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+ RESPONSE TO SUBMISSIONS REPORT

MP09_0166 MOD3 ALTITUDE ASPIRE

Fraser Drive, Terranora

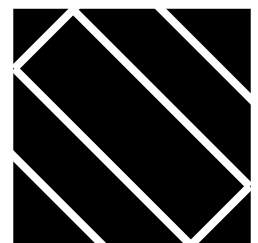


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RESPONSE TO SUBMISSIONS REPORT
ALTITUDE ASPIRE
MAJOR PROJECT APPROVAL NO. 09_0166 (MOD 3)

1.0 INTRODUCTION

Newland Developers Pty Ltd has instructed DAC Planning Pty Ltd to prepare this Response to Submissions Report addressing submissions received from Tweed Shire Council, Roads and Maritime Services, Office of Environment and Heritage and the Rural Fire Service during the exhibition period.

2.0 TWEED SHIRE COUNCIL SUBMISSION DATED 11 MAY 2018

2.1 Amended Plan of Subdivision

Whilst not specifically required as part of Council's RFI, following a review of all issues raised by Council, amendment to the staging of the project is proposed by deleting Stage 12 and inserting a new Stage 8A and 8B. Condition E5 – Section 94 Contributions will need to be amended to reflect the changed staging. As indicated in Council's submission dated 11 May 2018, Council will calculate the contributions as the MOD3 layout has now been finalised (see **Appendix 1**). The amended plans can be given effect by modifying Conditions A1, A2 and A3 as follows:

It is proposed to modify Condition A1 as follows:

A1 Project Description

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

- 1) Subdivision of Lot 1 DP 304649, Lot 1 DP 175235, Lot 1 DP 781687, Lot 2 DP 778727, Lot 1 DP 781697, Lot 1 DP 169490, Lots 40 & 43 DP 254416 Fraser Drive Terranora;
- 2) Creation of 251 residential housing lots;
- 3) Creation of 5 medium density lots comprising Lot 701, Lot 711, **Lot 712, Lot 1008 and Lot 1009**;
- 4) Creation of **3** open space lots for public recreation comprising **Lot 454**, Lot 713 and Lot 819;
- 5) Creation of **2** drainage reserves, comprising Lot 610 and **Lot 146**;
- 6) Dedication of land for a Water Pressure Boosting Pumping Station and Sewage Pump Station to Council;
- 7) Construction of roads, footpaths, access driveways, earthworks and drainage infrastructure; and
- 8) Dedication of land for roads, public parks and public infrastructure to Council.

It is proposed to modify Condition A2 as follows:

A2 Staging

The project is to be constructed in **fourteen (14)** stages, generally in accordance with the 'Plan Showing Existing topography and Proposed Subdivision Layout' dated **15 May 2018**, prepared by B & P Surveys Revision **N** (Drawing No 18779B), incorporating the lots as follows:

- 1) Stage 1 comprises residential lots 101 -146 inclusive, dedication of land for a Sewage Pump Station to Council, and construction of roads and infrastructure;

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- 2) Stage 2 comprises residential lots 201 - 228 inclusive, incorporating roads and infrastructure;
 - 3) Stage 3 comprises residential lots 301 – 324 inclusive, incorporating roads and infrastructure;
 - 4) **Stage 4A comprises residential lots 401 – 427 inclusive, incorporating roads and infrastructure;**
Stage 4B comprises residential lots 428 – 454 inclusive, public reserve on Lot 454 and incorporating roads and infrastructure;
 - 5) Stage 5 comprises residential lots 501 – 521 inclusive, incorporating roads and infrastructure;
 - 6) **Stage 6A comprises 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 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 713, public reserve on Lot 713 and incorporating roads and infrastructure;
 - 8) **Stage 8A comprises residential lots 801 – 814 and incorporating roads and infrastructure;**
Stage 8B comprises residential lots 815 – 820 inclusive of public reserve on Lot 819 and incorporating roads and infrastructure;
 - 9) Stage 9 comprises residential lots 901 – 918 inclusive, and incorporating roads and infrastructure; and
 - 10) Stage 10 comprises residential lots 1001 – 1009 inclusive, 2 medium density residential lots 1008 and 1009 and incorporating roads and infrastructure;
 - 11) **Stage 11 comprises 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."

It is proposed to modify Condition A3 as follows:

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;

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- 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	N	Plan Showing Existing Property Descriptions and Tweed Local Environmental Plan 2000 & 2014 - Zonings (Sheet 1)	15 May 2018
18779B	N	Plan Showing Existing Topography & Proposed Subdivision Layout (Sheet 2)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 3)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 4)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 5)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 6)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 7)	15 May 2018
18779B	N	Plan Showing Proposed Subdivision Layout & Design Contours (Sheet 8)	15 May 2018
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 - SK3616 (inclusive)	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
SK3508	D	Earthworks Layout (Sheet 2)	15 May 2013
SK3527	D	Earthworks Layout (Sheet 3)	9 April 2013

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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	C	Proposed Staging Updates	6 July 2018
SK6622	B	Areas of Proposed Changes for Consent Modification 3	6 July 2018
SK4554	F	Road Names Plan	6 July 2018
SK6460	B	Extent of Mawsons Peak Blvd - Townsend Crescent Roundabout Works	6 July 2018
SK3618/1	G	Central Open Drain Swale Plan – Sheet 1 of 3	6 July 2018
SK3618/2	G	Central Open Drain Swale Plan – Sheet 1 of 3	6 July 2018
SK3618/3	G	Central Open Drain Swale Plan – Sheet 1 of 3	6 July 2018
SK3619	D	Central Open Drain Swale Long Section	6 July 2018
SK3620	E	Central Open Drain Swale Cross Sections Sheet 1 of 6	6 July 2018
SK3621	E	Central Open Drain Swale Cross Sections Sheet 2 of 6	6 July 2018
SK3622	E	Central Open Drain Swale Cross Sections Sheet 3 of 6	6 July 2018

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SK3623	E	Central Open Drain Swale Cross Sections Sheet 4 of 6	6 July 2018
SK3624	E	Central Open Drain Swale Cross Sections Sheet 5 of 6	6 July 2018
SK3625	E	Central Open Drain Swale Cross Sections Sheet 6 of 6	6 July 2018
SK3626	E	Water Quality Treatment Areas	6 July 2018
SK3487	E	Box Culvert Sections	6 July 2018
SK4038	D	Central Open Drain Swale Bund	6 July 2018
SK6524	C	West Boundary Earthworks Extent	6 July 2018
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	B	West Boundary Roads Cross Sections Extent Sheet 4 of 4	6 July 2018
SK3617	G	Retaining Wall Layout	6 July 2018
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

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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
Figure 1	-	Landscape Master Plan	11 February 2015 26 July 2018
Figure 2	-	Landscape Structure	11 February 2015 26 July 2018
Figure 3	-	Circulation Network	11 February 2015 26 July 2018
-	-	Fence Types and Balustrades	11 February 2015 26 July 2018
-	-	Community Park Node	11 February 2015 26 July 2018
-	-	Fraser Drive Entry	11 February 2015 26 July 2018
-	-	Landscape Sections 1 – 10 and 12 – 15 inclusive	11 February 2015 26 July 2018
-	-	Community Park Node	11 February 2015 26 July 2018
-	-	Drainage Corridor and Wetlands Central Drainage Reserve	11 February 2015 26 July 2018
-	-	Pocket Park 1	11 February 2015 26 July 2018
-	-	Pocket Park 2	11 February 2015 26 July 2018
-	-	Planting Palette	11 February 2015 26 July 2018

2.2 Amended Structural Systems Plan

Whilst Council raises no concerns in relation to the amended Structural Systems Plan, the Plan has been amended to include the new Stage and updated Lot Numbers. A copy of the amended Plan is attached at **Annexure 2**.

Condition A3 is in the following terms (relevant parts reproduced only):

Density and Structural Systems Plans prepared by Local Office Architecture, Project No 130300			
Drawing No.	Revision	Name of Plan	Date
SK.0002	D	Structural Systems Plan	March 2013

The amended plan can be given effect by modifying Condition A3 as follows:

Density and Structural Systems Plans prepared by Local Office Architecture, Project No 130300			
Drawing No.	Revision	Name of Plan	Date
SK.0002	I	Structural Systems Plan	29 June 2018
SK.0009	A	Medium Density Lot 712	February 2015

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2.3 Increased Bulk Earthworks in Lot 1 DP 175234 No. 93 Parkes Lane

- a) Steepness of Southern End of Batter. This issue is addressed in the RFI response and Engineering Plans at **Appendix 5**.
- b) For completeness, Lot 1 DP 175234 should be included in Schedule 1 of the Project Approval as the original approval includes bulk earthworks within this lot to enable the Parkes Lane extension (Road 10) and Townsend Crescent (Road 12) to be constructed either side of the property boundary in accordance with Tweed Development Control Plan 2008, Section B24 – Draft Area E Urban Release Development Code.

Schedule 1 is in the following terms (relevant parts reproduced):

"SCHEDULE 1

***Application No:** 09_0166*

***Proponent:** Metricon Queensland Pty Ltd (ABN 66 607 866 132)*

***Approval Authority:** Minister for Planning and Infrastructure*

***Land:** Lot 1 DP 304649, Lot 1 DP 175235, Lot 1 DP 781687, Lot 2 DP 778727, Lot 1 DP 781697, Lot 1 DP 169490, Lots 40 & 43 DP 254416 Fraser Drive, Terranora"*

Modification of Schedule 1 to include Lot 1 DP 175234 is proposed as follows:

SCHEDULE 1

Application No: 09_0166

Proponent: Metricon Queensland Pty Ltd (ABN 66 607 866 132)

Approval Authority: Minister for Planning and Infrastructure

Land: Lot 1 DP 304649, Lot 1 DP 175235, Lot 1 DP 781687, Lot 2 DP 778727, Lot 1 DP 781697, Lot 1 DP 169490, Lots 40 & 43 DP 254416, **Lot 1 DP 175234** Fraser Drive, Terranora

- c) Relocation of the Rough Shelled Bush Nut. This issue is addressed in the Macadamia Translocation Plan (JWA Pty Ltd, dated June 2018 is attached at **Appendix 4**).

The Plan is called up by including reference to this Response to Submissions in Condition A3(g) and A4.

2.4 Central Drainage Corridor

Following consideration of Council's request for further information and a meeting between representatives of Newland Developers and Council Officers on 8 June 2018, the Engineering Plans and Landscaping Plan for the central drainage corridor have been amended to address the issues raised.

The key issues relating to the central drainage corridor are addressed in the following documents:

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- i. The amended Engineering Plans at **Appendix 5**.
 - ii. The amended Landscape Plan at **Appendix 6**.
 - iii. The revised Biome Report at **Appendix 7**.

The amended plans can be given effect by amending Condition A3 as proposed in Section 2.1 of this Report. The amended Biome Report can be given effect by amending Condition A4 (see Section 2.5 below).

2.5 Bushfire Assessment

The Bushfire Assessment Report prepared by Bushfire Certifiers Pty Ltd dated 26 June 2018 addressing the issues raised by Council is attached at **Appendix 6**.

The Bushfire Report can be given effect by amending Conditions A4, B49 and E13 as follows:

A4 Project in Accordance with Documents

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 Lot 610 Drainage Reserve, prepared by Bushfire Certifiers and dated 26 June 2018;**
- (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_SAQP_RZ1F.docx;

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- (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.
 - (22) 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.
 - (23) **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).**
 - (24) **Response to Submissions Report MP09_0166 MOD3, prepared by DAC Planning Pty Ltd and dated July 2018.**
 - (25) **Bioretention Basin and Drainage Reserve Design Report – Biome Water and Environmental Consulting, July 2018**

The Bushfire Report can be given effect by amending Condition B49 as follows.

B49 Bushfire Management

The site shall be managed in accordance with the Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012. The entire site, including reserves on Lots 451, 712 and excluding Lot 1001, shall be managed as an inner protection area (IPA) as outlined within Appendix 2 and 5 of Planning for Bushfire Protection (2006) and the NSW Rural Fire Service document ‘Standards for Asset Protection Zones’. **Lot 610 shall be managed in accordance with the Report titled Bush Fire Hazard Assessment Lot 610 Drainage Reserve, prepared by Bushfire Certifiers and dated 26 June 2018.**

Condition E13

Council has requested that this Condition be amended to refer to current plans and reports. Those Conditions relating to lots adjacent to Fraser Drive have been complied with and accordingly do not require amendment. Condition E13(e) can be deleted because the amended Lot 811 has in excess of 9m kerb frontage and therefore an onsite car park is not required. Amendment of Condition E13(h) to call up the revised Structural Systems Plan is proposed as follows:

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.

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- 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 811 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 12 August 2013.
 - 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 11 February 2015.
 - 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.

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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."

Condition E14

The Bushfire Report can be given effect by amending condition E14 as follows.

E14 Bushfire Certification

Prior to the issue of any Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the Certifying Authority, confirming that the works have been undertaken in accordance with the Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012 **and the Report titled Bush Fire Hazard Assessment Lot 610 Drainage Reserve, prepared by Bushfire Certifiers dated 26 June 2018** and the conditions of this approval.

Condition E32

Council has requested that the inconsistency between Conditions E30 (24 month maintenance period) and E32 (12 month maintenance period) be addressed. Council recommends that a 24 month maintenance period should apply and the proponent concurs with this timeframe. Condition 32 is proposed to be amended as follows:

E32 Landscape Bond

A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the proponent prior to the issue of any Subdivision Certificate. The bond shall be held by Council for a minimum period of 12 months from the date of issue of the Subdivision Certificate (or longer if required by the approved Landscaping Plan) and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should noncompliance occur. Any balance remaining at the end of the **24** months establishment period will be refunded.

The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

Condition E34

Tweed Shire Council's comments on Condition E34 are as follows:

"ii. Condition E34 – should refer to 'Stage 6' and delete the blank sub-section."

It is proposed to amend Condition E34 as follows:

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E34 Dedication of Drainage Reserve

The proponent shall:

- a) Dedicate the proposed drainage reserve on Lot 610 at no cost to Council upon registration of the Plan of Subdivision for **Stage 6**.
- b) **Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.**

Condition E35

It is proposed to amend this condition to delete the words "excluding constructed roads with the Community Title Lot" as the community scheme was deleted from the approval as part of MOD1.

Proposed amended Condition E35 is as follows:

E35 Dedication of Internal Roads

All internal roads shall be constructed by the proponent and ~~(excluding constructed roads within the Community Title Lot)~~ are to be dedicated to Council as public roads upon registration of the Plan of Subdivision for each stage of the project. Upon dedication and at the end of the defects liability period Council will be responsible for the on-going maintenance of the roads.

2.6 Amended Subdivision Layout

- a) As suggested by Council, a request to change the approved street names has been approved and gazettal is anticipated in August 2018. A copy of the revised Road Names Plan is attached at **Appendix 9**.
- b) Shape of Lot 710.

As a result of the requirement to include a roundabout at the intersection of Road 10, (Mawsons Peak Boulevard) and Road 2 (Market Parade) the shape of Lot 710 is irregular. However, the plan at **Appendix 3** demonstrates that a dwelling envelope can be achieved in compliance with the setback requirements in Tweed Development Control Plan 2008, Section A1 – Residential and Tourist Development Code.

- c) Annexure K of the Modification Report comprises revised Engineering Plans. The issues raised by Council are addressed in the revised Engineering Plans at **Appendix 5**.
- d) All relevant conditions of approval are proposed to be amended to reflect the amended lot numbering. No changes to the advisory notes are required as they do not form part of the approval.
- e) Statement of Commitments

The Statement of Commitments has been amended to be consistent with MOD3. The revised Statement of Commitments is contained at **Appendix 12**.

3.0 RMS SUBMISSION DATED 26 APRIL 2018

In summary, the RMS advise that the plans of the proposed roundabout should be referred to the Tweed Shire Council Traffic Committee for consultation.

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4.0 OEH SUBMISSION DATED 30 APRIL 2018

The issues raised in the OEH submission are addressed in the Macadamia Translocation Plan at **Appendix 4** and the Ecological Assessment at **Appendix 10**.

4.1 Consider the validity of assessing the proposed works as a Part 3 Modification, given the proposal involved works on an adjoining land parcel that was not subject to the original approval.

The contention by OEH that the MOD3 proposal involves works on adjoining land that was not subject to the original approval is incorrect. As indicated in Section 4.3 of the Section 75W MOD3 Report (DAC Planning Pty Ltd, February 2018), the original stamped approved Earthworks Consent Plans and Cross Sections clearly show earthworks in the adjoining Lot 1 DP 175234 to the west of Altitude Aspire for the extension of Parkes Lane (Road 10) and the construction of Townsend Crescent (Road 12).

In our opinion, the Modification Application comes within the scope of a Part 3A Modification Application in that it does not involve new earthworks within the land west of Altitude Aspire but rather an extension of the previously approved earthworks.

4.2 Updated Ecological Assessment

The Ecological Assessment has been revised to address the issues raised by OEH. A copy of the revised Report is contained at **Appendix 10**.

4.3 Aboriginal Cultural Heritage Assessment

An Aboriginal Cultural Heritage Report (Everick Heritage Consultants Pty Ltd, Dated July 2018) has been prepared addressing the issues raised by OEH. A copy of the Report is attached at **Appendix 11**.

5.0 NSW RURAL FIRE SERVICE SUBMISSION DATED 6 JUNE 2018

The RFS indicate that the MOD3 Application has not addressed Conditions A4 and B49 of the modified Project Approval. Conditions A4(10) and B49 are in the following terms:

"A4 Project in Accordance with Documents

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

(10) Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012;"

"B49 Bushfire Management

The site shall be managed in accordance with the Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012. The entire site, including reserves on Lots 451, 712 and 610, and excluding Lot 1001, shall be managed as an inner protection area (IPA) as outlined within Appendix 2 and 5 of Planning for Bushfire Protection (2006) and the NSW Rural Fire Service document 'Standards for Asset Protection Zones'."

The Bushfire Report at **Appendix 8** addresses the bushfire matters raised by the Rural Fire Service and compliance with Conditions A4(10) and B49.

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To give effect to the revised Bushfire Report, the Department is requested to amend Condition A4(10) to call up the revised Report and also amend Conditions B49 and E14 to call up the revised Report and refer to the correct lot numbers in the MOD3 plans. The proposed amended Conditions A4(10), B49 and E14 are as follows:

The Bushfire Report can be given effect by amending Condition A4 as follows:

A4 Project in Accordance with Documents

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

- (10) *Bushfire Assessment Report* prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012 **and the Bush Fire Hazard Assessment Lot 610 Drainage Reserve, prepared by Bushfire Certifiers and dated 26 June 2018;**

The Bushfire Report can be given effect by amending Condition B49 as follows.

B49 Bushfire Management

The site shall be managed in accordance with the Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012. The entire site, including reserves on Lots 451, 712 and excluding Lot 1001, shall be managed as an inner protection area (IPA) as outlined within Appendix 2 and 5 of Planning for Bushfire Protection (2006) and the NSW Rural Fire Service document 'Standards for Asset Protection Zones'. **Lot 610 shall be managed in accordance with the Report titled Bush Fire Hazard Assessment Lot 610 Drainage Reserve, prepared by Bushfire Certifiers and dated 26 June 2018.**

The Bushfire Report can be given effect by amending condition E14 as follows.

E14 Bushfire Certification

Prior to the issue of any Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the Certifying Authority, confirming that the works have been undertaken in accordance with the Bushfire Assessment Report prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012, **the Report titled Bush Fire Hazard Assessment Lot 610 Drainage Reserve, prepared by Bushfire Certifiers dated 26 June 2018** and the conditions of this approval.

6.0 SUMMARY AND CONCLUSION

In summary, this Report addresses all relevant issues raised by Tweed Shire Council and State Agencies and proposes amendments to relevant conditions to incorporate the amended plans and reports.

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