

Modification of Project Approval

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

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Anthea Sargeant
Executive Director
Key Sites Assessments

Sydney 2018

SCHEDULE 1

Development Approval: **MP 08_0167** granted by the Planning Assessment Commission on 3 June 2011

For the following: Saltwater Residential Subdivision involving:

- 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 conservation zone
- two stormwater treatment areas
- on-site landscaping works.

Applicant: Land Dynamics Australia

Consent Authority: Minister for Planning

The Land: Lot 1 DP 1128633; Lot 2 DP 1128633; and Lot 84 DP 792945, Belle O'Connor Street, South West Rocks

Modification: **MP 08_0167 MOD 2:** the modification includes the following amendments to Stages 5 and 6:

- amend the size, location and layout of residential lots
- deletion of the medium density lot and increase of 14 low density residential lots
- amend and provide a new internal road network
- create a new public vehicular access
- amend bushfire asset protection zone requirements
- provision of essential services and infrastructure.

SCHEDULE 2

The above approval (MP 08_0167) is modified as follows:

- (a) Schedule 1 – Development Approval is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

Saltwater Residential Subdivision involving:

- ~~269-165~~ low density residential lots constructed throughout ~~eleven-eight~~ stages of development
- 199 Senior Living Development lots and associated amenities
- ~~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 conservation zone
- two stormwater treatment areas
- on-site landscaping works.

- (b) Schedule 1 – The Land is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

~~Lot 1 DP 1128633; Lot 2 DP 1128633; and Lot 84 DP 792945, Belle O' Connor Street, South West Rocks~~
Lots 1 & 2 DP 1229162; Lot 36 DP 1214499 and Lot 84 DP 792945, Belle O' Connor Street, South West Rocks – Kempsey local government area

- (c) Schedule 2 Part A – Administrative Conditions, Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A1 Project Description

Project approval is granted only to carrying out the project generally described below:

- 1) Subdivision of land into
 - a) ~~152-165~~ residential lots, **including 151 low density residential lots and 1 medium density residential lot; and**
 - b) a Senior Living Development lot incorporating 199 dwelling sites, and construction of roads, a clubhouse, pool, amenities block, tennis courts, bowling green, landscaping and infrastructure works.
- 2) Extension of the Belle O'Connor Street road reserve and construction of the internal public road network ~~consisting of Roads 1 to 7 in the residential subdivision~~, and an internal private road network ~~consisting of Roads SL 1 to SL 7 in the Seniors Living Development~~;
- 3) Creation of a 2,360m² neighbourhood park with children's playground;
- 4) Creation of a 1,450m² bushland exercise park with picnic and barbeque facilities;
- 6) Creation of six stormwater treatment swales;
- 7) A network of pedestrian and cyclist pathways;
- 8) On-site landscaping works; and
- 9) Works to connect to reticulated services, including water, sewerage and telecommunications.

- (d) Schedule 2 Part A – Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers 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			02 March 2010
Landscape Drawings prepared by AECOM Australia Pty Ltd			
Name of Plan			Date
Malbec/Saltwater Development – South West Rocks – Landscaping 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			
Name of Plan	Job No.	Issue	Date
Coast Subdivision Plan	4972_N_SHT 02	E	26.06.2013
Coast APZ Plan	4972	A	26.06.2013
Revised Overall Subdivision Plan	1 of 1	I	12.09.2017
Revised Overall Staging Plan	1 of 1	G	26.09.2017
Overall Masterplan	1 of 5	E	26.09.2017
Staging Plan	2 of 5	D	25.09.2017
Overall Landscape Plan	3 of 4	D	26.09.2017
Landscape Plan for Main Recreational Areas	4 of 4	D	26.09.2017
Clubhouse Floor Plan Sheet 1 of 4	D3469	D	12.12.16
Clubhouse Floor Plan Sheet 2 of 4	D3469	D	12.12.16
Clubhouse Floor Plan Sheet 3 of 4	D3469	D	12.12.16
Clubhouse Floor Plan Sheet 4 of 4	D3469	D	12.12.16
Boundary Adjustment Concept Plan	1 of 1	A	7.2.2017
Amenities Floor Plan 4 of 5	D3469	B	24.11.16
Amenities 3D Plan 5 of 5	D3469	B	24.11.16
Design Drawings prepared by de Groot & Benson			
Drawing No.	Issue	Title	Date
<u>L36-MOD00</u>	<u>DA2</u>	<u>Cover Sheet</u>	<u>08/03/18</u>
<u>L36-MOD01</u>	<u>DA3</u>	<u>Layout Plan Overlain on Existing Approval</u>	<u>08/10/18</u>
<u>L36-MOD02</u>	<u>DA2</u>	<u>General Arrangement & Lot Layout Plan</u>	<u>08/03/18</u>
<u>L36-MOD03</u>	<u>DA2</u>	<u>Bulk Earthworks and Sediment & Erosion Control Plan</u>	<u>08/03/18</u>
<u>L36-MOD04</u>	<u>DA2</u>	<u>Road & Drainage Plan</u>	<u>08/03/18</u>
<u>L36-MOD05</u>	<u>DA2</u>	<u>Water & Sewer Services Plan</u>	<u>08/03/18</u>
<u>L36-MOD06</u>	<u>DA2</u>	<u>Sediment and Erosion Control Details</u>	<u>08/03/18</u>
<u>L36-MOD08</u>	<u>DA2</u>	<u>Traffic Management</u>	<u>08/03/18</u>

- (e) Schedule 2 Part A – Administrative Conditions, Condition A3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A3 Project in Accordance with Documents

The project is to be undertaken generally in accordance with the following documents, **where relevant to each stage**: (1) *Environmental Assessment* prepared by EDAW on behalf of Malbec South West

- Rocks Pty Ltd, dated 21 August 2009; and
- (2) *Preferred Project Report* prepared by AECOM Australia Pty Ltd on behalf of Malbec South West Rocks Pty Ltd, dated 5 August 2010.
- (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.
- (4) Section 75W Application (MP08_0167 MOD 3) including *Statement of Environmental Effects Section 75W Application to Part 3A Approval 08_0167* prepared by Land Dynamics Australia, dated December 2016, as updated by Revision A dated April 2017 and Revision B dated June 2017 and letter from Land Dynamics Australia and supporting documents dated 26 September 2017 Ref:5144.
- (5) Section 75W Application (MP08 0167 MOD 2) including Section 75W Modification on Lot 36 DP 1214499 Belle O'Connor Street, South West Rocks prepared by Keiley Hunter Town Planning, dated September 2016, as updated by letters prepared by Keiley Hunter Town Planning, dated 2 March 2017 and 11 May 2018.**
- (6) Assessment of New Intersection with Road No 10 of Original DA, prepared by deGroot & Benson Pty Ltd, dated 18 August 2018.**

- (f) Schedule 2 Part A – Administrative Conditions, Condition A5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A5 Limits on release of lots pending new road connection

(1) Stages 1 to 4

A Construction Certificate for subdivision works or civil works (excluding bulk earthworks) may only be issued for development associated with the first 48 lots/sites within Stages 1A and 2 1B. Construction Certificates for subdivision works associated with further lots or Stages 2 and beyond **to Stage 4** may be issued once the Burrawong Drive extension is constructed from the roundabout intersection of Burrawong Drive and Belle O'Connor Street to the intersection of Road Nos 2 and 3.

(2) Stages 5 to 6:

Prior to the issue of the first Subdivision Certificate for any lot within Stage 5, the following must be constructed:

- **the new intersection and road connection between Stage 5 and Burrawong Drive**
- **the Burrawong Drive extension from the roundabout intersection of Burrawong Drive and Belle O'Connor Street to the boundary of Stage 5**

Prior to the issue of the first Subdivision Certificate for any lot within Stage 6, the following must be constructed:

- **the Burrawong Drive extension between the boundary of Stage 5 and Stage 6.**

- (3) The Proponent **for Stages 1 to 4** is required to close the existing construction access road to the site where it connects to Belle O'Connor Street immediately upon completion of the Burrawong Drive extension described **in A5(1)** above. Upon closure of the existing construction access road, a cul-de-sac is to be created at its western

end where it connects to Belle O'Connor Street, with all access to and from the site provided via the new Burrawong Drive extension.

- (g) Schedule 2 Part A – Administrative Conditions, Condition A7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

A7 Staging

The development shall be carried out in accordance with the following staging:

- a)** Stages 1A, 1C, 2 and 3 must be carried out **before Stage 4** first, in accordance with the Saltwater Links Residential Subdivision Revised Overall Staging Plan (Revision G) prepared by Land Dynamics Australia and dated 26.09.2017. The order of subsequent stages may be varied, subject to the proponent having received written approval of the Secretary.
- b)** The Senior Living Development (Stage 1B) shall be carried out in accordance with the Saltwater Links Seniors Living Residential Development Staging Plan (Revision D) prepared by Land Dynamics Australia and dated 25.09.2017 and may occur concurrently with the other stages of the overall development.
- c)** **Stages 5 and 6 may be carried out independently of Stages 1 to 4. in accordance with modification 2 (MP 08 0167 MOD 2) and drawing L36-MOD01 Amendment DA3, prepared by deGroot and Benson dated 8 October 2018.**
- (h) Schedule 2 Part B – Prior to Issue of Construction Certificate, Condition B8 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B8 Stormwater and Drainage Works Design

- a) An updated Stormwater Quality report and modelling (using MUSIC, with parameters as adopted in the *Amended Water Cycle Management Plan* prepared by Martens Consulting Engineers dated July 2010 provided with the PPR, and incorporating the modified design approved under MOD 3) shall be prepared by appropriately qualified person/s and be submitted to and approved by the Secretary prior to the release of a Construction Certificate for the works approved under MOD 3.

The updated Stormwater Quality report and modelling shall verify the adequacy of modified stormwater system and demonstrate that it will:

- I. meet the requirements outlined in Condition B6 and
 - II. ensure post-development mean load pollutants (Total Suspended Solids, Total Nitrogen and Total Phosphorus) to the downslope vegetation (from the site and upslope catchments post development), do not exceed pre-development loads.
- b) Final design plans of the modified stormwater drainage systems within the site, shall be prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council and DPI Water, and be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for works approved under MOD 3. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.
- c) **If the works approved under MOD 2 (relating to Stages 5 and 6) are commenced independently of, and before, the remaining stages of the development, an interim on-site stormwater detention and treatment basin must be constructed for each stage.**

The basin must be designed in accordance with Kempsey Shire Council's engineering specifications and achieve all stormwater detention and treatment requirements of those specifications. The basin must be designed so that it will ensure post-development mean load pollutants (Total Suspended Solids,

Total Nitrogen and Total Phosphorus) to the downslope vegetation (from the site and upslope catchments post development), do not exceed pre-development loads.

The basin design must also incorporate provision for a permanent fire trail connection, compliant with the NSW Rural Fire Service publication 'Planning for Bush Fire Protection 2006,' as detailed in the approved plans and associated documentation.

The basin (excluding the fire trail connection) may only be removed once the stormwater detention and treatment system to be developed on the remaining stages of the development is operational and the approved development is connected into it.

The basin must be permanently maintained in a fully functional condition until it is removed as described above.

Details demonstrating compliance shall be provided to the certifying authority and Kempsey Shire Council prior to the issue of a construction certificate.

- (i) Schedule 2 Part B – Prior to Issue of Construction Certificate, Condition B9 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B9 Road Design

Kerb and gutter, stormwater drainage, full road width pavement, and paved footpaths **and the new intersection and access road approved under MOD 2** shall be constructed along the full length of all roads within the site. The roads shall be designed in accordance with the relevant requirements of Kempsey Shire Council's DCP No. 36 and current applicable Australian Standards. Final road design plans shall be submitted and approved by Council prior to the issue of a Construction Certificate for each stage.

- (j) Schedule 2 Part B – Prior to Issue of Construction Certificate, Condition B8 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B12 Water Quality Management and Monitoring

The Development must have a neutral or beneficial effect on water quality beyond the boundaries of the development site, and the proponent must demonstrate this by undertaking a Water Quality Management and Monitoring Program.

The Proponent (**relevant to the Staged Project Approval**) is to prepare an updated Water Quality Management and Monitoring Program. This Program is to be prepared by a suitably qualified person(s) in consultation with DPI Water and Council and is to be submitted to and approved by the Secretary prior to the issue of the first Construction Certificate for works approved under MOD **2** or 3 **whichever comes first**.

The Program is to include, but not be limited to:

- (1) details of a baseline study to establish the pre-development water quality which includes weekly monitoring for four consecutive weeks prior to the commencement of any works, provided that monitoring captures a minimum of 2 significant rainfall events (**of 25 mm or more**) that are representative of the area. The average value of each parameter is to be taken as the benchmark of the pre-development water quality;
- (2) the locations at which ground and surface monitoring will be undertaken;

- (3) the identification of the parameters/ pollutants to be monitored at each location at baseline, construction and completion stages
- (4) the parameters to be modified including, but not limited to pH, temperature, dissolved oxygen, total nitrogen, total phosphorus, non-filterable residues, total organics, turbidity, faecal coliforms, metals associated with discharges from Acid Sulfate soils (including aluminium, copper and iron) and any pollutants that may occur during construction and completion stages (such as fuels);
- (5) details of the procedures and protocols for the sampling and analysis methodology to be undertaken;
- (6) a program for the periodic monitoring of the parameters/ pollutants as a minimum:
 - quarterly during construction stage provided that, during each monitoring period, a minimum of 3 significant rainfall events **(of 25 mm or more)** that are representative of the area are captured; and
 - six monthly throughout the life of the project provided that, during each monitoring period, a minimum of 2 significant rainfall events that are representative of the area are captured.
- (7) details of water quality limits that would indicate the project is having a detrimental effect on the water quality and a contingency plan in the event that the water quality is diminished.
- (8) integration with the updated Acid Sulphate Soils Management Plan required under Condition B1 (b).

The results of the water quality monitoring must be reported to the Department and Council:

- upon completion of the initial baseline monitoring and prior to the commencement of works; and
- within 1 month following sampling during the construction and completion phases.

If at any time during the construction or completion phases of the development the Water Quality Monitoring Program indicates a deterioration in water quality from the baseline, the proponent must immediately cease work and implement such measures as are necessary to achieve the baseline water quality.

The proposed measures are to be submitted to the Department for approval, in consultation with Council.

No further Construction Certificate is to be issued until those measures have been implemented and demonstrate that the baseline water quality is being achieved.

- (k) Schedule 2 Part B – Prior to Issue of Construction Certificate, Condition B14 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B14 Management of Conservation Zone

~~The Proponent is to prepare a comprehensive Vegetation Management Plan (VMP) for all land within the site zoned 7(a)(Wetlands Protection Zone) and 7(b)(Environmental Protection (Habitat) Zone), in consultation with Council and OEH. The Plan is to be prepared having regard to Appendix G of the *Ecological Issues & Assessment Report* prepared by Whelans InSites Pty Ltd (dated March 2009) and should include provision for the staged dedication and rehabilitation of conservation land. The VMP is to be submitted to and approved by Council prior to the issue of a Construction Certificate for any stage.~~

- a. **The Proponent for Stages 1 to 4 of the development is to prepare a comprehensive Vegetation Management Plan (VMP) for all land within the site zoned 7(a)(Wetlands Protection Zone) and 7(b)(Environmental Protection (Habitat) Zone), in consultation with Council and OEH. The Plan is to be prepared having regard to Appendix G of the**

Ecological Issues & Assessment Report prepared by Whelans InSites Pty Ltd (dated March 2009) and should include provision for the staged dedication and rehabilitation of the identified 11.2 ha of conservation land. The VMP is to be submitted to and approved by Council prior to the issue of a Construction Certificate for civil works in Stage 1 to 4.

- b. **The Proponent for Stages 5 and 6 of the development is to prepare a comprehensive Vegetation Management Plan (VMP) for all land within the site zoned 7(a)(Wetlands Protection Zone) and 7(b)(Environmental Protection (Habitat) Zone) within Lot 35 DP 121449 in consultation with Council and OEH. The VMP should include provision for the staged dedication and rehabilitation of the identified 3.7 ha of conservation land. The VMP is to be submitted to and approved by Council prior to the issue of a Construction Certificate for civil works in Stages 5 and 6.**

- (l) Schedule 2 Part B – Prior to Issue of Construction Certificate, Condition B15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

B15 Artificial Wetlands

Prior to the issue of a **the relevant** Construction Certificate for ~~Stages 1 and 6~~, the Proponent is to provide details and specifications to the satisfaction of the Certifying Authority detailing how the artificial wetlands **and any temporary water detention basins** are to be lined in order to avoid groundwater interception and potential contamination of the groundwater. All wetland areas are to be constructed in accordance with OEH's Constructed Wetlands Manual.

- (m) Schedule 2 Part B – Prior to Issue of Construction Certificate, is amended by the insertion of new Condition B28 as follows:

B28 Fire Trail Location

Prior to the issue of a construction certificate for works within Stages 4, 5 or 6, amended plans applicable to each relevant stage must be submitted to an approved by the Certifying Authority demonstrating the proposed fire trail (along the northern boundary of Stages 4, 5 and 6) is wholly contained within the Asset Protection Zone within Stages 4, 5 and 6, on the R1 General Residential zoned land. No works are approved within the E2 Environmental Conservation zoned land.

- (n) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

E5 Registration of Easements / Restriction to use / Right of carriageway

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
 - c. A Restriction as to User burdening all future lots: a minimum finished floor level of 4.1m AHD is to be achieved for all future habitable structures.
 - 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 residential Lots and Stages:

- the two lots immediately south of the 1,450 m² Bushland exercise park (Stage 2);
- the six northern lots (Stage 4);
- the four northern lots (Stage 5); and
- ~~the five northern lots (Stage 6).~~

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 the two northern residential Lots within Stage 3

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.

- e. A Restriction as to User allowing for the creation of an 8 metre wide Asset Protection Zone, measured from the eastern boundary of Lot 36 DP 1214499 shall burden Lots 1, 6, 7, 12, 13, 24 & 25 (Stages 5 and 6).**

The 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.

This condition is to be extinguished in the event the land to the east of Lot 36 DP 1214499 (Stage 4) is developed for residential purposes and becomes managed land.

- f. Access driveways for Lots 1, 2 and 3 within Stages 5 and 6 must be constructed as civil work for the development in the following locations:**

- **Lot 1 Stage 6 – south western corner of the lot with access to Burrawong Road.**
- **Lot 2 Stage 6- south eastern corner of the lot with access to Burrawong Road**
- **Lot 3 Stage 5- north western corner of the lot with access to Road 1**

Access driveways for Lots 1 and 2 in Stage 6 are to be combined.

- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council

- (o) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E8 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

E8 Registration of Easements / Restriction to use / Right of carriageway

The Proponent must make necessary arrangements for the dedication of the conservation zone, as shown on the plan prepared by AECOM Australia Pty Ltd, titled *Malbec/Saltwater Development – South West Rocks – Subdivision Plan* (dated 27 September 2010)-**as follows:**

- a) **The proponent for Stages 5 and 6 must make necessary arrangements for the rehabilitation and dedication to Council of the 3.7 ha conservation zone (part of Lot 35 DP1214499), as per the Section 75W Application (MP08 0167 MOD 2) including Section 75W Modification on Lot 36 DP 1214499 Belle O' Connor Street, South West Rocks prepared by Keiley Hunter Town Planning, dated September 2016, as updated by letters prepared by Keiley Hunter Town Planning, dated 2 March 2017 and 11 May 2018 prior to release of any Subdivision Certificate for Stages 5 or 6.**
 - b) **The Proponent for Stages 1 to 4 must make necessary arrangements for the rehabilitation and dedication to Council of the remaining conservation zone land (11.2ha) prior to the release of any Subdivision Certificate for Stages 1 to 4.**
- (p) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E10 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the words/numbers as follows:

E10 Section 94 Monetary Contribution

Prior to the issue of a Subdivision Certificate for each stage of the project, or as otherwise agreed to in writing by Council, the Proponent must pay the following contributions to Council pursuant to Section 94 and Section 64 of the *Environmental Planning and Assessment Act* (1979):

1) Amount of Contribution

Section 94 Contributions

Name of Contribution Plan	For each residential lot	x 147 165 Lots	For each seniors site	x 199 Sites
Community Services - Library	\$889.50	\$146,767.50	\$630.06	\$125,381.94
Community Services - MPB	\$1,090.43	\$179,920.95	\$772.39	\$153,705.61
Open Space Acquisitions	\$1,063.47	\$175,472.55	\$753.29	\$149,904.71
Open Space Increased Capacity	\$3,430.56	\$566,042.40	\$2,429.98	\$483,566.02
Bushland	\$75.96	\$12,533.40	\$53.81	\$10,708.19
Traffic and Transport Management	\$3,229.63	\$532,888.95	\$2,287.65	\$455,242.35
Public Domain Improvements	\$458.22	\$75,606.30	\$324.58	\$64,591.42
Stormwater Management	\$3,102.21	\$511,864.65	\$2,197.40	\$437,282.60
Support Services - Bushfire	\$85.76	\$14,150.40	\$60.75	\$12,089.25

Support Services - Surf Lifesaving	\$105.37	\$17,386.05	\$74.64	\$14,853.36
Plan Studies	\$181.33	\$29,919.45	\$128.44	\$25,559.56
Kempsey Public Domain	\$1,124.73	\$185,580.45	\$796.69	\$158,541.31
Total	\$14,837.17	\$2,448,133.05	\$10,509.68	\$2,091,426.32
Section 94 Contribution Plan - Project Administration (+6%)	\$890.23	\$146,887.95	\$630.58	\$125,485.38
Grand Total	\$15,727.40	\$2,595,021.00	\$11,140.26	\$2,216,911.70
Total s94 Contributions =		\$4,811,932.70		

These calculations are valid until 30 June 2019 after which they may be adjusted in line with CPI.

2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council. Evidence of the payment to Council, shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate for each stage of the project, **or as otherwise agreed to in writing by Council.**

The contributions are current at the date of this approval. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The contribution rates for specific dates are available from Council.

3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Kempsey Shire Council Chambers – 22 Tozer Street, West Kempsey.

4) Certificate of Compliance

- Prior to the issue of any Subdivision Certificate, or as otherwise agreed to in writing by Council, the Proponent must obtain a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* and provide it to the Principal Certifying Authority.
- A Certificate of Compliance shall be issued by Council when all contributions are paid in full and all infrastructure necessary to service the development has been completed in full to the satisfaction of Council
- Contributions set out in the following table are to be paid to Council prior to the issue of any Certificate of Compliance. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water DSP for Water dated July 2006.
- The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.
- Section 64 Contributions

	WATER (per lot)	x 147-165 Lots	SEWER (Per lot)	x 147-165 Lots
Each Residential Lot	\$10,005.80	\$1,650,957.00	\$8440.61	\$1,392,700.65
	WATER (per site)	x 199 Sites	SEWER (per site)	x 199 Sites
Each Seniors Site	\$6,003.48	\$1,194,692.52	\$6,330.46	\$1,259,761.54
	WATER (per ET)	x 10.53ET	SEWER (per ET)	x 14.39ET
Clubhouse	\$10,005.80	\$105,361.07	\$8,440.61	\$121,460.38
Total s64 Charges =		\$5,724,933.16		

These calculations are valid until 30 June 2019 after which they may be adjusted in line with CPI.

- (q) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, is amended by the insertion of a new condition E14 as follows:

E14 Fire Trail Dedication

Prior to any subdivision certificates being released for Stages 4, 5 and 6, the fire trail running along the northern boundary of those stages shall be constructed in accordance with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006' and dedicated to Council.

**End of Modification
(MP 08_0167 MOD 2)**