

Modification of Project Approval

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

As delegate of the Minister for Planning, the Independent Planning Commission modifies the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Peter Williams
Member of the Commission



Ilona Millar
Member of the Commission

Sydney

17 May 2019

SCHEDULE 1

Project Approval:	MP 05_0024 granted by the Minister for Planning on 8 August 2009
For the following:	Residential subdivision in 7 stages to create 104 freehold title lots and the creation of a 6.2 hectare Conservation Reserve
Proponent:	Malbec Dolphin Point Pty Ltd
Approval Authority:	Minister for Planning
The Land:	Highview Drive, Dolphin Point (Lot 171 DP 1081810)
Modification:	MP 05_0024 MOD 4: the modification includes: <ul style="list-style-type: none">• deletion of condition B21;• deletion of two medium density residential lots in Stage 5;• amendments to the Section 94 monetary contributions; and• amendments to the Statement of Commitments.

SCHEDULE 2

The Project Approval as described in Schedule 1 is modified as follows:

- (a) Schedule 2 Part A – Condition A1 Project Description is amended by the insertion of the **bold and underlined** numbers and deletion of the ~~struckout~~ numbers as follows:

- 1) A ~~402~~ **106** lot residential subdivision, roads and associated infrastructure, minor and major stormwater drainage system, Endangered ecological community/drainage reserve, water quality detention basin and threatened species habitat Conservation Reserve.

- (b) Schedule 2 Part A – Condition A2 Staging is amended by the insertion of the **bold and underlined** numbers and deletion of the ~~struckout~~ numbers as follows:

- (5) Stage 5 comprises:

~~46~~ **20** lots, roads, footpaths and cycleways, stormwater drainage works, **and** provision of an appropriate asset protection zone, ~~and provision of high angle left turn lane onto the Princes Highway;~~

- (c) Schedule 2 Part A – Condition A3 Project in Accordance with Plans is amended by the insertion of the **bold and underlined** numbers/words and deletion of the ~~struckout~~ numbers/words as follows:

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

Plan of Subdivision prepared by Allen, Price and Associates			
Drawing No.	Revision	Name of Plan	Date
24163-21	08 <u>11</u>	Plan Showing Project Application for Proposed Staged Residential Development of Lot 171 DP1081810 at Highview Drive, Dolphin Point for Malbec Dolphin Point Pty Ltd	6 June 2013 <u>22 February 2019</u>
Engineering Drawings prepared by Storm Consulting			
Drawing No.	Revision	Name of Plan	Date
611-P01	-	Dolphin Point, stormwater management schematic	As submitted within Appendix M Water Cycle Management Report Oct 2008 for the Preferred Project Report.
611-P02	-	Dolphin Point, stormwater management schematic	As submitted within Appendix M Water Cycle Management Report Oct 2008 for the Preferred Project Report.
Landscape Drawings prepared by WH&G Smit Landscape Architects			
Drawing No.	Revision	Name of Plan	Date

LA.1	B	Landscape Plan	30 October 2008
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- (d) Schedule 2 Part A – Condition A4 Project in Accordance with Documents is amended by the insertion of the **bold and underlined** numbers/words as follows:

A4 Project in Accordance with Documents

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

- (1) *Environmental Assessment Report* prepared by Allen, Price and Associates on behalf of Malbec Pty. Ltd, dated 19 September 2007; and,
- (2) *Preferred Project Report/Response to Submissions* prepared by Allen, Price and Associates on behalf of Malbec Pty. Ltd, dated 31 October 2008.
- (3) *Request to Modify a Development Approval under Section 75W of the EP&A Act – Major Project 05_0024 for a Staged 102 Lot Residential Subdivision – Lot 171 DP 1081810 Highview Drive Dolphin Point for Malbec Dolphin Point Pty Ltd* prepared by Allen, Price and Associates on behalf of Malbec Properties Pty Ltd, dated 7 December 2012.
- (4) *Request to Modify a Development Approval under Section 75W of the EP&A Act - Major Project 05_0024 for a Staged 102 Lot Residential Subdivision - Lot 171 DP 1081A10 Highview Drive Dolphin Point for Malbec Dolphin Point Pty Ltd*, prepared by Allen, Price and Associates and dated 27 January 2015.
- ~~(4)~~**(5)** Aboriginal Heritage Management Plan by South East Archaeology dated March 2016 and Supplementary Report for Reassessment in Relation to Revised Development Plans – “An Aboriginal Heritage Impact Assessment of the Proposed Residential Subdivision of Lot 171 DP 1081810, Highview Drive, Dolphin Point, South Coast of New South Wales” by South East Archaeology dated November 2017.
- (6) Request to Modify a Development Approval under Section 75W of the EP&A Act – Major Project 05_0024 for a Staged 102 Lot Residential Subdivision – (Former Lot 171 DP 1081810) now Lots 117/118 DP 1226471, Highview Drive Dolphin Point for Malbec Dolphin Point Pty Ltd, prepared by Allen, Price & Scarratts Pty Ltd dated 8 November 2017, Consolidated Response to Submissions prepared by Allen, Price & Scarratts Pty Ltd dated 13 April 2018, Addendum to Consolidated Response to Submissions prepared by Allen, Price & Scarratts Pty Ltd dated 28 August 2018 and additional information prepared by by Allen, Price & Scarratts Pty Ltd dated 29 March 2019.**
- (7) The Statement of Commitments, as amended by MP05_0024 MOD4.**

- (e) Schedule 2 Part B – is amended by deleting the following Condition B3 Medium Density Lot:

~~B3~~ Medium Density Lot

~~Two medium density lots of 1765m² and 1775m² (lots 504 and 512 respectively) are to be provided within Stage 5. The medium density lots are to comply with DCP 71-Medium Density Housing.~~

- (f) Schedule 2 Part B – Condition B17 Stormwater Drainage is amended by the and deletion of the ~~struckout~~ numbers/words as follows:

B17 Stormwater Drainage

- 1) The stormwater drainage system shall be designed to satisfy the minor and major systems performance criteria of Shoalhaven City Council;
- 2) The peak rate of runoff from the development shall not exceed current condition rates of runoff for storms ranging between 1 year and 100 year ARI for a range of storm durations up to and including three hours duration;
- 3) The following environmental targets are to be achieved for the development: 90% reduction in the average annual gross pollutant (size > 5mm) load, 85% reduction in the average annual total suspended solids load, 65% reduction in the average annual total phosphorus load, and 45% reduction in the average annual total nitrogen load.
- 4) The proposed constructed wetland (as per plan produced by Storm Consulting numbered 611-PO1 and plan of Proposed Residential Subdivision by Allen, Price and Associates Plan No. 24163–21 Revision 8, ~~dated 06.06.13~~ **10, dated 19 January 2019**) shall be designed by an appropriately qualified person and generally in accordance with the Constructed Wetlands Manual (DLWC 1998).
- 5) A plan of any required interallotment drainage, and easements to facilitate this drainage, is to be approved by Council

Details of the design of the stormwater drainage system are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for **each stage** Stage 1.

- (g) Schedule 2 Part B – Condition B19 Road Works Design is amended by the insertion of the **bold and underlined** numbers/words and deletion of the ~~struckout~~ numbers/words as follows:

B19 Road Works Design

- 1) The collector road (Road One) and sections of Road Three, Road Six and Vista Drive that form the 20 metre wide perimeter road to the Conservation Reserve are to be constructed with a 9 metre road pavement width. All other roads are to be 16 metres wide with a 6 metre road pavement width.
- 2) All roundabouts are to be designed to make provision for pedestrians to cross the road at all splitter islands in accordance with the Austroads guidelines.
- 3) Traffic control devices are to be incorporated into the design of roads in accordance with the requirements of Element RE4 of Shoalhaven DCP 100.
- 4) As per the Plan of Proposed Residential Subdivision drawn by Allen Price and Associates Plan No. 24163–21 Revision 8, ~~dated 06.06.13~~ **10, dated 19 January 2019**, a roundabout is to be provided at the intersection of Dolphin Point Road, Seaside Parade, Highview Drive and Road One. All legs of this roundabout are to accommodate the manoeuvring of a 14.5 m rigid bus (or smaller sized vehicle, as otherwise agreed by council). Design of the roundabout is to be prepared in consultation with council, and is required to conform with the applicable Austroad standards.
- 5) Pram ramps to the Australian Standard are to be provided at all locations where pathways cross roads, including where layback kerb and gutter is to be provided.
- 6) A pedestrian refuge in accordance with Austroad standards is to be provided where the footpath/cycleway crosses Road One at the roundabout. Refuge design is to accommodate swept paths of semi trailers which are used to deliver building materials for house construction.

- 7) LATM treatments are to be provided in accordance with AS1742.13 and RTA TDT2001/04 along Road One and Road Two and on Vista Drive south of Bonite Street.
- 8) A mountable roundabout is to be constructed at the intersection of Road One and Road Four if Safe Intersection Sight Distance to Austroads standards cannot be achieved around the curve in Road One. The measurement for sight distance should occur in conjunction with each stage release and if found to be deficient, the roundabout is to be constructed prior to the next stage release.
- 9) Public road access is to comply with section 4.1.3(1) and all property access roads are to comply with section 4.1.3(2) of *Planning for Bushfire Protection*.
- 10) There shall be no through connection from the subdivision development to Bonnie Troon Close. The extension of Road Four to the north of Road One that is depicted as a road with a raised concrete threshold in the submitted project application plan by Allen Price and Associates shall be constructed as a standard 16m wide road ending in a cul-de-sac. Bollards, or similar, are to be installed, to RFS specification, at the northern end of the road to prevent motor vehicles (except in the case of emergency), but not pedestrians or bicycles, from travelling through to Bonnie Troon Close.

Final design plans of the roads within the subdivision, incorporating these requirements, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Shoalhaven City Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for each stage.

- (h) Schedule 2 Part B – Condition B21 Provision of Left Turn Lane onto Princes Highway from the Roundabout at Dolphin Point Road Link is amended by the and deletion of the ~~struckout~~ numbers/words as follows:

~~B21 — Provision of Left Turn Lane onto Princes Highway from the Roundabout at Dolphin Point Road Link~~

~~The proponent shall construct a second approach lane to the Highway from the exit from the adjacent roundabout, including a high entry angle left turn lane onto the Highway to RTA standards, either in conjunction with Stage 5 of the subdivision or when road widening is undertaken at Lot 6 DP1123774, whichever is the latter. The following RTA conditions will be required to be met:~~

- ~~1) Geometric road design shall be in accordance with *RTA Road Design Guide*. Pavement design shall be in accordance with the *AUSTROADS Pavement Design Guide*.~~
- ~~2) All roadworks and/or traffic control facilities associated with this development will be at no cost to the RTA and completed prior to occupation~~
- ~~3) Prior to the issuing of the construction certificate, the developer shall enter into a Works Authorisation Deed for any works within the Princes Highway road reservation.~~
- ~~4) Section 138 concurrence under the *Roads Act 1993* shall be obtained from the RTA prior to construction.~~
- ~~5) The developer shall apply for a Road Occupancy Licence (ROL) from the RTA Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction to the speed limit, a Direction to Restrict will also be required from the TOU. Please allow 2 weeks prior to the commencement of work to process the Road Occupancy Licence. Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the RTA Project Manager.~~

- (i) Schedule 2 Part E – Condition E11 Section 94 Monetary Contributions is amended by the insertion of the **bold and underlined** numbers and deletion of the ~~struckout~~ numbers as follows:

E11 Section 94 Monetary Contributions

Prior to the endorsement of a Subdivision Certificate for each stage of the project, the Proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*:

Amount of Contributions

05 AREC 0001 Tennis, Football, Cricket and Netball		
\$ per ET - \$1,798.12		
	No. of ET	Sub-Total
Stage 1	14	\$25,173.68
Stage 2	17	\$30,568.04
Stage 3	19	\$34,164.28
Stage 4	18	\$32,366.16
Stage 5	16 20	\$28,769.92 \$35,962.40
Stage 6	17	\$30,568.04
Total		\$181,610.12 \$188,802.60
05 AREC 0002 Leisure Centre Heated Indoor Swimming Pool		
\$ per ET - \$206.33		
	No. of ET	Sub-Total
Stage 1	14	\$2,888.62
Stage 2	17	\$3,507.61
Stage 3	19	\$3,920.27
Stage 4	18	\$3,713.94
Stage 5	16 20	\$3,301.28 \$4,126.60
Stage 6	17	\$3,507.61
Total		\$20,839.33 \$21,664.65
05 CFAC Southern Shoalhaven Branch Library		
\$ per ET - \$273.42		
	No. of ET	Sub-Total
Stage 1	14	\$3,827.88
Stage 2	17	\$4,648.14
Stage 3	19	\$5,194.98
Stage 4	18	\$4,921.56
Stage 5	16 20	\$4,374.72 \$5,468.40
Stage 6	17	\$4,648.14
Total		\$27,615.42 \$28,709.10
05 OREC 0017 Dolphin Point		
\$ per ET - \$2,143.01		
	No. of ET	Sub-Total
Stage 1	14	\$30,002.14
Stage 2	17	\$36,431.17
Stage 3	19	\$40,717.19
Stage 4	18	\$38,574.18
Stage 5	16 20	\$34,288.16 \$42,860.20
Stage 6	17	\$36,431.17
Total		\$216,444.01 \$225,016.05
05 ROAD 0063 Dolphin Point/Burrill Lake Connector and Link Road		

\$ per ET - \$3,857.82		
	No. of ET	Sub-Total
Stage 1	14	\$54,009.48
Stage 2	17	\$65,582.94
Stage 3	19	\$73,298.58
Stage 4	18	\$69,440.76
Stage 5	16 20	\$61,725.12 \$77,156.40
Stage 6	17	\$65,582.94
Total	\$398,639.82	\$405,071.10
05 ROAD 2011 Southern Link Road		
\$ per ET - \$448.19		
	No. of ET	Sub-Total
Stage 1	14	\$5,274.66
Stage 2	17	\$7,619.23
Stage 3	19	\$8,515.61
Stage 4	18	\$8,067.42
Stage 5	16 20	\$7,171.04 \$8,963.80
Stage 6	17	\$7,619.23
Total	\$45,267.19	\$46,059.95
CW AREC 0003 Hockey Facilities		
\$ per ET - \$288.13		
	No. of ET	Sub-Total
Stage 1	14	\$4,033.82
Stage 2	17	\$4,898.21
Stage 3	19	\$5,474.47
Stage 4	18	\$5,186.34
Stage 5	16 20	\$4,610.08 \$5,762.60
Stage 6	17	\$4,989.21
Total	\$29,101.13	\$30,344.65
CW CFAC 0001 Stage 1: Shoalhaven City Library Extensions		
\$ per ET - \$305.15		
	No. of ET	Sub-Total
Stage 1	14	\$4,272.10
Stage 2	17	\$5,187.55
Stage 3	19	\$5,797.85
Stage 4	18	\$5,492.70
Stage 5	16 20	\$4,882.40 \$6,103.00
Stage 6	17	\$5,187.55
Total	\$30,820.15	\$32,040.75
CW CFAC 0001 Stage 2: Shoalhaven City Arts Centre		
\$ per ET - \$27.60		
	No. of ET	Sub-Total
Stage 1	14	\$368.40
Stage 2	17	\$469.20
Stage 3	19	\$524.40
Stage 4	18	\$496.80
Stage 5	16 20	\$441.60 \$552.00
Stage 6	17	\$469.20
Total	\$2,787.60	\$2,880.00
CW CFAC 0001 Stage 3: Shoalhaven Mobile Children's Services		
\$ per ET - \$9.05		
	No. of ET	Sub-Total
Stage 1	14	\$126.70

Stage 2	17	\$153.85
Stage 3	19	\$171.95
Stage 4	18	\$162.90
Stage 5	16 20	\$144.80 \$181.00
Stage 6	17	\$153.85
Total	\$914.05	\$950.25
CW CFAC 0002 Shoalhaven Multi Purpose Cultural and Convention Centre		
\$ per ET - \$272.82		
	No. of ET	Sub-Total
Stage 1	14	\$3,819.48
Stage 2	17	\$4,637.94
Stage 3	19	\$5,183.58
Stage 4	18	\$4,910.76
Stage 5	16 20	\$4,365.12 \$5,456.40
Stage 6	17	\$4,637.94
Total	\$27,554.82	\$28,646.10
CW FIRE 0001 Citywide Fire and Emergency Services		
\$ per ET - \$169.10		
	No. of ET	Sub-Total
Stage 1	14	\$2,367.40
Stage 2	17	\$2,874.70
Stage 3	19	\$3,212.90
Stage 4	18	\$3,043.80
Stage 5	16 20	\$2,705.60 \$3,382.00
Stage 6	17	\$2,874.70
Total	\$17,079.10	\$17,755.50
CW FIRE 0002 Shoalhaven Fire Control Centre		
\$ per ET - \$221.39		
	No. of ET	Sub-Total
Stage 1	14	\$3,099.46
Stage 2	17	\$3,763.63
Stage 3	19	\$4,206.41
Stage 4	18	\$3,985.02
Stage 5	16 20	\$3,542.24 \$4,427.80
Stage 6	17	\$3,763.63
Total	\$22,360.39	\$23,245.95
CW MGMT 2001 Section 94 Administration		
\$ per ET - \$459.41		
	No. of ET	Sub-Total
Stage 1	14	\$6,431.74
Stage 2	17	\$7,809.97
Stage 3	19	\$8,728.79
Stage 4	18	\$8,269.38
Stage 5	16 20	\$7,350.56 \$9,188.20
Stage 6	17	\$7,809.97
Total	\$46,400.41	\$48,238.05
CW OREC 0001 Embellishment of Icon and District Parks and Walking Tracks		
\$ per ET - \$176.94		
	No. of ET	Sub-Total
Stage 1	14	\$2,477.16
Stage 2	17	\$3,007.98
Stage 3	19	\$3,361.86
Stage 4	18	\$3,184.92

Stage 5	1620	\$2,831.04 \$3,538.80
Stage 6	17	\$3,007.98
Total	\$17,870.94 \$18,578.70	
TOTAL CONTRIBUTIONS PAYABLE		
Stage 1		\$149,190.72
Stage 2		\$181,160.16
Stage 3		\$202,473.12
Stage 4		\$191,816.64
Stage 5		\$170,503.68 \$213,129.60
Stage 6		\$181,160.16
TOTAL		\$1,076,304.48 \$1,118,930.40

Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Shoalhaven City 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.

Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Shoalhaven City Council, Bridge Road, Nowra.

End of modification

(MP 05_0024 MOD 4)