

Modification of Development Application

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

As delegate of the Minister for Planning, the Independent Planning Commission approves the modification of the Development Approval referred to in Schedule 1, subject to the modified conditions of approval outlined in Schedule 2.



Alan Coutts (Chair)
Member of the Commission



Adrian Pilton
Member of the Commission

Sydney

22 May 2019

SCHEDULE 1

Development Approval: DA 277-11-2004 granted by the Minister for Planning on 7 November 2006.

For the following: Subdivision of the site into 44 residential lots and construction of associated services, infrastructure and internal road.

Applicant: Allen Price & Scarratts Pty Ltd

Consent Authority: Minister for Planning

The Land: Lot 6 and 15 DP 25550
74 and 91 Island Point Road, St Georges Basin

Modification: DA 277-11-2004 MOD 3: the modification includes:

- An increase of residential lots created from 44 to 63;
- An increase of lots in stage one from 24 to 49 with the remaining 14 lots in stage two
- No existing dwellings to be retained
- Part road carriageway reduction from 8 metres to 7 metres
- Removal of APZ requirements
- Removal of easements for tree retention and subsequent no building zones
- Modification of the subdivision topography to improve site drainage.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part A – Deferred Commencement Requirements, is amended by the deletion of the following Condition A1:

~~A1 Southern Boundary Bushfire Management~~

- 1) ~~In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this development shall not operate until the Applicant has submitted to the satisfaction of the Director, Urban Assessments, advice either from the Rural Fire Service (RFS) or a suitably qualified person experienced in bushfire hazard assessment that adequate measures have been taken to ensure there is an acceptable asset protection zone along the southern boundary of the property in relation to the future construction of dwellings on Lots 2,3,26 to 28 inclusive and 29 to 37 inclusive.~~
- 2) ~~Lot 5 in DP 25550, is to incorporate an easement with a restriction to user that this land is to be maintained in accordance with RFS requirements (as applicable at the time the consent becomes operational) in perpetuity or until the affected area is legally cleared in association with an approved development so that an Asset Protection Zone is no longer required in association with the future construction of the abovementioned dwellings. As at October, 2006, this requirement involves an easement 20 metres wide. Further, and proposed subsequent management to satisfy RFS requirements within the easement shall demonstrate that there will not be any unacceptable impacts, including in relation to the *Threatened Species Conservation Act, 1995* as amended. This information shall be submitted by a suitably qualified professional.~~
- (b) Schedule 2 Part B – Administrative Conditions, Condition B1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the struckout words/numbers as follows:

B1 Development in Accordance with Plans

The development shall be in accordance with development application number 277-11-2004 submitted by the Applicant on 11 November, 2004, the modification application (MOD 1) approved by the Department of Planning on 19 January 2009, **the modification application (MOD 2) approved by the Department of Planning on 28 November 2012, the modification application (MOD 3) dated 19 May 2015 and Response to Submissions dated 1 August 2017,** and in accordance with the following:

Arboricultural Impact Assessment provided by Allied Tree Consultancy dated 12 January 2010 (Reference No D1484)		
Drawing No	Name of Plan	Date
24285 - 36-01- Revision ' 004 '	Plan showing proposed residential <u>alternate</u> subdivision design <u>with</u> <u>overlay of approved and</u> <u>proposed layout</u> over Lots 6 & 15 DP 2550 at Island Point Road, St Georges Basin for Southern Land Nominees	September 2004 as amended 7 November 2012 <u>25 March 2019</u>

except as modified by any condition of this consent.

- (c) Schedule 2 Part B – Administrative Conditions is amended by deleting the following Condition B2:

~~B2 Vegetation Management Plan~~

~~A vegetation Management Plan (VMP) shall be submitted to the Certifying Authority. This VMP must identify the proposed management of vegetation both during and after construction. The VMP is to include:~~

- ~~● Areas identified for under scrubbing in the subdivision site works;~~
- ~~● Regeneration of retained vegetation; and~~
- ~~● Ongoing management of retained vegetation on the site.~~

- (d) Schedule 2 Part B – Administrative Conditions, Condition B5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

The development is to be staged as follows:

Stage 1

- ~~● Creation of Lots 101-123 inclusive;~~
- ~~● Clearing of existing vegetation covering Stage 1 of the site, including and Asset Protection Zone for Lots 101, 109, and 110 of a maximum width of 32 metres within the stage 2 area, except where otherwise required to be retained by the consent;~~
- ~~● Construction of the road within Stage 1, including temporary turning heads;~~
- ~~● Creation of the restriction as to user (easement for Tree Retention 8m wide Threatened Species Corridor) over Lots 116-122;~~
- ~~● Creation of the restriction as to user (No Building Zone 3m wide) over Lots 116-122; and~~
- ~~● Creation of the Asset Protection Zone and Section 88B instrument (required by Condition F7) over the proposed lots within Stage 1 land.~~
- **Construction of all roads (including the full width road adjoining lots 37 to 49), drainage easement and infrastructure, all other infrastructure associated with the entire development and associated clearing of the land.**
- **Securement of all proposed easements**
- **Creation of Lots 1 to 49 inclusive.**

Stage 2

- ~~● Creation of Lots 201 to 221 inclusive;~~
- ~~● Clearing of existing vegetation covering Stage 2 of the site, except where otherwise required to be retained by this consent;~~
- ~~● Construction of the internal road within Stage 2 and removal of the temporary turning heads;~~
- ~~● Creation of the restriction as to user (Easement Tree Retention/New Planting 5m wide) over Lots 206-211 inclusive;~~
- ~~● Construction of the 7m wide drainage easement and all of the remaining infrastructure; and~~
- ~~● Amendment of the Section 88B instrument as required by Condition F7 for the Stage 2 lots.~~

- **Creation of Lots 50 to 63 inclusive**

- (e) Schedule 2 Part C – Prior to Issue of a Construction Certificate is amended by deleting the following Condition C1:

C1 Local Access Roads

~~The proposed loop road from Island Point Road, north of the main east-west subdivision road shall have a carriageway of 8 metres, between inverts of layback and gutter. shall have a carriageway of 8 metres. The pavement is to be a minimum 30mm AC10 on a primer seal. be designed for a traffic loading of 3 x 105 ESA and to be surfaced with a layer of Asphalt. The pavement thickness is to be determined from the charts in APRG Report No. 21. The pavement is to be contained with layback kerb and gutter. Subsoil drainage is to be provided behind the kerb line. The east-west carriageway along the southern boundary of the site is to be 8.0 metres wide. Details are to be provided to the Certifying Authority prior to the issue of a construction certificate.~~

- (f) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

C2 Drainage

The western catchment (Lots 1 – 15, 24-28, 45-53 and associated road drainage) must drain naturally to Island Point Road. The ~~development of the~~ eastern catchment (Lots 16-23, 29-44, 54-63 and associated road drainage) must ~~not be implemented until an~~ **drain to the** easement over adjacent land **to the south-east.** ~~has been attained in accordance with Condition C3.~~

Stage 1 requires the construction of all drainage infrastructure excluding the proposed interallotment drainage line for Lots 54-63.

The provision of road drainage and the piping of drainage easement including inter-allotment drainage shall be in accordance with **Council's DCP 2014** ~~Council's Subdivision Code~~. Natural and surcharge flow paths are to be contained with drainage reserves to contain the 1:100 year flow. The drainage along the eastern boundary of the site shall include both piped drainage and an overflow channel for flows up to the 100 year event. Stormwater detention or retention shall be provided within the site to limit flows up to the 100 year even to pre-development levels prior to discharge to Council's existing piped stormwater system for both the eastern and western catchments. Details of proposed measures are to be provided to the Certifying Authority prior to the issuance of the Construction Certificate.

- (g) Schedule 2 Part C – Prior to Issue of a Construction Certificate, is amended by the insertion of the following new Condition C2a:

C2a On-Site Detention

On-site detention storage for stormwater runoff from the site shall be provided such that the discharge from the site for design storm events up to and including the 100 year average recurrence interval (1% AEP) does not exceed the pre-developed conditions. This is to be provided by utilizing suitably sized onsite rainwater tanks for each lot in accordance with Council's DCP 2014. Details of proposed measures are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

- (h) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

C5 Soil and Water Management Plan

A Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified and experienced person and based on the Landcom manual - "Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition, March 2004". ~~shall be lodged for approval with the application for a Construction Certificate.~~ The SWMP controls shall be implemented, inspected and approved prior to the commencement of any site works and maintained for the life of the construction period and until revegetation measures have taken hold. The SWMP shall include, but not be limited to:

- a) **The area proposed to be exposed to the possibility of erosion as used in the calculations;**
- b) Existing and final contours (clearly distinguished and adequately annotated);
 - c) Identification of existing vegetation and current site drainage patterns;
 - d) Nature and extent of proposed clearing, excavation and filling;
 - e) Provision for the diversion of runoff around disturbed areas;
 - f) Location and type of proposed erosion and sediment control measures;
 - g) Location of vegetated buffer strips, unstable slopes, boggy areas, and restricted "no access" areas;
 - h) Approximate location and proposed treatment of haul roads, borrow pits, site sheds and stockpiles;
 - i) Location of and proposed means of stabilisation of site access;
 - j) Proposed staging of construction and SWMP measures;
 - k) Proposed site rehabilitation measures, including seeding of all bare un-grassed areas, turf where erosion or scouring is likely to occur, and frequency of watering;
 - l) Maintenance program for all soil and water management measures;
 - m) Disposal site for silt removed from sediment traps;
 - n) All design criteria and calculations used to size erosion and sediment control measures;
 - o) Standard construction drawings for proposed soil and water management measures.

Details of proposed measures are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

- (i) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

C7 Landscape Design / Vegetation Clearing

~~All streets shall be landscaped at the rate of two trees per allotment. A landscape plan, including the timing of the planting shall be prepared by a qualified landscape architect and lodged with an application for a Construction Certificate. Plantings shall be in~~

accordance with the approved landscaping plan and must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

A landscape shall be prepared by a suitably qualified person and submitted to Council for approval prior to the release of the relevant Construction Certificate. The landscape plan shall include, but not be limited to, the following information:

- a) **Street trees (refer to Council list online)**
- b) **All existing and proposed infrastructure including underground services**
- c) **Existing site conditions (contours, vegetation, drainage, etc)**
- d) **Approximate location and description of structures and vegetation on adjacent property**
- e) **Vegetation to be retained including isolated trees or habitat of ecological significance**
- f) **Timing of planting**
- g) **All trees and other vegetation in road reserves are to be removed unless specifically identified to be retained**
- h) **Protective fencing where necessary**
- i) **Type of grass seed or turf to be used (Council prefers Australian Native Grasses in rural developments and adjacent to natural areas in urban developments**
- j) **Botanic and common names of plantings (and cultivar name if applicable)**
- k) **Size in litres when planted and mature height and spread**
- l) **Years to maturity (to determine possible restriction to sight distance at intersections and other locations as necessary)**
- m) **Hard landscaping details**
- n) **Maintenance requirements**

~~The applicant shall include in any landscape plan the removal of any trees in proposed public reserves, drainage reserves or pathways which could be assessed as being dangerous. Assessment for removal is to be made on the ground of being of risk to public or private property or persons. The landscape plan shall provide for replanting of suitable low growing species to replace any trees removed. Council may determine if additional trees are to be removed.~~

Streets trees are to be provided at the rate of two trees of minimum 35 litre pot size per allotment or preferably one larger tree of minimum 60 litre pot size located centrally to each lot. The following details are to be shown on the plans:

- a) **Each tree is to be protected by a braced structure comprising 4 timber posts with 75mm x 75mm minimum dimensions.**
- b) **Root barriers are to be placed between the trees and above or below ground civil infrastructure to a minimum depth of 1.0 metre, at least twice the pot size away from the tree and extend along the service for a minimum length of half the mature drip line.**

- (j) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C9 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the struckout words/numbers as follows:

C9 Engineering Plans and Design Standards

~~Prior to the construction of works, Council or an accredited certifier is to issue a Construction Certificate for the approval of engineering plans. Following construction, a Compliance Certificate certifying that all works have been constructed in accordance with the approved plans. A copy of the approved plans is to be provided to Council for its records. In particular, a Compliance Certificate shall certify that the following have been carried out to plan and specification:~~

- ~~• All clearing works~~
- ~~• Bulk earthworks~~
- ~~• Drainage lines including interallotment~~
- ~~• Drainage pits, headwalls, and culverts~~
- ~~• Bridges and culverts~~
- ~~• Pavement sub-grade~~
- ~~• Pavement to underside of kerb and gutter~~
- ~~• Kerb and gutter~~
- ~~• Pavement base course densities~~
- ~~• Pavement prior to bitumen or asphalt sealing~~
- ~~• Erosion control measures~~
- ~~• Final cut and trim, seeding and grassing~~
- ~~• Signage~~
- ~~• Stormwater pollution control.~~

1) Updated Engineering design plans and specifications reflecting the revised layout shall be submitted to and approved by Council, prior to the issue of a Construction Certificate. The revised plans shall meet the following requirements, unless otherwise agreed to in writing by Shoalhaven City Council:

- a. **All civil works are to be in accordance with DCP2014, Council's Engineering Design Specifications and Development Construction Specifications current at the time of construction unless otherwise specified in this consent.**
- b. **The road pavement for roads within road reserves, community or common property, access ways and rights of way (existing or proposed) is to be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications section D2 (Flexible Pavement Design) (Specification can be found on Council's web site).**
- c. **The entrance road shall have a 15m road reserve width with a 7m wide carriageway (kerb invert to invert) with upright kerb. The loop road shall have a 16m road reserve width with a 7m wide carriageway (kerb invert to invert) with layback kerb. Upright kerb is to be used on the section of road adjoining the public reserve.**

The design of the road formation shall include:

- a) **Minimum verge width of 4m**
- b) **A 0.5m berm for cut and fill inside lots from the road boundary.**
- c) **Have subsoil drainage behind the kerb line on both sides of the road.**

- d) Kerb return radius at all intersections suitable for service vehicles.
 - e) The road pavement shall be sealed with a minimum 30mm of 10mm asphaltic concrete on a primer seal.
 - d. The roads shall be designed by a qualified practising engineer or surveyor in accordance with Council's Engineering Design Specifications section D1 (Geometric Road Design) and DCP2014 (Specification and DCP2014 can be found on Council's web site).
 - e. The stormwater drainage design is to be carried out by suitably qualified and experienced practitioners with all work to be in accordance with Council's Engineering Design Specifications section D5 (Stormwater Drainage Design) and DCP2014 Chapter G2 and supporting Technical Guidelines (Specification and DCP2014 can be found on Council's web site). The minor and major systems shall be designed for a 1:5 year and 1:100 year rainfall recurrence interval (20% and 1% AEP) respectively, as follows:
 - (i) Major Systems shall be designed by a qualified practising engineer.
 - (ii) Minor Systems shall be designed by Registered Surveyor or Engineer.
 - 2) All services existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services will be at the developer's expense.
- Note: Civil engineering work approvals and plans are only current for a period of 2 years.
- 3) The design of speed control devices, warning signage or other acceptable traffic control devices (may include LATM or other devices) shall reduce the 85% speed to 40kph. The speed control devices, warning signage etc will require referral to the Shoalhaven Traffic Committee for approval.
- (k) Schedule 2 Part C – Prior to the Issue of Construction Certificate is amended by deleting the following Condition C11:

~~C11-Threatened Species Corridor and adjoining No-Building Zone~~

~~A corridor of a minimum of 8 metres shall be provided on the western boundary of the site. This shall be designed by a qualified environmental consultant to ensure spacing and type of trees is suitable for the yellow bellied glider, and an arborist to ensure the selection of suitable trees in terms of safety. This corridor shall be incorporated into Lots 116 and 122 inclusive and be expressed by an 88B Instrument. In addition to the 8 m wide threatened species corridor, a "no building zone" corridor with a minimum width of 3 metres shall be provided adjoining and parallel to the eastern edge of the threatened species corridor. This corridor shall be incorporated into Lots 116 go 122 inclusive and be expressed by an 88B Instrument. Details are required to be provided to the PCA prior to the issue of the construction certificate.~~

- (l) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C12 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

C12 Stormwater Drainage Management and drainage easements

A ~~7~~ **3** metre wide drainage easement must be provided within Lots ~~206-23 to~~ **and a 5 m wide drainage easement must be provide within Lot 63 211** inclusive parallel to the eastern rear boundaries of those lots. This is to provide drainage in accordance with Shoalhaven DCP **2014 and Engineering Design Specifications** ~~100~~ **Subdivision Code**. Provision must be made for the following:

- a) No ~~side boundary~~ fences are to be constructed or maintained within or along the edge of the ~~7~~ **above-mentioned** metre wide easements that restrict the overland flow of stormwater
- b) The drainage system above ~~and below~~ the ground within the easements shall be maintained by the land owner; and
- c) Underground piping and above-ground channel mounding must be provided. Any vegetation retention other than trees shall be outside of the drainage corridor.
- d) **An open swale drain is to be constructed within the 2m wide public reserve to connect the overland flow from the drainage easement along the eastern side boundary of Lot 23 to the drainage easement along the eastern boundary of Lot 63.**

Details are required to be provided to the Certifying Authority prior to the issue of the construction certificate.

- (m) Schedule 2 Part C – Prior to Issue of a Construction Certificate, Condition C16 amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

C16 Footpath/Cycleway

A ~~2m wide~~ concrete shared footpath/cyclepath **with kerb ramps at each end, is to be constructed extending from Island Point Road along the northern side of the entrance/exit road to the first intersection of the loop road** ~~internal loop road for the site footpath is to extend from the intersection shall be provided with Island Point Road.~~ The ~~final~~ location of the **shared** footpath/cyclepath is to be approved by Council prior to Construction, and detailed plans are to be approved by Council prior to the issue of a Construction Certificate.

- (n) Schedule 2 Part C – Prior to Issue of a Construction Certificate is amended by deleting the following Condition C17:

~~C17 Retaining wall on the northern side of the new intersection of Island Point Road~~

~~A retaining wall shall be provided on the northern side of the new intersection to ensure suitable cross fall of the nature strip. Details shall be provided to the Certifying Authority prior to issue of the construction certificate.~~

- (o) Schedule 2 Part C – Prior to Issue of a Construction Certificate, is amended by the insertion of the following new Condition C20:

C20 Site Filling – Lot Areas

Where site cut and/or filling (of more than 150mm) is proposed, an absolute minimum grade of 0.5% is to be provided. The filling specification shall be submitted to Council prior to the issue of the relevant Construction Certificate and

require all allotment filling to be placed in accordance with AS 3798 and compacted at least to the minimum relative compaction listed in the standard applicable to the type of development / subdivision.

- (p) Schedule 2 Part C – Prior to Issue of a Construction Certificate, is amended by the insertion of the following new Condition C21:

C21 Lighting Design

A street lighting plan prepared in accordance with AS/NZS 1158 - Road Lighting Pedestrian Area, Category P Lighting, Performance and Installation Design Requirements is to be submitted to Council prior to the issue of a Construction Certificate.

- (q) Schedule 2 Part D – Prior to Commencement of Works, is amended by the insertion of the following new Condition D13:

D13 Erosion and Sediment Control

The approved erosion and sediment control measures shall be implemented by the contractor and inspected and approved by the accredited certifier prior to the commencement of any works.

- (r) Schedule 2 Part D – Prior to Commencement of Works, is amended by the insertion of the following new Condition D15:

D15 Earthworks

Documentation from the supplier that certifies that imported fill material is not contaminated based on analyses of the material is to be provided to Council. Sampling and analysis of the imported fill material shall be conducted in accordance with the EPA Sampling Design Guidelines.

Details of fill storage, disposal and materials haulage routes to and from the site shall be submitted to Council for approval prior to the commencement of works. All surplus excavated material shall be taken to an approved landfill site.

- (s) Schedule 2 Part E – During Construction is amended by the insertion of the following new Condition E18:

E18 Impact of Works on Others

The following general conditions must be adhered to;

- a) **Runoff currently entering the site from uphill properties shall not be obstructed nor redirected from entering the site, other than by works in accordance with a plan approved by Council, to increase the quantity or concentration of surface runoff entering adjoining properties.**
- b) **Existing roads, footpaths and reserves adjacent to and nearby the site shall be kept clear of soil, debris, materials and equipment except in accordance with the Traffic Control Plan or as otherwise approved in writing by Council.**

- (t) Schedule 2 Part E – During Construction is amended by the insertion of the following new Condition E20:

E20 Stormwater Connections in Road Reserve to be Approved by Council

Stormwater connections between the property boundary and the new kerb and gutter must be inspected and approved by Council's Subdivision Manager or delegate and backfilled as soon as possible. Kerb connections are only to be made using adaptors/convertors approved by Council.

Note: A Section 138 approval under the Roads Act 1993 will be required for this work.

- (u) Schedule 2 Part E – During Construction is amended by the insertion of the following new Condition E21:

E21 Site Filling

1) Lot filling of more than 150mm:

- a) **Is to be performed under Level 1 Supervision by a suitably qualified engineer. A Level 1 Supervision Report is to be submitted to council prior to the release of the Subdivision Certificate;**
- b) **Shall obtain a lot classification, in accordance with AS2870, of no worse than 'H'; A Lot Classification shall be submitted to Council prior to the release of the Subdivision Certificate;**
- c) **Shall have a maximum batter of 25% (1V:4H) at any location;**
- d) **Shall not encroach onto adjoining land;**
- e) **Shall not cause the diversion or concentration of natural overland stormwater runoff onto adjoining property;**
- f) **Shall be protected against erosion, with measures incorporated in the erosion and sediment control plan;**
- g) **Shall include any resulting adjustment of services (manholes, inter-allotment drainage, etc.) in the scope of works.**

2) All fill outside the allotment areas shall be placed in accordance with Council's Development Construction Specification.

3) The use of Coal Wash Reject or recycled glass sand will require the submission of a separate construction certificate application and plan to determine the appropriate conditions applicable to its intended use and location in accordance with EPA Guidelines.

- (v) Schedule 2 Part E – During Construction is amended by the insertion of the following new Condition E22:

E22 Landscape and Street Trees

Landscaping works including the street trees are to be planted prior to issue of the subdivision certificate in accordance with the approved landscape plan. All trees are to be suitably maintained until established. Any tree not established upon expiry of the maintenance period is to be replaced and maintained until established (a bond will be required).

- (w) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate, Condition F2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

F2 Services Registration of Easements / Restriction to use / Right of Carriageway

Easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision and this consent must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

1. **The creation of easement for services, rights of carriageway and restrictions as to user under Section 88B of the Conveyancing Act 1919 as are applicable to this development.**
 - a) **Drainage Easements are to be placed over all inter allotment drainage, swale drains and public drainage on private lots benefitting and burdening property owners. Maintenance of inter allotment drains by the benefitted lots is to be included in the 88B instrument.**
 - b) **No development on any allotment that has been filled unless foundations are be designed to the soil classification as stipulated in AS2870.**
 - c) **Except those required by Council, the final plan and associated instruments shall not contain restriction, that prohibit development allowed under the relevant environmental planning instruments applicable to the site.**
 - d) **Prior to the issue of any subdivision certificate creating a residential allotment, a Section 88B or 88E Instrument creating a Positive Covenant, and Restriction as to User as necessary shall be created burdening each residential allotment to the benefit of Council, to ensure that on site detention is provided on each residential lot in conjunction with the erection of any dwelling and maintained in perpetuity, and that on site detention is in the form of a rain water tank(s) in accordance with Council's requirements, in addition to any BASIX requirements for the site.**

Evidence demonstrating the registration of the relevant 88B or 88E Instrument(s) is to be provided to the satisfaction PCA prior to the issue of each Subdivision Certificate.

2. **Any Section 88B Instrument creating restriction as to user, right of carriageway or easements which benefit Council shall contain a provision enabling restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.**
3. **Proposed road reserves and other reserves (drainage, recreational etc) within the subdivision as shown in the approved plan are to be dedicated to Council.**
4. **The landscaped strip, along the Eastern boundary as shown on the approved plan shall be dedicated to Council as public reserve.**

- (x) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate, Condition F5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following monetary contributions:

This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan ~~1993-2010~~, **2010**, as itemised in the following tables:

Project	Description	Rate	Stage 1 (23 lots) calculate with 1 free lot	Stage 2 (21 lots) calculate with 1 free lot	TOTAL
01FIRE0009	City Wide fire control/state emergency services	33.71 \$33.71	\$741.62	\$674.20	\$1,415.82

Project	Description	Rate	Stage 1 (23 lots) calculate with 1 free lot	Stage 2 (21 lots) calculate with 1 free lot	TOTAL
03AREC0001	Tennis, Football, Cricket, Basketball, & Netball (Area 3)	\$2,010.25	\$44,225.50	\$40,205.00	\$84,430.50
03AREC0003	Amend. No. 17 Basin Leisure Centre	\$510.63	\$11,233.86	\$10,212.60	\$21,446.46
03CFAC0001	S.94 CP AMENDMENT No. 67 – Bay and Basin District Community Centre and Branch Library	\$745.35	\$16,397.70	\$14,907.00	\$31,304.70
03CFAC0001	S.94 CP AMENDMENT No. 67; Bay and Basin District Recreational & Cultural Hall (Vincentia HS)	\$17.92	\$394.24	\$358.40	\$752.64
03FIRE0001	St Georges Basin fire control	83.44 \$83.44	\$1,835.68	\$1,668.80	\$3,504.48
03ROAD0021	Amend No. 29. St GEORGES BASIN Construct Bypass	\$642.21	\$14,128.62	\$12,844.20	\$26,972.82
CWAREC0003	Hockey Facilities	\$243.86	\$5,364.92	\$4,877.20	\$10,242.12
CWCFAC0001	S94 CP AMENDMENT No. 67: Stage 1: Shoalhaven City Library Extensions	\$275.27	\$6,055.94	\$5,505.40	\$11,561.34
CWCFAC0001	S94 CP AMENDMENT No. 67: Stage 2: Shoalhaven City Arts Centre	\$24.90	\$547.80	\$498.00	\$1,045.80
CWCFAC0001	S94 CP AMENDMENT No. 67: Stage 3: Shoalhaven Mobile Children's Services	\$8.16	\$179.52	\$163.20	\$342.72
CWCFAC002	Shoalhaven Multi Purpose Cultural and Convention Centre	\$456.53	\$10,043.66	\$9,130.60	\$19,174.26
CWMGT0001	Project Management Costs	\$206.95	\$4,552.90	\$4,139.00	\$8,691.90

CWOREC0001	Embellishment of Icon and District Parks and Walking Tracks	\$159.61	\$3,511.42	\$3,192.20	\$6,703.62
MACFAC0001	Northern Shoalhaven Integrated Children's Services Cnr of Osborne and Worrigee Street, Nowra New Project	\$44.66	\$982.52	\$893.20	\$1,875.72
MACFAC0002	S.94 CP AMENDMENT No. 67: Northern Shoalhaven Community Transport and Family Support Services Park Road, East Nowra, New Recoupment Project	\$12.79	\$281.38	\$255.80	\$537.18
Total			\$120,477.28	\$109,524.80	\$230,002.08

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment.** (i.e. contributions are calculated on the rate applicable at the date of payment, **not** the date of development consent.)

A total contribution, currently assessed at the sum of \$230,002.08 (i.e. 2008/2009 rate) or as indexed in future years shall be paid to Council before the issue of a subdivision certificate.

Contributions Plan 1993 may be inspected at the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

Stage 1

Project	Description	Rate	Qty	Total	GST	GST Incl
01 FIRE 0009	City Wide - fire control/state emergency	\$42.51	47	\$1,997.97	\$0.00	\$1,997.97
03 AREC 0001	Tennis, Football, Cricket, Basketball & Netball (Area	\$2,534.85	47	\$119,137.95	\$0.00	\$119,137.95
03 AREC 0003	Bay & Basin Leisure Centre	\$643.88	47	\$30,262.36	\$0.00	\$30,262.36
03 CFAC 0001	Bay and Basin District Community Centre and	\$939.87	47	\$44,173.89	\$0.00	\$44,173.89
03 CFAC 0003	Bay and Basin District Recreational & Cultural Hall	\$22.60	47	\$1,062.20	\$0.00	\$1,062.20
03 FIRE 0001	St Georges Basin - fire control	\$105.22	47	\$4,945.34	\$0.00	\$4,945.34
03 ROAD 0021	ST. GEORGES BASIN - Construct Bypass.	\$809.82	47	\$38,061.54	\$0.00	\$38,061.54
CW AREC	Hockey Facilities	\$307.49	47	\$14,452.03	\$0.00	\$14,452.03
CW CFAC	Stage 1: Shoalhaven City Library Extensions	\$347.10	47	\$16,313.70	\$0.00	\$16,313.70
CW CFAC 0001	Stage 2: Shoalhaven City Arts Center	\$31.40	47	\$1,475.80	\$0.00	\$1,475.80
CW CFAC 0001	Stage 3: Shoalhaven Mobile Childrens Services	\$10.29	47	\$483.63	\$0.00	\$483.63
CW CFAC 0002	Shoalhaven Multi Purpose Cultural & Convention	\$575.67	47	\$27,056.49	\$0.00	\$27,056.49
CW MGMT	Project Management Costs	\$260.94	47	\$12,264.18	\$0.00	\$12,264.18
CW OREC 0001	Embellishment of Icon and District Parks and Walking Tracks	\$201.26	47	\$9,459.22	\$0.00	\$9,459.22
MA CFAC	Northern Shoalhaven Integrated Childrens	\$56.32	47	\$2,647.04	\$0.00	\$2,647.04
MA CFAC 0002	Northern Shoalhaven Community Transport and	\$16.13	47	\$758.11	\$0.00	\$758.11

Fee Estimate Date: 02 Aug 2018

Sub Total:	\$324,551.45
GST Total:	\$0.00
Estimate Total:	\$324,551.45

Notes:

- 1. This is an estimate only and is not a payment advice.**
- 2. Valid for the date of issue only, as these rates / projects may change over time.**
- 3. Shoalhaven Contributions Plan 2010 commenced on 23 March 2011**

Stage 2

Project	Description	Rate	Qty	Total	GST	GST Incl
01 FIRE 0009	City Wide - fire control/state emergency services	\$42.51	14	\$595.14	\$0.00	\$595.14
03 AREC 0001	Tennis, Football, Cricket, Basketball & Netball (Area 3)	\$2,534.85	14	\$35,487.90	\$0.00	\$35,487.90
03 AREC 0003	Bay & Basin Leisure Centre	\$643.88	14	\$9,014.32	\$0.00	\$9,014.32
03 CFAC 0001	Bay and Basin District Community Centre and Branch Library	\$939.87	14	\$13,158.18	\$0.00	\$13,158.18
03 CFAC 0003	Bay and Basin District Recreational & Cultural Hall (Vincentia HS)	\$22.60	14	\$316.40	\$0.00	\$316.40
03 FIRE 0001	St Georges Basin - fire control	\$105.22	14	\$1,473.08	\$0.00	\$1,473.08
03 ROAD 0021	ST. GEORGES BASIN - Construct Bypass.	\$809.82	14	\$11,337.48	\$0.00	\$11,337.48
CW AREC 0003	Hockey Facilities	\$307.49	14	\$4,304.86	\$0.00	\$4,304.86
CW CFAC 0001	Stage 1: Shoalhaven City Library Extensions	\$347.10	14	\$4,859.40	\$0.00	\$4,859.40
CW CFAC 0001	Stage 2: Shoalhaven City Arts Center	\$31.40	14	\$439.60	\$0.00	\$439.60
CW CFAC 0001	Stage 3: Shoalhaven Mobile Childrens Services	\$10.29	14	\$144.06	\$0.00	\$144.06
CW CFAC 0002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$575.67	14	\$8,059.38	\$0.00	\$8,059.38
CW MGMT 0001	Project Management Costs	\$260.94	14	\$3,653.16	\$0.00	\$3,653.16
CW OREC 0001	Embellishment of Icon and District Parks and Walking Tracks	\$201.26	14	\$2,817.64	\$0.00	\$2,817.64
MA CFAC 0001	Northern Shoalhaven Integrated Childrens Services	\$56.32	14	\$788.48	\$0.00	\$788.48
MA CFAC 0002	Northern Shoalhaven Community Transport and Family Support Services	\$16.13	14	\$225.82	\$0.00	\$225.82

Fee Estimate Date: **02 Aug 2018**

Sub Total: \$96,674.90
 GST Total: \$0.00

Estimate Total: \$96,674.90

Notes:

1. This is an estimate only and is not a payment advice.
2. Valid for the date of issue only, as these rates / projects may change over time.
3. Shoalhaven Contributions Plan 2010 commenced on 23 March 2011.

Contribution rates are adjusted annual on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied will be adjusted accordingly at the time of payment. (ie contributions are calculated on the rate applicable at the date of payment, not the date of development consent.)

A total contribution, currently assessed at the sum of \$421, 226.35 (i.e.2018/2019 rate) or as indexed in future years, shall be paid to Council prior to the issue of a Subdivision Certificate.

Contributions Plan 2010 may be inspected at the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

- (y) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate is amended by the deletion of the following Condition F7:

F7 Creation of an Easement – APZ

~~A Section 88B restriction as to user shall be placed over the portion of Lots 101-104 inclusive, Lot 122 and Lots 211-216 inclusive that are affected by the 25m Asset~~

~~Protection Zone shown on the approved plans. The restriction shall require that the affected area shall be maintained as an inner protection area as outlined within section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006*. The Section 88B instrument is to be created such that it cannot be removed without the approval of Shoalhaven City Council.~~

- (z) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate, is amended by the insertion of the following new Condition F16:

F16 Verification of Works

One full set of work-as-executed (WAE) plans and drawings in electronic CAD format (such as dwg,dxf) is to be certified by a consulting engineer and shall be submitted to Council for review and records upon completion of the works, prior to the release of a Subdivision Certificate. The certification shall state “the information shown on the plans is a true and accurate record of the constructed works”. The WAE information for all works including subsoil drainage location is to be marked in red and be provided on a copy of the Council approved plans. Where works are not within the tolerances specified in Council’s Development Construction Specifications, the certifying engineer / surveyor shall confirm, in writing, the works comply with the intent of the original design, specifications and relevant Australian Standards.

- (aa) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate, is amended by the insertion of the following new Condition F17

F17 Maintenance Bond

A cash bond or irrevocable bank guarantee and a deed of agreement to repair any deficiencies in the works including failure of flora to establish, shall be lodged with Council if a Subdivision Certificate is sought prior to the end of the 6 month defects liability maintenance period for the works.

- a. **The amount shall be 5% of the cost of the civil works (excluding water supply and sewerage).**
- b. **Works will not be accepted into maintenance until they are opened to the public.**

- (bb) Schedule 2 Part F – Prior to Issue of a Subdivision Certificate, is amended by the insertion of the following new Condition F18

F18 Street Lighting

A street lighting plan prepared in accordance with AS/NZS 1158 - Road Lighting Pedestrian Area, Category P Lighting, Performance and Installation Design Requirements approved by Endeavour Energy shall be submitted to Council with the application for the Subdivision Certificate.

- (cc) Schedule 2 Part I – General Terms is amended by the deletion of the following Condition I3:

~~I3 Bushfire Safety Authority~~

~~The New South Wales Rural Fire Service has granted a Bushfire Safety Authority subject to the following conditions:~~

- ~~1. At the commencement of building works and in perpetuity, an asset protection zone of 25 metres adjoining the southern property boundary, shall be maintained as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Service's Standards for asset protection zones.~~
- ~~2. A Section 88B restriction as to user shall be placed on all lots within the subdivision that the lots cannot be sold until they are hazard reduced so that all proposed lots have the vegetation managed as an Outer Protection Area as outlined within Section 4.2.2 in Planning for Bushfire Protection, 2001. The Section 88B restriction to user shall also include that the land is to be maintained as an Outer Protection Area until development occurs.~~
- ~~3. A Bushfire Management Plan is to be prepared for the Linear Corridors shown on the Proposed Residential Subdivision Plan prepared by Allen, Price, and Associates (REF. No. 24285-01 REVISION 'D' Dated 8 June 2006, amended 09.01.09 (Revision G) to ensure that these vegetated areas are not able to generate into a bushfire hazard.~~
- ~~4. The location of fire hydrants shall comply with the distances detailed in Section 6.4.3 of Planning for Bushfire Protection 2001. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.~~
- ~~5. All roads 8 metres wide shall locate services outside of parking reserves to ensure accessibility to reticulated water for fire suppression.~~
- ~~6. All roads between 8 metres and 7 metres wide shall be No Parking on one side with services (hydrants) located opposite parking sides to ensure accessibility to reticulated water for fire suppression.~~
- ~~7. All roads between 7 metres and 5.5 metres wide shall provide parking within parking bays and locate services outside of the parking bays to ensure accessibility to reticulated water for fire suppression.~~
- ~~8. Two way roads shall be a minimum of 5.5 metres wide.~~
- ~~9. Parking bays shall be a minimum of 2.6 metres wide from kerb edge to road pavement. No services or hydrants are to be located within the parking bays.~~
- ~~10. All roads directly interfacing the bushfire hazard vegetation shall provide layback kerbing to the hazard side of the road.~~
- ~~11. All provisions detailed within Section 4.3.1 of Planning for Bushfire Protection 2001, other than those modified by the above provisions, shall be complied with.~~
- ~~12. Property access to proposed Lot 9 shall comply with the road with, curve and grade requirements of Section 4.3.2 of Planning for Bushfire Protection 2001. Details must be provided on the Construction Certificate plans.
Reason: To ensure the proposed subdivision complies with the requirements of 'Planning for Bushfire Protection' and the integrated development provisions of the Act.~~

End of Modification