

# Modification of Concept Plan Approval

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

As delegate of the Minister for Planning and Public Spaces, I modify the approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Brendon Roberts  
**A/Director**  
**Regional Assessments**

Sydney 23 June 2020

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### SCHEDULE 1

<b>Concept Plan Approval:</b>	<b>MP 07_0026</b> granted by the Minister for Planning on 12 November 2008
<b>For the following:</b>	A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village.
<b>Proponent:</b>	Clarence Property Corporation Limited
<b>Approval Authority:</b>	Minister for Planning and Public Spaces
<b>The Land:</b>	Lot 234 DP 1104071, Montwood Drive, Lennox Head in the Ballina local government area
<b>Modification:</b>	<b>MP 07_0026 MOD 8:</b> amendment to a Statement of Commitment in relation to the provision of an integrated community and sports amenities building.

## SCHEDULE 2

The above Concept Plan approval is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions, Condition A1 is amended by the deletion of the ~~struckout~~ words/numbers as follows:

### **A1 Project Description**

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

A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village. The project includes:

- (1) Residential subdivision comprising:
    - (a) Large lots (> 1,200 m<sup>2</sup>);
    - (b) 'Traditional' lots with areas between 600 m<sup>2</sup> and 1,200 m<sup>2</sup>;
    - (c) 'Small affordable' lots (400 m<sup>2</sup> to 600 m<sup>2</sup>);
    - (d) 'Park court lots' (400 m<sup>2</sup> to 600 m<sup>2</sup>).
  - (2) Neighbourhood centre with maximum retail space of 5,500m<sup>2</sup> gross leasable area and maximum commercial space of 800m<sup>2</sup> gross leasable area;
  - (3) Multi-purpose community hall ~~with a floor space of 300m<sup>2</sup>~~;
  - (4) Retirement community;
  - (5) Medium density housing;
  - (6) A green space network of 28.6 ha comprising:
    - (a) Open space 2.1 ha;
    - (b) Water quality control pond and associated open space 2.4 ha;
    - (c) Revegetation in buffer around SEPP 26 Littoral Rainforest 0.9 ha;
    - (d) Conservation Zone of 14.07 ha; and,
    - (e) Rehabilitation works adjacent to Ballina Nature Reserve 5.9 ha.
  - (7) Road network; and
  - (8) Other associated infrastructure
- (b) Schedule 2 Part A – Administrative Conditions, Condition A4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

### **A4 Project in Accordance with Documents**

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

Environmental Assessment Documentation

- a) *Petrac Pacific Pines Estate Part 3A Application Environmental Assessment Report* prepared by GeoLINK on behalf of Petrac Pty Ltd, dated March 2008; with the exception that the Design Guidelines (as included as Appendix F of the Environmental Assessment, are not approved and do not apply to any development undertaken in accordance with this approval;

Preferred Project Report Documentation

- b) *Preferred Project Report* prepared by GeoLINK and dated June 2008;

#### Additional Information

- c) Correspondence prepared by GeoLINK dated 18 August 2008;
- d) Correspondence prepared by GeoLINK dated 29 August 2008; and
- e) Correspondence prepared by GeoLINK dated 3 September 2008.

#### Modification Documentation

- f) *Pacific Pines Modification Report* including all appendices prepared by Geolink, dated 1 September 2010;
  - g) *Pacific Pines Modification Application Response to Submissions 1439012*, including *Pacific Pines Addendum to Modification Report* prepared by Geolink and received 28 January 2011;
  - h) *Design Note – Traffic and Transport – Addendum to Traffic Impact Assessment* prepared by Cardno and dated 5 January 2011; and
  - i) updated drawings to reflect staging and dated 8 April 2011;
  - j) *Pacific Pines Modification Report* including all appendices prepared by Geolink, dated July 2012;
  - k) Updated plans to reflect expansion of conservation zone prepared by GeoLINK, dated May and July 2012; and
  - l) *Section 75W Modification No. 5 Report*, including all attachments prepared by Newton Denny Chapelle, dated November 2016, as updated by letter, including attached plans dated 27 January 2017-; **and**
  - m) **Modification Concept Plan Approval MP07 0026 (Modification 8) including all attachments, prepared by Newton Denny Chapelle and dated 4 November 2019, as updated by revised Attachment 9 dated 18 June 2020 and Attachment 10 dated June 2020.**
- (c) Schedule 3 is amended by the deletion of all text, and the insertion of the following text:

#### STATEMENT OF COMMITMENTS

### Statement of Commitments – Concept Plan

<i>Issue</i>	<i>Commitment</i>	<i>Actions and Timing</i>
General	The developer will carry out the development in accordance with the Environmental Assessment Report, prepared by GeoLINK and dated December 2007, as amended by the Preferred Project Report dated May 2008; in accordance with the Concept Plan illustrations C1 – C11 (as modified); Modification Report prepared by GeoLINK, September 2010; Environmental Impact Assessment and Mitigation Strategy (Cardno, Aug 2010); and in accordance with the specialist supporting reports.	Detailed plans will be submitted to Ballina Shire Council for approval prior to issue of a construction certificate for Stage 1, demonstrating compliance as required. Development applications will be submitted to Ballina Shire Council for approval for all subsequent stages. The applications shall demonstrate compliance with the approved Concept Plan and this Statement of Commitments.
Environmental Management	An over-arching Environmental Management Plan (EMP) will be prepared and will detail specific management actions for all green space areas included in the Amended Concept Plan. The EMP will address at a minimum: <ul style="list-style-type: none"> <li>▪ vegetation management;</li> <li>▪ fauna habitat management;</li> <li>▪ landscaping and revegetation requirements;</li> <li>▪ integrated weed management;</li> <li>▪ stormwater management;</li> <li>▪ mosquito management;</li> <li>▪ asset protection zone management; and</li> <li>▪ waste management.</li> </ul>	A copy of the EMP will be provided to DEWHA, DoP, DECCW and Ballina Shire Council for consideration and approval prior to issue of a Construction Certificate for Stage 1.
Conservation Zone Protection	After an agreed establishment and maintenance period, the Conservation Zone will be transferred to Ballina Shire Council for inclusion into the Environmental Protection Zone 7(a) - Wetlands pursuant to the Ballina Local Environmental Plan (E2 Environmental Conservation under the draft Ballina LEP 2010).	The maintenance period and regime will be agreed as part of the EMP.

<i>Issue</i>	<i>Commitment</i>	<i>Actions and Timing</i>
	The five (5) Park Court allotments that directly adjoin the Conservation Zone will be fenced in a manner that prohibits access to the Conservation Zone and the construction of gates along the common boundary will be also be prohibited.	
Conservation Zone Management	<p>A specific Conservation Zone Management Plan (CZMP) will be prepared and will detail specific management actions for the Conservation Zone that address the following issues:</p> <ul style="list-style-type: none"> <li>▪ delineation of the proposed Conservation Zone;</li> <li>▪ protection measures for retained vegetation;</li> <li>▪ weed removal and control;</li> <li>▪ surface and sub-surface hydrology;</li> <li>▪ revegetation and landscaping within the Conservation Zone;</li> <li>▪ the provision of suitable access to facilitate management of Conservation Zone;</li> <li>▪ community awareness and education;</li> <li>▪ the staging of management actions and works;</li> <li>▪ performance indicators against which the success of the CZMP is to be assessed at specified intervals;</li> <li>▪ ongoing monitoring and maintenance;</li> <li>▪ adaptive management mechanisms and processes;</li> <li>▪ documentation and reporting; and</li> <li>▪ roles and responsibilities.</li> </ul>	A copy of the CZMP will be provided to DEWHA, DoP, DECCW and Ballina Shire Council for consideration and approval prior to issue of a Construction Certificate for Stage 1.
Construction Environmental Management	Prior to the commencement of any construction works on the site, stage-specific Construction Environmental Management Plans (CEMP) will be prepared that clearly state the restrictions associated with the presence of threatened flora species and the Freshwater wetland EEC, and the penalties that will be enforced should construction activities result in any unauthorised disturbance to the retained populations and community. The CEMPs will be consistent with the requirements of the over-arching EMP but will be presented in a format that is targeted directly at contractors involved in the construction of the estate.	Each CEMP shall be submitted to and approved by DoP, DECCW and Ballina Shire Council prior to the issues of construction certificates for each stage of the development.
	Each Construction Environmental Management Plan (CEMP) shall include, but not be limited to:	

<i>Issue</i>	<i>Commitment</i>	<i>Actions and Timing</i>
	<ul style="list-style-type: none"> <li>the manner in which public access will be managed during both construction and operation; and</li> <li>methods to be utilised to protect all threatened flora and fauna habitat and EECs on the site during construction.</li> </ul>	
Integrated Water Cycle Management	The proponent will commit to constructing the creek corridors to convey major flood waters and to design of the subdivision such that the flood planning levels are set at those recommended within Council's relevant Floodplain Management Plan;	Stormwater management details and details of all earthworks will be submitted to Council for approval prior to the issue of a Construction certificate for Stage 1. Approved stormwater controls / management measures will be constructed prior to the issue of a Subdivision Certificate.
	The proponent will construct WSUD measures, including small dry detention systems up-stream of the Water Quality Control Pond, above the 1% ARI flood extent;	Details will be outlined in the stormwater management plan submitted to Council for approval prior to the issue of a Construction certificate for Stage 1. Approved stormwater controls / management measures will be constructed prior to the issue of a Subdivision Certificate.
	The proponent will also commit to ongoing monitoring of stormwater quality and continued maintenance of the stormwater treatment train	Details of monitor regimes will be provided to Council for approval prior to issue of a Construction certificate for Stage 1. Management of the Water Quality Control Pond will be taken over by Council in 2010 whilst management of the stormwater conveyance systems will be split between Council and land owners depending on specific land uses and future titling. Monitoring shall be carried out of the stormwater measures in each stage, for a period of two years following construction of that stage. Summary reports shall be provided to Council after twelve months and at the end of the monitoring period outlining the monitoring undertaken and the results obtained.

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Acid Sulfate Soils	Sampling (at a rate of 1/1000 m <sup>3</sup> of excavated material) and laboratory analysis will be undertaken within areas of the site below RL 10 m, where excavation is proposed below natural ground level. The results will be used to determine appropriate liming rates and management requirements if necessary.	An Acid Sulfate Management Plan will be submitted to Council for approval prior to the issue of a Construction certificate for Stage 1.
Infrastructure Provision	The proponent will provide reticulated potable and non-potable water supply, sewerage, telecommunications facilities and underground electricity to all lots.	Details will be provided to Council for approval prior to the issue of a Construction certificate for Stage 1. For all other stages, details will be provided with subsequent Development Applications.
Community facilities	The proponent will provide a multi-purpose community and sports amenities building. The design is to be endorsed by Ballina Shire Council and shall be located within the Epiq Sports Field (Lot 216 DP 1017615).	A 'super lot' (Lot 4 DP 1239938) has been created in Stage 1 (see Project Approval), with an area of approximately 1,990m <sup>2</sup> and the proponent has dedicated this lot to Council. Approval has also been granted by Ballina Shire Council under DA 2019/598 for a Community and Sports Amenities Building. The proponent will build the Community and Sports Amenities Building and supply the completed building to Council at a date to be agreed.
Mosquito Impact	A comprehensive mosquito management plan shall be prepared that addresses the commitments below and includes the details of the required monitoring program. The Plan shall address the management of exposure to <i>Verrillina funerea</i> , <i>Culex annulirostris</i> and <i>Aedes procax</i> associated with the conservation areas within the site.	The management plan shall be provided with the application for Construction Certificate for Stage 1 and then updated as relevant to accompany development applications for subsequent stages.
	Street lighting will be provided with shields or yellow filters to minimise artificial light attracting mosquitoes from the Ballina Nature Reserve into residential areas;	Details will be provided to Council for approval prior to the issue of a Construction certificate for Stage 1, and with all subsequent Development Applications for future stages of the development.
	Exposure to <i>Aedes vigilax</i> and mosquitoes in general will be effectively managed in residential allotments by standard type mosquito screening fitted to residential dwelling windows and external doors to restrict entry of mosquitoes during occasional periods of high mosquito numbers.	This information will be provided with all future sales information.



<i>Issue</i>	<i>Commitment</i>	<i>Actions and Timing</i>
	Mosquito awareness materials should be made available to residents of Pacific Pines.	This information will be provided with all future sales information.
	Rainwater tanks included (potentially) within the development should be protected by having mosquito proof screens fitted to openings including inspection openings and overflows. Such screens should be made of durable material such as stainless steel. The mesh size should not provide an aperture of more than 1mm.	This detail will be assessed in future development applications. Information will be provided with all future sales information.
	Monitoring of all mosquito management measures shall be carried out by the developer.	Monitoring shall be carried out for the works in each stage, for a period of two years following completion of construction of that stage. Reports shall be provided to Council at the end of twelve months and at the end of the monitoring period summarising the effectiveness of the controls.
Traffic and Access	The proponent will construct the extension of Hutley Drive, from the northern boundary of the site to a point approximately 50m south of the intersection with Main Street (i.e. southern boundary of Lot 234).	Details will be provided to Council for approval prior to the issue of a Construction certificate for Stage 1. Hutley Drive will be constructed in accordance with approved plans prior to the release of a Subdivision Certificate and will be maintained by the developer for a period of 12 months following completion of construction.
	All internal roads will be constructed in accordance with the road types identified in <b>Appendix F</b> of the EA documentation (as amended) and in accordance with relevant local and Australian Standards.	Details will be provided to Council for approval prior to the issue of a Construction certificate for Stage 1. Internal roads will be constructed in accordance with approved plans prior to the release of a Subdivision Certificate and will be maintained by the developer for a period of 12 months following completion of construction.
Cultural Heritage	Nominated representatives from Jali LALC will be engaged to monitor initial excavations.	Monitoring will be carried out by strip sampling by grader scrape of the lower slopes. The Proponent/Project Managers must give prior warning of at least two weeks of the programme of works to the Jali LALC. The costs of monitoring are to be



<i>Issue</i>	<i>Commitment</i>	<i>Actions and Timing</i>
		negotiated between the Proponent and the Jali LALC.
	If, in the process of works within the site, that at any time it is believed materials of an Aboriginal origin are found, works at the location must stop immediately. The NSW DECC Regional Office – Coffs Harbour and Jali LALC must be advised and advice sought as to the most appropriate course of action to follow. Jali LALC may also wish to inform Traditional Owner respondents and seek their views as to how cultural heritage values might be impacted and to how best to mitigate potential impacts. Works must not proceed in the specific location without written consent of the DECC and Jali LALC.	A protocol relating to this requirement will be developed and all site construction staff will be trained in the protocol
	Prior to any vegetation clearing and initial earthworks contractors be advised of the statutory requirements of the <i>National Parks and Wildlife Act 1974</i> (NSW) that in regard to Aboriginal sites or relics: it is an offence to knowingly disturb, deface, damage or destroy, or to permit the disturbance, defacement, damage or destruction of a relic without first obtaining written consent to do so from the Director General of the DECC.	A protocol relating to this requirement will be developed and all site construction staff will be trained in the protocol. An Aboriginal Cultural Heritage Education Program will be developed for induction of personnel and contractors.
	The areas identified as potentially of local significance will not be subject to any modification without the consent of the Traditional Owners. These areas will be: <ul style="list-style-type: none"> <li>fenced off by a temporary fence during any construction on nearby land to prevent inadvertent damage by work vehicles; and</li> <li>when fenced, signed with notification that the area inside the fence is culturally sensitive and that it is an offence under Section 86 of the <i>National Parks and Wildlife Act 1974</i> (NSW) to harm Aboriginal Cultural Heritage.</li> </ul>	

**End of Modification  
(MP 07\_0026 MOD 8)**