along the beach and coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate.

4. Hazard Management and Mitigation	
<i>Contamination</i>	
6.1	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.
<i>Acid Sulfate Soils</i>	
6.2	Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures.
<i>Bushfire</i>	
6.3	Address the requirements of Planning for Bush Fire Protection 2006 (RFS).
5. Water Cycle Management	
7.1	Assess direct and indirect impacts of the development on the adjoining SEPP 14 wetland areas. This must illustrate that no stormwater runoff is directed to any SEPP 14 or unmapped wetland areas. Address the requirements of the relevant flooding data in relation to minimum floor levels, having regard to the <i>NSW Floodplain Management Manual</i> . Provide an Integrated Water Cycle Management (IWCM) Plan based upon Water Sensitive Urban Design Principles.
7.2	Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages.
6. Heritage and Archaeology	
8.1	Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance (Aboriginal community consultation should be undertaken in accordance with DEC's <i>Interim Community Consultation Requirements for Applicants</i> ).
8.2	Identify any items of European heritage significance and, where relevant, provide measures for the conservation of such items.
7. Flora and Fauna	
9.1	Outline measures for the conservation of flora and fauna and their habitats within the meaning of the <i>Threatened Species Conservation Act 1995</i> , including, but not limited to, the Sand Double-tail, Koala, Squirrel Glider, Masked Owl, Powerful Owl and the Coastal floodplain endangered ecological communities. Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land. Address the requirements of <i>State Environmental Planning Policy No 44 – Koala Habitat Protection</i> and the <i>Port Stephens Comprehensive Koala Plan of Management</i> , including offset measures, buffers and other long-term protection methods for threatened fauna species.
9.2	Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
Consultation	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:	
(a)	
(a) Agencies or other authorities:	

- Port Stephens Council;
- NSW Department of Environment and Conservation;
- NSW Department of Natural Resources;
- NSW Rural Fire Service;
- NSW Roads and Traffic Authority;
- Anna Bay Drainage Union;
- Local Aboriginal Land Councils; and
- relevant community organisation contact(s).

(b) Public:

- Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.

The consultation process and the issues raised should be described in the Environmental Assessment.

**Deemed Refusal Period**

**120 days**

## APPENDIX D. SUMMARY OF PUBLIC SUBMISSIONS

### Summary of Public Submissions (4 Submissions received)

OBJECTIONS TO PROPOSAL (4 objections)		
Topic	Number of references in submissions	Details / Comment
Flora and Fauna	3	<ul style="list-style-type: none"> <li>Concern over cumulative loss of wildlife habitat and fragmentation.</li> <li>Concern over impact on wildlife corridor.</li> <li>Concern over loss of Koala and other threatened species habitat.</li> <li>Suggest reducing impact through a redesign and retaining mature trees.</li> </ul>
Access to rear of property	1	<ul style="list-style-type: none"> <li>Concern that plans do not consider loss of access to rear of number 362 Soldiers Point Road.</li> </ul>
Loss of trees	1	<ul style="list-style-type: none"> <li>Concern over loss of views and windbreak as a result of tree removal.</li> </ul>
Loss of amenity	1	<ul style="list-style-type: none"> <li>Concern over extra traffic and loss of play areas for children.</li> <li>Concern over increased noise associated with construction and new residents.</li> <li>Concern over decrease in property value.</li> </ul>
Misrepresentation by Council	1	<ul style="list-style-type: none"> <li>Council contended that no substantive development was being considered as recently as mid 2007.</li> </ul>
Stormwater	1	<ul style="list-style-type: none"> <li>Concern that runoff will contribute to pollution of local waterways and Port Stephens.</li> </ul>
Local infrastructure	1	<ul style="list-style-type: none"> <li>Concern that schools and sewerage system will be negatively impacted.</li> </ul>



## **APPENDIX E. RESPONSE TO SUBMISSIONS**

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1) Department of Environment Climate Change and Water – Aboriginal Archaeology

DECCW made the following points in its representations with regard to Aboriginal Archaeology:

- (i) *The need for provisions to cease work if aboriginal cultural objects are unearthed.*

These requirements are to be included as conditions of consent.

- (ii) *No evidence is provided of consultation with broad based aboriginal community.*

Mary Dallas, archaeological consultant advised that she believed we had done what was necessary in terms of consulting with the Aboriginal community. Her advice is attached as Annexure 1.

To overcome the impasse with DECCW regarding consultation with the Aboriginal community two actions were taken. Firstly, an advertisement was run in The Examiner, a paper which circulates throughout the Port Stephens Local Government Area, seeking Aboriginal people who had an interest or who wished to comment on the development. Secondly, letters were sent to all local groups identified by DECCW as Aboriginal stakeholder groups in the Port Stephens/Tomaree Peninsula Area. Details of the advertisement and letters to identified stakeholders are at Annexure 2.

Only Mur-Roo-Ma Inc took up the opportunity. This group requested an on site meeting. As a result of the meeting a letter was issued (Annexure 2) with the following points:

On the visit nothing of Aboriginal significance was identified however the following was considered appropriate by the group in terms of site management:

1. A qualified representative from Mur-Roo-Ma Inc and other local registered Aboriginal groups be represented on site to monitor earth works.
2. A Cultural and Heritage induction be carried out by local Aboriginal Groups before earthworks commence.
3. The establishment of a keeping place on site in the event that Aboriginal objects are discovered.
4. During construction work if any Aboriginal sites or relics are discovered whilst the Aboriginal monitor are not on site work is to stop and the relative Aboriginal groups along with DECC are to be contacted.

Conditions proposed by DECCW in its response to the exhibition will be adopted which generally cover the matters raised by the Mur-Roo-Ma group. This includes stopping work if human remains are uncovered; registration of the site if aboriginal cultural objects are unearthed; avoiding impacts to Aboriginal cultural heritage; consultation with the Aboriginal community and the need for an Aboriginal cultural heritage program.

- (iii) *More detail is required of field assessment and methodology, landscape attributes previous archaeological field investigations etc.*

Mary Dallas is a well recognised archaeological consultant and her report is attached (Annexure 1). Given this area has been previously extensively sand mined and a letter has been received from the Local Aboriginal Land Council that this locality is unlikely to have been used extensively by Aboriginals further work on the site beyond what has already been done is not warranted.

Implementation of proposals put forward by Mur-Roo-Ma would appear to offer sufficient protection for any aboriginal archaeology.

- (iv) *Need to commit to an Aboriginal Cultural Education Program.* This requirement appears to be excessive as the site has been heavily disturbed and indications are that the Aboriginal community do not see this site as important. Nonetheless a heritage and cultural induction program will be carried out prior to earthworks commencing.

2) Department of Environment Climate Change and Water- Threatened Species

- (i) *DECC considers that the Giant Dragonfly(Petalura gigantean) needs to be included in the 5A Assessment*

Consultant Andrews Neil, Environmental Section, was retained to undertake further studies on the Giant Dragonfly as requested.

The report at Annexure 3 concludes that while critical habitat has not been declared for this species the development proposed will not remove any likely potential habitat of the species.

As a result no further action is proposed.

- (ii) *The Environmental Assessment Report does not address offsets for clearing native vegetation.*

A meeting was held on site 9 October 2008 with DECCW and Andrews Neil to determine how offsets might be determined as proposed in the representations. A Biobanking process was proposed using the credit calculator. Field data was collected and Andrews Neil undertook further discussion with DECCW.

Andrews Neil concluded "Considering the highly disturbed nature of the proposed development area, I believe that the use of the Biobanking credit calculator did not provide a clear indication of the degraded nature of the proposed development area or the comparatively good quality vegetation in the proposed offset area....it failed to consider the koala corridor" (Dr Kristy McQueen - Andrew Neil)

DECCW has sought 12 hectares of vegetation off sets for development of the 4.5 ha sand mined site. In order to resolve the matter it is proposed to exclude the remaining remnant vegetation on site (0.2ha) and include it in the open space corridor. This approach means that this application is only looking at a previously sand mined site with all significant vegetation retained. This does cause a significant change in the subdivision pattern with the loop road being terminated and a long cul de sac resulting. With a review of the lots and narrowing them it was possible to still achieve 33 residential lots with sufficient frontage to enable construction of project homes.

This change however did require further work to be undertaken on bushfire and water management as well as amendments to the subdivision design. The issues are discussed in the Post Exhibition Section of this report.

3) Department of Education and Training

No matters identified.

4) Department of Water and Energy

*Given the proximity of a former waste disposal site the Department considered management of ground water could be an issue.*

A ground water monitoring plan is proposed to be included as a condition of consent.

#### 5) Rural Fire Service

While the development provisions were considered adequate other provisions were proposed as follows:

- (i) *All lots, except lot 34, to be managed as inner protection area in accordance with Planning for Bushfire Protection 2006.*
- (ii) *The dead end road requires 12m turning circle and be posted as a dead end.*

As a result of the amended subdivision pattern, with additional park area, it is considered that the above requirements still apply and that a no through road sign be placed at the subdivision entry point.

#### 6) Port Stephens Council Planning Branch

*Councils Planning Department engaged Strategy Hunter to independently review the proposal. A key concern was the width of the koala corridor.*

The following changes to the proposal were agreed:

- (i) Mitigating actions to take place to reinforce the corridors viability – remove exotic vegetation, underground 11kv power lines, plant suitable vegetation, reduce vehicle speeds to 40km/hr
- (ii) Remove areas proposed to hold water adjacent to Old Soldiers Point Road and run water to detention ponds adjacent to the playing fields.
- (iii) Amend the plan to show Old Soldiers Point Road closed directly north of the proposed development and allow for its revegetation. Redirect pedestrians and cyclists through the proposed subdivision linking back with Old Soldiers Point Road west of the subdivision.
- (iv) Fencing within the subdivision should not impede fauna movement.
- (v) Signage and appropriate fencing should be used to reinforce the koala corridor.

All but one of the above can form part of the subdivision approval. Given the proposed new subdivision layout a pedestrian/cycleway will need to be constructed through the treed area generally running from proposed lot 16 through to Road 2 adjoining lot 8 to enable revegetation of Old Soldiers Point Road.

It is understood water from the subdivision cannot be accommodated in the ponds used to irrigate the playing fields. Therefore the detention areas originally proposed on site will remain. Further

consideration at Construction Certificate stage is proposed to ameliorate the impact of these temporary water detention areas on the wildlife corridor.

#### 7) Public Submissions

- (i) *Access – A driveway to the rear of a property facing Soldiers Point Road has been constructed on Council land providing access from Tarrant Road to the rear of the property.*

Verbal advice from Council officers is that the access has been developed without consent. As this is an illegal access it will need to be removed. An alternate access may be possible with Council consent from the side of the property direct to Tarrant Road.

- (ii) *Reporting – The Environmental Assessment report does not reflect current conditions.*

Given the time taken to process this application it is likely some things will have changed. The changes would largely relate to scrubby regrowth which has occurred on the site together with the establishment of adjacent playing fields and new access via Tarrant Road. Where appropriate changes on site would be included in any final approval.

- (iii) *Environment – Effectiveness of the wildlife corridor. Concern was expressed about habitat fragmentation and some loss of significant wildlife habitat.*

This has been addressed in consultation with Councils Environmental Manager with the koala corridor adjacent to the development site being some 50 metres wide.

This is a former sand mining site with minimal vegetation. Significant vegetation and habitat does exist around the *Leporina* swamp and that is to be retained. A small stand of mature trees (0.2ha) as a result of amendments to the plan also will be retained.

- (iv) *No compensation measures for habitat loss in construction of sports field road.*

The sporting field area is not part of this application, however the revegetation of the 50 metre corridor along the northern boundary of the site should go some way to providing the compensatory vegetation but more importantly will reinforce a very fragmented koala corridor.

- (v) *Lack of any rehabilitation plan or ongoing monitoring of wildlife corridor.*

Rehabilitation of the wildlife corridor is an integral part of the proposal. The corridor will be managed by Council into the future and it would be anticipated Councils Environmental Manager would undertake monitoring from time to time.

- (vi) *Wider corridor and reduction in developable area, restrict activities permitted in the wildlife corridor, control domestic animals, minimise traffic impact*

A wider corridor is proposed without loss of developable area. Controlling traffic speed and signage is also part of the proposal.

- (vii) *Development task schedule required to protect habitat during construction.* This would form part of any construction approval for the site.

- (viii) *Development will jeopardise the "last" vegetated fauna corridor.*

The subject site has been zoned residential for many years. Its development is possible while revegetating and therefore reinforcing the fauna corridor.

- (ix) *Port Stephens Koala Management Plan indicates development will sever koala movement across the site.*

Meeting have occurred with Council officers responsible for the Koala Management Plan. It was agreed the corridor is being reinforced rather than severed.

- (x) *Councils Strategic Overview is in direct conflict with development of this site.*

Meetings have occurred to address issues raised by various sections of Council administration. The views expressed at these meetings have generally been incorporated in the proposal. At no time have officers expressed a concern that the proposal is in direct conflict with Councils Strategic Overview. The mere fact that this site has been zoned residential for a number of years would clearly suggest it is not.

- (xi) *The site should be an off set area and should not be developed.*

The site is much degraded as a result of sand mining leaving very little in the way of mature vegetation to be used as off sets. Development of the site is focussed on achieving balance between residential development and habitat retention. The area proposed for development is only that area which was subject to sand mining.

- (xii) *The Environmental Assessment is not accurate in regard to koala habitat, detrimental impacts on adjoining residents including the loss of wind screening vegetation.*

A small amount of potential koala habitat is on the site and it will all be retained. Additional plantings are to occur along Old Soldiers Point Road to reinforce the wildlife corridor. Impact of the development on adjoining areas will be minimal as Kanimbla Drive, the residential area south of the subject site, has separate access, lots proposed are large enough to ensure overlooking or overshadowing should be minimised.

## **APPENDIX F. ENVIRONMENTAL ASSESSMENT**

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To be provided on disk.

## **APPENDIX G. PREFERRED PROJECT REPORT**

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To be provided on disk.