

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

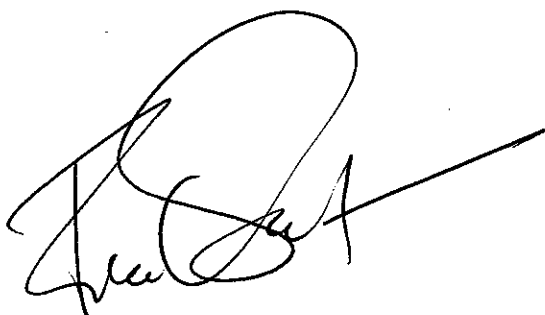
DETERMINATION OF MAJOR PROJECT NO. 05_0058

(FILE NO. 9040705-3)

'ROSARII' 334-356 GREGORY STREET, SOUTH WEST ROCKS

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 major project 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.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment identified at Tag C and the Proponent's Statement of Commitments in Schedule 3, subject to the conditions of approval in the attached Schedule 2.

A large, stylized handwritten signature in black ink, likely belonging to Frank Sartor, Minister for Planning.

Frank Sartor MP
Minister for Planning

Sydney, 12th Dec 2007

SCHEDULE 1

PART A—TABLE

Application made by:	Macleay Valley Property Group Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 05_0058
On land comprising:	334-356 Gregory Street, South West Rocks Lot 2 DP 581117
Local Government Area	Kempsey LGA
For the carrying out of:	Residential subdivision of 46 lots in three stages
Estimated Cost of Works	\$2.9 million
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination unless works have physically commenced in accordance with Section 75Y of the Act.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 05_0058

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 Kempsey Shire Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment prepared by ERM and dated February 2007.

Minister means the Minister for Planning.

MP No. 05_0058 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.

Proponent means Macleay Valley Property Group Pty Ltd or any party acting upon this approval.

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_0058

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

(1) Stage 1

- a) Subdivision into three lots:
 - i. Lot 1 (8057m²) containing the existing dwelling on the site;
 - ii. Lot 2 (3.982 ha) the lot for development; and
 - iii. Lot 3 (272m²) containing the existing sewer pump station.

(2) Stage 2

- a) Subdivision of Lot 2 into 20 residential lots (Lots 101-120) ranging in size from 504.6m² to 770.6m², and one residue lot (Lot 121 of 2.496 ha);
- b) Reconstruction of the southern half of Cooper Street between Gregory Street and the eastern boundary of lot 120;
- c) Construction of a temporary turning circle at the end of internal road 1;
- d) Construction of the detention basin;
- e) Construction of and dedication to Council of the proposed road 1 and the access way in the south western corner of the site;
- f) Construction of underground electricity, potable, recycled and waste water systems to Lots 101-120; and
- g) Landscaping of verges of lots 101-120 on Gregory Street and Cooper Street and internal road 1.

(3) Stage 3

- a) Subdivision of residue lot 121 to create 24 residential lots (Lots 121-144) ranging in size from 600.1m² to 1815m²;
 - b) Construction of and dedication to Council of proposed roads 2 and 3;
 - c) Demolition of the temporary turning circle at the end of internal road 1;
 - d) Construction of underground electricity, potable, recycled and waste water systems to Lots 121-144; and
 - e) Landscaping of verges of lots 121-144 including fencing of the Arakoon Road boundary.
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A2 Development in Accordance with Plans

Each stage of the development will be undertaken in accordance with the Environmental Assessment dated February 2007 prepared by ERM including all Appendices and the following drawings as are relevant to that stage:

Subdivision Drawings prepared by Rose Atkins Consulting Surveyors			
Drawing No.	Revision	Name of Plan	Date
47/3833/1		Stage 1	18/8/06
47/3833/2		Stage 2	18/8/06
47/3833/3		Stage 3	18/8/06
47/3833/5		All Stages	18/8/06
Landscape Drawings prepared by Scott Murray & Associates			
Drawing No.	Revision	Name of Plan	Date
1648-LP-03	C	Landscape Concept Plan	No date
1648-LP-04	B	Details	No date
Civil Works Drawings prepared by Hadlow Design Services			
Drawing No.	Revision	Name of Plan	Date
51162C		Preliminary Civil Works Design Layout Plan	27/10/06
51162C		Preliminary Civil Works Design – Design Parameter Notes & Details	27/10/06
Survey Drawings prepared by Rose Atkins Consulting Surveyors			
Drawing No.	Revision	Name of Plan	Date
47/3833/B		Detail Survey	13/12/06
Tree Retention Drawings prepared by Environmental Resources Management			
Drawing No.	Revision	Name of Plan	Date
Figure 1	-	Tree Retention Plan	21/05/07

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in Kempsey Shire Council DCP 30 – Exempt and Complying Development 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

Each stage of the development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by ERM on behalf of Macleay valley Property Group Pty Ltd, dated February 2007;
- (2) 'Rosarii' Proposed Residential Subdivision Lot 2 DP 581117, Gregory Street, South West Rocks Bushfire Hazard Assessment, prepared by ERM, dated January 2007;

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- (3) 'Rosarii' Proposed Residential Subdivision Lot 2 DP 581117, Gregory Street, South West Rocks Traffic Impact Assessment, prepared by ERM, dated January 2007;
 - (4) South West Rocks Aboriginal Heritage Assessment, prepared by ERM, dated December 2006;
 - (5) South West Rocks 'Rosarii' Ecological Assessment, prepared by ERM, dated January 2007;
 - (6) 334-356 Gregory Street, South West Rocks Geotechnical Assessment, prepared by Coffey Geotechnics, dated 19 October 2006;
 - (7) TREEAZ/SULE Report, prepared by Rodney Page, dated 31 July 2006;
 - (8) Response to Submissions Major Project Application MP05_0058 Subdivision at Gregory Street, South West Rocks, prepared by ERM, dated August 2007;
 - (9) South West Rocks, Stormwater Management, prepared by ERM, dated September 2007;
 - (10) Draft Soil and Water Management Plan Major Project 05 0058 334-356 Gregory Street, South West Rocks, prepared by Hadlow Design Services, dated September 2007;
 - (11) Major Project Application (MP05_0058): Subdivision at Gregory Street, South West Rocks Compensatory Strategy, prepared by ERM, dated September 2007;
 - (12) Correspondence prepared by ERM dated 6 September 2007; [Proposed Building Covenants];
 - (13) Correspondence prepared by Proponent dated 4 September 2007; [Asset Protection Zones]; and
 - (14) Revised Statement of Commitments, prepared by ERM, dated 12 November 2007.

A4 *Inconsistency between documents*

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

A5 *Building Covenants*

The Building Covenants prepared by ERM and dated 6 September 2007 are amended as follows:

1(d) Dwellings

iii. Design

General – In view of the unique location of the property at the entrance to South West Rocks, purchasers are required to design and construct their houses using materials and finishes that complement the environmental quality of the region.

A6 *Erection of a Dwelling*

This approval does not permit the erection of a dwelling on any lot. A separate development application is required for approval of any dwelling.

A7 *Prescribed Conditions*

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

A8 Commencement of Works

This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

A9 Construction Certificate

A Construction Certificate shall not be issued for any stage of the development until all relevant conditions of this approval have been complied with.

CONDITIONS TO BE SATISFIED FOR STAGE 1

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

S1E1 Certificate of Compliance Water Management Act

The proponent must submit an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met for Stage 1 of the development, prior to release of the Subdivision Certificate for Stage 1 of development.

A Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with: -

- a) The payment of the water and sewerage contributions for Stage 1 required by condition S1E3.
- b) Payment of a bond of \$10,000 for the extension or modification of the town sewer main(s) to serve the existing dwelling in Stage 2 of works (refer condition S2B3).
- c) The pump station, surrounding associated structures and pipes are to be fully contained within the lot.
- d) All Council water and sewer mains where they traverse private property are to be located within a suitably sized easement strictly in accordance with the DCP 36 *Engineering Guidelines for Subdivision and Development*.

S1E2 Monetary Contributions

In accordance with Division 6 of Part 4 of the Act and Council's *Section 94 Contributions Plan for Outdoor Recreation*, *Section 94 Contributions Plan for Stormwater Drainage* and *Section 94 Contributions Plan for Project Administration*, the Proponent shall pay the following monetary contribution as are relevant:

(1) Amount of Contribution

Contribution Category	Rate of Contribution	Amount
Outdoor Recreation	1 x \$2,151 per additional building entitlement	\$ 2,151
Trunk Drainage System	1 x \$2,101 per equivalent tenement	\$ 2,101
Project Administration	6% of all Section 94 contributions	\$255.12
TOTAL		\$4,507.12

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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.

(3) Indexing

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

S1E3 Water and Sewerage Contributions

(1) Amount of Contribution

Contribution Category	Rate of Contribution	Amount
Water Supply	1 x \$7,647 per additional building entitlement	\$ 7,647
Sewerage	1 x \$6,451 per additional building entitlement	\$ 6,451
TOTAL		\$14,098

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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 for each stage of development.

(3) Indexing

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

S1E4 Section 88B/E Instruments

The proponent is to submit with the final plan of subdivision, copies of any instruments under section 88B or E of the *Conveyancing Act 1919* relevant to any restrictive covenants, easements or right of way created by or affected by the subdivision. Council is to be nominated on the plan of Subdivision as the sole party to modify or extinguish the restriction unless otherwise specified in conditions.

S1E5 Part 4A Certificate

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*.

CONDITIONS TO BE SATISFIED FOR STAGE 2

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

S2B1 Voluntary Planning Agreement

Prior to the issue of the Construction Certificate, the Proponent shall:

- (1) Enter into a Planning Agreement with Kempsey Shire Council under section 93F of the EP&A Act. This Agreement must be generally consistent with commitments in the terms of the offer made by the Proponent on 26 October 2007 and Commitment 11 of the Statement of Commitments (Schedule 3), and specifically provide for:
 - i) The rehabilitation of 8 ha of land at Boyters Lane, South West Rocks;
 - ii) The implementation of a community education and awareness strategy;
 - iii) The implementation of the works described in (i) and (ii) within 12 months of the finalisation of construction for Stage 2 works; and
 - iv) The ongoing management and maintenance of the works.
- (2) Register the Planning Agreement on the title of the land in accordance with the *Real Property Act 1900*.

S2B2 Integrated Property Management Plan

The plans submitted prior to the issue of a construction certificate are to include a detailed *Integrated Property Management Plan* for this stage of the development. The Plan will form the basis of an appropriate restriction(s) as to user providing for maximum tree retention, incorporating the following: -

- a) A survey plan prepared by a registered surveyor showing the location, height, crown area, species and hollow presence shall be provided for all trees identified for retention in 'Figure 1 – Tree Retention Plan' prepared by ERM and forming Schedule 1 of the 'Building Covenants' prepared by ERM and submitted 6 September 2007 within the development site (including asset protection zones) relative to the proposed lot boundaries.
- b) Tree retention in accordance with 'Figure 1 – Tree Retention Plan' prepared by ERM and forming Schedule 1 of the 'Building Covenants' prepared by ERM and submitted 6 September 2007.
- c) Where hollow bearing trees are to be removed the protocol outlined in the proponent's Statement of Commitments (commitment 10) will apply as follows:

Phase 1: Prior to clearing:

 - Flag and GPS habitat trees.
 - Survey for threatened fauna to identify any potential den trees and mark trees recorded as containing threatened fauna.
 - Report on survey and provide recommendations to Macleay Valley Property Group Pty Limited for clearing.

Phase 2: During Clearing

 - Clearly delineate clearing boundary.
 - Clear everything else around those trees marked as above. Leave hollow bearing trees standing to allow resident fauna to
 - relocate.
 - Habitat trees should be left standing overnight (minimum) to allow resident fauna the chance to relocate. During this time
 - the ecologist may set traps to capture resident animals.
 - Fell habitat trees as carefully as possible.
 - Hollows potentially supporting fauna can either be cut, or, if there is a risk of injury (animals can be cut in two) the logs can

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- be left on the ground & rechecked the following day or placed on the edge of adjoining habitat.
 - Bag/trap and transfer any animals captured.
 - Take any injured animals immediately to wildlife carer or vet – contact details will be supplied to surveyors and clearing
 - contractors.
 - Any trapped animals would need to be kept in care until all hollow bearing trees are removed.
- d) Identification of building envelopes on each allotment outside of the tree protection zone (TPZ) for all trees to be retained. Tree protection zones must be shown in accordance with the *TreeAZ/Sule Report* prepared by Rodney Page Consulting Arborist and dated 31 July 2006.
- e) Details of the means of protecting trees nominated for retention during construction of the subdivision.
- f) The means to ensure the ongoing retention of the trees during the construction of future dwellings and structures. This shall include a commitment that will require the development application/ complying development certificate and construction certificate for the dwellings and structures on the affected lots to be accompanied by an arborist's report detailing:
- i) The manner of construction required to achieve the ongoing retention of the tree/s;
 - ii) Confirming that the structure will not affect identified tree/s; and
 - iii) Identifying the measures to protect the tree/s during construction works.

S2B3 *Extension of Town Sewer Main*

Extension or modification of the town sewer main(s) to serve the existing dwelling and the proposed development in this stage, at full cost to the proponent, is required.

The proposed sewer main extending from the existing sewer pump station in Gregory Street servicing proposed lots 101,102,103,104, and 105 is to be designed to accommodate future development north of this site and extend to a point 1.5 metres beyond the northern boundary. The proponent is to liaise with Council (Macleay Water) prior to completing the design.

Detailed plans are to be prepared strictly in accordance with DCP 36 *Engineering Guidelines for Subdivision and Development* and submitted for approval by Council prior to the issue of the Construction Certificate.

S2B4 *Extension of Town Water Supply Main*

Extension of the town water supply main(s) from the existing 250mm AC water main located on the west side of Gregory Street only is required to serve the proposed development, at full cost to the proponent. Detailed plans and calculations are to be prepared strictly in accordance with DCP 36 *Engineering Guidelines for Subdivision and Development* and submitted for approval by Council prior to the issue of the Construction Certificate.

S2B5 *Provision of Town Water Recycling Main*

Provision for the town water recycling main (100mm diameter) is required to serve all the proposed allotments in this development, at full cost to the proponent in accordance with Design and Construction requirements set out in Water Services Association of Australia Dual Water Supply Systems(a supplement to the Water Supply Code of Australia). Detailed

plans and calculations are to be submitted to Council for approval prior to the issue of the Construction Certificate.

S2B6 *Engineering Plans*

All Detailed Engineering Plans addressing all internal and associated external civil engineering works are to be in strict compliance with Council's Development Control Plan No 36 *Engineering Guidelines for Subdivision and Development*.

S2B7 *Drainage System*

Provision is to be made of a piped urban storm water drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of *Australian Rainfall and Runoff (1987)*, and having regard for the contents of the Integrated Property Management Plan (and associated documentation). Detailed Engineering Plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.

S2B8 *Water Quality Monitoring*

Water quality monitoring shall be undertaken from the commencement of construction until 12 months following the completion of construction. Details of the monitoring program shall be submitted to Council for approval prior to issue of the Construction Certificate.

S2B9 *Interallotment Drainage*

Provision is to be made of an interallotment storm water drainage system to service all proposed allotments that drain away from all the proposed internal roads. The system is to be located within an appropriately sized drainage easement benefiting the affected allotment.

S2B10 *Stormwater Drainage System*

All stormwater drainage from this site is to be piped and connected to the existing piped Trunk Stormwater Drainage System in Gregory Street.

S2B11 *Gross Pollutant Trap*

All stormwater from the development site is to be routed through a suitable gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The proponent's Engineer is to liaise with Council's Environmental Services Department prior to submitting preliminary engineering plans and selecting the unit(s).

S2B12 *Onsite Detention*

The flows emanating from this development are to be restricted to pre-development levels using a recognised detention system for this development in accordance with Section D5 of Development Control Plan 36 *Engineering Guidelines for Subdivision and Development*.

A detailed Engineering Design for the proposed onsite detention system is to be provided by an appropriately qualified person in accordance with D5 of Development Control Plan 36, *Australian Rainfall and Runoff 1987*, as amended.

The proposed detention system design is to include provision for inspection and maintenance. The proponents Consultant Engineer is to submit details to Council.

The detention system used must not impact on the amenity and use of the existing and/or proposed development.

S2B13 *Onsite Detention Certification*

A Structural Engineers Certificate, certifying that all the structures associated with the proposed onsite detention system have been designed to withstand all loads likely to be imposed on them during their design life and that the onsite detention system will function hydraulically in accordance with the approved design plans, is to be submitted to Council prior to the release of the Construction Certificate.

S2B14 *Streetscape Plan*

The Plans for the required Construction Certificate are to include a *Streetscape Plan* incorporating endemic species, prepared by a suitably qualified Landscape Architect in respect to internal road 1, Cooper Street and the entire Gregory Street frontage for this stage of the development, in accordance with Development Control Plan 36, *Section D13 Land and Streetscape Design* and best practice.

S2B15 *Road Design*

Proposed internal road number 1 (including provision for a temporary turning circle and accessway to service the detention system) for this stage of the development shall be designed, constructed and dedicated as public road for the full frontage of all the lots in this stage of the development, and Cooper Street upgraded, to the characteristics defined in Table D1.5 and the of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development*. Details are to be provided for approval with the Construction Certificate.

S2B16 *Intersection Design*

The intersections of internal road 1 with Cooper Street and Cooper Street with Gregory Street are to be upgraded to an Urban Standard strictly in accordance with the provisions contained in Development Control Plan No 36 *Engineering Guidelines for Subdivision and Development*. Details are to be provided for approval with the Construction Certificate.

S2B17 *Vegetation Clearance*

Details of the method(s) to be employed by the appointed contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to the issue of the Construction Certificate. **Council will not approve of disposal by burning off onsite.**

S2B18 *Filling of Land*

The Proponent is to submit to Council a Geotechnical Specification for the supply and placement of fill materials for proposed lots 101,102,103; 110 to 114 & 121, prepared by a N.A.T.A. Registered Geotechnical Engineer and shall include but not be limited to the following:

- (a) identify the proposed source of fill,
 - (b) method of delivery of fill material to the site;
 - (c) geological/geotechnical analysis of the proposed fill material to determine its suitability,
 - (d) Quality Assurance Regime, and
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(e) any other relevant matters.

All the allotments in this development shall each include not less than 500 square metres of land which is on or above the 1 in 100 year flood level. The 1 in 100 year flood level in this locality is 3.55 metres Australian Height Datum (AHD).

The maximum depth of filling is not to exceed 1 metre (*KSC Flood Risk Management Policy*).

The allotments to be filled shall have a minimum longitudinal fall of 1% to either the internal roads and/or proposed inter-allotment pipe drains.

S2B19 *Haulage Routes*

Haulage route(s) for the importation of fill are to be agreed to by Council's Director of Shire Services, prior to the issue of a Construction Certificate.

S2B20 *Aboriginal Field Officer*

An Aboriginal Field Officer from the NSW Department of Environment and Climate Change or the Kempsey Local Aboriginal Land Council is to be present during the earthworks and any excavation for pipelines associated with this development. The identity of the appointed person is to be made known to Council prior to the issuing of the Construction Certificate.

S2B21 *Landscape Concept Plan*

The Landscape Concept Plan (1648-LP-03 Rev C) prepared by Scott Murray and Associates shall be amended so that all planting adjacent to the electricity transmission line in the southwest of the site is grass, sedge or shrub planting (as shown on 'Details' (1648-LP-04 Rev B) prepared by Scott Murray and Associates. Amendments to the Plan should be in accordance with 'Country Energy Planting Guide.

The amended plan shall be submitted to Council for approval prior to the issue of the Construction Certificate.

S2B22 *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.

S2B23 *Construction Management Plan*

Prior to the issue of a Construction Certificate, 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 S2B23 below),
- (4) noise and vibration management (see also S2B24 below),
- (5) waste management (see also S2B25 below),
- (6) erosion and sediment control (see also S2B21),
- (7) flora and fauna management, and

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

S2B24 *Traffic & Pedestrian Management Plan*

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

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and

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

S2B25 *Noise and Vibration Management Plan*

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

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this approval,
- (4) The construction vibration criteria specified in the conditions of this approval,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

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

S2B26 *Construction Waste Management Plan*

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

S2B27 *Vehicular Access*

The proponent must provide functional vehicular access to all proposed allotments, i.e. provision of layback type kerb and gutter. Details must be provided to Council for approval prior to issue of the Construction Certificate.

S2B28 *Footpath*

The proponent must provide a concrete footpath along one side of internal road 1, along Cooper Street and along the east side of Gregory Street, pursuant to section D1.16 (5) of Development Control Plan No. 36 *Engineering Guidelines for Subdivision and Development*. Details must be provided to Council for approval prior to issue of the Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

S2C1 *Fauna Management Plan*

The proponent must prepare and implement a Fauna Management Plan for the whole of this development incorporating each stage that addresses the impacts of clearing on the subject site on native fauna species. Specifically, the Plan must include:

- Measures for the immediate welfare and subsequent relocation (or putting into care if injured, distressed or otherwise incapacitated) of native fauna that are found within the area being cleared during or immediately subsequent to clearing, if the native fauna appear unable to move to appropriate other habitats of their own accord;
- Arrangements with a licensed wildlife carer or organisation to collect and tend for any injured, distressed or otherwise incapacitated native fauna resulting from the vegetation clearing process;
- Species and wildlife prescriptions, as appropriate, for searching for, handling and relocating all the threatened species and native fauna listed in the ERM Ecological Assessment (dated January 2007), respectively, as occurring or having the potential to occur on the subject site (these prescriptions must include, where appropriate, pre-clearing measures to encourage potential occupiers of habitat to vacate the area prior to clearing, the searching of all hollow limbs and hollows present in felled trees and post clearing relocation of habitat features, such as tree hollows, if they are still occupied by native fauna species);
- The identification of suitable habitat, and the written concurrence of the landowner(s) of the habitat (where the habitat identified is outside National Park), for the relocation of any native fauna taken into care as a result of the clearing of the subject site and considered by the above wildlife carer or organisation to be suited to relocation;
- The identification of the appropriate wildlife handling techniques, protective clothing and fauna holding equipment to be used by the wildlife carer in the collection and transportation of injured distressed or otherwise incapacitated native fauna from the site of the clearing;
- A requirement that the clearing contractors are provided with a copy of the Plan and are made aware of their responsibility to implement the relevant contained conditions; and
- A procedure for the provision of details to the Department of Environment and Climate Change, within one month of the date of the collection, of any native fauna species put into care or relocated during clearing.

The Plan must be prepared by a suitably qualified consultant and submitted to Department of Environment and Climate Change for comment 21 days prior to the commencement of clearing activities on the subject site.

S2C2 *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.

PART D—DURING CONSTRUCTION**S2D1 *Access Corridors***

Proposed lots 101 to 104 inclusive are battle-axe allotments. The combined vehicle access corridor shall be not less than 5 metres wide being created as a reciprocal right of way pursuant to Section 88 of the *Conveyancing Act 1919* as amended.

A reinforced concrete pavement 3 metres wide, with drainage, is to be constructed within the access corridor and extend from the rear of the layback kerb in Road No. 1 to the end of the access corridor.

The access corridor is to be capable of accommodating any proposed utility service lines (water, telephone, electricity etc) within an appropriately sized private easement created in accordance with Section 88b of the *Conveyancing Act 1919* as amended.

S2D2 *Erosion and Sediment Control*

All erosion and sediment control measures, as designed in accordance with Condition S2B21, 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.

S2D3 *Disposal of Seepage and Stormwater*

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

S2D4 *Approved Plans to be On-site*

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

S2D5 *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.
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S2D6 *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.

S2D7 *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.

S2D8 *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.

S2D9 *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 7:00 am and 12:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

S2D10 *Inspections*

The following inspections are required to be made and Council requires a minimum of 48 hours notice where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to the Principal Certifying Authority.

Inspections required:

- (i) Council is to inspect all Telstra and Country Energy cables where they cross existing and/or new Council sewer or water mains prior to the contractor back filling the trench.
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- (ii) The inspections for the required civil engineering works are listed in section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

Note: Accounts will be forwarded for inspections that are required and/or undertaken in addition to those inspections for which a pre-payment has been made.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

S2E1 *Certificate of Compliance Water Management Act*

The proponent must submit an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met for Stage 2 of the development, prior to release of the Subdivision Certificate for Stage 2 of development.

You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with: -

- a) The payment of the water and sewerage contributions for Stage 2 required by condition S2E17.
- b) Extension or modification of the town sewer main(s) to serve the proposed development in this stage in accordance with condition S2B3.
- c) Extension of the town water supply main(s) to serve the proposed development in this stage in accordance with condition S2B4.
- d) Provision for the town water recycling main to serve all the proposed allotments in this stage in accordance with condition S2B5.
- e) All Council water and sewer mains where they traverse private property are to be located within a suitably sized easement strictly in accordance with the DCP 36 *Engineering Guidelines for Subdivision and Development*.

S2E2 *Restriction on Access to Gregory Street*

An appropriate restriction as to user is to be placed over the title of proposed lots 101 to 105 and 114 preventing vehicular and pedestrian access onto Gregory Street. This restriction is to be clearly marked on the plan of subdivision.

Council is to be nominated as the sole party to vary, modify and or extinguish this restriction. A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

S2E3 *Flood Planning Level*

A suitable restriction as to user is to be placed over the title of all the lots in Stage 2 of the development restricting all proposed dwellings to be erected with a finished floor level of 4.05 metres A.H.D. or above, in accordance with Council's Flood Risk Management Policy.

S2E4 *Restriction on Location of Dwelling*

A suitable restriction as to user is to be placed over the title of proposed lots 101,102,103; 110 to 114 requiring any future dwelling(s) to be erected on the 500m² of each allotment which is on or above the assessed 1 in 100 flood level.

The restriction is to be clearly marked on the plan of subdivision. Council is to be named on the restriction as the sole party to modify and/or extinguish this restriction.

S2E5 *Removal of Noxious Weeds*

All noxious weeds species within w1 to w4 categories (*Noxious Weeds Act 1993*) shall be removed from vegetated areas of the site. Weed management shall be undertaken by an appropriately qualified professional in a manner that causes least disturbance to vegetation that is to be retained. The proponent is to submit a Certificate from the qualified person at Practical Completion stage certifying that the noxious weeds have been removed from the site, prior to the issue of the Subdivision Certificate.

S2E6 *Integrated Property Management Plan*

Prior to issue of the Subdivision Certificate for this stage of this development, submission of a statement by an appropriately qualified consultant certifying that all works have been completed in accordance with the approved *Integrated Property Management Plan*.

S2E7 *Street Signage*

Proponent is to supply and install a street sign and a "no through road" sign at the intersection of Cooper Street and road number 1.

S2E8 *Street Name*

The proponent is to submit a list of at least three (3) names in accordance with Council's policy on Street Naming for Council to consider in respect to the proposed internal road.

S2E9 *Geotechnical Certification*

Submission of a Certificate from a Geotechnical Engineer at the time of lodging the application for the Subdivision Certificate certifying that the fill materials when placed in accordance with the Geotechnical Specification will be suitable for residential development.

S2E10 *Haulage Route Damage*

The Proponent is to restore, replace and/or reconstruct any damage to road pavement surfaces or street furniture on the haulage route(s) that is a result of construction works associated with the approved development.

S2E11 *Tree Retention and Protection*

A restriction as to user is to be created for all affected lots showing the location of all trees to be retained as identified in 'Figure 1 – Tree Retention Plan' prepared by ERM and tree protection zones in accordance with the *TreeAZ/Sule Report* prepared by Rodney Page Consulting Arborist and dated 31 July 2006. The restriction shall indicate that they are to be retained in accordance with the approved Integrated Property Management Plan (refer to Condition S2B2).

Kempsey Shire Council is the authority empowered to release, vary or modify the restrictions firstly referred to in the abovementioned conditions.

S2E12 *Underground Telephone Plant*

The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to issue of the Subdivision Certificate.

S2E13 *Underground Electricity Supply*

The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to the issue of the Subdivision Certificate.

S2E14 *Alterations to Public Utilities*

Any necessary alterations to or relocations of public utility services must be carried out at no cost to Council.

S2E15 *Internal Roads*

Proposed internal road 1 (including dimensions and requirements for access places (maximum length 150m)) shall be designed, constructed and dedicated for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 and the of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development*.

S2E16 *Monetary Contributions*

In accordance with Division 6 of Part 4 of the Act and Council's *Section 94 Contributions Plan for Outdoor Recreation*, *Section 94 Contributions Plan for Stormwater Drainage* and *Section 94 Contributions Plan for Project Administration*, the Proponent shall pay the following monetary contribution as are relevant:

(4) Amount of Contribution

Contribution Category	Rate of Contribution	Amount
Outdoor Recreation	20 x \$2,151 per additional building entitlement	\$43,020
Trunk Drainage System	20 x \$2,101 per equivalent tenement	\$42,020
Project Administration	6% of all Section 94 contributions	\$5,102.40
TOTAL		\$90,142.40

(5) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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.

(6) Indexing

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

S2E17 Water and Sewerage Contributions**(7) Amount of Contribution**

Contribution Category	Rate of Contribution	Amount
Water Supply	20 x \$7,647 per additional building entitlement	\$152,940
Sewerage	20 x \$6,451 per additional building entitlement	\$129,020
TOTAL		\$281,960

(8) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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.

(9) Indexing

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

S2E18 Section 88B/E Instruments

The proponent is to submit with the final plan of subdivision, copies of any instruments under section 88B or E of the *Conveyancing Act 1919* relevant to any restrictive covenants, easements or right of way created by or affected by the subdivision. Council is to be nominated on the plan of Subdivision as the sole party to modify or extinguish the restriction unless otherwise specified in conditions.

S2E19 Part 4A Certificate

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*.

CONDITIONS TO BE SATISFIED FOR STAGE 3

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

S3B1 *Amendments to Road Turning Heads*

The turning heads of roads 2 and 3 will be amended to provide a 12m radius to allow manoeuvring by fire fighting vehicles. Amended plans will be submitted to Council for approval prior to the issue of a Construction Certificate.

S3B2 *Integrated Property Management Plan*

The plans submitted prior to the issue of a construction certificate are to include a detailed *Integrated Property Management Plan* for this stage of the development. The Plan will form the basis of an appropriate restriction(s) as to user providing for maximum tree retention, incorporating the following: -

- a) A survey plan prepared by a registered surveyor showing the location, height, crown area, species and hollow presence shall be provided for all trees within the development site (including asset protection zones) relative to the proposed lot boundaries.
- b) Tree retention in accordance with 'Figure 1 – Tree Retention Plan' prepared by ERM and forming Schedule 1 of the 'Building Covenants' prepared by ERM and submitted 6 September 2007.
- c) Where hollow bearing trees are to be removed the protocol outlined in the proponent's Statement of Commitments (commitment 10) will apply as follows:

Phase 1: Prior to clearing:

- Flag and GPS habitat trees.
- Survey for threatened fauna to identify any potential den trees and mark trees recorded as containing threatened fauna.
- Report on survey and provide recommendations to Macleay Valley Property Group Pty Limited for clearing.

Phase 2: During Clearing

- Clearly delineate clearing boundary.
 - Clear everything else around those trees marked as above. Leave hollow bearing trees standing to allow resident fauna to
 - relocate.
 - Habitat trees should be left standing overnight (minimum) to allow resident fauna the chance to relocate. During this time
 - the ecologist may set traps to capture resident animals.
 - Fell habitat trees as carefully as possible.
 - Hollows potentially supporting fauna can either be cut, or, if there is a risk of injury (animals can be cut in two) the logs can
 - be left on the ground & rechecked the following day or placed on the edge of adjoining habitat.
 - Bag/trap and transfer any animals captured.
 - Take any injured animals immediately to wildlife carer or vet – contact details will be supplied to surveyors and clearing
 - contractors.
 - Any trapped animals would need to be kept in care until all hollow bearing trees are removed.
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- d) Identification of building envelopes on each allotment outside of the tree protection zone (TPZ) for all trees to be retained. Tree protection zones must be shown in accordance with the *TreeAZ/Sule Report* prepared by Rodney Page Consulting Arborist and dated 31 July 2006.
- e) Details of the means of protecting trees nominated for retention during construction of the subdivision.
- f) The means to ensure the ongoing retention of the trees during the construction of future dwellings and structures. This shall include a commitment that will require the development application/ complying development certificate and construction certificate for the dwellings and structures on the affected lots to be accompanied by an arborist's report detailing:
 - i) The manner of construction required to achieve the ongoing retention of the tree/s;
 - ii) Confirming that the structure will not affect identified tree/s; and
 - iii) Identifying the measures to protect the tree/s during construction works.

S3B3 *Extension of Town Sewer Main*

Extension or modification of the town sewer main(s) to serve the proposed development in this stage, at full cost to the proponent, is required. Detailed plans are to be prepared strictly in accordance with DCP 36 *Engineering Guidelines for Subdivision and Development* and submitted for approval by Council prior to the issue of the Construction Certificate.

S3B4 *Extension of Town Water Supply Main*

Extension of the town water supply main(s) from the existing Stage 1 end of the water main located within this development is required to serve the proposed development, at full cost to the proponent. Detailed plans and calculations are to be prepared strictly in accordance with DCP 36 *Engineering Guidelines for Subdivision and Development* and submitted for approval by Council prior to the issue of the Construction Certificate.

S3B5 *Provision of Town Water Recycling Main*

Provision for the town water recycling main (100mm diameter) is required to serve all the proposed allotments in this development, at full cost to the proponent in accordance with Design and Construction requirements set out in Water Services Association of Australia Dual Water Supply Systems (a supplement to the Water Supply Code of Australia). Detailed plans and calculations are to be submitted to Council for approval prior to the issue of the Construction Certificate.

S3B6 *Engineering Plans*

All Detailed Engineering Plans addressing all internal and associated external civil engineering works are to be in strict compliance with Council's Development Control Plan No 36 *Engineering Guidelines for Subdivision and Development*.

S3B7 *Drainage System*

Provision is to be made of a piped urban storm water drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of *Australian Rainfall and Runoff (1987)*, and having regard for the contents of the Integrated Property Management Plan (and associated documentation). Detailed

Engineering Plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.

S3B8 *Water Quality Monitoring*

Water quality monitoring shall be undertaken from the commencement of construction until 12 months following the completion of construction. Details of the monitoring program shall be submitted to Council for approval prior to issue of the Construction Certificate.

S3B9 *Interallotment Drainage*

Provision is to be made of an interallotment storm water drainage system to service all proposed allotments that drain away from all the proposed internal roads. The system is to be located within an appropriately sized drainage easement benefiting the affected allotment.

S3B10 *Gross Pollutant Trap*

All stormwater from the development site is to be routed through a suitable gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The proponent's Engineer is to liaise with Council's Environmental Services Department prior to submitting preliminary engineering plans and selecting the unit(s).

S3B11 *Onsite Detention*

The flows emanating from this development are to be restricted to pre-development levels using a recognised detention system for this development in accordance with Section D5 of Development Control Plan 36 *Engineering Guidelines for Subdivision and Development*.

A detailed Engineering Design for the proposed onsite detention system is to be provided by an appropriately qualified person in accordance with D5 of Development Control Plan 36, *Australian Rainfall and Runoff 1987* as amended.

The proposed detention system design is to include provision for inspection and maintenance. The proponents Consultant Engineer is to submit details to Council.

The detention system used must not impact on the amenity and use of the existing and/or proposed development.

S3B12 *Onsite Detention Certification*

A Structural Engineers Certificate, certifying that all the structures associated with the proposed onsite detention system have been designed to withstand all loads likely to be imposed on them during their design life and that the onsite detention system will function hydraulically in accordance with the approved design plans, is to be submitted to Council prior to the release of the Construction Certificate.

S3B13 *Bushfire Risk Reduction*

The plans for the required Construction Certificate are to include a *Management Plan for Bushfire Risk Reduction* for this stage of the development to form the basis of an appropriate restriction as to user and or positive covenant having regard for the contents of the Bushfire Hazard Assessment (dated January 2007 and prepared by ERM) and the most recent version of Planning for Bushfire Protection (2006). Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

S3B14 *Vegetation Clearance*

Details of the method(s) to be employed by the appointed contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to the issue of the Construction Certificate. **Council will not approve of disposal by burning off onsite.**

S3B15 *Streetscape Plan*

The Plans for the required Construction Certificate are to include a *Streetscape Plan* incorporating endemic species, prepared by a suitably qualified Landscape Architect in respect to internal roads 2 and 3 and Arakoon Road landscaped buffer to the rear of proposed lots 121 to 132 for the development, in accordance with Development Control Plan 36, *Section D13 Land and Streetscape Design* and best practice.

S3B16 *Filling of Land*

The Proponent is to submit to Council a Geotechnical Specification for the supply and placement of fill materials for proposed lot 121 prepared by a N.A.T.A. Registered Geotechnical Engineer and shall include but not be limited to the following:

- (a) identify the proposed source of fill,
- (b) method of delivery of fill material to the site;
- (c) geological/geotechnical analysis of the proposed fill material to determine its suitability,
- (d) Quality Assurance Regime, and
- (e) any other relevant matters.

All the allotments in this development shall each include not less than 500 square metres of land which is on or above the 1 in 100 year flood level. The 1 in 100 year flood level in this locality is 3.55 metres Australian Height Datum (AHD).

The maximum depth of filling is not to exceed 1 metre (*KSC Flood Risk Management Policy*).

The allotments to be filled shall have a minimum longitudinal fall of 1% to either the internal roads and/or proposed inter-allotment pipe drains.

S3B17 *Haulage Routes*

Haulage route(s) for the importation of fill are to be agreed to by Council's Director of Shire Services, prior to the issue of a Construction Certificate for filling.

S3B18 *Aboriginal Field Officer*

An Aboriginal Field Officer from the NSW Department of Environment and Climate Change or the Kempsey Local Aboriginal Land Council is to be present during the earthworks and any excavation for pipelines associated with this development. The identity of the appointed person is to be made known to Council prior to the issuing of the Construction Certificate.

S3B19 *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.

S3B20 *Construction Management Plan*

Prior to the issue of a Construction Certificate, 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 S3B19 below),
- (4) noise and vibration management (see also S3B20 below),
- (5) waste management (see also S3B21 below),
- (6) erosion and sediment control (see also S3B17),
- (7) flora and fauna management, and

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

S3B21 Traffic & Pedestrian Management Plan

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

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and

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

S3B22 Noise and Vibration Management Plan

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

- (1) Identification of the specific activities that will be carried out and associated noise sources,
 - (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
 - (3) The construction noise objective specified in the conditions of this approval,
 - (4) The construction vibration criteria specified in the conditions of this approval,
 - (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
 - (6) Noise and vibration monitoring, reporting and response procedures,
 - (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
 - (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
 - (9) Justification of any proposed activities outside the construction hours specified in the conditions of this approval.
 - (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
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- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
 - (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints,

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

S3B23 *Construction Waste Management Plan*

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

S3B25 *Vehicular Access*

The proponent must provide functional vehicular access to all proposed allotments, i.e. provision of layback type kerb and gutter. Details must be provided to Council for approval prior to issue of the Construction Certificate.

S3B26 *Footpaths*

The proponent must provide a concrete footpath along one side of internal roads 2 and 3 pursuant to section D1.16 (5) of Development Control Plan No. 36 *Engineering Guidelines for Subdivision and Development*. Details must be provided to Council for approval prior to issue of the Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

S3C1 *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.

PART D—DURING CONSTRUCTION

S3D1 *Asset Protection Zones*

Canopy thinning associated with Bushfire Asset Protection Zones shall be undertaken selectively. Those trees with poor health shall be removed prior to good health/habitat trees. Selective removal shall also consider maintenance of species diversity. An appropriately qualified arborist/ecologist and bushfire consultant shall flag and clearly identify those trees best removed to achieve bushfire asset protection requirements.

S3D2 *Erosion and Sediment Control*

All erosion and sediment control measures, as designed in accordance with Condition S3B17, 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.

S3D3 *Disposal of Seepage and Stormwater*

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

S3D4 *Approved Plans to be On-site*

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

S3D5 *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:

- (5) 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;
- (6) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (7) 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
- (8) 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.

S3D6 *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.

S3D7 *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.

S3D8 *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:

- (9) 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,
 - (10) 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,
 - (11) All materials shall be stored or stockpiled at the best locations,
 - (12) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
 - (13) 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,
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- (14) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
 - (15) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
 - (16) Cleaning of footpaths and roadways shall be carried out regularly.

S3D9 *Hours of Work*

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

- (4) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (5) between 7:00 am and 12:00 pm, Saturdays;
- (6) no work on Sundays and public holidays.

S3D10 *Fauna Management Plan*

The proponent must implement for this stage of the development the recommendations of the approved *Fauna Management Plan* that addresses the impacts of clearing on the subject site on native fauna species (refer Condition S2C1).

S3D11 *Inspections*

The following inspections are required to be made and Council requires a minimum of 48 hours notice where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

Inspections required:

- (i) Council is to inspect all Telstra and Country Energy cables where they cross existing and/or new Council sewer or water mains prior to the contractor back filling the trench.
- (ii) The inspections for the required civil engineering works are listed in section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

Note: Accounts will be forwarded for inspections that are required and/or undertaken in addition to those inspections for which a pre-payment has been made.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

S3E1 *Certificate of Compliance Water Management Act*

The proponent must submit an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met for Stage 3 of the development, prior to release of the Subdivision Certificate for Stage 3 of development.

You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with: -

- a) The payment of the water and sewerage contributions for Stage 3 required by condition S3E20.
- b) Extension or modification of the town sewer main(s) to serve the proposed development in this stage in accordance with condition S3B3.
- c) Extension of the town water supply main(s) to serve the proposed development in this stage in accordance with condition S3B4.
- d) Provision for the town water recycling main to serve all the proposed allotments in this stage in accordance with condition S3B5.
- e) All Council water and sewer mains where they traverse private property are to be located within a suitably sized easement strictly in accordance with the DCP 36 *Engineering Guidelines for Subdivision and Development*.

S3E2 *Restriction on Access to Arakoon Road*

An appropriate restriction as to user is to be placed over the title of proposed lots 121 to 132 preventing vehicular and pedestrian access onto Arakoon Road. This restriction is to be clearly marked on the plan of subdivision.

Council is to be nominated as the sole party to vary, modify and or extinguish this restriction. A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

S3E3 *Flood Planning Level*

A suitable restriction as to user is to be placed over the title of all the lots in Stage 3 of the development restricting all proposed dwellings to be erected with a finished floor level of 4.05 metres A.H.D. or above, in accordance with Council's Flood Risk Management Policy.

S3E4 *Restriction on Location of Dwelling*

A suitable restriction as to user is to be placed over the title of proposed lot 121 requiring any future dwelling(s) to be erected on the 500m² of each allotment which is on or above the assessed 1 in 100 flood level.

The restriction is to be clearly marked on the plan of subdivision. Council is to be named on the restriction as the sole party to modify and/or extinguish this restriction.

S3E5 *Removal of Noxious Weeds*

All noxious weeds species within w1 to w4 categories (*Noxious Weeds Act 1993*) shall be removed from vegetated areas of the site. Weed management shall be undertaken by an appropriately qualified professional in a manner that causes least disturbance to vegetation that is to be retained. The proponent is to submit a Certificate from the qualified person at Practical Completion stage certifying that the noxious weeds have been removed from the site, prior to the issue of the Subdivision Certificate.

S3E6 *Integrated Property Management Plan*

Prior to issue of the Subdivision Certificate for this stage of this development, submission of a statement by an appropriately qualified consultant certifying that all works have been completed in accordance with the approved *Integrated Property Management Plan*.

S3E7 *Street Signage*

Proponent is to supply and install street signs for proposed roads numbers 2 and 3.

S3E8 *Street Name*

The proponent is to submit a list of at least three (3) names in accordance with Council's policy on Street Naming for Council to consider in respect to the proposed internal roads.

S3E9 *Geotechnical Certification*

Submission of a Certificate from a Geotechnical Engineer at the time of lodging the application for the Subdivision Certificate certifying that the fill materials when placed in accordance with the Geotechnical Specification will be suitable for residential development.

S3E10 *Haulage Route Damage*

The Proponent is to restore, replace and/or reconstruct any damage to road pavement surfaces or street furniture on the haulage route(s) that is a result of construction works associated with the approved development.

S3E11 *Ecological Certification*

The appointed Ecological Consultant for the development must issue a certificate prior to the issue of the Subdivision Certificate for this stage of the development certifying that all the requirements of the Fauna Management Plan have been addressed.

S3E12 *Asset Protection Zones*

Prior to the issue of a subdivision certificate a suitable restriction as to user must be created allowing for the creation of the following bushfire asset protection zones (APZ):

- a) a 15m APZ on the southern side of Lots 121 – 123;
- b) a 20m APZ on the southern boundary of Lots 124 – 132; and
- c) a 15m APZ on the eastern boundary of Lots 132 – 134.

S3E13 *Fire Hydrants*

Fire hydrants must be provided in accordance with AS2419.1-1994 – Fire Hydrant Installation.

S3E14 *Tree Retention and Protection*

A restriction as to user is to be created for all affected lots showing the location of the trees to be retained as identified in 'Figure 1 – Tree Retention Plan' prepared by ERM and their tree protection zones as identified in the *TreeAZ/Sule Report* prepared by Rodney Page Consulting Arborist and dated 31 July 2006. The restriction shall indicate that they are to be retained in accordance with the approved Integrated Property Management Plan (refer to Condition S3B2).

Kempsey Shire Council is the authority empowered to release, vary or modify the restrictions firstly referred to in the abovementioned conditions.

S3E15 *Underground Telephone Plant*

The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory

arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to issue of the Subdivision Certificate.

S3E16 *Underground Electricity Supply*

The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to the issue of the Subdivision Certificate.

S3E17 *Alterations to Public Utilities*

Any necessary alterations to or relocations of public utility services must be carried out at no cost to Council.

S3E18 *Internal Roads*

Proposed internal roads 2 and 3 (including dimensions and requirements for access places (maximum length 150m)) shall be designed, constructed and dedicated for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 and the of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development*.

S3E19 *Monetary Contributions*

In accordance with Division 6 of Part 4 of the Act and Council's *Section 94 Contributions Plan for Outdoor Recreation*, *Section 94 Contributions Plan for Stormwater Drainage* and *Section 94 Contributions Plan for Project Administration*, the Proponent shall pay the following monetary contribution as are relevant:

(10) Amount of Contribution

Contribution Category	Rate of Contribution	Amount
Outdoor Recreation	23 x \$2,151 per additional building entitlement	\$49,473
Trunk Drainage System	23 x \$2,101 per equivalent tenement	\$48,323
Project Administration	6% of all Section 94 contributions	\$5,867.76
TOTAL		\$103,663.76

(11) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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.

(12) Indexing

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

S3E20 *Water and Sewerage Contributions*

(13) Amount of Contribution

Contribution	Rate of Contribution	Amount
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Category		
Water Supply	23 x \$7,647 per additional building entitlement	\$175,881
Sewerage	23 x \$6,451 per additional building entitlement	\$148,373
TOTAL		\$324,254

(14) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to 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.

(15) Indexing

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

S3E21 Section 88B/E Instruments

The proponent is to submit with the final plan of subdivision, copies of any instruments under section 88B or E of the *Conveyancing Act 1919* relevant to any restrictive covenants, easements or right of way created by or affected by the subdivision. Council is to be nominated on the plan of Subdivision as the sole party to modify or extinguish the restriction unless otherwise specified in conditions.

S3E22 Part 4A Certificate

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*.

S3E23 Dedication of Detention Basin

The Proponent must make necessary arrangements for the dedication of the detention basin area in the southwest of the site to Council with the subdivision.

SCHEDULE 3

MP 05_0058

RESIDENTIAL SUBDIVISION INTO 46 LOTS IN THREE STAGES

334-356 GREGORY STREET, SOUTH WEST ROCKS

LOT 2 IN DP 581117

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)
