

# Project Approval

## Section 75J of the *Environmental Planning and Assessment Act 1979*

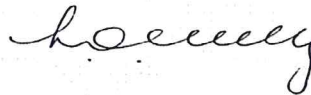
The Planning Assessment Commission (PAC), as delegate of the Minister for Planning and Infrastructure, pursuant to the *Environmental Planning and Assessment Act 1979* (Act) approve the project referred to in Schedule 1, subject to the conditions of approval in Schedules 2 & 3 and the Statement of Commitments in Schedule 4.

These conditions are required to:

- adequately mitigate the environmental impacts of the project and maintain the principles of ecologically sustainable development; and
- ensure the ongoing amenity of the development and surrounding environment.



**Emeritus Professor Kevin Sproats**  
Member of the Commissioner



**Lindsay Kelly**  
Member of the Commissioner

Sydney,

28 November 2011

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### SCHEDULE 1

<b>Application Number:</b>	07_0010
<b>Proponent:</b>	Milland Pty Ltd and Seawide Pty Ltd
<b>Land:</b>	Lot 1 in DP 374315, Lot 4 in DP 615261 and part Crown Reserves (R82555 and R75444), Ocean Drive, Lake Cathie
<b>Approval Authority:</b>	Minister for Planning and Infrastructure
<b>Project:</b>	Environmental Works including establishment of regeneration area, erection of temporary fencing and construction of timber boardwalk

## DEFINITIONS

In this approval,

**Act** means the *Environmental Planning and Assessment Act 1979*

**Advisory Notes** means advisory information relating to the approved project but do not form a part of this approval

**BCA** means Building Code of Australia

**Council** means Port Macquarie-Hastings Council

**Department** means the Department of Planning and Infrastructure or its successors

**Director-General** means the Director-General of the Department, or his delegate

**Environmental Assessment** means the *Environmental Assessment Report* (and all associated Annexures) prepared by King + Campbell Pty Ltd on behalf of Milland Pty Ltd and Seawide Pty Ltd, dated November 2010

**Minister** means the Minister for Planning and Infrastructure, or his delegate

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

**Project** means the project as described in Condition 2 in this approval

**Proponent** means Milland Pty Ltd and Seawide Pty Ltd or any party acting upon this approval

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*

**Site** has the same meaning as the land identified in Schedule 1

**Statement of Commitments** means the Revised Statement of Commitments dated 31 May 2011

**Submissions Report** means the *Response to Submissions Report* (and all associated annexures) prepared by King + Campbell Pty Ltd on behalf of Milland Pty Ltd and Seawide Pty Ltd, dated 25 February 2011

## SCHEDULE 2

### ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Proponent shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from on site works.

#### PROJECT DESCRIPTION

2. Project approval is granted for the Project Application, referred to as 'Stage 1' Environmental Works in the Concept Plan, as generally described below:
  - a) Vegetation Management
    - the establishment of a 'vegetated regeneration area' extending westward of the mapped boundary of the SEPP26 Littoral Rainforest
    - removal of all weed species and retention of all native vegetation within regeneration area
    - replanting of endemic rainforest species within regeneration area
  - b) Erection of temporary fencing
    - erection of fencing enclosing regeneration area.
  - c) Construction of pedestrian boardwalk
    - construction of raised pedestrian boardwalk through SEPP26 Littoral Rainforest to connect to public foreshore at Rainbow Beach.

#### PROJECT STAGING

3. The project is to be undertaken in stages generally described in the Environmental Assessment and comprises the following stages:
  - 1) Stage 1 - Weeding, establishment of colonising vegetation and feeding resources and erection of temporary fencing
  - 2) Stage 2 - Ongoing weeding, introduction of long lived rainforest species, construction of pedestrian boardwalk
  - 3) Stage 3 - Planting associated with biofiltration pond edges, ongoing rehabilitation of regeneration area.

Note: The construction of the pedestrian boardwalk is to be completed prior the completion of concept plan Stages M2 or S2.

#### APPROVED PLANS

4. The project is to be undertaken generally in accordance with the following plans:

Drawings prepared by King + Campbell Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
4898P_Exhibits.dwg	D	Exhibit PA01: Site Context	12 July 2011
4898P_Exhibits.dwg	C	Exhibit PA02: Site Survey	15 Feb 2011
4898P_Exhibits.dwg	C	Exhibit PA03: Aerial Photograph	15 Feb 2011
4898P_Exhibits.dwg	D	Exhibit PA04: Site Analysis (Sheet 01)	15 Feb 2011



4898P_Exhibits.dwg	C	Exhibit PA04: Site Analysis (Sheet 02) Baseline Weed Map	15 Feb 2011
4898P_Exhibits.dwg	F	Exhibit PA05: Vegetation Management Plan (Sheet 1)	12 July 2011
4898P_Exhibits.dwg	F	Exhibit PA05: Vegetation Management Plan (Sheet 2)	12 July 2011
14898_Exhibits_6_PA_ Rainforest_Boardwalk_ Sh2_Rev_B.psd	C	Exhibit PA06: Rainforest Boardwalk - Sheet 1	14 July 2011
14898_Exhibits_6_PA_ Rainforest_Boardwalk_ Sh2_Rev_B.psd	A	Exhibit PA06: Rainforest Boardwalk - Sheet 2	7 July 2010

## TERMS OF APPROVAL

5. The Proponent shall carry out the project generally in accordance with the:
  - a) Environmental Assessment
  - b) Plans noted in Condition 4 above
  - c) Response to Submissions Report
  - d) Statement of Commitments (see Appendix 1)
  - e) Conditions of this approval.
6. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. The conditions of this approval shall prevail to the extent of any inconsistency.
7. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
  - a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval
  - b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence submitted by the Proponent.

## LIMITS OF APPROVAL

8. This approval only relates to the site, as described in the Response to Submissions Report.
9. This approval shall lapse if work has not physically commenced the project associated with this approval within 5 years from the date of this approval.

## OPERATION OF PLANT AND EQUIPMENT

10. The Proponent shall ensure that all plant and equipment used for the Project is:
  - a) maintained in a proper and efficient condition
  - b) operated in a proper and efficient manner.

## **SCHEDULE 3**

### **ENVIRONMENTAL MANAGEMENT CONDITIONS**

#### **PEDESTRIAN BOARDWALK**

11. Prior to the issue of a Construction Certificate, detailed plans of the pedestrian boardwalk shall be submitted to and approved by Council. The design of the boardwalk must be designed in a manner to protect the SEPP26 Littoral Rainforest while facilitating pedestrian access through to the public foreshore. Details are to include, but not be limited to:
  - a) design and materials details of the boardwalk and the self closing gate at the entrance of the walkway
  - b) construction details outlining proposed depths of footings and measures to protect roots of existing vegetation.

#### **ENVIRONMENTAL MANAGEMENT**

12. All affected trees within the SEPP26 Littoral Rainforest are to suitably protected by way of tree guards, barriers or other measures as necessary to protect roots, trunks and branches during construction of the project. Remnant vegetation is to be protected and signage erected to ensure the preservation of the rainforest.
13. An appropriately qualified bush regenerator shall be present on site when weeds marked for removal are removed.
14. Feral deer control shall be undertaken by a suitably qualified shooter working under the auspices of the NSW Game Council.

#### **ABORIGINAL CULTURAL HERITAGE**

15. Should any future works associated with the site uncover evidence of any unexpected Aboriginal archaeological site or relic, all work likely to affect that site or relic must cease immediately. Temporary fencing must be erected around the find and the material must be identified by an independent and appropriately qualified archaeologist. The Office of Environment and Heritage must be notified as soon as possible who will then advise of the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Office of Environment and Heritage.
16. All construction personnel involved in initial ground surface disturbance activities shall undergo an Indigenous Cultural Heritage Induction training session before commencing any construction activities. The Induction should be presented by an appropriately qualified person and provide specific information in relation to the processes to be followed should any Indigenous items be uncovered as well as the types of and identification criteria for cultural heritage material that may be uncovered.

#### **CONSTRUCTION MANAGEMENT**

17. The Council shall be given written notice of the commencement of works at least 48 hours prior to works commencement.
18. The hours of construction for the project, including the delivery of materials to and from the site, shall be restricted as follows:
  - a) between 7:00 am and 5:00 pm, Mondays to Friday, inclusive
  - b) between 8:00am and 1:00pm on Saturdays
  - c) at no time on Sundays and public holidays.
19. During construction, the Proponent shall:

- a) Prominently display a site notice for the purposes of informing the public of project details including, but not limited to:
  - i) details of the Proponent, contractor and PCA
  - ii) the approved hours of work
  - iii) contact details for the site manager and/or liason manager for any inquiries or complaints.
- b) provide a copy of the approved and certified plans and conditions of approval on site.
- c) carry out all reasonable and feasible measures to minimise soil erosion.
- d) ensure that all vehicles leaving the site do not track dirt on the public road network.

## **SCHEDULE 4**

### **STATEMENT OF COMMITMENTS**

Source: *Response to Submissions Report*

**07\_0010**

**'STAGE 1 ENVIRONMENTAL WORKS'**

**LAKE CATHIE, OCEAN DRIVE**



No.	Objective	Commitment	Timing	Responsibility
PA1 - General	To ensure that all works associated with Stage 1 are carried out in accordance with the Project Application approval and that the potential environmental impacts are managed.	<p>All works are to be carried out generally in accordance with the Environmental Assessment prepared by King + Campbell Pty Ltd and the supporting specialist reports/plans including:</p> <ul style="list-style-type: none"> <li>Section 6 - Vegetation Management Plan (VMP) – Specification, King + Campbell, in consultation with Wild Things Native Gardens;</li> <li>Exhibit PA05 Revision F (2 sheets) and Exhibit PA06 Revision C (sheet 1) and Revision A (sheet 2) – Vegetation Management Plan and Rainforest Boardwalk, King + Campbell</li> <li>Appendix PA A – Gantt Chart</li> <li>Flora and Fauna Report, Peter Parker Environmental Consultant, July, 2010 (Appendix C)</li> <li>SMEC Coastal Hazard Study (Appendix G)</li> <li>Martens Groundwater Study (Appendix D)</li> <li>VPA between the landowners and PMHC (as included in PPR)</li> </ul>	With CC documentation (boardwalk) and during all works on site	Landowner / proponent
PA2 – Vegetation Management Plan (VMP)	<p>To ensure the long term protection of Littoral Rainforest No. 116 for future generations, through specifying the following control measures;</p> <ul style="list-style-type: none"> <li>fencing and vegetation buffering;</li> <li>bush regeneration treatments within and adjacent Littoral Rainforest No. 116, including weed control; and</li> <li>revegetation providing both protection of Littoral Rainforest No. 116 as well as a meaningful extension to it.</li> </ul>	<p>All works within the Project Application site boundary shall be carried out in accordance with the VMP specification at Section 6.</p> <p>The Vegetation Management Plan will :</p> <ul style="list-style-type: none"> <li>Immediately improve the existing condition of the rainforest through the removal of weeds along its western edge;</li> <li>Provide longer-term enhancement of the existing rainforest by decreasing the edge-to-area ratio through plantings along the western boundary;</li> <li>Restrict and control public access through the rainforest; and</li> <li>Ensure that revegetation works are well established and fenced off prior to the commencement of other stages of the proposed residential, commercial and tourist project.</li> </ul> <p>The VMP will include:</p> <ul style="list-style-type: none"> <li>Plantings of coast banksia woodland in the south-east corner into the Littoral Rainforest using additional plantings and bush regeneration techniques and emphasise coast banksias in the landscaping of the site.</li> </ul>	Stage 1 works	Landowner / proponent



No.	Objective	Commitment	Timing	Responsibility
PA3 – Voluntary Planning Agreement	To ensure the long-term management and maintenance of areas of open space and conservation.	<p>Properly constructed and managed, this corridor will provide feeding resources for the common blossom bat, assist in fauna passage for the more cryptic animal species and provide a greater biodiversity;</p> <p>An elevated walkway to the beach along the existing pathway and improve drainage or minimize erosion by rip-rap filters or similar structures; and</p> <ul style="list-style-type: none"> <li>Temporary protective fencing along the western edge of the planted buffer to the Littoral Rainforest.</li> </ul> <p>The VPA in relation to Stage 1 shall provide for the following:</p> <ul style="list-style-type: none"> <li>The establishment of environmental works and beach access as part of the Stage 1 Project Application;</li> <li>The maintenance of these lands in accordance with an approved management plan for ten (10) years; and</li> <li>The payment of contributions at the subdivision stage to fund a further ten (10) years maintenance.</li> </ul>	Stage 1	Landowner / proponent
PA4 – Staging	To ensure potential environmental impacts are managed in a coordinated manner.	<p>Revegetation works are to be undertaken in stages, generally as set out in the VMF and supported by the Gantt Chart (Appendix PA_A), including:</p> <p>Stage 1 – Weeding, establishment of colonising vegetation and feeding resources and erection of temporary fencing;</p> <p>Stage 2 - Ongoing weeding, introduction of long lived rainforest species, construction of pedestrian boardwalk prior to the completion of the second stage of the Concept Plan (either M2 or S2); and</p> <p>Stage 3 –Planting associated with biofiltration pond edges, ongoing rehabilitation of regeneration area.</p>	<p>Stage 1 – within 6 months of project commencement</p> <p>Stage 2 – completed within 3.5 years of project commencement</p>	Landowner / proponent
PA5 - Public Consultation	To ensure effective and receptive consultation with the local community and key interest groups	<p>A public meeting with the local progress associations and LALC is to be conducted during the exhibition period for the CP/Stage 1 Project Application to ensure the local community has the opportunity to be briefed on the extent of the proposed Stage 1 Environmental Works.</p> <p>Signage shall be erected adjacent to the pedestrian boardwalk to advise of the state significance of the rainforest and of its floristic makeup.</p>	During the exhibition period	Landowner / proponent

No.	Objective	Commitment	Timing	Responsibility
		Signage shall be placed at the edge of the littoral rainforest adjacent to each T-Intersection to direct the public to the beach access point.		
PA6 - Bushfire	To effectively manage the sites natural hazards.	The proposed revegetation area adjacent to the rainforest shall incorporate rainforest species only, to ensure retention of the rainforest classification for Bushfire buffer purposes.	When undertaking work in accordance with VMP	Landowner / proponent
PA7 - Heritage and Archaeology	To preserve and protect items of Aboriginal significance.	Contractors involved in weed removal, revegetation, fencing and stormwater management shall be advised of their obligations under the NPWS Act 1974 and the NSW Heritage Act 1977. Should artefacts or sites of potential cultural significance be uncovered, work will cease and the NSW DECC will be contacted	Prior to works commencing on site	Landowner / proponent
PA8- Flora and Fauna	To minimise and manage any potential impacts on flora and fauna biodiversity.	All works to be carried out in accordance with the recommendations of the Flora and Fauna Report (Appendix C of the Concept Plan Application) and the Vegetation Management Plan contained in Section 6 of this Application and the Gantt Sheet contained in Appendix PA-A..  A temporary fence will be erected adjacent to the existing vegetation within Duchess Gully for protection from construction activity.	Prior to works commencing on site	Landowner / proponent
PA9 - Water Cycle Management	To clearly define the areas required for future stormwater infrastructure and revegetation works, ensuring the maintenance of the existing groundwater conditions, to mitigate potential impacts on the Littoral Rainforest	Temporary fencing shall be erected around the future biofiltration unit locations to protect the proposed revegetation areas.	Prior to works commencing on site	Landowner / proponent
PA10 – Monitoring of Revegetation / Regeneration Works	To measure the effectiveness of the VMP works by benchmarking against the current condition of the buffer area.	Photo monitoring at the 11 locations shown on the aerial photograph contained in Appendix PA_B is to be undertaken on a six monthly basis during the establishment phase and the five year management phase.	Six monthly from commencement to end of management period.	Landowner
PA11 – Beach	To protect the 'SEPP – Littoral	General:		

No.	Objective	Commitment	Timing	Responsibility
Access / Pedestrian Boardwalk	Rainforest' and 'Littoral Rainforest' EEC and prevent further edge-clearing / damage of this environmentally sensitive community.	<p>Development, erection and all works associated with the construction of the pedestrian boardwalk through the mapped 'SEPP 26 – Littoral Rainforest' and 'Littoral Rainforest' EEC must only occur within the existing track footprint (i.e. 2.2m wide track), as shown on Exhibit PA06, sheet 1.</p> <p>Specific Requirements:</p> <ul style="list-style-type: none"> <li>The boardwalk is to be raised by no less than 0.5m and constructed of hardwood and "Envirowalk mini mesh" treads or equivalent;</li> <li>The proposed 'board and chain' beach access shall be replaced with holey belt rubber matting and hardwood timber guide rails;</li> <li>Handrails / barriers shall be provided to the pedestrian boardwalk; and</li> <li>The detailed design of the beach access shall be agreed to by PMHC prior to the issue of the CC.</li> </ul>	<p>During construction works</p> <p>With CC documentation</p>	<p>Landowner / proponent</p> <p>Landowner / proponent</p>

