

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

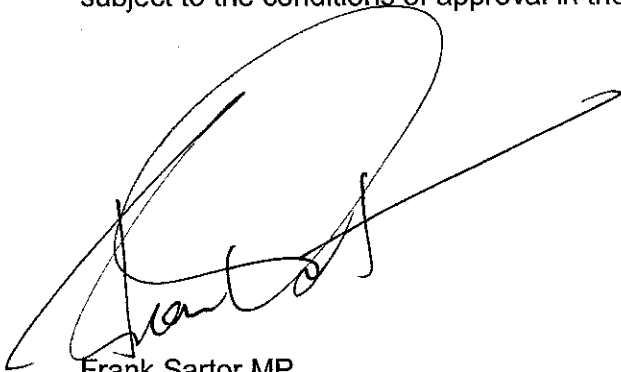
DETERMINATION OF MAJOR PROJECT NO. 05_0018

(FILE NO. 9040280-1)

**108 LOT RESIDENTIAL SUBDIVISION OF LOT 124 DP 1097510 WITH
ASSOCIATED BUSHFIRE PROTECTION, STORMWATER MEASURES AND
ACCESS ON LOT 22 DP 1071657 BELLE O'CONNOR 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 **granting 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 and the Proponent's Statement of Commitments in Schedule 3, subject to the conditions of approval in the attached Schedule 2.



Frank Sartor MP
Minister for Planning

Sydney,

20 June

2007

SCHEDULE 1

PART A—TABLE

Application made by:	WB & ME Walls c/o- ERM Australia PO Box 5279, Port Macquarie
Application made to:	Minister for Planning
Major Project Application:	MP 05_0018
On land comprising:	Lots 124 DP 1097510 and 22 DP 1071657 Belle O'Connor Street, South West Rocks
Local Government Area	Kempsey
For the carrying out of:	108 lot residential subdivision of Lot 124 DP 1097510 with associated bushfire protection measures, stormwater measures and access on Lot 22 DP 1071657
Estimated Cost of Works	\$3,240,000
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date consent is liable to lapse:	5 years from the date of determination unless works on Precincts B and A1 have physically commenced in accordance with Section 75Y of the Act.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 05_0018

Responsibility for other approvals / 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 development consent 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 consent authority shall be served on the Director-General.

Section 94 Conditions

This Major Project approval contains levies for development imposed under section 94 of the Act. The imposing of levies were imposed in accordance with Kempsey Shire Council's Section 94 Contribution Plan for Outdoor Recreation 2001, and Kempsey Shire Council's Section 94 Contribution Plan – Distributor Road, Belle O'Connor Catchment, South West

Rocks. The Section Contribution Plans may be inspected at Kempsey Shire Council, 22 Tozer Street, West Kempsey 2440 during its normal business hours.

The specific public amenity and/or service are identified in the monetary contributions conditions in Part E of Schedule 2.

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 consent.

Council means Kempsey Shire Council.

CPI means Consumer Price Index.

DCP No. 36 means Kempsey Shire Council's Development Control Plan No. 36 Engineering Guidelines for Subdivision and Development

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment and Technical Volumes prepared by Environmental Resources Management Australia (ERM Australia) and dated August 2006.

ERM Australia means Environmental Resources Management Australia.

Master Plan means the Master Plan adopted by the Minister on 20 March 2006 relating to Stage 1b of the development of Waldel Park, South West Rocks.

Minister means the Minister for Planning.

MP No. 05_0018 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 WB & ME Walls or any party acting upon this consent.

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

CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 05_0018

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Project approval is granted only to carrying out the development described in detail below, except as except for otherwise provided by the conditions of this approval or Statement of Commitments.

- (1) Subdivision of Lot 124 DP 1097510 into 108 residential lots, one additional lot for drainage purposes and one residue lot;
- (2) Construction of physical infrastructure and services;
- (3) Water sensitive urban design measures and a stormwater quality system including a detention basin in the north of the site;
- (4) A public road network with access to Belle O'Connor Street;
- (5) Landscaping of public spaces;
- (6) Removal of trees, other than those identified for retention and protection from Lot 124 DP 1097510 and Lot 22 in DP 1071657 and vegetation works within part of the site zoned 7(d) Scenic Protection on Lot 124;
- (7) Ancillary works on Lot 22 DP 1071657 including the following:
 - (a) a bushfire access perimeter road immediately east of the residential lots and contained within a right-of-way on Lot 22 DP 1071657;
 - (b) a grassed swale as part of the stormwater quality system in an easement on Lot 22, along the periphery of the subdivision; and
 - (c) a secondary unsealed access road to Arakoon Road for use during construction and to provide emergency bushfire access to the site.

A2 *Development in Accordance with Plans*

The development will be undertaken in accordance with the following drawings:

Subdivision Plans prepared by <i>King & Campbell Pty Ltd</i>			
Drawing No.	Revision	Name of Plan	Date
_CALCPPLAN.DWG	B	Proposed Lots – Areas & Dimensions	15.03.07

Engineering Drawings prepared by *King + Campbell with Craig Teasdell Architect* at Appendix L of the Environmental Assessment

Drawing No.	Revision	Name of Plan	Date
Project Approval	D	Project Approval Layout Plan Seascape Grove, South West Rocks	16.04.07
-	-	Cover Page – Locality Sketch	Mar 2006
147770a.DWG	C	Overall Layout Plan Sheet 1 of 18	09.03.07
14777Tree1.DWG	B	Existing Tree Detail Sheet 2 of 18	09.03.07
14777Tree2.DWG	C	Existing Tree Detail Sheet 3 of 18	09.03.07
14777Roadplan.DWG	B	Future Roadworks Plan Sheet 4 of 18	09.03.07
14777R1LCS1.DWG	A	Long & Cross Sections Belle O'Connor Street Sheet 5 of 18	13.07.06
14777R1LCS2.DWG	A	Cross Sections Belle O'Connor Street Sheet 6 of 18	13.07.06
14777R1LCS3.DWG	A	Cross Sections Belle O'Connor Street Sheet 7 of 18	13.07.06
14777R2LCS1.DWG	A	Long & Cross Sections Road 2 Sheet 8 of 18	13.07.06
14777R2LCS2.DWG	A	Cross Sections Road 2 Sheet 9 of 18	13.07.06
14777R2LCS3.DWG	A	Cross Sections Road 2 Sheet 10 of 18	13.07.06
14777R7LCS.DWG	A	Long & Cross Sections Rosedale Avenue Sheet 11 of 18	13.07.06
14777R4LS.DWG	A	Long & Cross Sections Road 4 Sheet 12 of 18	13.07.06
14777Fillplan.DWG	A	Filling Plan Sheet 13 of 18	09.03.07
14777SMP1.DWG	A	Overall Stormwater Management Plan Sheet 14 of 18	13.07.06
14777SMP2.DWG	A	Detailed Stormwater Management Plan Sheet 15 of 18	13.07.06
14777SQCD.DWG	A	Stormwater Quality Control Details in Public Reserve Sheet 16 of 18	13.07.06
14777SQCD.DWG	A	Stormwater Quality Control Details Infiltration Basin Sheet 17 of 18	13.07.06
14777bfp.DWG	B	Bushfire Protection Measures & Asset Protection Zones Sheet 18 of 18	09.03.07
14777E_R3LS.DWG	B	Indicative Long Section Burrawong Drive Sheet 1 of 1	09.03.07

Landscape Drawing prepared by *King & Campbell Pty Ltd* at Annexure J of the Environmental Assessment

Drawing No.	Revision	Name of Plan	Date
Landscape Principles Plan.cdr	A	Landscape Principles Plan Waldel Park, South West Rocks	-
-	-	Potential for Buffer to Dripline: Hollow-bearing Trees	30/01/07

A3 *Development in Accordance with Documents*

The development will be undertaken in accordance with the following documents:

- (1) *Seascope Grove, Belle O'Connor Street, South West Rocks - Environmental Assessment Report* prepared by ERM Australia on behalf of WB & ME Walls, dated August 2006;
- (2) *Geotechnical Investigation* prepared by Chandler Geotechnical Pty Ltd and dated 30 May 2003 (annexure C to *Environmental Assessment*);
- (3) *Flora and Fauna Assessment and Bushfire Risk Assessment, Waldeil Park Subdivision Lot 21 DP 560726 Belle O'Connor Street, South West Rocks*, prepared by Umwelt (Australia) Pty Limited and dated May 2004 (annexure D to *Environmental Assessment*);
- (4) *Addendum to UMWELT (2004) Ecology Report* prepared by ERM Australia and dated August 2006 (annexure E to *Environmental Assessment*);
- (5) *Water Management Plan – Seascope Grove Estate, South West Rocks, Part 3A DGEAR Report* prepared by King & Campbell Pty Ltd with Craig Teasdell Architect and dated July 2006 (annexure F to *Environmental Assessment*);
- (6) *Bushfire Hazard Assessment* prepared by ERM Australia and dated August 2006 (annexure G to *Environmental Assessment*);
- (7) *Traffic Impact Assessment* prepared by ERM Australia and dated August 2006 (annexure H to *Environmental Assessment*);
- (8) *Tree Assessment Report* prepared by Trevor Bailey, Arborist and dated 3 April 2006 (annexure I to *Environmental Assessment*);
- (9) *Hollow Bearing Tree Assessment* prepared by ERM Australia and dated (appendix B to submission of 5 December 2006);
- (10) *Stormwater Drainage Report for Seascope Grove, South West Rocks* prepared by King & Campbell Pty Ltd and dated August 2006.

A4 *Inconsistency between documents*

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

A5 *Subdivision of Precincts A2 and C2*

The subdivision certificate for lots within Precincts A2 and C2 as identified on the Project Approval Layout Plan must not be issued until this land is rezoned from part 6(a) Open Space and 1(d) Rural Investigation to 2(a) Residential.

A6 *Compliance with approved Tree Management Plan*

All future applications and approvals (including development applications, construction certificates and complying development certificates) for dwellings and structures on lots where trees are identified for retention on drawing *Existing Tree Detail – Sheet 2 of 18 (Drawing Number 14777Tree1.DWG Revision A)* prepared by King & Campbell and dated 13/07/06 and *Existing Tree Detail – Sheet 3 of 18 (Drawing Number 14777Tree2.DWG Revision B)* prepared by King & Campbell and dated 30/11/06 shall comply with the approved Tree Management Plan referred to in condition B3.

A7 *Prescribed Conditions*

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

PART B—PRIOR TO ISSUE OF SUBDIVISION CONSTRUCTION CERTIFICATE**B1 *Staging of Construction***

Separate Construction Certificates may be obtained for roads, services and infrastructure works relating to the following stages of development, as identified on drawing “Project Approval Layout Plan”, Revision D dated 16/04/07:

Stage 1 – Part Precinct B

Lots 301, 328, 329, 330 and 331 – Rosedale Avenue;

Stage 2 - Precinct A1

Lots 201-204 and 2070217;

Stage 3 - Precinct B

All lots identified as “Precinct B” except for those identified above in Stage 1.

Stage 4 - Precinct C1

Lots 421 to 435

Stage 5 - Precinct D

Lots 501 to 519

Stage 6 – Precincts A2 and C2

Lots 205-206, 216-225 (Precinct A2) and Lots 401- 409 and 412-420 (Precinct C2).

Note: See limitation on issue of subdivision certificates for Stage 6, condition A2.

The following conditions B2 and B3 must be completed prior to the issue of a Construction Certificate for the first stage.

Tree Management**B2 *Tree removal***

The trees marked on the Existing Tree Detail – Sheet 2 of 18 (Drawing Number 14777Tree1.DWG Revision A) prepared by King & Campbell and dated 13/07/06 and Existing Tree Detail – Sheet 3 of 18 (Drawing Number 14777Tree2.DWG Revision B) prepared by King & Campbell and dated 30/11/06 are approved for removal.

B3 *Tree Plan of Management*

A Tree Plan of Management is to be prepared for the whole site addressing the following matters and submitted and approved by the Director Coastal Assessments prior to the issue of the first Construction Certificate.

The Tree Plan of Management is to provide details on:

(1) *Tree removal*

- (a) the proposed tree removal method including inspection of hollows by a suitably qualified person prior to felling;

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- (b) safeguards for the protection of fauna both prior to, during and following the works, including the presence of a suitably qualified person during the entire felling operation to ensure that proper management of any nocturnal animals or otherwise can be effectively managed.

(2) Management of 7(d) zone

- (a) the number and location of nest boxes in the 7(d) zone (to be placed at a rate of 3 nest boxes for every hollow-bearing tree removed, equivalent to hollow size and maintained until suitable hollows develop), and the period and method of ongoing management, including six monthly inspections to ensure that nest boxes are not occupied by rodents and the like, until all construction works associated with Stages B, C1 and D are completed;
- (b) the design of fences and other such barriers to avoid restricting the movement of fauna into and out of the 7(d) zone.

(3) Trees to be retained

- (a) a minimum 6 metre buffer zone to be documented around all trees identified to be retained (including hollow bearing trees), as shown on Drawing no. Existing Tree Detail – Sheet 2 of 18 (Drawing Number 14777Tree1.DWG Revision A) prepared by King & Campbell and dated 13/07/06 and Existing Tree Detail – Sheet 3 of 18 (Drawing Number 14777Tree2.DWG Revision B). The Plan shall identify the building envelopes to accommodate the buffer zone on each affected lot. All structures and excavation (including for footings, swimming pools etc) are to be outside of this buffer zone.
- (b) details of the means of protecting trees to be retained during subdivision construction works. All areas that are to be left undisturbed are to be cordoned off from the Precinct under construction;
- (c) a report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service's *Planning for Bushfire Protection 2001*;
- (d) the means to ensure the on-going 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:
 - a. the manner of construction required to achieve the on-going retention of the tree/s
 - b. confirming that the structure will not affect identified tree/s,
 - c. and identifying the measures to protect the tree/s during construction works.

It is noted that the nominal 6 m buffer is a minimum buffer, and may have to be adjusted according to site and tree conditions.

The following conditions relate to each stage and must be completed, unless otherwise stated, prior to the issue of a Construction Certificate for that stage (unless otherwise notated)

Earthworks

B4 Acid Sulphate Soil Management Plan

An Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate

Construction Management

B5 Construction Management Plan

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by Council. 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) waste management, in accordance with the requirements of Council;
- (4) erosion and sediment control designed in accordance with the document *Managing Urban Stormwater–Soils & Construction Volume 1 (2004) by Landcom*,
- (5) flora and fauna management.

The Proponent shall submit a copy of the approved plan to the Department, and Council if Council is not the Certifying Authority.

B6 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, and
- (4) pedestrian and traffic management methods.

The Proponent shall submit a copy of the approved plan to the Department and Council if Council is not the Certifying Authority.

B7 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,

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- (3) The construction noise objective specified in the conditions of this consent,
 - (4) The construction vibration criteria specified in the conditions of this consent,
 - (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 consent,
 - (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, and
 - (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 the Council, if Council is not the Certifying Authority.

Environmental Management Plan

B8 Preparation and Submission

- (1) An Environmental Management Plan (EMP) is to be prepared and submitted to the satisfaction and approval of the Council prior to the issue of a Construction Certificate. The EMP is to identify the location of Asset Protection Zones and the provision of ameliorative measures for flora and fauna to demonstrate compliance with the recommendations contained within the following reports, referred to in Condition A4:
 - (a) Environmental Assessment,
 - (b) Bushfire Hazards Assessment,
 - (c) Flora and Fauna Assessment – 2004 and 2006 reports,
 - (d) Water Management Plan.
- (2) The EMP is to document the management and maintenance measures required, including the details for habitat restoration and mitigation measures.
- (3) The EMP is to be prepared by a suitably qualified person and is to comply with the requirements of the reports prepared by Umwelt (2004) and ERM (2006).
- (4) The EMP shall address any other relevant requirements of this approval, including stormwater management works and the requirements of the NSW Rural Fire Service.
- (5) The EMP is to document the management and maintenance measures required for each lot within the subdivision, so that appropriate restrictions on the title may be applied.

Traffic, Roads & Parking

B9 Road Design

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All roads shall be designed in consultation with the relevant requirements of DCP No. 36. Final road design plans shall be submitted and approved by Council prior to the issue of a Construction Certificate.

B10 Internal Roads

The internal roads shall be constructed and dedicated for the full frontage of all of the lots in the development, within each Precinct, to the characteristics defined in Table D1.5 of DCP No. 36, or as otherwise approved by Council.

B11 Traffic Calming Devices

The street designs are to incorporate traffic calming principles in accordance with DCP No. 36, to the satisfaction of Council.

B12 Footpaths

Concrete footpaths are to be provided along one side of each of the internal roads pursuant to Section D1.16 (5) of DCP No. 36 while having regard for the South West Rocks Pedestrian Access and Mobility Plan.

B13 Streetscape Plan

A Streetscape Plan is to be prepared by a suitably qualified Landscape Architect in respect to the proposed internal roads for each Precinct in this development in accordance with Section D13 of DCP No. 36 and in consultation with Council's Horticultural Officer, prior to the issue of a Construction Certificate, to the satisfaction of Council.

B14 Roundabout

The roundabout at the intersection of Belle O'Connor Street and Road 2 is to be designed in accordance with the Austroads publication Guide to *Engineering Practice, Roundabouts* and DCP No. 36, with particular attention paid to, but not limited to, the following:

- (1) the roundabout is to make allowance for future expansion to 2 lanes in each direction along Belle O'Connor Street;
- (2) lighting is to be provided in accordance with AS1158, 1997 Road Lighting;
- (3) allowance is to be made to the provision of suitable landscaping using species that require minimal maintenance and is to be detailed in the Streetscape Plan (refer to Condition B16);
- (4) provision is to be made to accommodate pedestrian movements, whilst maintaining the integrity of the roundabout;
- (5) the pavement is to be designed to accommodate traffic 5×10^7 ESA with a 50mm thick AC14PMB surface treatment.

Details demonstrating compliance with this condition is to be submitted to the satisfaction of Council prior to the issue of a Construction Certificate for below ground works.

Stormwater Works

B15 Stormwater Design

- (1) Final design plans of the stormwater drainage systems within the proposed subdivision, prepared in accordance with the requirements of Kempsey Shire Council and the Environmental Assessment and specialist reports, shall be submitted to and approved by Council prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.
- (2) The stormwater design is to consider future stormwater drainage systems likely to be associated with further development of this land parcel and the recommendations contained in the Estuary Management Plan for Saltwater Lagoon and Creek.
- (3) The flows emanating from the development are to be restricted to pre-development levels using the permanent detention system as proposed in the Environmental Assessment and Water Management Plan, and in accordance with Section D5 of DCP No. 36.
- (4) All stormwater drainage is to be routed through a suitable gross pollutant trap as recommended in the Environmental Assessment and Water Management Plan to remove gross pollutants as well as fine sediments. The Proponent is to liaise with Council's Environmental Services Department prior to issue of a Construction Certificate for **Stage 1**.
- (5) The stormwater detention basin is to be equipped with public safety measures such as fencing, side slopes, depth indicators and hazard signage. Details of proposed safety measures are to be submitted to Council for approval prior to the issue of a Construction Certificate **for Stage 1**.
- (6) A Certificate from a Consultant Engineer is to be submitted to Council prior to the issue of a Construction Certificate in **Stage 1**, certifying that the proposed detention and associated structures have been designed in accordance with relevant Australian Standards, the *Stormwater Drainage Report for Seascapes Grove, South West Rocks* prepared by King & Campbell Pty Ltd and dated August 2006 and the relevant approved plans.
- (7) The Proponent shall submit details of the fencing, maintenance and access to the drainage reserve, to the satisfaction of the Certifying Authority prior to issue of a Construction Certificate

Civil Works

B16 Completion of civil work

All civil work shown in the engineering plans is to be constructed in accordance with Council's AUSSPEC Construction Specifications.

B17 Extension of services

Detailed plans (design and construction) and calculations for the extension of the following mains to serve all of the allotments in each Precinct are to be submitted to Council prior to the issue of the Construction Certificate, demonstrating compliance with DCP No. 36 and Macleay Water's Dual Water Supply Systems requirements, as relevant:

- (1) town water supply main(s);
- (2) town sewer main(s); and
- (3) town water recycling main (100mm diameter).

B18 *Reservoir Site*

The Proponent is to make satisfactory arrangements with Macleay Water to accommodate all water supply work required at the Reservoir Site being associated with all of the Precincts, prior to the issue of a Construction Certificate for **Stage 1** and before finalising the Construction Certificate plans for **Stage 1**.

B19 *Approval of Engineering Plans*

The Proponent is to submit engineering plans providing for all civil works for each Precinct to Council for approval, as detailed in the drawings prepared by King & Campbell referred to in Condition A3 and demonstrating compliance with DCP No. 36, prior to the issue of a Construction Certificate.

B20 *Alterations of public utility services*

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

Landscaping**B21 *Landscape Plan***

All nature strips and proposed public reserves are to be filled, graded, landscaped and grassed.

The following conditions are common to Precincts A1/A2, B and C1/C2**B22 *Filling of lots***

- (1) 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.
- (2) The Proponent is to submit to Council a Geotechnical Specification for the supply and placement of fill materials associated with these Precincts, 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.
- (3) The Proponent is to restore, replace and/or reconstruct any damage caused to road pavement surfaces or street furniture along Arakoon Road on the haulage route(s) used for the construction of the subdivision, at any stage of the works, until all works associated with this approval are completed.
- (4) 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.

The following Conditions are common to Precinct A1/A2

B23 Stormwater Drainage

- (1) Piped inter-allotment stormwater drainage is to be installed to service proposed allotments 206 to 210 inclusive.
- (2) The Proponent is to provide a temporary catch drain over the future proposed inter-allotment piped stormwater drainage system for proposed lots 316 to 322 and lot 217 in Precinct B within a three (3) metre wide easement to drain water preventing storm flows from Precinct B adversely affecting proposed lots 211 to 216 in Precinct A.
- (3) Details demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate for this Precinct.

B24 Fire Trail

A fire trail is to be constructed from the new section of Belle O'Connor Street to the boundary between Precincts A and C, in accordance with the provisions of the Rural Fire Service's *Planning for Bushfire Protection 2001* (including sign posting). Detailed engineering plans and details of how the fire trail will be physically restricted to the general public are to be submitted to Council for approval prior to the issue of a Construction Certificate.

B25 Signage

The Proponent is to supply and install a "no through" road sign in Belle O'Connor Street and in Road 4.

The following conditions are common to Precinct B

B26 Stormwater Drainage

- (1) Piped inter-allotment stormwater drainage with temporary surface inlets and catch drains is to be installed to protect proposed lots 303 to 310 inclusive, which will eventually service proposed allotments 316 to 326 and 503 to 517 inclusive in Precinct D, when developed.
- (2) A temporary catch drain is to be provided over proposed lots 413, 429 and 430 inclusive in Precinct C to protect proposed lots 311 to 315 inclusive in this Precinct within a three (3) metre wide easement to drain water.
- (3) Details demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate for this Precinct.

B27 Signage

The Proponent is to supply and install a "no through" road sign in Road 5.

The following conditions are common to Precinct C

B28 Stormwater Drainage

Piped inter-allotment stormwater drainage is to be installed to protect proposed lots 420 to 429 inclusive. Details demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate for this Precinct.

B29 Fire Trail

A fire trail is to be constructed from the end of Precinct A to Burrawong Drive, in accordance with the provisions of the Rural Fire Service's *Planning for Bushfire Protection 2001* (including sign posting). Detailed engineering plans and details of how the fire trail will be physically restricted to the general public are to be submitted to Council for approval prior to the issue of a Construction Certificate.

B30 Signage

The Proponent is to supply and install a "no through" road sign in Burrawong Drive.

Conditions common to Precinct D**B31 Stormwater Drainage**

Piped inter-allotment stormwater drainage is to be installed to protect proposed lots 503 to 519 inclusive. Details demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate for this Precinct.

Conditions amending Statement of Commitments**B32 Fire Hydrants**

Fire hydrants are to be installed in accordance with Australian Standard AS2419.1-2005 (amends Item 25 of the Statement of Commitments).

B33 Approval of Construction Management Plan

The Construction Management Plan is to be approved by Council prior to the issue of a Construction Certificate (amends Items 11 and 16 of the Statement of Commitments).

B34 Fill Material

Any material delivered to the site that does not comply with the relevant Australian Standard or does not meet Council requirements will be rejected (in addition to the requirements of Item 15 in the Statement of Commitments).

B35 Rising Mains

The location of the rising mains for the potable and re-use system is to be generally in accordance with drawing 14857 Revision B prepared by King & Campbell for the Stage 1a Construction Certificate, and the requirements of Macleay Water (amends Item 38 of the Statement of Commitments).

B36 Payment of contributions

Item 51 of the Statement of Commitments is amended by the rates described in Condition E12 of this approval.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C2 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.

C3 Notification of Local Aboriginal Land Council

The Proponent shall notify the Local Aboriginal Land Council of the commencement of works at each stage of the development and provide it with an opportunity to view the works. Evidence of such notification and the response of the Local Aboriginal Land Council shall be submitted to the satisfaction of the PCA.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with Condition B11, 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.

D2 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.

Construction Management

D3 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.

D4 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;

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- (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.

D5 *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.

D6 *External Lighting*

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting* and AS1158-1997 Road Lighting. Upon installation of lighting, but before it is finally commissioned, the Proponent shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

D7 *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, as identified in the approved Tree Management Plan.

D8 *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.

D9 *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.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D10 *Construction Noise Objective*

The construction noise objective for the Project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the approved Construction Noise and Vibration Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D11 *Construction Noise Management*

The Proponent shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they

must only be installed where approved in the Construction Noise and Vibration Management Plan.

D12 *Vibration Criteria*

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

D13 *Vibration Management*

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

Heritage

D14 *Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects*

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment may be required before further works can continue in that area.

D15 *Impact of Below Ground (Sub-surface) Works – Aboriginal Objects*

If any Aboriginal archaeological objects are exposed during construction works, the Proponent shall immediately notify the National Parks and Wildlife Service. The Proponent shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATES

Easements

E1 *Instruments*

Copies of any instruments under Section 88B or 88E of the *Conveyancing Act 1919* is to be submitted with the final plan of subdivision, as relevant to any restrictive covenants, easements, rights of way created or affected by this development.

E2 *Tree retention and protection*

A restriction as to user is to be created for all affected lots showing the location of all trees and indicating that they are to be retained in accordance with the approved Tree Management Plan (referred to in Condition B3).

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

E3 *Services*

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

Conditions common to Precincts A1 and A2

E4 *Asset Protection Zones*

In addition to the requirements of the NSW Rural Fire Service the following additional requirements shall be met prior to the issue of a Subdivision Certificate for Precincts A1 and A2.

- (1) The creation of a suitable restriction as to user allowing for the creation and maintenance of the following Bushfire Asset Protection Zones:
 - (a) Creation of a 30m wide Asset Protection Zone within the adjoining rural land (Lot 22 DP 1071657) along the eastern boundary of Precincts A1 and A2; a suitable restriction as to user is to be created prohibiting the erection of any building, including outbuildings, within this area.
 - (b) Creation of a 20m wide Asset Protection Zone along the full length of the southern boundary of Precincts A1 and A2 within Precincts B and C. This restriction shall cease to have effect once Precincts B and C are fully developed.
 - (c) Creation of a 35m wide Asset Protection Zone along the northern boundary from Belle O'Connor Street to the eastern boundary, wholly located within this Precinct. This restriction shall cease to have effect should adjoining properties be fully developed into residential allotments.

In respect to the required Assets Protection Zones to the north and south a suitable restriction as to user is to be created prohibiting the erection of any building, including outbuildings, within this area. This restriction shall cease to have effect once Precincts B and C and any properties to the north have been fully developed for urban settlement.
 - (d) Creation of a suitable positive covenant allowing for the maintenance and repair of the proposed bushfire trail location within the rural residential land to the east.
- (2) The restrictions are to be clearly marked on the plan of subdivision. Council is to be nominated as the sole party to vary, modify and/or extinguish the restrictions.

E5 *Positive Covenant*

- (1) A suitable Positive Covenant is to be created pursuant to Section 88BA of the *Conveyancing Act 1919* over the title of the residue lot containing the detention basin, allowing maintenance and repair of the detention system, gross pollutant trap unit and any other erosion and sediment control device specified for this development, until all Precincts have been developed.
- (2) This restriction is to be clearly marked on the plan of subdivision.
- (3) Council is to be nominated as having an interest in this covenant.
- (4) A copy of the restriction is to be lodged for approval with the application for a Subdivision Certificate for Precinct A1/A2.

Conditions common to Precinct B

E6 *Asset Protection Zones*

In addition to the requirements of the NSW Rural Fire Service the following additional requirements shall be met prior to the issue of a Subdivision Certificate for Precinct B.

- (1) The creation of a suitable restriction as to user allowing for the creation and maintenance of the following Bushfire Asset Protection Zones:
 - (a) Creation of a 20m wide Asset Protection Zone along the full length of the southern boundary of this Precinct within Precincts C and D. This restriction shall cease to have effect once Precincts C and D have been fully developed.
 - (b) The restrictions are to be clearly marked on the plan of subdivision. Council is to be nominated as the sole party to vary, modify and/or extinguish the restrictions.
 - (c) A suitable restriction as to user is to be created prohibiting the erection of any building, including outbuildings, within this area.

Conditions common to Precincts C1 and C2

E7 *Asset Protection Zones*

In addition to the requirements of the NSW Rural Fire Service the following additional requirements shall be met prior to the issue of a Subdivision Certificate for Precincts C1 and C2.

- (1) The creation of a suitable restriction as to user allowing for the creation and maintenance of the following Bushfire Asset Protection Zones:
 - (a) Creation of a 30m wide Asset Protection Zone within the adjoining rural land along the eastern boundary of this Precinct.
 - (b) Creation of a 20m wide Asset Protection Zone along the full length of the southern boundary of this Precinct, being Burrawong Drive.
 - (c) The restrictions are to be clearly marked on the plan of subdivision. Council is to be nominated as the sole party to vary, modify and/or extinguish the restrictions.
 - (d) A suitable restriction as to user is to be created prohibiting the erection of any building, including outbuildings, within this area.

E8 Positive Covenant

- (1) A suitable positive covenant is to be created over the proposed bushfire trail located within the rural residential land to the east of the development, pursuant to Section 88BA of the *Conveyancing Act 1919*, to allow for the maintenance and repair of the trail.
- (2) This restriction is to be clearly marked on the plan of subdivision.
- (3) Council is to be nominated as having an interest in this covenant.
- (4) A copy of the restriction is to be lodged for approval with the application for a Subdivision Certificate for Precincts C1 and C2.

Monetary Contributions and Contributions-in-lieu**E9 Monetary Contributions**

In accordance with Division 6 of Part 4 of the Act, the Proponent shall pay the following monetary contributions, prior to issue of the Subdivision Certificate for the relevant stage:

(1) Amount of Contribution

Outdoor Recreation		
Rate of contribution = \$2,006 per additional allotment		
Precinct	No. of lots	Amount
A1	12 (13 lots minus 1 existing lot)	\$24,072
A2	12	\$24,072
B	32	\$64,192
C1	15	\$30,090
C2	18	\$36,108
D	18	\$36,108
TOTAL		\$214,642

Upgrading Belle O'Connor Street		
Rate of contribution = \$1,351 per additional allotment		
Precinct	No. of lots	Amount
A1	12 (13 lots minus 1 existing lot)	\$16,212
A2	12	\$16,212
B	32	\$43,232
C1	15	\$20,265
C2	18	\$24,318
D	18	\$24,318
TOTAL		\$144,557

(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 subdivision certificate for each stage.

The contribution(s) for land will be adjusted in accordance with the latest annual valuations. The contribution(s) as assessed will apply for 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this notice **will be adjusted** in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

Utilities

E10 Certificate of Compliance

- (1) Prior to the release of the Subdivision Certificate/s, an application for a Certificate of Compliance pursuant to Section 305 of the *Water Management Act 2000* is to be made and a Certificate of Compliance lodged with Council indicating that the requirements of Section 306 of that Act have been met.
- (2) A Certificate of Compliance pursuant to Division 5 of the *Water Management Act 2000* will be issued by Council prior to the issue of Subdivision Certificate/s, subject to the following matters being complied with:
 - (a) payment of a contribution towards District Water Supply at the rate of \$7,468 per equivalent tenement (indexed 2006/2007);
 - (b) payment of a contribution towards the Augmentation of Sewerage Headworks at the rate of \$6,300 per equivalent tenement (indexed 2006/2007);
 - (c) extension of the town water supply main(s), sewer main(s) and water recycling main (100mm diameter) necessary to serve all of the allotments, at no cost to Council, as required by condition B24.

E11 Telstra

The Proponent is to 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 the Certifying Authority prior to the release of the subdivision certificate.

E12 Electricity

The Proponent 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 telephone plant is to be lodged with the Certifying Authority prior to the release of the subdivision certificate.

E13 Testing of Sewer Lines

All sewer lines in each Precinct are to be tested including a CCTV check complete with video copy in accordance with Council's DCP No. 36, prior to Council accepting the work as Practically Complete.

Roads

E14 Street Naming

The Proponent is to submit to Council a list of at least three (3) names in respect to each of the internal roads in accordance with Council's policy on Street Naming, prior to the issue of the subdivision certificate.

NSW Rural Fire Service

E15 Bushfire Protection

All of the relevant requirements of the NSW Rural Fire Service are to be met prior to the issue of a Subdivision Certificate/s to the satisfaction of the PCA.

Work as Executed Plan

E16 Civil Work

A Work as Executed Plan is to be prepared for all of the civil work undertaken for each Precinct as work is completed. The Work as Executed Plan is to be prepared by a Registered Surveyor and lodged with Council for approval prior to issue of the Practical Completion Certificate and Subdivision Certificate/s.

Stormwater Drainage System

E17 Dedication of land

The Proponent is to make the necessary arrangements for the dedication of the drainage system and reserve to Council following the issue of a subdivision certificate for Precinct C.

Filling

E18 Certification

A Certificate issued by the Geotechnical Engineer is to be lodged with Council at the time a Subdivision Certificate/s is applied for, for these Precincts, certifying that the fill materials, when placed in accordance with the Geotechnical Specification, will be suitable for future residential development and are in accordance with AS2870.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the certifying authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The proponent shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate, and
- (2) the certifying authority before the release of the subdivision certificate.

AN2 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the certifying authority prior to the issue of the Construction Certificate.

AN3 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN4 Application for Hoardings and Scaffolding

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with Council's relevant policies,
- (2) Structural certification prepared and signed by a suitably qualified practising structural engineer.

The Proponent shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works.

AN5 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN6 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN7 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN8 Application under Part 4A of the Act

An application under Part 4A of the Act shall be submitted to the certifying authority along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN9 Compliance with Conditions

The Proponent will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Major Project No. 05_0018 and of compliance (or a Compliance Certificate) with the conditions of that approval, prior to the issuing of Strata Plan of Subdivision.

AN10 Temporary Structures

Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN11 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN12 Disability Discrimination Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

AN13 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

MP 05_0018

LOT 124 DP 1097510 AND LOT 22 IN DP 1071657

**LOT 124 DP 1097510 AND LOT 22 DP 1071657 BELLE O'CONNOR STREET,
SOUTH WEST ROCKS**

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)

Table 1 Seascope Grove Stage 1b Revised Draft Statement of Commitments 5 December 2006

No.	Item	Commitment	Timing
1.	Scope of Development	The development will be carried out in accordance with Environmental Assessment Report (EAR), prepared by ERM, July 2006 and supporting reports, except where amended by other items of this Statement of Commitments.	For the duration of subdivision
2.	Statutory Requirements	<p>The following licences, permits and approvals will be obtained and maintained for the residential subdivision:</p> <ul style="list-style-type: none"> Kempsey Council Construction Certificates for engineering works (including earthworks, soil and water management, clearing, roadwork, drainage, landscape, water supply, and sewerage) for each stage of the subdivision; Kempsey Council Subdivision Certificates for each residential stage; Section 138 Consent for roadwork (Roads Act 1993); Country Energy Design Certification; Country Energy notification of Arrangement; Telstra Compliance Certificate; Macleay Water Compliance Certificate; Department of Land and Property Information registration of the subdivision <p>A Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Kempsey Shire Council two days prior to commencing work.</p>	For the duration of subdivision
3.	Conveyancing	A final plan of subdivision and Section 88B instrument will be prepared for each stage of the development. The Section 88B Instrument will provide easements for utility services that encroach onto private land or public reserves.	
4.	Public Open Space and Landscaping	Areas to be dedicated as public reserves and public roads will be embellished by Seascope Grove in accordance with the principles of the <i>Landscaping Principles Plan</i> prepared by King and Campbell (July 2006) and documented in the detailed landscape design plans to be approved by Kempsey Council as part of the construction Certificate.	Prior to release of Subdivision certificate for each stage
5.		Local provenance plant species should be utilised to rehabilitate public domain areas where specified in the <i>Landscaping Principles Plan</i> prepared by King and Campbell (July 2006), including heathland species in the reserve areas in the north of the	

No.	Item	Commitment	Timing
	site		
6.	Timber will be recycled as mulch throughout the landscape strategy.		
7.	Public Open space dedication	Public open space, including areas containing stormwater management facilities, will be dedicated to Kempsey Council	Prior to the release of the Subdivision certificate for each stage.
8.	Tree Management	All trees to be retained within the proposed public roads and reserves with the development will be identified on engineering plans submitted to Kempsey Council with the Construction Certificate Application. Seascope Grove will provide an arborist report for the trees to be retained near public and private assets which identifies the species and condition of the tree and any remedial works required to render the tree appropriate for retention in the urban environment. All trees that are unsuitable for retention or are unable to be retained due to the provision of services and infrastructure will be removed and mulched on site.	Prior to the release of the Construction Certificate for each stage.
9.		All trees within the proposed central open space reserve and on land within zone 7(d) will be retained. No clearing will be undertaken on land identified for Stage 1(c) prior to the consideration and approval of a further application for project approval on this land.	
10.	Construction	Seascope Grove will construct the subdivision in accordance with the staging set out on the Project Application Plan.	
11.		<p>A Construction Environmental Management Plan will be prepared that will include:</p> <ul style="list-style-type: none"> • an education strategy for construction contractors; • description of the work program outlining relevant timeframes for activities; • details of statutory and other obligations that must be met during construction and operation, including all approvals and agreements required from authorities and other stakeholders; • description of the roles and responsibilities for all relevant employees involved in the construction phase; • details of the environmental management procedures, monitoring and reporting requirements during the construction or operation phase; • details as to what incident management procedures will be undertaken during construction or operation; • the minimisation of rubbish and debris at the site from development activities during the construction phase. 	Prior to the commencement of construction.

No.	Item	Commitment	Timing
		<ul style="list-style-type: none"> Erosion and sediment control during construction; Traffic management, including measures to be taken at Arakoon Road for the access point; 	
12.		Construction Work shall be confined to 7.00am to 6.00pm, Monday to Fridays, and 7.00am to 12 noon, Saturdays.	
13.		Inspections are required to be made and a minimum of 48 hours notice is necessary 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 Kempsey Shire Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.	
14.		<p>When clearing hollow-bearing trees in the survey area, the procedure specified by Umwelt (2004) should be followed to minimise impacts to any arboreal fauna present:</p> <ul style="list-style-type: none"> Within the development area, hollow bearing trees will be marked by a suitably qualified ecologist to prevent accidental clearing. Vegetation surrounding the marked habitat structures will be cleared and the marked structures left undisturbed for a period of 24 hours. Marked, hollow-bearing trees will be shaken prior to felling using a bulldozer and then left for a short period to allow any fauna using the hollows to be observed. Hollow bearing trees will be slowly pushed over using a bulldozer, with care taken to avoid damage to hollows. Following felling each of the identified hollows will be examined for injured fauna. Nocturnal species which do not immediately move into adjoining vegetation will be captured and kept in a warm, dark and quiet place prior to release in adjacent vegetation. Captured nocturnal animals will be released on the day of capture and will not be held for extended periods of time. In the event that injured fauna are identified, species will be immediately taken to the nearest veterinarian or WIVES representative for treatment. 	During Construction Works
15.		Any defective workmanship in each stage of the residential subdivision will be repaired for a defects liability period of 6 months from the date of acceptance into maintenance by Kempsey Shire Council in accordance with Kempsey DCP No. 36.	
16.		All heavy construction vehicles will enter the site from Arakoon Road via the temporary accessway in accordance with the traffic provisions of the <i>Construction Environmental Management Plan</i> , to be prepared prior to and implemented to include the duration of hauling of fill material to the site.	
17.		All fill to be imported to the site will be either VENM (virgin excavated natural materials) or suitable for classification as 'inert' under NSW DEC guidelines.	
18.		Seascope Grove will prepare work as executed plans for construction work in each stage and provide such plans to Kempsey Council.	Prior to the release of the subdivision certificate for

No.	Item	Commitment	Timing
19.		Seascope Grove will prepare works as executed plans in a format compatible with the geographic information system (GIS) of the Kempsey Council to assist with the Council asset management database.	Prior to the release of the subdivision certificate for each stage
20.		Seascope Grove will complete the civil work shown in the engineering plans (Ref. A777) and in accordance with Kempsey Shire Council's AUSSEPC Construction Specifications	
21.		Detailed Engineering Plans providing for Civil Works within the subject property will be undertaken as shown in the plan of application (Ref.14777) in strict compliance with Kempsey Shire Council's Engineering Guidelines for Subdivision and Development DCP 36.	
22.	Design	Design controls will be prepared by Seascope Grove and implemented for the residential lots through the use of a positive covenant on the titles to the lots. The Design Controls will be generally in accordance with draft covenants provided in the EAR	Prior to the release of the Subdivision Certificate for each stage.
23.		A positive covenant on the titles to the lot will require homeowners to lodge plans with Seascope Grove to demonstrate compliance with the neighbourhood theme before lodging plans with Kempsey Council. Where there are inconsistencies between Kempsey Council requirements and dwelling design controls contained in the EAR the latter will take precedence.	
24.	Fire Management	Asset protection zones will be provided to adjacent vegetation to the north, east and south of the site, including an APZ to the woodland vegetation to the east of the estate within the easement to be created on the adjacent rural allotment owned by the proponent (Lot 22 DP 1071657);	Prior to the release of the Subdivision Certificate for each stage.
25.		Seascope Grove will install fire hydrants in accordance with Australian Standard S2419.1-1994. Hydrants will be made accessible and located so that a tanker can park within a distance serviceable by a 20 metres hose and that all houses are within 70 metres of the tanker.	Prior to the release of the Subdivision Certificate for each stage.
26.		Fuel management within the Asset Protection Zones and Asset Protection Zones are to be in accordance with Planning for Bushfire Protection (RFS 2001) or as specified by the NSW Rural Fire Service.	Prior to the release of the Subdivision Certificate for each stage.
27.		19mm metal tap fittings will be utilised throughout the development	
28.		Perimeter roads will be provided along the hazard interface.	Prior to the release of the Subdivision Certificate for each stage.

No.	Item	Commitment	Timing
29.		The temporary construction access road to Arakoon Road will be made available for emergency bushfire use. It will be maintained as an all-weather road suitable for NSW RFS heavy vehicles in accordance with Planning for Bushfire Protection (NSW RFS 2001).	Prior to the release of the Construction Certificate for the first stage.
30.	Water Supply and Quality Management	Seascope Grove will design and install water quality control measures in accordance with the principles of the <i>Water Management Plan and Stormwater Quality Control Measures</i> in accordance with the King & Campbell report dated June 2006 and the engineering plans (Ref.14777) and Construction Certificate Plans approved by Kempsey Council.	Prior to the release of the subdivision certificate for each stage.
31.		Seascope Grove will prepare a soil and water management plan to control run off during construction in accordance with the principles of the Landcom publication <i>Managing Urban Stormwater (MUS): Soils and Construction Volume 1, 4th Edition</i> and Construction Certificate Plans approved by Kempsey Council.	Prior to commencement of construction
32.		Seascope Grove will maintain soil and water management measures until 80% of the housing within the stormwater catchment draining to such measures are constructed. At that time the maintenance of stormwater quality control measures will be transferred to Kempsey Council.	
33.		Seascope Grove will create all easements to the satisfaction of Kempsey Shire Council to cover all stormwater assets.	
34.		Seascope Grove will construct the Detention Basin as a first step in Stage 1(b) as an erosion and sedimentation control measure.	
35.		Seascope Grove will produce an information sheet relating to water use in the subdivision. This will detail practical methods to reduce water use and protect stormwater quality. It will be issued to new residents.	
36.	Cultural Heritage	If any artefacts or sites relating to aboriginal heritage are uncovered during site works, all work will cease and the NSW Department of Environment and Conservation be contacted to advise on what must occur prior to re-commencing works.	During construction
37.		Two representatives of the Local Aboriginal Land Council should be present during disturbance of the upper 20cm of natural soil during earthworks on the site	During construction
38.	Utilities	Seascope Grove will provide reticulated potable and non-potable water supply, sewerage and underground electricity to each residential lot.	Prior to the release of the construction certificate for each stage.
39.		Seascope Grove will provide a reticulated water connection to each public reserve.	Prior to the release of the construction certificate for each stage.

No.	Item	Commitment	Timing
40.		Seascope Grove 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 Kempsey Shire Council.	Prior to the release of the construction certificate for each stage.
41.		Seascope Grove is to make satisfactory arrangements with Country Energy for the supply of electricity to each lot. A letter from Country Energy stating that satisfactory arrangements have been made for the provision of <u>underground electricity</u> supply to this development is to be lodged with Kempsey Shire Council.	Prior to the release of the construction certificate for each stage.
42.		Seascope Grove will bear the cost of the relocation of utility services required as a result of construction of the development.	
43.	Roads	<p>The proposed internal roads shall be constructed and dedicated for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Kempsey Shire Council's <i>Engineering Guidelines for Subdivision and Development</i> as follows:-</p> <ul style="list-style-type: none"> - Extension of Belle O'Connor Street to the end of Road: East of the proposed first roundabout to the end at this stage of the development - a type 2 road only with layback kerb and gutter. - Proposed Road 3 for this stage of the development is to be constructed to Type 3 Collector Road Minimum standard to the proposed roundabout at the intersection with roads 7 hence to a Type 2 Local Street Standard - Proposed internal road number 7 is to be constructed full width, as Type 1 Local Street and dedicated as public road with provision made for service vehicles (garbage trucks) to turn on a suitably prepared temporary bitumen pavement. Layback kerb and gutter is to be provided. 	Completed prior to the release of the subdivision certificate for the particular stage.
44.		Seascope Grove shall provide concrete foot and cycle paths as documented in the EAR. These will include the footpaths along one side of the proposed Belle O'Connor Street extension and all the proposed internal roads in this stage of the development pursuant to Section D1.16 (5) of Development Control Plan No 36 and having regard for the South West Rocks Pedestrian Access and Mobility Plan.	
45.		Seascope Grove will provide street signs for each new public road in accordance with the requirements of Kempsey Council.	
46.		Seascope Grove will provide a lot classification geotechnical report to Kempsey Council for each stage of development prior to the release of the final plan of subdivision for that stage.	Prior to the release of the construction certificate for each stage.
47.	Geotechnical	Seascope Grove will provide AS2870 (Residential slabs and footings) classification of all lots created	Prior to the release of the construction certificate for

No.	Item	Commitment	Timing
			each stage.
48.	Developer Contributions	Seascope Grove will pay Section 94 developer contributions in accordance Councils Section 94 plans on a "per ET" basis for each stage of the residential subdivision.	Prior to the release of the subdivision certificate for each stage.
49.		Seascope Grove will pay Section 64 water and sewer developer contributions in accordance with the development servicing plan applicable at the time of payment.	Prior to the release of the subdivision certificate for each stage.
50.		Seascope Grove will submit an application for a Certificate of Compliance pursuant to Section 305 of the <i>Water Management Act 2000</i> and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the <i>Water Management Act 2000</i> have been met.	
51.		<p>A Certificate of Compliance pursuant to Division 5 of the <i>Water Management Act 2000</i> will be issued by Kempsey Shire Council, subject to the following matters being complied with:</p> <ul style="list-style-type: none"> • Payment of a contribution towards District Water Supply at the rate of \$1,256 per equivalent tenement, i.e. \$1,256 x 23 ET = \$28,888 (indexed 2005/2006), prior to the issue of the Subdivision Certificate. • Payment of a contribution towards the Augmentation of Sewerage Headworks at the rate of \$1,536 per equivalent tenement, i.e. \$1,536 x 23 ET = \$35,328 (indexed 2005/2006), prior to the issue of the Subdivision Certificate. • Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plan and calculations are to be submitted for approval prior to the issue of the Construction Certificate. • Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans and calculations are to be submitted for approval prior to the issue of the Construction Certificate. • Provision of a reclaimed water reticulation main in addition to the potable main to service all the proposed allotments in this stage of the development and designed in accordance with the supplement to the Water Supply Code of Australia WSA 03-2002 and having consideration any additional requirements specified by Kempsey Shire Council's Macleay Water. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate. 	

No.	Item	Commitment	Timing
52.		Seascope Grove will pay a contribution towards Outdoor Recreation for each additional allotment after the first allotment in accordance with Kempsey Shire Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1,953 per additional dwelling unit, i.e. \$1,953 x 23 E.T. = \$44,919 (Indexed 2005/2006).	
53.	Additional Council Requirements	Street naming shall be in accordance with the relevant Council policy (street naming C22.06).	
54.	Acid Sulphate Soils	Should any Acid Sulphate material be discovered on the site, works shall be undertaken in accordance with Kempsey DCP 30 Management of Acid Sulphate Soils.	
55.	Protection against discharge to waters	Storage of equipment, fuels and chemicals will be away from drainage lines and be contained so as to avoid contamination of local streams.	
56.	Vegetation Management Plan	A Plan of Management will be prepared for the proposed asset protection zone areas to ensure that retained vegetation is appropriately managed to ensure that fire does not have the potential to generate and spread to adjoining properties.	Prior to commencement of construction
57.	Maintenance of Bushfire Perimeter Trail and Emergency Access Road	A S88E instrument will be implemented that specifies that the ongoing maintenance of these assets would be responsibility of the landholder of Lot 22 DP 1071657. Standards should be maintained in accordance with NSW RFS (2001) <i>Planning for Bushfire Protection</i> .	Prior to commencement of construction
58.	Staging of Development	A construction certificate for Stages A2 and C2 will not be issued prior to the gazetting of a Local Environmental Plan that ensures all land within these stages is within a residential zone.	
59.	Nesting Boxes	Fauna nest boxes will be installed. These will be located within existing vegetation in the 7(d) zone and open space area (proposed Lot 520) and be in accordance with the recommendations of the Hollow-Bearing Tree Assessment (ERM 2006).	Prior to commencement of construction