

26 July 2019

Our Ref: NEW 17/107

The Secretary
Department of Planning, Industry and Environment
PO Box 39
Sydney NSW 2001

Attention: Emma Butcher

Dear Sir

**Development Application No. DA09/0701.03 Amendment to Development Consent DA 09/0701
for a 251 Lot Residential Subdivision (Department of Planning Application MP 09 0166, Mod 3)
at Fraser Drive and Parkes Lane, Terranora**

We refer to Tweed Shire Council submission dated 19 June 2019 and advise as follows:

Condition A2

We agree that there are 15 stages. We also agree that Stage 4B comprises 26 residential lots (428 – 453).

We do not agree that Stage 8B comprises 4 residential lots. Lots 815 to 818 and Lot 820 result in a total of 5 residential lots (plus 1 public reserve Lot 819).

Having regard to the above, the Department is requested to amend Condition A2 as follows:

Requested Amended Condition A2

Proposed Amended Condition A2 - Staging

The project is to be constructed in **fifteen (15) stages**, generally in accordance with the 'Plan Showing Existing topography and Proposed Subdivision Layout' dated **13 March 2019**, prepared by B & P Surveys Revision **O** (Drawing No 18779B), incorporating the lots as follows:

- 1) Stage 1 comprises 43 residential lots 101 -146 inclusive, dedication of land for a Sewage Pump Station to Council, and a drainage reserve and residue Lot 144 and construction of roads and infrastructure;
- 2) Stage 2 comprises 28 residential lots 201 - 228 inclusive, incorporating roads and infrastructure;
- 3) Stage 3 comprises 24 residential lots 301 – 324 inclusive, incorporating roads and infrastructure;
- 4) Stage 4A comprises 27 residential lots 401 – 427 inclusive, incorporating

roads and infrastructure;

- Stage 4B comprises 26 residential lots 428 – 453 inclusive, public reserve on Lot 454 and incorporating roads and infrastructure;
- 5) Stage 5 comprises 21 residential lots 501 – 521 inclusive, incorporating roads and infrastructure;
- 6) Stage 6A comprises 9 residential lots 601 – 609 inclusive, incorporating roads and infrastructure;
Stage 6B comprises a drainage reserve on Lot 610 and incorporating roads and infrastructure;
- 7) Stage 7A comprises 10 residential lots 701 – 710 inclusive, 1 medium density residential lot 701, incorporating roads and infrastructure;
Stage 7B comprises 2 medium density residential lots 711 and 712, public reserve on **Lot 713** and incorporating roads and infrastructure;
- 8) Stage 8A comprises 14 residential lots 801 – 814 and incorporating roads and infrastructure;
Stage 8B comprises 5 residential lots 815 – 820 inclusive of public reserve on Lot 819 and incorporating roads and infrastructure;
- 9) Stage 9 comprises 18 residential lots 901 – 918 inclusive, and incorporating roads and infrastructure; and
- 10) Stage 10 comprises 9 residential lots 1001 – 1009 inclusive, 2 medium density residential lots 1008 and 1009 and incorporating roads and infrastructure;
- 11) Stage 11 comprises 20 residential lots 1101 – 1120 inclusive and incorporating roads and infrastructure.

Subject to any conditions of approval, staging of allotment and/or road construction may vary in sequence and timing. Essential infrastructure associated with and including, but not limited to, roads, roundabouts, bus routes, footpaths, parks, services, landscaping and environmental management, shall be constructed as specified in the staging listed above or as otherwise provided in these conditions and the proponent's Statement of Commitments.

Any revised staging plan that varies the stage boundaries or components listed in (1) – (11) inclusive, shall be submitted for the approval of the Secretary, prior to the issuing of a Construction Certificate for subdivision works."

Condition A3

We **attach** the relevant drawings and transmittal schedule as requested by Tweed Shire Council.

Based on these drawings, the Department is requested to amend Condition A3 as follows:

Condition A3 – Project in Accordance with Plans

Proposed Amended Condition A3 – Project in Accordance with Plans

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

- a) Environmental Assessment prepared by Darryl Anderson Consulting Pty Ltd dated December 2010;
- b) Preferred Project Report prepared by Darryl Anderson Consulting Pty Ltd dated April 2013;
- c) Addendum to the PPR prepared by Darryl Anderson Consulting Pty Ltd dated October 2013;

- d) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, “Altitude Aspire” Fraser Drive, Terranora, prepared by Darryl Anderson Consulting Pty Ltd and dated February 2015 (MOD 1); and
- e) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, “Altitude Aspire” Fraser Drive, Terranora, prepared by Darryl Anderson Consulting Pty Ltd and dated September 2015 (MOD 2).
- f) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, “Altitude Aspire” Fraser Drive, Terranora, prepared by DAC Planning Pty Ltd and dated February 2018 (MOD 3).**
- g) Response to Submissions Report MP09_0166 MOD3 prepared by DAC Planning Pty Ltd and dated July 2018.**

and the following drawings, except where varied by the conditions of this approval:

Subdivision Layout Plans prepared by B & P Surveys, Reference No T15263			
Drawing No.	Revision	Name of Plan	Date
18779B	O	Plan Showing Existing Property Descriptions and Tweed Local Environmental Plan 2000 & 2014 - Zonings (Sheet 1)	13 March 2019
18779B	O	Plan Showing Existing Topography & Proposed Subdivision Layout (Sheet 2)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 3)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 4)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 5)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 6)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 7)	13 March 2019
18779B	O	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 8)	13 March 2019
18779B	I	Locality/Context Plan	10 July 2013

Engineering Drawings prepared by Bradlees Civil Consulting/Meinhardt Urban Pty Ltd, Project No 09-374			
Drawing No.	Revision	Name of Plan	Date
SK3628	E	Road Hierarchy Plan	3 July 2013
SK3586 – SK3590 (inclusive)	B	Road Plans – road longitudinal, long and cross sections	7 January 2013
SK3659 – SK3608	B	Road Plans – road longitudinal, long and cross sections	7 January 2013
SK3612 – SK 3616	B	Road Plans – road longitudinal, long and cross sections	7 January 2013
SK3963, SK3965, SK3966, SK3967	A	Road Plans – road longitudinal, long and cross sections	7 January 2013
SK3562	E	Ultimate Earthworks Phasing Plan	4 July 2013
SK2604	F	Cut/Fill Plan (Sheet 1)	4 July 2013
SK2605	F	Cut/Fill Plan (Sheet 2)	4 July 2013
SK3507	D	Earthworks Layout (Sheet 1)	15 May 2013

Engineering Drawings prepared by Bradlees Civil Consulting/Meinhardt Urban Pty Ltd, Project No 09-374			
Drawing No.	Revision	Name of Plan	Date
SK3508	D	Earthworks Layout (Sheet 2)	15 May 2013
SK3527	D	Earthworks Layout (Sheet 3)	9 April 2013
SK3528	D	Earthworks Layout (Sheet 4)	9 April 2013
SK3529	C	Earthworks Layout (Sheet 5)	27 Feb 2013
SK3635	D	Earthworks Sections Layout	16 May 2013
SK3636	B	Earthworks Cross Sections (Sheet 1)	7 January 2013
SK3637	B	Earthworks Cross Sections (Sheet 2)	7 January 2013
SK3638	C	Earthworks Cross Sections (Sheet 3)	21 May 2013
SK3639	C	Earthworks Cross Sections (Sheet 4)	16 May 2013
SK3640	C	Earthworks Cross Sections (Sheet 5)	9 April 2013
SK3641	C	Earthworks Cross Sections (Sheet 6)	9 April 2013
SK3642	C	Earthworks Cross Sections (Sheet 7)	9 April 2013
SK3643	C	Earthworks Cross Sections (Sheet 8)	9 April 2013
SK4032	A	Existing Boundary Tie In	15 March 2013
SK3626	C	Water Quality Treatment Areas	25 Feb 2013
SK3618	D	Central Open Drain Swale Plan	9 April 2013
SK4038	B	Central Open Drain Swale Bund	17 April 2013
SK3619	B	Central Open Drain Swale Long Section	25 Feb 2013
SK3620	C	Central Open Drain Swale Cross Sections (Sheet 1)	25 Feb 2013
SK3621	C	Central Open Drain Swale Cross Sections (Sheet 2)	25 Feb 2013
SK3622	C	Central Open Drain Swale Cross Sections (Sheet 3)	25 Feb 2013
SK3623	C	Central Open Drain Swale Cross Sections (Sheet 4)	25 Feb 2013
SK3624	C	Central Open Drain Swale Cross Sections (Sheet 5)	25 Feb 2013
SK3625	C	Central Open Drain Swale Cross Sections (Sheet 6)	25 Feb 2013
SK6596	D	Proposed Staging Updates	26 March 2019
SK6622	C	Areas of Proposed Changes for Consent Modification 3	26 March 2019
SK4554	F	Road Names Plan	6 July 2018
SK6460	B	Extent of Mawsons Peak Blvd - Townsend Crescent Roundabout Works	6 July 2018
SK3618/1	H	Central Open Drain Swale Plan – Sheet 1 of 3	26 March 2019
SK3618/2	H	Central Open Drain Swale Plan – Sheet 1 of 3	26 March 2019
SK3618/3	H	Central Open Drain Swale Plan – Sheet 1 of 3	26 March 2019
SK3619	E	Central Open Drain Swale Long Section	26 March 2019
SK3620	F	Central Open Drain Swale Cross Sections Sheet 1 of 6	26 March 2019
SK3621	F	Central Open Drain Swale Cross Sections Sheet 2 of 6	26 March 2019
SK3622	F	Central Open Drain Swale Cross Sections Sheet 3 of 6	26 March 2019
SK3623	F	Central Open Drain Swale Cross Sections Sheet 4 of 6	26 March 2019

Engineering Drawings prepared by Bradlees Civil Consulting/Meinhardt Urban Pty Ltd, Project No 09-374			
Drawing No.	Revision	Name of Plan	Date
SK3624	F	Central Open Drain Swale Cross Sections Sheet 5 of 6	26 March 2019
SK3625	F	Central Open Drain Swale Cross Sections Sheet 6 of 6	26 March 2019
SK3626	F	Water Quality Treatment Areas	26 March 2019
SK3487	F	Box Culvert Sections	6 February 2019
SK4038	E	Central Open Drain Swale Bund	26 March 2019
SK6524	D	West Boundary Earthworks Extent	23 January 2019
SK6525	C	West Boundary Roads Cross Sections Extent Sheet 1 of 4	6 July 2018
SK6526	C	West Boundary Roads Cross Sections Extent Sheet 2 of 4	6 July 2018
SK6527	B	West Boundary Roads Cross Sections Extent Sheet 3 of 4	6 July 2018
SK6528	C	West Boundary Roads Cross Sections Extent Sheet 4 of 4	26 March 2019
SK3617	H	Retaining Wall Layout	26 March 2019
SK3591	C	Road 2 (Market Parade) Cross Sections Sheet 1 of 5	24 July 2018
SK3592	C	Road 2 (Market Parade) Cross Sections Sheet 2 of 5	24 July 2018
SK3593	C	Road 2 (Market Parade) Cross Sections Sheet 3 of 5	24 July 2018
SK3594	C	Road 2 (Market Parade) Cross Sections Sheet 4 of 5	24 July 2018
SK3609	C	Road 10 (Mawsons Peak Blvd & Parkes Lane) Longitudinal Section	24 July 2018
SK3610	C	Road 10 (Mawsons Peak Blvd) Cross Sections Sheet 1 of 2	24 July 2018
SK3611	C	Road 10 (Mawsons Peak Blvd & Parkes Lane) Cross Sections - Sheet 2 of 2	24 July 2018
SK3631	C	Stormwater Layout (Sheet 1)	16 May 2013
SK3632	D	Stormwater Layout (Sheet 2)	16 May 2013
SK3487	C	Box Culvert Sections	9 April 2013
SK3633	B	Water Layout (Sheet 1)	7 January 2013
SK3634	C	Water Layout (Sheet 2)	9 April 2013
SK3629	C	Sewer Layout (Sheet 1)	16 May 2013
SK3630	D	Sewer Layout (Sheet 2)	16 May 2013
SK3647	C	Stages 1,2 and 3 Services (Sheet 1)	16 May 2013
SK3648	D	Stages 1,2 and 3 Services (Sheet 2)	16 May 2013
SK6978	A	Lot 610 Sewer Reticulation Plan and Trunk Sewer Long Section	26 March 2019

Landscape Drawings prepared by Form Landscape Architects, Project No 100906, DA09 dated 12 August 2013 11 February 2015			
Drawing No.	Revision	Name of Plan	Date
Not Applicable	-	Cover Sheet	1 May 2019
Not Applicable	-	Introduction	1 May 2019
Figure 1	-	Landscape Master Plan	11 February 2015 1 May 2019
Figure 2	-	Landscape Structure	11 February 2015 1 May 2019
Figure 3	-	Circulation Network	11 February 2015 1 May 2019
Figure 4	-	Casual Open Space Compliance Areas	1 May 2019
-	-	Fence Types and Balustrades	11 February 2015 1 May 2019
-	-	Fence Types	1 May 2019
-	-	Community Park Node	11 February 2015 1 May 2019
-	-	Landscape Sections 1 – 3 (2 sheets) and 12 – 15 inclusive	11 February 2015 1 May 2019
-	-	Community Park Node	11 February 2015 1 May 2019
-	-	Drainage Corridor and Wetlands Central Drainage Reserve	11 February 2015 1 May 2019
-	-	Landscape Sections 4 – 10 (4 sheets)	1 May 2019
-	-	Pocket Park 1	11 February 2015 1 May 2019
-	-	Pocket Park 2	11 February 2015 1 May 2019
-	-	Fraser Drive Entry	11 February 2015 1 May 2019
-	-	Sections 11 – 12 (2 sheets)	1 May 2019
-	-	Planting Palette (2 sheets)	11 February 2015 1 May 2019

Condition A4

Revised Management Vegetation Management and Rehabilitation Plan, Revised Ecological Assessment and Macadamia Tetraphylla Translocation Plan

Having regard to the comments from the Office of Environment and Heritage, Newland will not be pursuing the proposed offsetting arrangements for the Macadamia Tetraphylla. Rather, it is proposed to revert to the original proposal involving translocation of these plants.

Accordingly, we attach the amended Macadamia Tetraphylla Relocation Plan, JWA, Issue 6 (amended July 2019), a revised Ecological Assessment, Burchills, July 2019.

Having regard to the issues raised by Council, the Department is requested to amend Condition A4 as follows:

Proposed Amended Condition A4

The project will be undertaken in accordance with the following documents except where varied by the conditions of this approval:

- (1) Environmental Assessment Report dated September 2010, as revised December 2010 prepared by Darryl Anderson Consulting Pty Ltd;
- (2) Preferred Project Report/Response to Submissions prepared by Darryl Anderson Consulting Pty Ltd dated April 2013 and PPR Addendum dated August 2013 and October 2013;
- (3) Cultural Heritage Assessment prepared by Everick Heritage Consultant Pty Ltd dated March 2012;
- (4) Acoustic Report prepared by Sound matters ttm, Reference No 11GCA0048 R01 7 dated 8 April 2013;
- (5) Stormwater Assessment and Management Plan prepared by Gilbert & Sutherland dated April 2013;
- (6) Revised Ecological Assessment prepared by JWA Pty Ltd Ecological Consultants dated April 2013, Job No N09031/EA/2013/Rw7 and Addendum to the Ecological Assessment prepared by JWA Pty Ltd dated August 2013;
- (7) Revised Vegetation Management and Rehabilitation Plan prepared by JWA Pty Ltd Ecological Consultants dated April 2013, Job No N09031/VMRP/2013/MJ1;
- (8) Preferred Project Report (Revised) for MP 09_0166 for Altitude Aspire Terranora (Engineering) prepared by Bradlees Civil Consulting dated March 2013 (Job No 09-374 Altitude Aspire and Response to DOP Outstanding Issues in Addendum to PPR.
- (9) Amended Biting Insect Management Plan prepared by HMC Environmental Consulting Pty Ltd dated April 2012, Report No 2012.045;
- (10) Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012 **and the Bush Fire Hazard Assessment prepared by Bushfire Certifiers dated 26 June 2018 (amended Rev F,19 July 2019);**
- (11) Altitude Aspire Revised Transport Assessment prepared by Bitzios Consulting dated 8 April 2013, Version 002 Project No P1197;
- (12) Acid Sulphate Soil Assessment and Management Plan prepared by Gilbert & Sutherland dated April 2012, Ref No 10849_ASS&MP;
- (13) Hydrological and Hydraulic Assessment prepared by Gilbert & Sutherland dated April 2013 (Revision 2), Ref No 10849 HHA;
- (14) Soil Contamination Assessment for 'Area E' Properties Terranora dated October 2003, prepared by Gilbert & Sutherland Pty Ltd;
- (15) Sampling, Analysis and Quality Plan prepared by Gilbert & Sutherland dated October 2013 (Revision 3), Ref No 10849_SQAP_RZ1F.docx;
- (16) Remediation Action Plan, prepared by Gilbert & Sutherland dated October 2013 (Revision 3), Ref No 10849_RAP_RZ1F.docx;
- (17) Section B Site Audit Statement prepared by Marc Salmon dated 15 October 2013, Ref 14003 (Site Audit Statement – 0103 – 1301);
- (18) Interim Site Audit Advice prepared by Marc Salmon dated 9 August 2013;
- (19) Soil Preservation Management Plan prepared by Gilbert & Sutherland Pty Ltd dated April 2013 (Ref 10849_SPMP_RMF);
- (20) Broad Geotechnical Engineering Assessment prepared by Morrison Geotechnic Pty Ltd dated November 2010; and
- ~~(21) Draft Community Management Statement dated July 2013.~~
- (21) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, "Altitude Aspire" Fraser Drive, Terranora, prepared by Darryl Anderson Consulting Pty Ltd and dated February 2015. (MOD1)
- (22) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, "Altitude Aspire" Fraser Drive, Terranora, prepared by DAC Planning Pty Ltd and dated September 2015. (MOD2)
- (22)(1) Modification Report – Major Project Approval No. 09_0166 Proposed Residential Subdivision, "Altitude Aspire" Fraser Drive, Terranora, prepared by DAC Planning Pty Ltd and dated February 2018. (MOD3)**
- (22)(2) Response to Submissions Report, DAC Planning Pty Ltd, July 2018. Excluding the Macadamia Tetraphylla Translocation Plan, JWA Pty Ltd, November 2018.**

(MOD3)

(22)(3) Response to Tweed Shire Council RFI Letter dated 27 September 2018, DAC Planning Pty Ltd, 2 May 2019. (MOD3)

(22)(4) Response to Tweed Shire Council Letter dated 19 June 2019, DAC Planning Pty Ltd, 26 July 2019 (Mod 3) including:

- i. Letter from JWA Pty Ltd to Newland Developers Pty Ltd regarding Tweed Shire Council and OEH submission;
- ii. Revised Macadamia Tetraphylla Translocation Plan, JWA dated, July 2019;
- iii. Revised Ecological Assessment, Burchills, July 2019;
- iv. Amended Biodiversity Development Assessment Report, (BDAR), JWA Pty Ltd, Ecological Consultants, 24 July 2019.

Condition A10

The Department is requested to amend Condition A10 as follows:

Condition A10 - Limits of Approval: due to the accepted inclusion of SK3617, this Condition also requires amendment as follows:

This approval does not approve the construction of any dwellings, medium density developments. Separate approvals must be obtained, if required by the EP&A Act.

This approval also does not approve the construction of the proposed retaining walls proposed to create terraced lots in the eastern portion of the site bounded by Proposed Road No 8 to the north, Road 5 to the east, Road 1 and a small section of Road 2 in the south and Road 8 to the west, including any inter-allotment retaining walls to create terraced lots, as outlined on SK3617 'Retaining Wall Layout Plan' Revision H prepared by Bradlees Civil Consulting dated 26 May 2019.

Condition B8

Having regard to Council's comments, the Department is requested to amend Condition B8 as follows:

It is considered that both matters can be addressed by imposing appropriate conditions in Part B of the Approval (Prior to the Issue of a Construction Certificate), in the following terms:
Insert a new Condition B8(a) as follows:

- a. Updated Sewer Layout Plan shall be submitted and approved by Tweed Shire Council where sewerage infrastructure is proposed to be relocated as a result of retaining walls.

Insert a new Condition B8(b) as follows:

- b. Where the proposed stormwater drainage infrastructure is proposed in the same location as the future sewer trunk main to the west of the sewer pump station, detailed plans shall be submitted and approved by Tweed Shire Council demonstrating that it shall not impact the sewerage infrastructure. Stormwater drainage infrastructure such as bunds and filtration systems shall not be constructed within the 5m sewer trunk easement.

Also, as requested by Council (Page 4 of Council's letter) the Department is requested to include in the condition, the following sub clauses:

- c. Where retaining walls are proposed on boundaries parallel to proposed sewerage infrastructure, sewer easements shall be a minimum of 4.0 meters wide, or larger if other services are also proposed within the easement.
- d. The proposed water and sewer infrastructure on the Civil Works Plans submitted are considered to be preliminary and are subject to change to meet Council requirements.
- e. Prior to Construction Certificate plans shall be provided to the Water Authority to demonstrate that the retaining wall structures meet the Tweed Shire Council Development Design Specification D15 – Work in Proximity. Plans shall show that the existing footings are located a minimum of one metre from the proposed sewer infrastructure.
- f. Works in the vicinity of public infrastructure must comply with the following requirements;
 - i. No portion of any structure may be erected within any easement or within one metre where no easement exists for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
 - ii. Retaining walls are only permitted over the public sewer at the site boundaries. The structure must be designed to provide structural bridging over the pipe, as specified by Council, so as not to impose load on the pipe and to facilitate maintenance of the pipe without adverse effects on the wall's structural integrity and stability.
 - iii. Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
 - iv. Trees and other landscaping that will grow to over one metre in height at maturity are not permitted to be planted within the sewer easement or within one metre of the sewer if no easement exists, to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping over the sewer shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

Furthermore, because of the way construction staging has progressed, it is requested that another condition is added to ensure there is access to the Sewer Pump Station lot. This can also be incorporated within Condition B8:

- g. To ensure adequate access to the SPS lot, construction of any stormwater infrastructure adjacent to the SPS in Lot 610 shall not commence until the completion of the SPS Control Building works.

Condition B18

Having regard to Council's comments, the Department is requested to amend Condition B18 as follows:

"Subject to other conditions of this approval, all retaining walls and batters shall be designed in accordance with Tweed Shire Council's Development Design Specification D6 - Site

Regrading. Permissible retaining wall and batter heights are specified in Table D6.1. Boundary retaining walls and batters shall be constructed with a minimum boundary setback of 0.9m in accordance with clause D6.05.6(c) of Development Design Specification D6 - Site Regrading. The only locations where a setback variation is permitted are Lot 701 and the road frontage boundaries of Lots 812, 918 and 1001."

Condition B46

Having regard to Council's comments, the Department is requested to amend Condition B46 as follows:

Condition B46 – Detailed Landscaping Plan

It is agreed that Condition B46 should be amended to refer to the current lot numbers. Proposed amended Condition B46 is as follows:

- 1) A detailed landscape plan prepared by a qualified landscape architect must be submitted for all Public Reserves and roads to be dedicated to Council, including but not limited to areas of casual open space, structured open space, cycleways, pedestrian walkways and streetscapes.
- 2) Such a plan must be approved by the Manager, Recreation Services, Tweed Shire Council prior to the issue of the Construction Certificate for each relevant stage and include embellishments such as listed in Council's Subdivision Manual (Section A5 of the Tweed Development Control Plan) and Development Design Specification (D14) and related Standard Drawings and include grassing, landscaping, seating, park activation areas, playground equipment and shade cover. The plans must provide slope information, indicate all underground services and indicate any implications or constraints at or beyond the boundary that will affect ongoing management of the public land.
- 3) The plans must also specifically address the following issues/requirements:
 - a) An 'informal youth recreation space' as defined by the Tweed Youth Strategy and Action Plan, to be incorporated into the Neighbourhood Park design for Lot 713, in consultation with Council's Recreation Services Unit.;
 - b) The public open space area on **Lot 454** is to be linked through design with the adjoining public land, and must address the vision and objectives of the Area E Urban Release Development Code: Section 2.7 Design Principle 5: Open Space;
 - c) The final landscape design for Lot 610 (**proposed drainage reserve**) must consider the following to the satisfaction of the Council:-
 - Design and construction of the embellishments are to minimise maintenance costs (construction materials should include recycled plastic wherever possible, and any timber that is unavoidable is to be painted rather than stained).
 - Safety and security of the turf area and shelter shed (being remote from the street) is to be maximised through the landscape design; and
 - d) The final landscape plan for the public open space area at Lot 819 is to ensure that all turf areas that require mowing do not exceed a slope of 1:5 or 20%. The plan will also contain cross sections of the park that show the view lines over the surrounding houses.
 - e) The final landscape plan must identify the location of all water supply and sewerage discharge points within each public open space reserve.
 - f) The final landscape plan must ensure that there are no signage walls or

- stone walls within the Fraser Drive road reserve.
- g) Proposed landscaping in the drainage reserve/park area such as retaining, rock walls and large tree planting shall not be located over water or sewer easements.

Condition E13

Having regard to Councils comments, the Department is requested to amend Condition E13 by deleting the second sentence of E13(n) and inserting a new (o) stating as follows:

Condition E13 – Creation of Easements

As requested by Council, we have revised Condition E13 and identified changes required as a result of changes to plans, lot numbers and staging. Condition E13 is proposed to be amended to address these issues.

In relation to Condition E13(e), it is acknowledged that Lot 811 has been replaced by Lot 1106 and that lot does not have a 9m kerb frontage. It is therefore proposed to retain and amend this condition to refer to Lot 1106.

In relation to Conditions E13(f) and (g), it is proposed to amend these conditions to call up the Amended Landscape Master Plan.

As indicated in the Response to Submissions Report, amendment of Condition E13(j) and (k) is not required as the conditions have been complied with when the Plan of Subdivision for Stage 1 was registered (DP1233026).

Council has also recommended an extra item be included in Condition E13 relating to the nominated boundary setback for Lot 701. Subsequently, following further discussions, Council Officers agreed to extend the depth of Lot 701 from 28.235m to 29.235m to achieve the required asset protection zone. Therefore there is no need to amend Condition E13 in relation to Lot 701.

Proposed amended Condition E13 is in the following terms:

Proposed Amended Condition E13 - Creation of Easements

The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be 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) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 " Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- c) Extinguishment of superfluous Right of Carriageways that were previously created to provide temporary turning areas for refuse vehicles and the general public, but are now no longer required.
- d) A Restriction As To User requiring the provision of a minimum capacity 5kL rainwater tank for all single dwelling allotments, in accordance with the requirements of Council.
- e) A Restriction As To User over **Lot 1106** requiring the provision and construction of a designated off-street parking space, in conjunction with

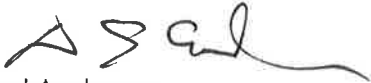
- the construction of any dwelling on the site.
- f) A Restriction as to user requiring a timber screen fence with wire mesh unit to provide 'green walls' along the rear of lots adjoining Fraser Drive with planting in Council's road reserve as provided in the Landscape Masterplan prepared by Form Landscape Architects dated **1 May 2019**.
 - g) A Restriction as to user requiring fencing along the rear of medium density lot 701 adjoining public open space and drainage reserve areas to be a an aluminium and timber (open form) fence with screen planting and adjoining cycle path as provided in the Landscape Masterplan prepared by Form Landscape Architects dated **1 May 2019**.
 - h) A Restriction as to user requiring the future homes on lots to be responsive to the slope of the block. The restriction should specifically list all 251 residential lots and detail what slope category the allotments fall within (having regard to the revised Structural Systems Plan prepared by Local Office Architecture Version SK.0002 and dated 29 June 2018 Issue I). Each lot will be burdened to construct a house typology based on the below indicative Structural System dependant on slope.
 - i) The keeping of cats (with the exception of assistance animals, as defined under the Commonwealth Disability Discrimination Act 1992) within the site is prohibited.
 - j) The following Restriction on Title is to be imposed on all residential lots created that are adjacent to Fraser Drive: 'Future dwellings on noise affected lots identified in the Acoustic Report (Lots 122- 142 and Lots 201-205 and Lots 301-304 and Lot 324) prepared by TTM (ttm ref: 11GCA0048 RO1_7) dated April 2013 are to be designed in accordance with the procedures of Australian Standard AS3671:1998 'Acoustics - Road Traffic Noise Intrusion - Building Siting and Construction' to achieve the internal sound levels outlined in SEPP (Infrastructure) 2007 - Regulation 102 which are reproduced in Section 4.2 of the TTM report. Purchasers of noise affected lots will be responsible for obtaining an Acoustic Assessment from an Acoustic Consultant and shall construct their dwellings in accordance with the recommendations contained in the assessment report.'
 - k) A 5 metre wide 'Restriction on Use' to be imposed on all lots abutting Fraser Drive (except lots 139 and 140) excluding any buildings within the rear 5 metres of the lots, ensuring a 5 metre wide landscape buffer is achieved along the rear of the proposed lots; and
 - l) Creation of an appropriate easement over the existing sewer rising main that currently traverses the northern portion of the site.
 - m) A restriction as to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall. Each lot burdened and or benefited by a Type 1 wall as defined in AS4678- 2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard. The Council is to be nominated as the authority empowered to release, vary or modify the restrictions.
 - n) Where retaining walls are proposed to be parallel to the sewer and stormwater infrastructure, easements will be required to increase by a 1m width.**

Pursuant to Section 88BA of the Conveyancing Act 1919 (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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."

We trust that this response addresses all relevant issues raised by Council and OEH. Should you require any further information, please contact Darryl Anderson.

Yours faithfully
DAC Planning Pty Ltd

A handwritten signature in black ink, appearing to read 'D Anderson', with a long horizontal flourish extending to the right.

Darryl Anderson
Director