

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I approve the section 75W modification of the project approval referred to in Schedule 1, subject to the modified conditions of approval outlined in Schedule 2.



Heather Warton
Director
Industry, Social Projects and Key Sites

Sydney

Gtn

August 2013

SCHEDULE 1

Project Approval:	08_0167 granted by the Planning Assessment Commission on 3 June 2011.
Proponent:	Malbec Properties Pty Ltd
Land:	Lot 1 DP 1128633; Lot 2 DP 1128633; and Lot 84 DP 792945, Belle O'Connor Street, South West Rocks – Kempsey local government area.
Project:	<p>Saltwater Residential Subdivision, involving:</p> <ul style="list-style-type: none">• 269 low density residential lots constructed throughout eleven stages of development;• One medium density residue lot;• Internal public road network;• Public open space areas with recreation facilities;• A network of pedestrian and cyclist pathways;• A 14.9ha of conservation zone;• Two stormwater treatment areas; and,• On-site landscaping works.
Modification:	<p>08_0167 MOD 1 involving:</p> <ul style="list-style-type: none">• revised stormwater treatment regime for the site, including deletion of stormwater treatment wetlands and piping of interallotment drainage;• revised road network layout;• revised project staging;• four additional low density residential lots;• increased area of the central active open space park;• decreased area of the bushland exercise park; and• amended Section 94 contributions.

SCHEDULE 2

The project approval as described in Schedule 1 is modified as follows:

(a) Delete clause (1) under Condition A1 and replace with new clause (1) as follows:

- 1) Subdivision of land into 274 lots, including 273 low density residential lots and 1 medium density residential lot;

(b) Delete the number "3,025" under clause (3) of Condition A1 and replace with the following:

4,470

(c) Delete the number "2,481" under clause (4) of Condition A1 and replace with the following:

1,450

(d) Delete clause (5) of Condition A1.

(e) Delete Condition A2 and replace with new Condition A2 as follows:

A2 *Project in Accordance with Plans*

The project is to be undertaken generally in accordance with the following drawings:

Design Drawings prepared by AECOM Australia Pty Ltd			
Name of Plan			Date
Malbec/Saltwater Development – South West Rocks – Bushfire Constraints Plan			03 August 2010
Engineering Drawings prepared by AECOM Australia Pty Ltd			
Name of Plan			Date
Belle O'Connor Street – South West Rocks – Site Analysis			02 March 2010
Malbec/Saltwater Development – South West Rocks – Road Sections			08 March 2010
Landscape Drawings prepared by AECOM Australia Pty Ltd			
Name of Plan			Date
Malbec/Saltwater Development – South West Rocks – Landscape Plan			03 August 2010
Survey Drawings prepared by AECOM Australia Pty Ltd			
Name of Plan			Date
Belle O'Connor Street – South West Rocks – Site Analysis			02 March 2010
Design Drawings prepared by Land Dynamics Australia (08_0167 MOD 1)			
Name of Plan	Job No.	Issue	Date
Coast Subdivision Plan	4972_N_SHT 02	E	26.06.2013
Coast Staging Plan	4972_N_SHT 01	E	26.06.2013
Coast APZ Plan	4972	A	09.07.2013

(f) Insert new clause (3) following clause (2) under Condition A3 as follows:

- (3) *Section 75W Application to Part 3A Approval 08_0167, Saltwater Estate, South West Rocks* prepared by Land Dynamics Australia on behalf of Malbec Properties Pty Ltd, dated 18 February 2013; and supplementary information supporting the modification request prepared by GHD Pty Ltd, dated 14 May 2013.

(g) Insert new Condition A7 as follows:

A7 Staging

Stages 1A, 1B, 2 and 3 must be carried out first, in accordance with the Coast Staging Plan (Job No. 4972_N_SHT 01, Issue E) prepared by Land Dynamics Australia and dated 26.06.2013. The order of subsequent stages may be varied, subject to the proponent having received written approval of the Director-General.

(h) Delete Condition B6 and replace with new Condition B6 as follows:

The site is to include vegetated bio-retention swales for the two main swales running south to north and for the whole periphery of the north eastern boundary with the conservation zone (excluding the conservation zone). Swales are to be designed so that 100% of the total developed site's three month runoff drains through them. Road side swales are to have a minimum width of 2.5m and sized for hydraulic conveyance of design flows. Swales are to be provided as road side swales only and all interallotment drains are to be piped.

(i) Delete Condition B7.

(j) Delete the words "Conditions B6 and B7" under Condition B8 and replace with the following:

Condition B6

(k) Delete Condition B15.

(l) Delete Condition B16 – Asset Protection Zones

(m) Insert new Condition B17 as follows:

B17 Asset Protection Zones

Asset Protection Zones (APZs) are to be provided in accordance with *Bushfire Hazard Assessment – Proposed Subdivision – Lots 1 & 2 DP 1128633 & Lot 84 DP 792945 Belle O'Connor Street, South West Rocks* prepared by Midcoast Building and Environmental, dated November 2012. Details of the APZs (as it relates to each stage of the project) are to be provided to the satisfaction of the Certifying Authority prior to the release of the Construction Certificate for each stage of the project.

(n) Delete clause (1)(d) under Condition E5 and replace with new clause (1)(d) and clause (1)(d1) as follows:

d. A Restriction as to User allowing for the creation of a 20 metre wide Asset Protection Zone, measured from the boundary of the conservation zone shall burden the following Lots:

- Lot 56 and Lot 57 (Stage 2);
- Lots 216 – 221 inclusive (Stage 9);
- Lots 222 – 225 inclusive (Stage 10); and
- Lot 274 (medium density lot) (Stage 11).

This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.

d1. A Restriction as to User allowing for the creation of a 15 metre wide Asset Protection Zone, measured from the boundary of the conservation zone shall burden the following Lots:

- Lots 66 – 69 inclusive, and Lot 71 (Stage 3);
- Lots 72 – 74 inclusive, and Lot 154 (Stage 4);
- Lots 155 – 157 inclusive, Lot 181 and Lot 182 (Stage 5);
- Lot 183, Lot 184, Lot 190, and Lot 213 (Stage 7); and
- Lot 212 (Stage 8).

This area shall be maintained as an inner protection area in accordance with *Planning for Bushfire Protection 2006* and the RFS's *Standards for Asset Protection Zones*. No dwellings are to be constructed in this area. The Restriction as to User shall advise the landowner of the need to maintain this area as an Asset Protection Zone.

(p) Delete the number “11” under clause (1)(e) of Condition E5 and replace with the following:

8

(q) Delete the number “1116 – 1118” under clause (1)(e) of Condition E5 and replace with the following:

202 – 204

(r) Delete Condition E7 and replace with new Condition E7 as follows:

The Proponent must make necessary arrangements for the dedication of the public open space areas as shown on the plan prepared by Land Dynamics Australia (Job No. 4972_N_SHT 02), titled *Coast Subdivision Plan* (dated 26.06.2013) to Council as follows:

- 1) With respect to the 1,450m² bushland exercise park, prior to release of the Subdivision Certificate for Stage 2
- 2) With respect to the 4,470m² central neighbourhood park, prior to the release of the Subdivision Certificate for Stage 3.

- (s) Delete clause (1) under Condition E10 and replace with new clause (1) as follows:

1) Amount of Contribution

Name of Contribution Plan	Number of ET	\$ per ET	Total
Community Services – Library	273	\$804	\$219,492.00
Community Services – MPB	273	\$986.40	\$269,287.20
Open Space Acquisitions	273	\$960	\$262,080.00
Open Space Increased Capacity	273	\$3,100.80	\$846,518.40
Bushland	273	\$67.20	\$18,345.60
Traffic and Transport Management	273	\$2,918.40	\$796,723.20
Public Domain Improvements	273	\$412.80	\$112,694.40
Stormwater Management	273	\$2,803.20	\$765,273.60
Support Services - Bushfire	273	\$79.20	\$21,621.60
Support Services – Surf Lifesaving	273	\$96	\$26,208.00
Plan Studies	273	\$163.20	\$44,553.60
Kempsey Public Domain	273	\$1,060	\$289,380.00
Total	273	\$13,451.20	\$3,672,177.60
Section 94 Contribution Plan – Project Administration	273	6% x \$3,672,177.60	\$220,330.66
Grand Total	273	14,258.27	\$3,892,508.26