

Modification of Major Project Approval

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

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



David Kitto
A/Executive Director
Major Projects Assessment

Dated this **31** day of **7** 2009

06_0002 MOD 1
File no. 9041497

SCHEDULE 1

PART A—TABLE

Application made by:	SAKE Development c/- Wavehill Investments Pty Ltd (the proponent)
Application made to:	Minister for Planning
Project Application:	06_0002
On land comprising:	Lot 2 DP622475 - 1 Survey Street, Lennox Head
Local Government Area	Ballina
For the carrying out of:	A 42 lot subdivision comprising 39 residential lots, one residual lot for open space dedication and two residual lots for vegetation conservation.
Type of development:	Project Application
Determination made on:	23 August 2007
Date approval is liable to lapse:	5 years from the date of determination
Section 75W Application	<p>Modification to 06_0002 in the following manner:</p> <ul style="list-style-type: none"> • Amend condition A2 to reflect the revised plans outlining the proposed changes. • Delete condition A6 regarding a planning agreement to be entered into. • Amend condition B19 regarding the alignment of the cycleway. • Amend condition B21 regarding the alignment of the sewer.

PART B—NOTES RELATING TO DETERMINATION OF APPLICATION: 06_0002

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents, approvals 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*.

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*.

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

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 Ballina Shire Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment prepared by SAKE Development dated September 2006

Minister means the Minister for Planning.

MP No. 06_0002 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 SAKE Development 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

The above approval is modified as follows:

PART A—ADMINISTRATIVE AND GENERAL CONDITIONS

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

A2 Project in Accordance with Plans

The development shall be in accordance with the plans and associated documentation lodged by or, on behalf of, the proponent including plans and documentation prepared by SAKE Development, including the Draft Statement of Commitments, draft site specific Development Control Plan, and amendments prepared by SAKE Development Pty Ltd dated May 2009 and in accordance with the following:

Environmental Assessment entitled Coastal Grove prepared by SAKE Development dated September 2006			
Subdivision Drawings prepared by <i>HASSELL</i>			
Drawing No.	Revision	Name of Plan	Date
PSL 3394 / PA02	E	Subdivision Plan	20/06/07
Stormwater Drawing prepared by <i>Patterson Britton & Partners Pty Ltd</i>			
Drawing No.	Revision	Name of Plan	Date
-	-	Coastal Grove - Revised Conceptual Stormwater Management Strategy	6/07/07
Landscape Drawings prepared by <i>HASSELL</i>			
Drawing No.	Revision	Name of Plan	Date
PSL 3394 / PA 03	D	Landscape Plan	6/07/07
Survey Drawings prepared by <i>Aspect North Limited</i>			
Drawing No.	Revision	Name of Plan	Date
BA050026-SV4	B	Detail Survey Over Lot 2 DP 622475 Coast Road, Lennox Head	10/08/06

As amended by the following drawings (06_0002 MOD 1):

Civil Engineering Drawings prepared by <i>Ardill Payne & Partners</i>			
Drawing No.	Revision	Name of Plan	Date
6919 SK.1	-	Conceptual Sewer Layout	May 2009
Landscape Drawings prepared by <i>HASSELL</i>			
Drawing No.	Revision	Name of Plan	Date
PSL 3394 / PA 03	E	Landscape Plan	May 2009

(b) Delete the following Condition A6:

A6 Planning Agreement

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

- (1) Enter into a Planning Agreement with the Minister 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 18 July 2007, and specifically provide for:
 - The retention and protection of Hairy Joint Grass within the ecological buffer identified in Figure 6 of the *Review of Hairy Joint Grass (Arthraxon hispidus)* prepared by Eco Logical and dated May 2007.
 - The preparation of an Environmental Management Plan to manage the area within the ecological buffer.
- (2) Register the Planning Agreement on the title of the land in accordance with the *Real Property Act 1900*.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

(c) Delete condition B19 to be replaced with new condition B19:

B19 Cycleway and Footpath

The north-south oriented footpath/cycleway shall be designed to minimise impact on the Hairy Joint Grass identified in Figure 6 of the *Review of Hairy Joint Grass (Arthraxon hispidus)* prepared by Eco Logical and dated May 2007. The design and construction of the cycleway is to comply with the requirements as detailed below:

- (a) Any construction works within the Hairy Joint Grass distribution area as identified in Figure 6 of the *Review of Hairy Joint Grass (Arthraxon hispidus)* prepared by Eco Logical and dated May 2007, are to be undertaken during the winter months only;
- (b) Construction must be in accordance with the Department of Environment and Climate Change's *Guidelines for the Design and Construction of Paths Along Watercourses and Riparian Areas*;
- (c) The design is to include an elevated structure/boardwalk over the Hairy Joint Grass ecological polygon which is high enough to enable the management of Hairy Joint Grass by seasonal slashing;
- (d) The design is to consist of perforated or transparent material over the ecological polygon to allow for the penetration of natural light to areas of Hairy Joint Grass below; and
- (e) The east-west oriented footpath shall be designed to ensure that it has the least possible impact on the ecological polygon for the Hairy Joint Grass identified in Figure 6 of the *Review of Hairy Joint Grass (Arthraxon hispidus)* prepared by Eco Logical and dated May 2007.

Design plans for both footpaths are to be submitted to Council prior to the issue of a Construction Certificate.

- (d) Delete condition B21 to be replaced with new condition B21:

B21 Sewer Connection

Sewerage services shall be provided to the development in accordance with the '*Coastal Grove, Lennox Head Infrastructure Strategy*' report, prepared by Patterson Britton and Partners dated September 2006; as amended by the '*Draft Statement of Commitments*' (Schedule 3). The 'Sewer Layout' contained within the Infrastructure Strategy shall be updated for the approved subdivision layout. Any construction works within the Hairy Joint Grass distribution area as identified in Figure 6 of the *Review of Hairy Joint Grass (Arthraxon hispidus)* prepared by Eco Logical and dated May 2007, are to be undertaken during the winter months only.

Design plans are to be in accordance with Councils *Subdivision Code* (as current at the time of construction works commencing) and are to be approved by Council prior to issue of the Construction Certificate.

PART D—DURING CONSTRUCTION

- (e) Insert new condition D19:

D19 Maintenance of Disturbed Soils

Any soil disturbance during construction works for either the cycleway, footpath or sewer trench within the Hairy Joint Grass ecological polygon must be retained and kept as weed-free as possible during construction. Following completion of the works, the soil is to be returned to its original location, to the satisfaction of Council.