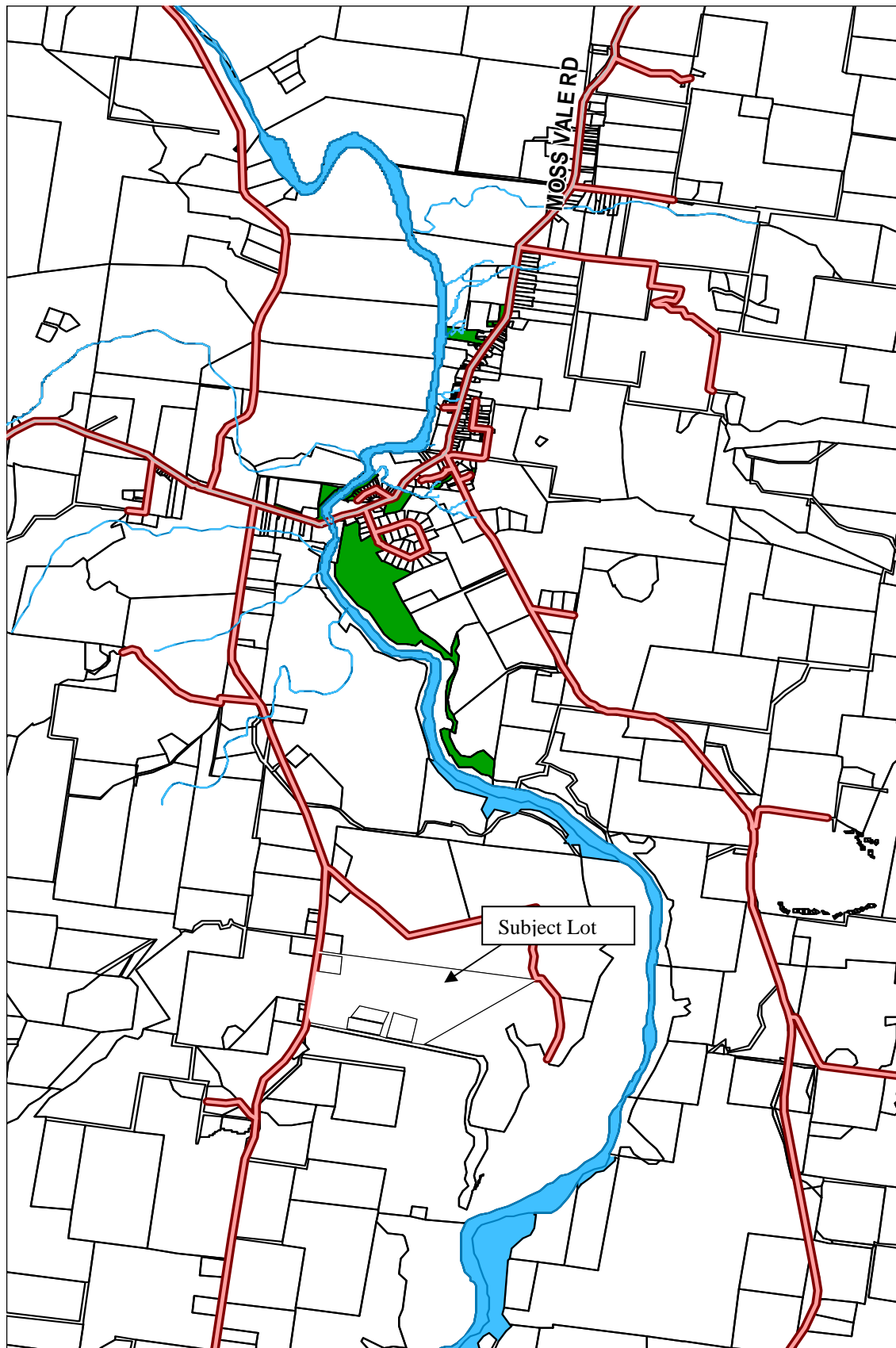
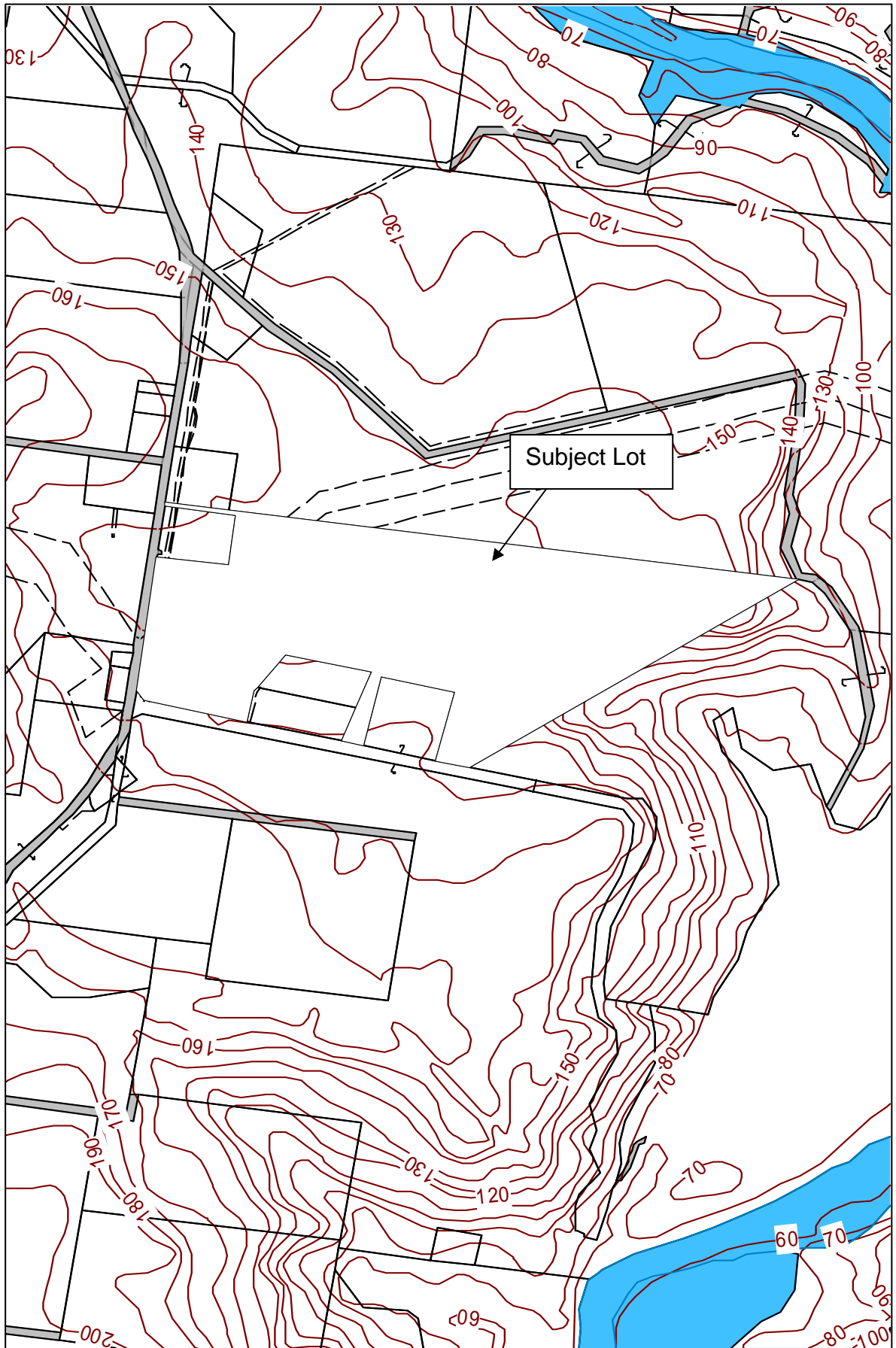


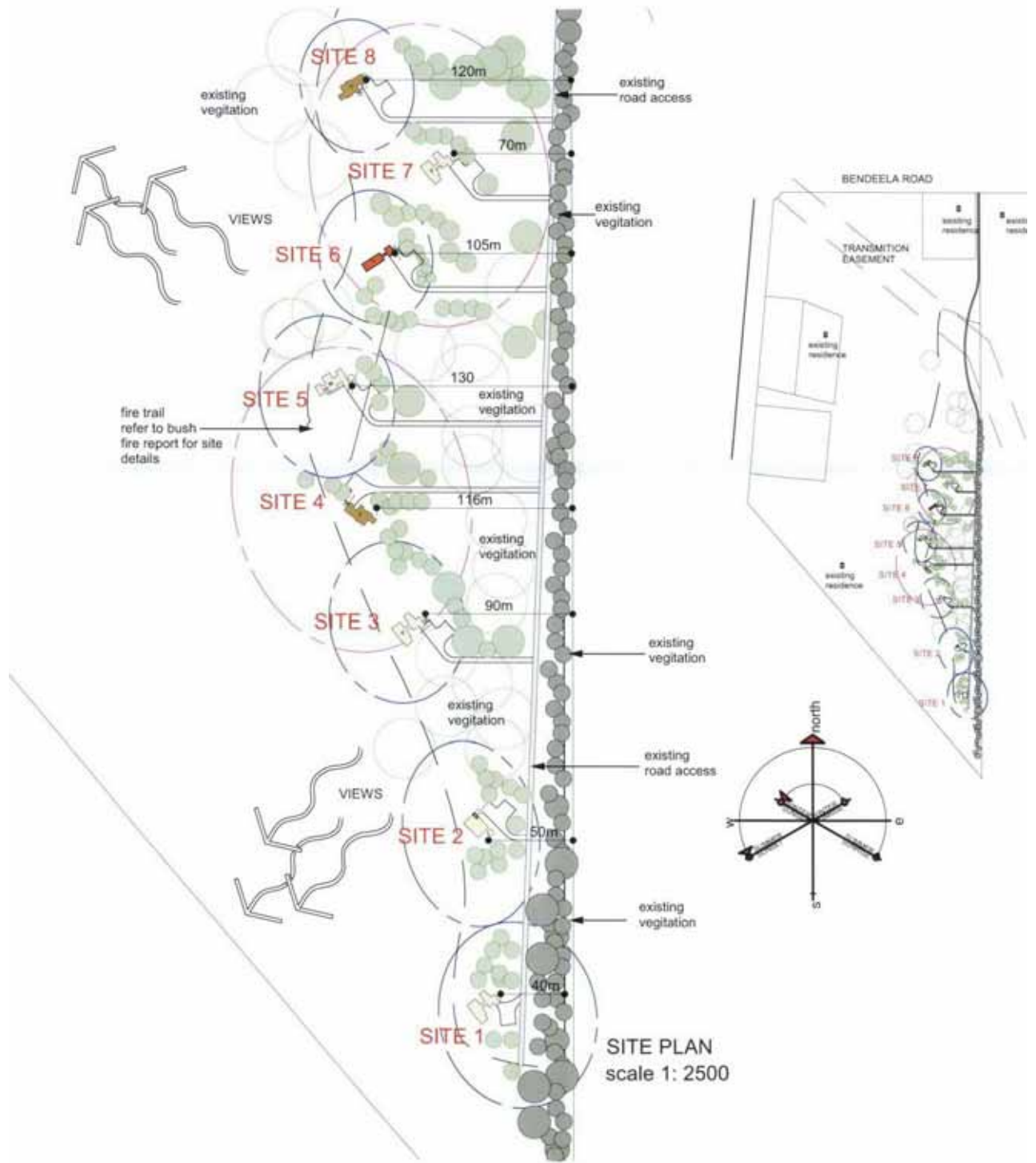
Attachment 'A'



Attachment 'B'



# Attachment 'C'



## DA07/2540 Summary and Address of Submissions

## S79C(1)(d) Public Submissions made in Accordance with the Act or Regulations

No.	Names & Addresses	Received by Council	Issues
1 and 2 D07/145843 D07/145920 1st OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	08-10-2007	Inappropriate tourist development. Non-compliant waste management. Non-compliant subdivision. Inadequate information.
3 D07/147074 1st OBJECTION	John F. Skidmore PO Box 6094 KANGAROO VALLEY 2577	09-10-2007	Undesirable subdivision precedent. Manager's residence is unnecessary. Effluent disposal area to be set back from creek. Tourist development must be supervised.
4 D07/147287 1st OBJECTION	KANGAROO VALLEY COMMUNITY ASSOCIATION PO Box 6089 KANGAROO VALLEY 2577	09-10-2007	Non-compliant subdivision.
5 D07/148090 1st OBJECTION	Joy Batty PO Box 6045 KANGAROO VALLEY 2577	10-10-2007	Increased traffic. Undesirable precedent. Increase in on-site effluent disposal. Inappropriate zoning. Excessive removal of Vegetation. Increased run-off.
6 D07/148094 1st OBJECTION	Diane & Keith Wearne 306 Bendeela Road KANGAROO VALLEY 2577	10-10-2007	Undesirable subdivision precedent. Manager's residence is unnecessary. Effluent disposal area to be set back from creek. Tourist development must be supervised.
7 D07/148099 1st OBJECTION	B. Martin & T. Mackie 190 Bendeela Road KANGAROO VALLEY 2577	11-10-2007	Undesirable subdivision precedent. Manager's residence is unnecessary. Effluent disposal area to be set back from creek. Tourist development must be supervised.
8 D07/148102 1st OBJECTION	Guillian Tucker 252 Bendeela Road KANGAROO VALLEY 2577	11-10-2007	Undesirable subdivision precedent. Manager's residence is unnecessary. Effluent disposal area to be set back from creek. Tourist development must be supervised.
9 D07/148107 1st OBJECTION	Kate & Duncan Rutherford 1 Old Bendeela Road BARRENGARRY 2577	11-10-2007	Undesirable subdivision precedent. Inappropriate development on sensitive land. KV - a wasteland of weekend residences. Increase in on-site effluent disposal. Excessive removal of Vegetation.
10 D08/627 2nd OBJECTION	John F. Skidmore PO Box 6094 KANGAROO VALLEY 2577	02-01-2008	Undesirable subdivision precedent. Excessive removal of Vegetation.
11 D08/6765 1st SUPPORT	Paul & Lyn Obern 407B Bendeela Road KANGAROO VALLEY 2577	02-01-2008	Care has been taken on environmental impact. Contribution to growth in eco-tourism.
12 D08/13402 3rd OBJECTION	John F. Skidmore PO Box 6094 KANGAROO VALLEY 2577	29-01-2008	Undesirable subdivision precedent. Excessive removal of Vegetation. Manager's residence is unnecessary.

13 D08/15246 2nd OBJECTION	Kate & Duncan Rutherford 1 Old Bendeela Road BARRENGARRY 2577	29-01-2008	Undesirable subdivision precedent. Inappropriate development on sensitive land. Increase in on-site effluent disposal. Excessive removal of Vegetation.
14 D08/15682 2nd OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	04-02-2008	Unclear staging. Applicant should lodge Community Title plan. Completion of stage before beginning new stage. Flora and Fauna Assessment to be submitted. Excessive removal of Vegetation.
15 D08/18443 ADVICE	Sydney Catchment Authority (letter to Skidmore)	06-02-2008	Sydney Catchment Authority advice to Mr Skidmore relating to the procedures associated with the assessment of the on-site effluent disposal system.
16 D08/20431 3rd OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	11-02-2008	Objection to Asset Protection Zone extending to adjoining (Grubbs) property; Objection to visual impact of Manager's Residence.
17 D08/28249 3rd OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	22-02-2008	Assumption to lodge further submissions if applicant submits additional information.
18 D08/80040 4th OBJECTION	John F. Skidmore PO Box 6094 KANGAROO VALLEY 2577	29-01-2008	Development assent by attrition. Excessive removal of Vegetation. Seven new dwelling would be established.
19 D08/85588 2nd OBJECTION	Diane & Keith Wearne 306 Bendeela Road KANGAROO VALLEY 2577	06-06-2008	Seven new dwelling would be established. Inappropriate development on sensitive land. Undesirable subdivision precedent.
20 D08/86078 1st OBJECTION	J. Horton & P. Terrett 41 Old Bendeela Road KANGAROO VALLEY 2577	10-06-2008	Objection to access via Old Bendeela Road.
21 D08/88097 3rd OBJECTION	Kate & Duncan Rutherford 1 Old Bendeela Road BARRENGARRY 2577	12-06-2008	Undesirable subdivision precedent. Seven new dwelling would be established. Inappropriate development on sensitive land. Increase in on-site effluent disposal. Excessive removal of Vegetation. Objection to access via Old Bendeela Road.
22 D08/87903 4th OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	12-06-2008	Change from "eco" tourism is an attempt to avoid RFS requirements. Emergency access from Old Bendeela Road cannot be provided due to steep land. Asset Protection Zone is inadequate. Water Cycle Management Study – MUSIC modelling uses smaller catchment size and underestimates the impact on water quality. Amended Bushfire Report and Water Study are inadequate. Community Title Subdivision Plan Use of Community Hall. Non-compliance with DCP 63 Flora and Fauna Assessment is inadequate. Exhibition of incomplete development application information.

23 D08/89396 5th OBJECTION	Addisons Solicitors (for Mr Grubb 325 Bendeela Rd KV) GPO Box 1433 SYDNEY NSW 2001	16-06-2008	Emergency access from Old Bendeela Road cannot be provided due to steep land. SEE should be amended to accurately reflect impact of development, including use of steep land for emergency access.
24 D08/173309 5th OBJECTION	John F. Skidmore PO Box 6094 KANGAROO VALLEY 2577	01-11-2008	Undesirable subdivision precedent. Seven new dwelling would be established. Visual Analysis. What are the recommendations of the TSO. Spread of weed and pests. Restrictions on pets; Erosion Controls. Compliance with DCP 63. External colour scheme. Monitoring of the Tourist Facility.

### Submissions to be addressed:

#### 1. Non-compliance with DCP 63

A number of submissions claim that the proposed development does not comply with Development Control Plan No. 63 – *Tourist Development in Rural Areas*. These submissions point out that the development of Tourist Facilities within the Shoalhaven must essentially comply with DCP No. 63.

**Comment:**

*The proposed development complies with the standards set out in DCP 63. Stage 1 of the development comprises the construction of three tourist cabins, one of which would be used as a temporary manager's residence. Stage I of the development must provide for a minimum of three tourist cabins. The proposed staging seeks approval for a minimum of 3 cabins and a manager's residence as part of the first Stage. The proposed manager's residence would be ancillary to the primary use of the land as a tourist facility and complies with the 2.2 Density Standard provisions of DCP No.63.*

#### 2. Non-compliance with DCP 93;

A number of submissions claim that inadequate information was submitted in relation to waste management.

**Comment:**

*The proposed development is considered to be a low waste generating development. The majority of the waste would be green waste associated with the removal of vegetation related to the construction of the cabins, manager's residence, driveway and the provision of an APZ. The remaining waste would be the result of construction which would be disposed of in accordance with the submitted Waste Management Plan.*

*A Waste Minimisation and Management Plan form was submitted with the Development Application. In the event of approval, suitable conditions relating to waste management would be imposed on the development, including the use of vegetation as mulch.*

#### 3. Undesirable Subdivision Precedent

A number of submissions claim that the proposed subdivision of the subject land would set an undesirable precedent in the locality.

**Comment:**

*Council is satisfied that the subdivision will be used for the purposes of a Tourist Facility. The proposed subdivision has been supported by Council's Subdivisions Section. The proposed subdivision is legally permissible under SLEP 1985 and, thus, does not create an undesirable precedent. An allotment can be created to accommodate a tourist facility.*

*In this regard, the proposed subdivision is permissible in accordance with Clause 11(3), 11(3A) and 11(4) of SLEP 1985. The subdivision of land zoned Rural and Environmental Protection is applicable to this proposal which includes both a two-lot subdivision under Clauses 11(3) and 11(3A) and the further subdivision of the Tourism Development under the provisions of Clause 11(4) of SLEP 1985.*

*Should the application be determined by way of approval, the Subdivisions Section has recommended that the certain conditions should be included in the Development Consent.*

**4. Inadequate Information**

A number of submissions claim that insufficient information was submitted with the application.

**Comment:**

*It is acknowledged that insufficient information was submitted initially. During the course of the assessment process however, the applicant was requested to provide certain addition information relating to effluent disposal and flora and fauna assessment. The applicant has complied with Council's requests in this regard and sufficient information, including a Flora and Fauna Assessment, was subsequently provided to allow an adequate and comprehensive assessment of the proposed development to be undertaken.*

*Such addition information was further referred to the relevant State Government Authorities and Council departments and notified to land owners.*

**5. Asset Protection Zone is Inadequate**

A number of submissions claim that the Asset Protection Zones proposed for the tourist facility development would be inadequate.

**Comment:**

*The applicant has submitted a Bushfire Protection Assessment prepared by bushfire+environmental Services (BES) Ref. B1070039 and dated September 2007 and a Supplementary Bushfire Protection Assessment by BES Ref. B1070039 and dated 12-May-2008.*

*The development application was referred to the Rural Fire Service. The RFS has recommended the appropriate distances for the Asset Protection Zones. In the event of approval, such recommendations would be imposed on the development and the applicant would be required to comply with these recommendations.*

**6. Amended Bushfire Report and Water Study are Inadequate**

A number of submissions claim that the Bushfire Report and Water Study are inadequate.

**Comment:**

*The amended Bushfire Report and Water Study were referred to the Rural Fire Service (RFS) and the Sydney Catchment Authority (SCA) respectively for their comment and*



recommendations. Both the RFS and the SCA have provided certain comment and have recommended certain conditions to be imposed on the development in the event of approval.

## 7. Flora and Fauna Assessment is Inadequate

A number of submissions claim that the Flora and Fauna Assessment is Inadequate.

### **Comment:**

The ecological impacts associated with this proposal have been assessed in the following submitted documents:

- Preliminary Flora & Fauna Assessment by bushfire+environmental Services (BES) Ref. E1070027 and dated Sep-2007;
- Supplementary Flora and Fauna Assessment by BES Ref. No.E1070027 and dated Jun-2008;
- Revised Flora & Fauna Assessment by BES Ref. E1070027 and dated October 2008;

BES has provided a NSW EP&A Act 1979 S5A "assessment of significance" that concludes the proposal is **"unlikely to have a significant effect on threatened species, populations or ecological communities or their habitats"**

The Report of Council's Threatened Species Officer contained in S79C(1)(b) Likely Impact on the Natural Environment - Flora and Fauna (refer below) concurs with BES S5A assessment and conclusion of non-significance. The BES recommendations have been incorporated within the recommended Conditions of Threatened Species Officer. In the event of approval, such conditions would be imposed on the tourist development.

## 8. Exhibition of Incomplete Development Application Information

A number of submissions claim that the exhibition contained incomplete development application information.

### **Comment:**

This development application has been advertised on four separate occasions in accordance with Council's Community Consultations Policy in order to advertise all the information as it was submitted and as it became available.

The first advertising period was conducted from **26<sup>th</sup> September 2007.**  
Submissions were received by the close of business on **11<sup>th</sup> October 2007.**

The second advertising period was conducted from **29<sup>th</sup> October 2007.**  
Submissions were received by close of business on **13<sup>th</sup> November 2007.**

The third advertising period was conducted from **18<sup>th</sup> January 2008.**  
Submissions were received by close of business on **2<sup>nd</sup> February 2008.**

The fourth advertising period was conducted from **26<sup>th</sup> May 2008.**  
Submissions were received by close of business on **10<sup>th</sup> June 2008.**

**Note:** It is not unusual for development applications, involving complex issues, to be required to submit more detailed information following referral to relevant agencies. Further studies, reports and documentation are then re-notified in accordance with Council's Community Consultations Policy.



## **9. Applicant should lodge Community Title Plan**

A number of submissions claim that the applicant should lodge Community Title Plan.

### **Comment:**

*In the event of approval, the applicant would be required to lodge a Community Title subdivision plan. In addition, the applicant would be required to lodge, and subsequently administer, a Tourist Development Management Plan.*

## **10. Seven Dwellings to be Established**

A number of submissions claim that the development would establish seven new dwellings.

### **Comment:**

*Seven new dwellings would not be established. The proposed development seeks approval for one manager's residence, six tourist cabins and a community building. Only the manager's residence can be approved for permanent occupancy.*

## **11. Change from "ECO" Tourism Avoids RFS Requirements**

A number of submissions claim that the change in the description of the proposed development from "eco tourism" to just "tourism" means that the developer would avoid the requirements of the Rural Fire Service.

### **Comment:**

*The change from "eco tourism" to just "tourism" in the description of the proposed development did not change the development application as it was submitted and consequently made no difference to the standard of construction initially shown on the submitted plans. As a consequence, the standard required to be achieved by the development remained unchanged, despite the change in the description of the proposed development. In this regard, the conditions imposed by the NSW RFS – General Terms of Approval, the Sydney Catchment Authority and Council relate to the submitted proposal, as amended, irrespective of the name change, and must be complied with.*

## **12. SEE does not accurately reflect Impact of Development**

**[including use of steep land for emergency access]**

**Emergency Access from Old Bendeela Road [cannot be provided due to steep land]**

A number of submissions claim that emergency evacuation cannot be provided due to the slope of the land.

### **Comment:**

*The Rural Fire Service has required that alternate emergency evacuation access needs to be provided to the tourist development. In the event of approval, a condition would be imposed to require the applicant to demonstrate in detail how emergency access from Old Bendeela Road can be provided.*

*The applicant would be required to implement a Bushfire Emergency Evacuation Management Plan, including the provision of an emergency evacuation route accessing Old Bendeela Road south of the development. Such an emergency evacuation route needs to be constructed in accordance with Section 4.2.7 of Planning for Bushfire Protection 2006*

requirements and to the satisfaction of the Rural Fire Service. It should also require the sealing of any grades greater than 15%.

Detailed design of the emergency evacuation route should be submitted for approval **prior to the issue of a Construction Certificate** for Stage I of the development. The emergency evacuation route must be constructed to the approved standard **prior to the issue of an Occupation Certificate** allowing the use of the Tourist Cabins.

As a minimum, the Bushfire Emergency Evacuation Management Plan must be prepared in accordance with the requirements of Planning for Bushfire Protection 2006 and should be regularly updated by the owner of the property and amended as required to reflect changing development in and around the tourist development and taking account of changes in available fire fighting resources.

It may be noted that the emergency evacuation route would only be required in the event of bushfire emergency emanating from the west. Thus, evacuation would essentially involve movement down-hill and would not normally require the Rural Fire Service to access the property whilst travelling up the incline.

### **13. Water Cycle Management Study - MUSIC**

A number of submissions claim that the Water Cycle Management Study - MUSIC modelling uses smaller catchment size and underestimates the impact of the proposed development on water quality.

**Comment:**

The on-site Effluent Disposal Management Plan and the MUSIC modelling were referred to the Sydney Catchment Authority (SCA) for comment. The SCA raised no objection to the Water Cycle Management Study – MUSIC modelling used and provided certain recommended conditions in relation to effluent disposal. In the event of approval, such conditions would be imposed on the development. The applicant would be legally obligated to comply with the conditions of the SCA.

### **14. Visual Analysis**

A submission claims that a visual analysis has not been undertaken.

**Comment:**

Visual analysis is undertaken as part of the development assessment process. Given that the subject land is covered by Scenic Preservation hatching, under Clause 44 of SLEP 1985 Council must consider the imposition of conditions relating to the colours external materials of buildings and any other structures, including water tanks located on the subject land. Such conditions would be designed to ensure that the external colours used would blend into the visual landscape

The proposed tourist cabins would be located between 70 and 130 metres from the eastern boundary of the subject land, with the Community Hall and Manager's Residence located 50m and 40m from the eastern boundary respectively. The tourist cabins would be located even further from other boundaries.

It is noted that there are existing dwellings located to the north approximately half a kilometre from the proposed tourist facility development. The existing dwelling on the subject site would be located well over 200 metres from the proposed tourist cabins. Given these

*circumstances, the location of the tourist cabins would not adversely impact on the character of the locality or on existing residences.*

*Given that the vegetation canopy has already been compromised by past farming practices on adjoining and nearby lands, it is considered that this development would not unreasonably intensify the existing impact to a significant degree. In this regard, provided the conditions relating to tree removal are complied with, the extent of visual impact would be acceptable.*

*It may be noted that the provision of an Asset Protection Zone allows for the retention of certain trees providing the canopies of such trees do not touch or overlap.*

## **15. Spread of Weed and Pests**

A number of submissions claim that the proposed development would cause the spread of weed and pests into the surrounding natural environment.

### **Comment:**

*Currently, there are relatively few weeds located within the development sites. However, weeds can be found on other parts of the property, particularly beneath the power lines and nearer to the boundaries. There is a risk that weeds may be imported by vehicles during the construction of the buildings. In the event of approval, Council may impose conditions obliging the land owner to prevent weed invasion for the life of the development. In this regard:*

- (a) The planting of plant species listed on the Weeds Australia NSW weeds list ([www.weeds.org.au](http://www.weeds.org.au)) is prohibited;*
- (b) No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process Invasion of native plant communities by exotic perennial grasses, shall be sown within the outer protection area or the asset protection zone for the life of the development. Native grasses must be sown in these areas, as this is the interface between disturbed areas and the remaining native vegetation for the life of the development; and,*
- (c) Native plant species, preferably those appropriate species listed in Table 3 of the Revised [03-11-2008] Flora & Fauna Assessment by BES Ref. E1070027 and dated October 2008 shall be considered for implementation in any landscaping proposed for the development.*

## **16. Restrictions on Pets**

A number of submissions claim that addition of domestic animals would result in an undesirable impact on the local fauna population.

### **Comment:**

*In the event of approval, Council would impose conditions restricting the number and species of animal pets that can be kept on the property. In this regard:*

- (a) The keeping of cats and dogs within the tourist cabins located on Lot 11 is prohibited for the life of the development (Lot 11);*
- (b) To protect native fauna in the locality, cats must be kept completely within the dwelling or in a cattery within the dwelling curtilage at all times (day and night) for the life of the development (Lot 10);*

*The applicant has advised that there would be no pets allowed in the tourist development and has stated his intention to include such a requirement in the Tourist Facility Management Plan.*

#### **17. Erosion Controls**

Concerns were raised that the development would cause erosion to the local area.

**Comment:**

*The applicant is required to prepare a Sediment and Erosion Control Management Plan in the event of approval. Council may impose conditions requiring the implementation of sediment and erosion control both during construction and for the life of the development. Such soil and water control measures would also be required to satisfy Sydney Catchment Authority water quality requirements.*

#### **18. Monitoring of the Tourist Facility**

Concerns were raised in relation to the monitoring of the tourist facility.

**Comment:**

*If approved, the development would be required to be carried out in compliance with conditions relating to DCP No. 63, including restrictions associated with the occupation of the tourist cabins.*

*Such compliance would need to be maintained for the life of the development.*

*In addition, the applicant would also need to comply with a Community Management Plan which would also apply to the development. The Community Management Plan would be required to cover a range of aspects associated with the management of the tourist facility, including the conduct of guests, noise, etc. The Community Management Plan may be view on DA Tracking at Council's website.*

*To ensure that the tourist cabins could only be used in accordance with the approved use and should cater only for the tourist accommodation market, a Tourist/Holiday Cabin Accommodation Register would be required to be kept by the owner of the tourist facility. Such an Accommodation Register would need to be made available to Council as may be requested from time to time.*

## **PART A**

### **CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT**

#### **General**

1. This consent relates to **Tourist Facility comprising Manager's Residence, Community Hall/Activity Building and Six Tourist Cabins in Seven Stages and a Subdivision to create a 22.28ha allotment to accommodate the Tourist Facility** as illustrated on the following plans
  - Revised Drwg 01 Site Plan by Tessra Job No.0726 and dated 15-Aug-2008;
  - Revised Drwg 02 Manager's Cottage site 1 Site Plan at 1:500 by Tessra Job No.0726 dated 15-10-2008;
  - Revised Drwg 03 Manager's Cottage site 1 Floor Plan at 1:100 by Tessra Job No.0726 dated 15-10-2008;
  - Revised Drwg 04 Manager's Cottage site 1 Elevations at 1:100 by Tessra Job No.0726 dated 15-10-2008;
  - Revised Drwg 05 Manager's Cottage site 1 Sections at 1:100 by Tessra Job No.0726 dated 15-10-2008;
  - Revised Drwg 06 Community Hall site 2 Site Plan at 1:500 by Tessra Job No.0726 dated 15-10-2008;
  - Revised Drwg 07 Community Hall site 2 Floor Plan at 1:100 by Tessra Job No.0726 dated 02-10-2007;
  - Revised Drwg 08 Community Hall site 2 Elevations at 1:100 by Tessra Job No.0726 dated 02-10-2007;
  - Revised Drwg 09 The Pavilion site 3 Site Plan at 1:500 by Tessra Job No.0726 dated 12-09-2007;
  - Revised Drwg 10 The Pavilion site 3 Site Floor Plan at 1:100 by Tessra Job No.0726 dated 12-09-2007;
  - Revised Plan of Subdivision of Lot 1 in DP 1031764 at Reduction Ratio of 1:4000 by Ralph Moses dated 03-11-2008;

specifications and supporting documentation prepared by Planscapes, Southern Geotechnics Pty. Ltd., SEEC Morse McVey and bushfire+environmental Services stamped with reference to this consent, as modified by the following conditions.

#### **Notes:**

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

- *Cl.11(3) of Shoalhaven Local Environmental Plan 1985 provides that the Council may grant consent for a subdivision of land within the Rural 1(d) zone so as to create an allotment of less than 40 hectares if the Council is satisfied that the allotment proposed to be created is currently lawfully used for a tourist facility purpose or will be used for such a tourist facility purpose before the plan of subdivision is registered. To satisfy this Clause in terms of the proposed subdivision of the subject land, the tourist facility must be operational before the proposed subdivision can be approved.*

### **Occupation and Use**

2. The **Tourist Facility to be developed in Seven Stages** shall not be occupied or the use shall not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with council (i.e. a security).

### **Staged Development**

3. Consent is given for development to be constructed in stages. In this regard, the development shall be carried out in accordance with this consent in seven stages as follows:

Stage I: Construction and completion of the Tourist Cabins located at Sites 8, 7 and 6 (i.e. three cabins) and associated access road to those cabins at the northern end of the development site. One of the cabins may be used as the interim (temporary) manager's residence.

Stage II: Release of Torrens Title subdivision.

Stage III: Construction and completion of the Manager's Residence located at Site 1 and completion of the remainder of access road. Interim (temporary) Manager's Residence reverts to a tourist cabin.

Stage IV: Construction of the Community Hall located at Site No. 2 and again, upon completion of the Community Hall building.

Stage V: Construction and completion of the Tourist Cabin located at Site 3.

Stage VI: Construction and completion of the Tourist Cabin located at Site 4.

Stage VII: Construction and completion of the Tourist Cabin located at Site 5.

**Note:** *Stages shall be progressively completed to the satisfaction of the Principle Certifying Authority prior to the commencement of the next Stage of the approved development.*

### **Operation of the Approved Use**

4. Under Cl.11(3)(a) of SLEP 1985, the subject land must be currently being used for the purpose of a tourist facility, or must be used for that purpose prior to registration of the subdivision plan. In this regard, as a minimum, Stage I of the approved tourist facility development must be commenced and operational, **prior to registration of the subdivision plan.**

## **PART B**

### **CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE**

#### ***Construction Certificate***

5. A separate Construction Certificate must be obtained for each of the individual stages involving construction from either Council or an Accredited Certifier **before any building work can commence.**

#### ***Notice of Commencement***

6. Where Council is the Principle Certifying Authority (PCA), notice must be given to Council **at least two (2) days** prior to the commencement of building work for each of the individual stages.

#### ***Residential Building Work***

7. Any licensed contractor(s) *performing **residential building work valued at \$12,000 or more*** must obtain indemnity insurance as required by the Home Building Act 1989. Evidence of such insurance must be provided to the Principal Certifying Authority (PCA) before building works commence.

#### ***Note Advice to the Applicant***

- *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*
- *If appointment as PCA, **Shoalhaven City Council WILL NOT INSPECT any building work unless evidence of indemnity insurance has been provided.** A copy of the Certificate of Insurance will suffice.*

#### ***Builders' Toilet***

8. Before commencing building operations, a builder's water closet accommodation must be provided to Council's satisfaction.

A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational.

Under no circumstances will pit toilets or similar be accepted by Council.

#### ***Damage to Existing Services and Public Assets***

9. **Prior to the commencement of works**, the developer or his agent must:
  - (a) check that the proposed works are not affected by any Council, Integral Energy, telecommunications, gas service or other services; and,
  - (b) undertake a site inspection of the adjacent carriageway, reserves and the like and document evidence of any damage to existing assets.



**Note:** Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. Any required alterations to existing services will be at the developer's expense

**Work within the Road Reserve – Section 138 Roads Act**

10. **Prior to undertaking any works within the road reserve**, the contractor must obtain the approval of Council under Section 138 of the Roads Act, 1993. The following details must be submitted to Council for in order to obtain the s.138 approval:

- Pavement design.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the RTA's manual – "*Traffic Control at Work Sites*". Warning and protective devices shall comply with the provisions of AS 1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate RTA accreditation, a copy of which is to be submitted with the plan.
- Insurance details.

**Erosion and Sediment Controls**

11. To maintain the amenity and water quality of the area, the sedimentation and erosion controls required by the Erosion and Sediment Control Plan (ESCP) approved for this development shall be implemented **prior to the commencement of any work**. Such ESCP 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.

## **PART C**

### **CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

**Environmental Management Plan**

12. An Environmental Management Plan must be prepared by a suitably qualified environmental consultant and approved by the Shoalhaven City Council Director of Development and Environmental Services **prior to the issuing of a Construction Certificate**. The plan should incorporate;

- (a) Vegetation management for the site including the ongoing maintenance of the required asset protection zones and landscaped areas; and,
- (b) Rehabilitation measures for the whole property using local provenance flora as outlined in the flora and fauna assessment, to improve connectivity between existing isolated vegetation patches and the removal and control of noxious and environmental weeds on site.

### ***Erosion and Sediment Control Plan (ESCP)***

13. To maintain the amenity and water quality of the area, the applicant shall submit an Erosion and Sediment Control Plan (ESCP) and accompanying specifications for each of the construction stages of the works. The ESCP is to be prepared by a suitably qualified/experienced person and based on the Landcom manual *“Soils and Construction, Managing Urban Stormwater, Vol 1 4<sup>th</sup> Edition, March 2004”* and shall be lodged for approval **with the application for a Construction Certificate**. In this regard the ESCP shall include, but not be limited to:
- (a) A silt control fence, or equivalent barrier, must be provided downhill from the cut and fill area (or any other disturbed area). In this regard:
    - (i) The silt control fence must be regularly inspected and cleaned out;
    - (ii) The silt control fence must be repaired as necessary;
    - (iii) All collected silt must be disposed of to the satisfaction of the Principal Certifying Authority (PCA); and,
    - (iv) Unnecessary disturbance of the site (e.g. excessive vehicular access) must not occur;
  - (b) The applicant must not allow the discharge of turbid or sediment laden water into any adjoining or adjacent watercourse. In this regard, controls in excess of those identified on the approved Sediment and Erosion Control Plan may be required to prevent pollution of the environment;
  - (c) All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks. In this regard:
    - (i) The stockpiled topsoil must be distributed over the disturbed area prior to all exposed soil areas being seeded;
    - (ii) Turf strips or Hessian controls may be required on steep banks at the edge of the levelled area to prevent erosion;
    - (iii) Exposed areas must be seed within 14 days of the completion of earthworks;
    - (iv) When the exposed areas have become re-vegetated, all collected sediment behind the controls in the drain must be removed by hand, the fence removed and the drain returned to its original state.
  - (d) All the above requirements must be to the satisfaction of the PCA. A copy of Council’s Code “Guidelines for Stormwater Protection on Building Sites” is enclosed.
  - (e) The approved ESCP control measures shall be implemented, inspected and approved prior to the commencement of any site works;
  - (f) The approved ESCP control measures shall be repaired as required
  - (g) The approved ESCP control measure shall be repaired if necessary, and shall be maintained in place for the life of the construction period until the work has been completed and the development site has been completely stabilised and

revegetation measures have taken hold and all bare areas have been revegetated;

- (h) Provision for the diversion of runoff around disturbed areas;
- (i) Location and type of proposed erosion and sediment control measures;
- (j) Location of and proposed means of stabilisation of site access;
- (k) Approximate location of site sheds and stockpiles;
- (l) As a minimum, a silt fence or equivalent should be provided downhill from the cut and fill area (or any other disturbed area);
- (m) Clearance of sediment traps on a regular basis and after major storms. The fence should be regularly inspected and cleaned out and/or repaired as necessary;
- (n) All collected silt shall be disposed of to the satisfaction of the Principal Certifying Authority (PCA).
- (o) Unnecessary disturbance of the site (e.g. excessive vehicular access) should not occur and all cuts and fills should be stabilised or revegetated as soon as possible after the completion of site earthworks;
- (p) Proposed site rehabilitation measures, including seeding of all bare un-grassed areas and turfing where erosion or scouring is likely to occur;
- (q) Standard construction drawings for proposed erosion and sediment control measures.
- (r) Invasive exotic perennial grass species listed in the Final Determination of the NSW Scientific Committee for this key threatening process (Appendix B) shall not be sown within 20 metres of any vegetation which is to be retained intact on the subject land. Sterile cover crops should be sown if necessary to stabilise exposed ground surfaces, and native grasses or non-invasive exotic grasses only can be sown to provide the final vegetation cover in these areas if required; and,
- (s) Stormwater runoff shall be appropriately treated outside the riparian buffer before discharge into the riparian zone or the creek.

**Contributions for Additional Services and/or Facilities**

14. This development will generate a need for additional services and/or facilities as described in Council's Contributions Plan 1993, as itemised in the following table.

Stage 1

Project	Description	\$ Rate x ET	Total
CWFIRE0001	Citywide Fire & Emergency services	\$152.54 x 1.2	\$183.05
CWFIRE0002	Shoalhaven Fire Control Centre	\$199.71 x 1.2	\$239.65
CWMGMT2001	Section 94 Administration	\$414.42 x 1.2	\$497.30
<b>Stage 1 Total</b>			<b>\$920.00</b>

Stage 2

<b>Stage 2 Total</b>	<b>\$0.00</b>
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Stage 3

Project	Description	\$ Rate x ET	Total
01AREC0001	Tennis, Football, Cricket ( Area 1 )	\$2,098.48 x 1.0ET	\$2,098.48
01AREC0002	Basketball & Netball ( Areas 1 & 2 )	\$420.35 x 1.0ET	\$420.35
01CFAC0003	Community Centre Nowra	\$289.99 x 1.0ET	\$289.99
01CFAC0012	Nowra District Integrated Youth Services Centre	\$62.75 x 1.0ET	\$62.75
CWAREC0003	Hockey Facilities	\$271.16 x 1.0ET	\$271.16
CWCFAC0001	Stage 1: Shoalhaven City Library Extensions	\$275.27 x 1.0ET	\$275.27
CWCFAC0001	Stage 2: Shoalhaven City Arts Centre	\$24.90 x 1.0ET	\$24.90
CWCFAC0001	Stage 3: Shoalhaven Mobile Children's Services	\$8.16 x 1.0ET	\$8.16
CWCFAC0002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$622.98 x 1.0ET	\$622.98
CWFIRE0001	Citywide Fire & Emergency services	\$152.54 x 1.0ET	\$152.54
CWFIRE0002	Shoalhaven Fire Control Centre	\$199.71 x 1.0ET	\$199.71
CWMGMT2001	Section 94 Administration	\$414.42 x 1.0ET	\$414.42
CWOREC0001	Embellishment of Icon and District Parks and Walking Tracks	\$159.61 x 1.0ET	\$159.61
MACFAC0001	Northern Shoalhaven Integrated Children's Services	\$44.66 x 1.0ET	\$44.66
MACFAC0002	Northern Shoalhaven Community Transport and Family Support Services	\$12.79 x 1.0ET	\$12.79
<b>Stage 3 Total</b>			<b>\$5,057.77</b>

Stage 4

<b>Stage 4 Total</b>	<b>\$0.00</b>
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Stage 5

Project	Description	\$ Rate x ET	Total
CWFIRE0001	Citywide Fire & Emergency services	\$152.54 x 0.4ET	\$61.02
CWFIRE0002	Shoalhaven Fire Control Centre	\$199.71 x 0.4ET	\$79.88
CWMGMT2001	Section 94 Administration	\$414.42 x 0.4ET	\$165.77
<b>Stage 5 Total</b>			<b>\$306.67</b>

Stage 6

Project	Description	\$ Rate x ET	Total
CWFIRE0001	Citywide Fire & Emergency services	\$152.54 x 0.4ET	\$61.02
CWFIRE0002	Shoalhaven Fire Control Centre	\$199.71 x 0.4ET	\$79.88
CWMGMT2001	Section 94 Administration	\$414.42 x 0.4ET	\$165.77
<b>Stage 6 Total</b>			<b>\$306.67</b>

Stage 7

Project	Description	\$ Rate x ET	Total
CWFIRE0001	Citywide Fire & Emergency services	\$152.54 x 0.4ET	\$61.02
CWFIRE0002	Shoalhaven Fire Control Centre	\$199.71 x 0.4ET	\$79.88
CWMGMT2001	Section 94 Administration	\$414.42 x 0.4ET	\$165.77
<b>Stage 7 Total</b>			<b>\$306.67</b>

Contribution rates are adjusted annually on 1<sup>st</sup> 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 **\$6,897.78** (i.e.2007/2008 rate) or as indexed in future years, shall be paid to Council **prior to the issue of a Subdivision/Construction Certificate.**

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

### ***Exterior Materials and Colours***

15. The Tourist Facility development is located with a scenic preservation area. To maintain the rural amenity of the area, it is important that any new development will not be detrimental to the existing rural environment. Adequate details of the exterior building materials, the texture and colour scheme have not been submitted with the development application. A schedule of proposed exterior colours shall be submitted for approval **prior to the issue of a Construction Certificate.** In this regard:

- (a) Given that the subject land is situated in an area of scenic value, exterior materials (excluding windows and other glazing) must be non-reflective and of a texture and colour which will blend in with the existing surroundings and must be compatible with the local rural environment;
- (b) Metal roofing and wall cladding shall be pre-coloured at the manufacturing stage; and,
- (c) Water tanks shall be painted to match either the roof or walls, or a dark green or brown colour.

The colour schedule may be approved by Council or an Accredited Certifier.

### ***Landscape Plan***

16. To maintain and enhance the rural amenity of the area, the applicant must lodge a detailed Landscape Plan as soon as the locations for the tourist cabins, manager's residence and the community activity building have been identified and **prior to their construction.** The plan must be prepared by a practicing, qualified landscape professional and may be approved by Council or an Accredited Certifier. As a minimum, the landscape plan must include the following information:

- (a) Appropriate species;
- (b) Location and number of plantings;
- (c) Fencing details;
- (d) The planting of plant species listed on the Weeds Australia NSW weeds list ([www.weeds.org.au](http://www.weeds.org.au)) is prohibited;
- (e) No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process *Invasion of native plant communities by exotic perennial grasses*, shall be sown within the outer protection area or the asset protection zone for the life of the development. Native grasses must be sown in these areas, as this is the interface between

disturbed areas and the remaining native vegetation for the life of the development;

- (f) Landscaping may incorporate low scale shrubs, paths and driveways, with associated lighting for safe access and egress from the manager's residence and the tourist cabins. Any lighting should be of a low profile, bollard style design;
- (g) Native plant species, preferably those appropriate species listed in Table 3 of the Revised [03-11-2008] Flora & Fauna Assessment by BES Ref. E1070027 and dated October 2008 shall be considered for implementation in any landscaping proposed for the development;
- (h) Where possible, the existing vegetation adjacent to the on-site access road to be retained and enhanced by additional plantings to minimize visual intrusion and dust nuisance from vehicles that would use this access;
- (i) To protect the visual amenity of the open pasture lands adjoining the site to the east, the existing vegetation located adjacent to the eastern boundary of the subject site should be maintained and reinforced where possible;
- (j) Any topsoil that is salvaged from areas to be levelled for construction purposes shall be salvaged and stockpiled on the subject site for later use in landscaping and soil stabilisation works;
- (k) Invasive exotic perennial grass species listed in the Final Determination of the NSW Scientific Committee for this key threatening process (Appendix B) shall not be sown within 20 metres of any vegetation which is to be retained intact on the subject land. Sterile cover crops should be sown if necessary to stabilise exposed ground surfaces, and native grasses or non-invasive exotic grasses only can be sown to provide the final vegetation cover in these areas if required.

***Engineering Design, Approval and Construction - prior to CC (all works)***

17. Engineering design plans for all works referred to in this Consent must be must be submitted to Council or an Accredited Certifier and approved **prior to the first inspection and before any works being undertaken**. In this regard, all design and construction shall:

- (a) be in accordance with DCP 100 – Subdivision Code;
- (b) Detailed engineering plans and specifications for works referred to in this consent shall be prepared by a practising engineer or surveyor;
- (c) Engineering design plans for all works within the road reserve shall be submitted to Council for approval. All work must be carried out in accordance with the approved plans; and,
- (d) Structural Engineer's Details are required **prior to the issue of a Construction Certificate**. No building work is to commence until details prepared by a practising Structural Engineer have been submitted to and accepted by Council or an Accredited Certifier for footings/slab/steel beams (where applicable).

**Note to the Applicant**

*Fees apply to the checking of engineering plans. Contact shall be made with Councils Development Engineer for a fee quote. All fees must be paid upon lodgement of the detailed engineering plans for checking.*

## **PART D**

### **CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT**

***Building Code of Australia***

18. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

**Note:** *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*

***Inspections***

19. Buildings and associated structures are to be inspected during construction to ensure compliance with conditions of development consent and the Building Code of Australia. Inspections will be required at the relevant stages of construction, depending on the type of building proposed to be constructed.

***Construction Hours***

20. To limit the impact of the development on adjoining owners, *all* construction work shall be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No construction work shall take place on Sundays or Public Holidays.

***Road Reserve, Footpath & Gutters***

21. The road reserve and footpath adjoining the site shall be kept clear of soil and debris. In this regard, to prevent soil and other building debris from being deposited on the adjoining public road carriageway, a temporary cattle grid must be provided at the access point to the site and maintained for the duration of the construction phase of the development;

***Waste Minimisation and Management***

22. All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP may need to be demonstrated by the retention of relevant receipts. These may be required to be submitted to Council, upon request.



### ***Soil Erosion and Sediment Control***

23. To minimise the impact of the development on the natural environment, all practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In this regard, the soil erosion and sediment control measures shall be implemented in accordance with the approved Erosion and Sediment Control Plan.

### ***Landscaping***

24. Landscaping associated with the approved tourist development on the subject land shall be carried out in accordance with the approved Landscape Plan.

### ***Discharge of Stormwater - site drainage***

25. Storm/roof water from the manager's residence and tourist cabins shall be piped and connected to the proposed re-use water tanks. Over flow from each tank shall be conveyed to an absorption/distribution trench via drainage designed and constructed in accordance with AS/NZS 3500.3.2 – Stormwater drainage and the Building Code of Australia.

Storm/roof water runoff shall be discharged by pipe-work to an infiltration trench and dispersal structure in accordance with the following requirements:

- (a) The trench shall be positioned parallel to the contours of the site (i.e. level), at least 5 metres from any property boundary and 3 metres below any effluent disposal area and from the footings of any structure.
- (b) The trench shall be fitted with minimum 450mm diameter half-round PVC dome sections or similar, backfilled with crushed or round river gravel to within 150mm of surface level surrounded with suitable geo-fabric and finished with topsoil.
- (c) A suitably designed litter and coarse sediment minimum 450mm square grated arrestor pit is to be provided immediately upstream of the trench.
- (d) Constant head and/or falling head permeability tests to AS1289.6.7 are to be undertaken to determine the ability for stormwater to infiltrate into the soil based on the proposed method of disposal. The trench must be large enough to retain the ARI 5 year design storm event and dissipate the stormwater within 48 hours.
- (e) The trench is not to require excavation beneath the drip-line of any trees to be retained unless approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- (f) The design of the trench shall include a documented maintenance program, copies of which are to be submitted to Council in hardcopy and digital format.

### ***Vehicular Access Requirements***

26. In the interests of public safety, access from the public road/property boundary to the development shall be constructed and maintained to the following design criteria:
- (a) An indented rural access shall be provided at the approved location in accordance with Council's Plan No. D1.21.

- (b) The access shall be a minimum of 4.0 m wide at the gate and configured to accommodate a minimum distance of 13 metres between the gate and the table drain. The standard of pavement construction of the driveway crossing shall extend from the property boundary to the access gate. A bitumen sealed driveway shall be constructed from the existing edge of bitumen to the access gate.
- (c) A concrete pipe (minimum 375mm diameter) designed for the 1 in 5 year storm event shall be placed under the access in line with the table drain, complete with headwalls and erosion protection, in accordance with Council's Plan SC 263734 (Fig. D1.19 of DCP100). Council's Subdivision Manager or their nominee shall inspect and approve the work in accordance with DCP 100.
- (d) The internal access road shall be constructed to an all-weather gravel standard, with a minimum compacted pavement thickness of 200mm and shall be designed in accordance with the Rural Fire Service - *Planning for Bushfire Protection 2006* guidelines.
- (e) A hard stand area shall be provided adjacent to the Manager's Residence and each of the Tourist Holiday Cabins to allow vehicle maneuvering suitable for fire appliances.

### ***Car Parking***

27. The car park associated with the Tourist Facility development shall comply with the following requirements:
- (a) Car parking shall be designed, constructed and signposted in accordance with Council's Development Control Plan No 18 - *Car Parking Code*;
  - (b) A minimum of 14 constructed car spaces must be provided on site. (i.e. 2 car spaces per tourist cabin and 2 spaces for the manager's residence).
  - (c) As a minimum, the parking spaces shall be constructed to an all-weather gravel standard, with a minimum compacted pavement thickness of 200mm; and,

### ***Occupation Certificate***

28. An **Occupation Certificate** must be issued by the Principal Certifying Authority (PCA) before the cabins, activity hall and manager's residence can be used or occupied.

If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.

### ***Tourist Facility Management Plan***

29. To ensure that the Tourist Facility will be managed in an appropriate manner for the life of the development, the owner of the facility shall prepare a Tourist Facility Management Plan. Such a Tourist Facility Management Plan must be submitted to Council for approval prior to the issue of an Occupation Certificate for Stage 1 of the tourist development. As a minimum, the Tourist Facility

Management Plan shall provide for the following issues to be managed for the life of the development:

- Behaviour of the guests;
- Impact of the tourist facility on neighbours and/or surrounding environment (incl. noise);
- Continued maintenance of the buildings and the property in general, including the Asset Protection Zones and the On-site Effluent Disposal Management System;
- Compliance with all the conditions of development consent;
- How the development would continue to operate as a bona-fide tourist facility for short-term visitor occupation;
- Management and use of any other support infrastructure integrated into the tourist facility such as swimming pool, gym, tennis court, BBQ facilities, children's playground, walking/cycling tracks, etc. and,
- The Community Hall/Activity Centre building shall be used only by the tourist guests, by the owners under an approved community title subdivision or by the occupiers of the manager's residents and their guests.

### ***Emergency Evacuation Route***

30. To provide safe access to and from the public road system for fire fighters providing property protection during a bush fire, and for the occupants faced with evacuation, the applicant shall submit details of the alternative Emergency Bushfire Evacuation Route to be located at the southern end of the property and designed to access Old Bendeela Road. In this regard:

- (a) details of the alternative Emergency Bushfire Evacuation Route shall be submitted **prior to the issue of an Occupation Certificate** for Stage 1 of the development;
- (b) the Property Access Roads (alternative access/egress) shall comply with Section 4.1.3(2) of *Planning for Bush Fire Protection 2006*;
- (c) the alternative Emergency Bushfire Evacuation Route located at the southern end of the property and designed to access Old Bendeela Road shall be constructed **prior to the issue of an Occupation Certificate** for Stage 1 of the development.
- (d) the alternative Emergency Bushfire Evacuation Route to Old Bendeela Road shall be used only in the event of an emergency. To maintain the amenity of the area adjacent to Old Bendeela Road, and to minimise the dust nuisance, the tourist development shall not be accessed via Old Bendeela Road under normal circumstances in the absence of an emergency situation.

## ***Energy Efficiency***

31. **Prior to final inspection** it will be necessary to submit to Council certification that the dwelling and tourist cabins have been constructed in accordance with the submitted BASIX Certificates and that the materials used in construction comply with the attached schedules of BASIX, Thermal Comfort and Energy commitments.

The buildings must be completed in accordance with the approved schedule of colours, building materials and finishes.

# ***PART E***

## **CONDITIONS RELATING THE CLEARING OF VEGETATION AND TO FLORA AND FAUNA, INCLUDING THE PROTECTION OF THREATENED SPECIES**

### ***Habitat Modification, Removal and Management***

32. There shall be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, without the prior written consent of the Shoalhaven City Council Director of Development & Environmental Services, except in accordance with this consent. In this regard:

#### ***Construction Certificate***

- (a) There shall be no removal or disturbance of indigenous vegetation on the property, including canopy trees, **prior to the issuing of a Construction Certificate.**

#### ***Restricted Removal or Disturbance of Indigenous Vegetation***

- (b) The removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, is restricted to the minimum required to construct the approved structures and the associated Asset Protection Zone, provision of services and access.

#### ***Removal of Hollow-bearing Trees***

- (c) To ensure the construction and on-going occupation of the tourist facility will not result in the removal of hollow-bearing trees, there shall be no removal or disturbance of trees on the property **prior to the submission of plans** that show the exact locations of all the tourist facility buildings and roads selected in consultation with suitably qualified environmental and bushfire consultants.

#### ***Trees to be Retained***

- (d) The plan must identify trees to be retained within the asset protection zones and the location of access roads and provision of services. To minimise disturbance to native vegetation the provision of services must follow access routes.
- (e) **Prior to the commencement of any clearing works** in the asset protection zone a suitably qualified environmental consultant must identify trees to be retained, including all the hollow-bearing trees and cone bearing

*Allocasuarina littoralis*, within the asset protection zone where they comply with the "Guidelines for Asset Protection Zones" of the NSW Rural Fire Service (June 2003).

- (f) **Prior to the commencement of any clearing works** the drip-line (outer edge of the leaf canopy) surrounding trees to be retained within the Asset Protection Zone must be clearly identified and protected with temporary barrier fencing or similar visible means to prevent mechanical damage of the tree trunk, mechanical disturbance to roots, or soil build-up around the base of the tree during and after clearing works.

***Vegetation and Habitat Management - Protection of Flora and Fauna***

33. To minimise the impacts on the flora and fauna on the subject land in general, and to minimise the effects on threatened species and their habitats in particular, all reasonable measures shall be implemented by the applicant to mitigate and ameliorate any adverse impacts on flora and fauna within the development site and elsewhere on the subject land. In this regard, the relevant measures outlined in:

Preliminary Flora & Fauna Assessment by BES Ref. E1070027 and dated Sep-2007;

Supplementary Flora and Fauna Assessment by BES Ref. No.E1070027 and dated Jun-2008; and,

Revised [03-11-2008] Flora & Fauna Assessment by BES Ref. E1070027 and dated October 2008

shall be generally implemented. As a minimum, the following conditions for impact mitigation and amelioration shall be complied with:

- (a) The final design and location of the elements of the approved development, particularly relating to the access road and fire trails) shall ensure the maximum retention of hollow-bearing and mature trees;
- (b) To maintain Glossy Black-cockatoo foraging habitat in the area, cone-bearing Black She-oak trees shall be retained wherever possible;
- (c) Prior to the clearing or modification of vegetation, all vegetation that is to be retained must be identified and clearly marked by a suitably experienced person;
- (d) Trees to be retained within the development site shall be protected from disturbance and injuries such as damage to their trunks and branches and from compaction of root systems and the build-up of soils around their roots and tree bases by the implementation appropriate construction work practices such as the provision of temporary protective fencing;
- (e) Trees with visible hollows, which are to be felled during the construction phase of the approved development, shall be felled in accordance with the following procedures:
  - (i) All felling must be supervised by an appropriately licensed person for the purpose of rescuing displaced fauna. In this regard, to rescue fauna, a suitably qualified and NSW National Parks & Wildlife Service licensed wildlife handler must be on site prior to, and during the removal of any trees or areas of potential habitat on the property;

- (i) At least 24 hours prior to the tree felling an appropriately skilled wildlife carer must be notified that animals may be captured and that these animals may require care;
  - (ii) Any non-hollow-bearing tree located around those hollow-bearing trees which are to be felled must be removed first. At least one day will be left between clearing of non-hollow-bearing trees and the hollow-bearing trees to allow fauna time to vacate the trees;
  - (iii) Prior to the felling of the identified and marked hollow-bearing trees, the trees must be shaken or nudged by tree-felling equipment to encourage ant fauna to vacate the trees;
  - (iv) If no animals emerge from the hollows after shaking or nudging, then the tree can be felled and lowered to the ground if possible;
  - (v) If an animal emerges from the hollow following the shaking or nudging of the tree, then at least 30 minutes must be allowed for the animal to leave the tree. If the animal comes to the ground, or when it is on the lower trunk, attempts must be made to capture the animal using a net. Captured animals must be immediately transferred to a suitably sized cotton bag and checked for obvious injury during the transfer process;
  - (vi) Captured animals must be placed in individual bags unless they belong to a family group where separation would risk the survival of the young (i.e. a lactating female with young);
  - (vii) Once the tree has been felled, a search must be made of the branches around the tree for any fleeing fauna and hollows must be inspected with a torch for the presence of any animals. Attempts must be made to capture any fleeing animals with a net, and animals inside hollows must be extracted by hand. Captured animals must be immediately transferred to a suitably sized cotton bag and checked for obvious injury during the transfer process;
  - (viii) Injured, shocked or immature captured animals must be placed in a cotton bag secured at the top. Bags must be wrapped in appropriate insulating material such as blankets and placed in a quiet, warm and preferably dark place until the wildlife carer can collect them. Details on the location of the capture and the proposed release areas must be provided to the wildlife carer;
  - (ix) Injured animals must be released in appropriate habitat as soon as practicable (at night for nocturnal species).
- (f) To avoid physical damage to native vegetation and other remnant trees to be retained and protected during the construction phase of the proposal, no building materials, machinery or other substances are to be stored in the areas supporting remnant vegetation;
- (g) To provide canopy connectivity for the Yellow-bellied Glider to potential feed trees, potential Yellow-bellied Glider feed tree species shall be retained within the subject land where possible and the canopy connectivity to such trees shall be protected. In this regard:

- (i) feed tree species are to be retained within the Asset Protection Zone (APZ) and the APZ shall be implemented and maintained such that a canopy of these habitat tree species are not separated by a distance of more than 10m from the adjacent canopies;
- (ii) Trees shall be retained within the development such that connectivity for Yellow-bellied Gliders is not further reduced to potential foraging resources in the remnant vegetation to the immediate north of the study area;

***Construction and Clearing Works - Clearing of the Asset Protection Zone***

34. To maintain the rural amenity of the area and to minimise the impact of the development on the local environment:

- (a) Clearing, excavation and other disturbances shall be limited to that absolutely required to construct the approved development and to establish the approved Asset Protection Area and provide the approved effluent disposal on the subject land;
- (b) Stormwater runoff must be discharged / treated within asset protection zone as far as practical from riparian zones.
- (c) All clearing works are to be supervised by a suitably qualified environmental consultant.
- (d) The use of skid-steer machinery to construct the asset protection zone is prohibited.
- (e) All clearing works and the associated machinery and refuse must be contained within the building envelope or asset protection zone.
- (f) Trees and vegetation cleared during construction should be either re-used, recycled or mulched on-site and used in landscaping. Burning of waste timber should be avoided.
- (g) The parking of machinery and vehicles or the storing of building or landscaping materials, soil, spoil, or rubbish, within the fenced area around trees to be retained is prohibited.
- (h) Sediment erosion controls must be in place immediately following clearing and on the same day as clearing works commence.

***Inner Asset Protection Zone***

- (i) Trees to be retained in the **inner asset protection zone** must be fenced off to the “drip line” before clearing works commence. In this regard:
  - (i) Hollow-bearing trees must be felled carefully in sections utilising a “cherry picker” or crane if necessary to allow the rescue of native fauna. Hollow-bearing sections must be carefully lowered to the ground so as not to injure native fauna.



**Outer Asset Protection Zone**

- (j) The extent of the **outer asset protection zone** must be accurately and clearly marked on the ground with temporary barrier fencing or similar means before selective clearing can commence. In this regard:
  - (i) The outer asset protection zone must be created by selectively removing vegetation with hand tools (chainsaws, brushcutters, etc is acceptable) as selected by the environmental consultant supervising the works; and,
  - (ii) There shall be no disturbance or removal of bush rock within the outer asset protection area.
- (k) Tree trimming or pruning must be carried out in accordance with AS 4373-1996 "Pruning of Amenity Trees".
- (l) Areas of bush rock beyond the dwelling sites and access roads must be retained in-situ within the asset protection zone.
- (m) All Burrawangs (*Macrozamia communis*) within the asset protection zone must be retained.

**Advice to the applicant**

*Lots 10 and 11 DP 1031764 (Bendeela Rd Kangaroo Valley) contains threatened species habitat and the threatened species (listed as under the NSW TSC Act and the Commonwealth EPBC Act).*

*There are severe penalties associated with for picking or harming threatened species and endangered ecological communities and their habitats listed under Sections 118A and 118D of the National Parks & Wildlife Act 1974 and the national Environmental Protection & Biodiversity Conservation Act 1999.*

## **PART F**

### **CONDITIONS RELATING to the NSW Rural Fire Service General Terms of Approval (GTA)**

**Rural Fire Service - General Terms of Approval (GTA)**

35. Given that the nature of the development involves tourist development in bushfire prone land, this application constitutes integrated development under Section 91 of the Environmental Planning and Assessment Act 1979. In this regard, a General Terms of Approval (GTA) from the NSW RFS is required. Such GTA may require *restriction-as-to-user* (RATU) to be imposed over the title of the land. All the conditions of the NSW RFS – General Terms of Approval shall be complied with. In this regard:

**Asset Protection Zone**

- (a) The intent of these measures is to provide sufficient space and to maintain reduced fuel loads so as to ensure that radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. In this regard:

**Cabin 1**

- (i) At the commencement of building works, and in perpetuity, the property around Cabin 1 shall be managed as follows:
- North for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
  - East for a distance of 30 metres as an inner protection area;
  - South for a distance of 50 metres as an inner protection area and 10 metres as an outer protection area;
  - West for a distance of 60 metres as an inner protection area and 25 metres as an outer protection area;
- as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

**Cabins 2 to 4 (inclusive)**

- (ii) At the commencement of building works, and in perpetuity, the property around Cabins 2 – 4 (incl.) shall be managed as follows:
- North for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
  - East for a distance of 30 metres as an inner protection area;
  - South for a distance of 50 metres as an inner protection area and 10 metres as an outer protection area;
  - West for a distance of 60 metres as an inner protection area and 25 metres as an outer protection area;
- as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

**Cabin 5**

- (iii) At the commencement of building works, and in perpetuity, the property around Cabin 5 shall be managed as follows:
- North for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
  - East for a distance of 30 metres as an inner protection area;
  - South/South-East for a distance of 50 metres as an inner protection area and 10 metres as an outer protection area;
  - South-West for a distance of 75 metres as an inner protection area and 25 metres as an outer protection area;
  - West for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
- as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

**Cabin 6**

- (iv) At the commencement of building works, and in perpetuity, the property around Cabin 6 shall be managed as follows:
- North for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
  - East for a distance of 30 metres as an inner protection area;
  - South for a distance of 40 metres as an inner protection area and 20 metres as an outer protection area;
  - South-East for a distance of 30 metres as an inner protection area ;
  - South-West for a distance of 70 metres as an inner protection area and 30 metres as an outer protection area;
- as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

### **Games Room/Activity Hall**

- (v) At the commencement of building works, and in perpetuity, the property around the Games Room/Activity Hall shall be managed as follows:
- North for a distance of 15 metres as an inner protection area and 10 metres as an outer protection area;
  - East for a distance of 20 metres as an inner protection area;
  - South for a distance of 10 metres as an inner protection area and 10 metres as an outer protection area;
  - South-West for a distance of 30 metres as an inner protection area and 30 metres as an outer protection area;  
as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

### **Manager's Residence**

- (vi) At the commencement of building works, and in perpetuity, the property around the Manager's Residence shall be managed as follows:
- North for a distance of 15 metres as an inner protection area and 10 metres as an outer protection area;
  - East for a distance of 20 metres as an inner protection area;
  - South for a distance of 20 metres as an inner protection area and 15 metres as an outer protection area;
  - South-West for a distance of 25 metres as an inner protection area and 25 metres as an outer protection area;  
as outlined within *Planning for Bushfire Protection 2006* and the Service's document "*Standard for asset protection zones*".

### **Water and Utilities**

- (b) To provide adequate services of water for the protection of the buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building, water, electricity and gas are to comply with Sections 4.1.3 and 4.2.7 of *Planning for Bush Fire Protection 2006*.

### **Access**

- (c) To provide safe operational access to structures and water supply for emergency services, while the residents and guests are seeking to evacuate from the area, public road access shall comply with the requirements of *Planning for Bush Fire Protection 2006*.

### **Alternative Access/Egress**

- (d) To provide safe access to and from the public road system for fire fighters providing property protection during a bush fire and for the occupants faced with evacuation, alternative emergency access/egress from Old Bendeela Road shall comply with Section 4.1.3(2) of *Planning for Bush Fire Protection 2006* and in accordance with Section 4.2.7 of *Planning for Bushfire Protection 2006* requirements and to the satisfaction of the Rural Fire Service. It shall also require the sealing of any grades greater than 15%.

### **Fire Trails**

- (e) To provide suitable access for fire management purposes and maintenance of the Asset Protection Zones, Fire Trails shall comply with Section 4.1.3(3) of *Planning for Bush Fire Protection 2006*.

### **Tourist Cabins**

- (f) Construction of the Tourist Cabins shall comply with Australian Standard AS3959-1999 "Construction of Buildings in Bush Fire-prone Areas" Level 1; and,

### **Games Room/Activity Hall and Manager's Residence**

- (g) New construction of the Games Room/Activity Hall and Manager's Residence shall comply with Australian Standard AS3959-1999 "Construction of Buildings in Bush Fire-prone Areas" Level 3.

### **Landscaping**

- (h) To maintain the rural amenity of the area, landscaping to the site, including the 10 metres wide band of landscaped vegetation to provide privacy screening between the tourist cabins, is to comply with the principles of Appendix 5 of *Planning for Bush Fire Protection 2006*.

### **Advice to the Applicant:**

- *A 10 metres wide band of landscaped vegetation has been proposed to provide privacy screening between the tourist cabins. Such vegetation shall comply with the abovementioned landscaping guidelines.*
- *Any further development application for class 1, 2 and 3 buildings as identified by the Building Code of Australia, must be the subject of a separate application under Section 79BA of the Environmental Planning and Assessment Act 1979 and must address the requirements of Planning for Bush Fire Protection 2006.*
- *Any alterations to cabin locations will require re-assessment of Asset Protection Zones and construction standards;*

### **Fire Protection - tourist holiday cabin accommodation**

36. In the interests of fire safety, the following fire protection measures shall be installed in the tourist holiday cabins:

- (a) The Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed within the building in accordance with Part E1.6 & Table E1.6 of the Building Code of Australia Volume One and AS 2444 "Portable Fire Extinguishers - Selection and Location";
- (b) The kitchen shall be equipped with:
- (i) accessible location; or
  - (ii) an approved fire smothering blanket located in a readily accessible location. A portable fire blanket and extinguisher shall be located in an approved location within the kitchen, the extinguisher shall be serviced on an annual basis;
- (c) A suitable automatic fire detection and alarm or smoke detection and alarm system and lighting to assist evacuation must be installed in accordance with:
- (i) Part 3.7.2 of the Building Code of Australia - Housing Provisions and AS 1670 - Automatic Fire Detection and Alarm System, or

- (ii) Complying with AS 3786 - Smoke Alarms or listed SSL Register of Accredited Products where the building is provided with mains electrical power, connected to the mains and have a standby power supply and installed in suitable locations on or near the ceiling in:
- (iii) In every bedroom; and,
  - In every corridor or hallway associated with a bedroom, or if no corridor or hallway, in an area between the bedrooms & the remainder of the building;
  - Smoke alarms shall be installed in the appropriate areas within the Tourist Cabins in accordance with AS;
- (d) A system of lighting must be installed to assist evacuation of occupants in the event of a fire, and be activated by the smoke alarm; and consist of:
  - a light incorporated within the smoke alarm; or
  - the lighting located in the corridor, hallway or area served by the smoke alarm.

**Note:** A written verification is to be provided by the licensed contractor responsible for installation.

### ***Bushfire Emergency Evacuation Management Plan***

37. In the interests of bush fire safety for residents and guests of the approved tourist facility and to provide suitable emergency and evacuation (and relocation) arrangements for the occupants of the buildings, a **Bushfire Emergency Evacuation Management Plan** must be prepared and approved by the Rural Fire Service prior to the issue of an Occupation Certificate. In this regard:
- (a) The Emergency Evacuation Management Plan is to be prepared by a suitably qualified person;
  - (b) The Emergency Evacuation Management Plan must be consistent with the NSW Rural Fire Service *Guidelines for the Preparation of Emergency/Evacuation Plan*.
  - (c) arrangements for emergency and evacuation are to comply with the requirements of Planning for Bush Fire Protection 2006.
  - (d) The Bushfire Emergency Evacuation Management Plan is to be submitted to the NSW Rural Fire Service – Local District Office and, as a minimum, is to detail the following:
    - (i) Under what circumstances will the complex be evacuated;
    - (ii) Determine if occupants are to be relocated, or stay in a safe refuge on the property;
    - (iii) Where will all persons be evacuated to;
    - (iv) Advise all occupants and carry out a head-count;
    - (v) Roles and responsibilities of persons co-ordinating the evacuation;
    - (vi) Roles and responsibilities of persons remaining with the complex after evacuation;
    - (vii) Nominate responsible person(s) to manage livestock (if any) and defend the property if required;

- (viii) A procedure to contact the NSW Rural Fire District Office / NSW Fire Brigade and inform them of the evacuation, the relocation of occupants and where they will be evacuated to;
- (ix) Co-operate with Fire Authority fire-fighting efforts;
- (x) Report bushfire location (distance/direction from guesthouse, etc.) to 000;
- (xi) Guests to assemble in pre-determined assembly areas and carry out a head count;
- (xii) On days of very high or extreme fire danger, guests shall be advised of the possible need to evacuate and be made aware of the nominated assembly point.
- (xiii) The fire authority shall be advised of any missing persons as soon as possible;
- (xiv) Responsible person(s) to manage guests and/or livestock if affected and extinguish fire if possible;
- (xv) Smoke alarms shall be tested and maintained in good working order;
- (xvi) The tourist facility manager and staff shall be made familiar with the operation of any fire fighting equipment;
- (xvii) Every effort shall be made to be present during fire emergencies to co-ordinate the orderly management and/or relocation/evacuation of guests.
- (xviii) Relevant equipment manuals shall be securely appended to the Bushfire Emergency Evacuation Management Plan;
- (xix) Copies of the Bushfire Emergency Evacuation Management Plan shall be kept on the site at all times and made available for quick reference by guests;
- (xx) A copy of the Bushfire Emergency Evacuation Management Plan is to be submitted to the Kangaroo Valley Bush Fire Brigade;

(e) In the interests of fire safety:

- (i) The approved Bushfire Emergency Evacuation Management Plan shall be regularly updated by the owner of the property and amended as required from time to time to reflect changing development in and around the subject property and changes in available fire fighting resources; and,
- (ii) The applicant shall ensure a copy of the approved Bushfire Emergency Evacuation Management Plan document is fixed in a prominent location within the Holiday Cabins and also a copy to be made available to prospective tourists at the time of booking.
- (iii) Fire-fighting equipment must be available to, and must be regularly maintained by management and staff. Staff should possess adequate skills to effect safe relocation of guests and/or fire-fighting procedures.
- (iv) On days of very high or extreme fire danger, guests shall be advised of the possible need to evacuate and be made aware of the nominated assembly point.
- (v) Bush fire maintenance of the subject property shall be regularly carried out in accordance with the approved Bushfire Emergency Management Plan.

# **PART G**

## **CONDITIONS RELATING TO THE SYDNEY CATCHMENT AUTHORITY**

### ***General - Sydney Catchment Authority***

The Sydney Catchment Authority has based its assessment under the Drinking Water Catchments Regional Environmental Plan No. 1 on the submitted version of the subdivision. In this regard, the lot layout is to be as shown on the Plan of Proposed Subdivision prepared by Ralph Moses (No Drawing Number, and undated). Any revised lot layout or staging is to be agreed to by the Sydney Catchment Authority. In this regard:

### ***Wastewater Treatment to Secondary Standard***

38. To ensure that appropriate wastewater management and effluent disposal systems can be sited on each lot so as to have an overall sustainable neutral or beneficial effect on water quality over the long term, there is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over both lots requiring all wastewater generated on the lot to be treated to secondary standard as a minimum.

### ***Wastewater Management***

39. There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lot 11 requiring that the wastewater generated from the buildings is to be managed as follows:

- (a) The Manager's Cottage on Site 1 as shown on the Site Plan (Job No. 0626, Drawing No, 01, dated 15 October 2008) is to have a septic tank with minimum capacity of 4,000 litres;
- (b) The Community Hall on Site 2 and each Tourist Cabin on Sites 3 to 8 as shown on the Site Plan (Job No. 0626, Drawing No.1, dated 15 October 2008) are to have septic tanks with a minimum capacity of 3,000 litres;
- (c) Wastewater from each Tourist Cabin on Sites 3 to 8 is to be disposed via an individual amended soil system whilst the wastewater from the Community Hall and Manager's Cottage is to be disposed of via a joint amended soil system;
- (d) A minimum 600 square metres envelope is to be dedicated for effluent disposal for each Tourist Cabin on Sites 3 to 8 and a minimum 1,000 square metres envelope is to be dedicated for effluent disposal for both the Manager's Cottage and the Community Hall to ensure all effluent disposal areas have exposure to direct sunlight to avoid shading and to facilitate evapotranspiration; and,
- (e) Amended soil systems for Tourist Cabins, the Manager's Cottage and the Community Hall are to be located as shown in Figure 7 of the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008);

### ***Design and Installation***

40. Each amended soil system must be designed and installed as specified in the On-Site Disposal of Effluent report prepared by Southern Geotechnics (dated 12 September 2007) and the manufacturer's specifications;

### ***Wastewater Management Systems***

41. The wastewater management systems are to be maintained according to Section 5 of the guidelines On-site Sewage Management for Single Households and AS/NZ 1547-2000 On-site Domestic Wastewater Management;

### ***Effluent Assimilated within Property Boundaries***

42. All effluent must be assimilated within the boundaries of the property. In this regard, the mounds must be capped with a soil of moderate permeability, e.g. loam to clay loam, to minimise rainfall infiltration and promote evapo-transpiration and must be fully turfed prior to occupation of the buildings;

### ***Location of Effluent Management Areas***

43. No effluent management areas are to be located within 150 metres of a named river, 100 metres of any perennial or intermittent creek or watercourse, or within 40 metres of a dam or drainage depression;

### ***Water Conservation Devices***

44. Water conservation devices that are at least AAA-rated are to be installed in the Manager's Cottage, Community Hall and Tourist Cabins to minimise the volume of wastewater produced; and,

### ***Access Road, Cabin Access Ways and Stormwater Management on Lot 11***

45. To ensure the access road and access ways and associated drainage and water quality management works have a sustainable neutral or beneficial impact on water quality that can be maintained over the long term:

#### ***Stormwater Quality Management Measures***

- (a) All stormwater quality management measures are to be implemented as specified in the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008), in particular as elaborated or varied in the conditions below. Any proposed variation to stormwater management is to be agreed to by the Sydney Catchment Authority;

#### ***Access Road and Cabin Access Way Construction***

- (b) The access road to cabins and the cabin access ways on proposed Lot 11 are to be constructed as specified in Section 5.3 of the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008) and are to meet Council's engineering standards;



**Pipe Works**

- (c) All pipe works associated with the transfer of wastewater from the cabins to effluent disposal areas must be laid at the time of the construction of the proposed access road, at an appropriate depth and protected as per Australian Standards 3500.2 from deformation or mechanical damage;

**Drainage Works**

- (d) All drainage works associated with the proposed access road must be wholly included in the road reserve or have suitable defined easements;

**Cabin Access Ways**

- (e) Access ways to cabins are to be located so as to minimise cut and fill and minimise length;

**Vegetated Swales**

- (f) Vegetated swales with appropriately spaced cross drains, level spreaders, sills or mitre drains are to be provided along the entire length of the access road as specified in the Section 5.3 of the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008);

**Access Road Swales**

- (g) All swales associated with the access road are to be vegetated and stabilised with bitumen and jute matting or equivalent as soon as possible after construction;

**Stormwater Management Structures**

- (h) The inspection, monitoring and maintenance of all stormwater management structures is to be carried out as specified in Section 5.8 of the Water Cycle Management report prepared by SEEC Morse McVey (dated 29 April 2008) and as per best practice.

**Rainwater Tanks - Sydney Catchment Authority**

46. To ensure stormwater runoff from the cabins and associated infrastructure is appropriately managed and maintained over the longer term, and to ensure an overall and sustainable neutral or beneficial impact on water quality, there is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lot 11 requiring that the Tourist Cabins, Manager's Cottage and the Community Hall are each to have rainwater tanks with a minimum total capacity of 25,000L above any volume required for mains top-up (should a reticulated water supply be connected to the development). In this regard:

- (a) Roofs and gutters are to be designed so as to maximise the capture of rainwater in rainwater tanks; and,
- (b) The rainwater tanks to be plumbed to toilets, laundry and other areas for non-potable use, including use for gardens.

**Revegetation on Proposed Lot 11 - Sydney Catchment Authority**

47. To ensure that appropriate measures are taken to maintain and offset the water quality impact of the increased intensity of the proposed development, and so as to ensure a sustainable neutral or beneficial effect on water quality over the long term, a minimum of 10,200 square metres is to be revegetated as shown in

Figure 7 and specified in Section 5.4 of the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008). In this regard:

***Planting of Local Native Trees and Shrubs***

- (a) A mixture of locally-native tree and shrub species are to be planted at 3-metre spacings in the proposed revegetation areas. The plants are to be tube stock and staked and protected to ensure a higher survival potential. If, six (6) months after planting, less than 50% of plantings have become established, a further round of plantings will be required.

***Boundary Fencing and Signage***

- (b) The boundary fencing along the eastern side is to be stock proof to prevent grazing of vegetated areas from the adjoining property. Appropriate signage is to be provided identifying that these revegetated areas are for water quality control purposes and are not available for livestock grazing or other purposes at any time.

***Public Covenant***

- (c) There is to be a public covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lot 11 in relation to the revegetated areas requiring that:
  - (i) The boundary fences are to be retained and maintained;
  - (ii) Livestock are to be prevented from grazing in these revegetated areas at all times; and,
  - (iii) The vegetation is to be retained, protected and maintained and weeds kept under control.

***Management of Existing Native Vegetation - Sydney Catchment Authority***

- 48. To ensure that appropriate measures are taken to maintain and offset the water quality impact of the increased intensity of the proposed development so as to ensure a sustainable neutral or beneficial effect on water quality over the long term:

***Delineation of Native Vegetation***

- (a) All areas of remnant native vegetation, including regrowth are to be delineated on the final Plan of Subdivision as “native vegetation”;

***Retention and Protection of Native Vegetation***

- (b) The areas of “native vegetation” are to be retained and protected on both proposed lots, other than the minimal clearing required for the construction of the cabins and associated works and thinning required for the Asset Protection Zones;

***Public Positive Covenant***

- (c) There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over both proposed lots with “native vegetation” areas requiring that:
  - (i) The areas of “native vegetation” are to be retained and maintained, other than the minimal clearing required for the construction of cabins and associated works and thinning required for the Asset Protection Zones;

- (ii) No livestock grazing is to be permitted in these protected areas at any time; and,
- (iii) There is to be no vegetation clearing or harvesting of the “native vegetation” areas other than weed management and as stated above without the written approval of the Sydney Catchment Authority.

***Implementation of Subdivision Plan - Sydney Catchment Authority (SCA)***

49. To ensure there is an overall and sustainable neutral or beneficial impact on water quality during all phases of the proposed development, Requirements 2, 3, 14 and 18 (as it applies to Stage 1), 10 to 13, 15, 16, and 19 to 25 of the SCA’s letter dated 17 June 2008 are to be complied with prior to the issue of a Subdivision Certificate for the development.

***Construction Activities - Sydney Catchment Authority***

50. To manage adverse environmental and water quality impacts during the construction stage of the development, and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase:

***Soil and Water Management Plan***

- (a) A Soil and Water Management Plan (SWMP) is required for all works proposed or required as part of the subdivision. It is to be prepared by a person with knowledge and experience in the preparation of such plans and is to incorporate the elements of Section 5.1 of the Water Cycle Management Study prepared by SEEC Morse McVey (dated 29 April 2008). The SWMP is to meet the requirements outlined in Chapter 2 of the NSW Landcom’s Soils and Construction: *Managing Urban Stormwater (2004) manual* – the “Blue Book”, and be to the satisfaction of Council.

***Advice to the Applicant***

The applicant is advised that any subsequent applications for any other development on the proposed lots will be subject to the provisions of the Drinking Water Catchments Regional Environmental Plan No. 1 and will need to be assessed according to the Neutral or Beneficial Effects test (NorBE) in relation to the potential effects of the development on water quality.

## ***PART H***

### **CONDITIONS RELATING to the SUBDIVISION of Lot 1 in DP 1031764**

The following conditions relate to the subdivision proposal as illustrated on drawing no. D08/173326 prepared by Ralph Moss denoted “revised” and dated the 3<sup>rd</sup> November 2008 with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.

### ***Registration of the Approved Subdivision***

51. The subject land shall be in use as a bona fide Tourist Facility prior to the registration of the subdivision plan. In this regard, the construction works shall commenced **prior to lodging the Subdivision application** with Council. Stage 1 must comprise three tourist cabins to facilitate the release of the subdivision.

### ***General***

52. Creation of the lots as per the approved plan.

### ***Utility Services***

53. Utility services shall be provided in accordance with the following:
- (a) Provision of electricity to service allotments in the proposed subdivision shall be in accordance with the requirements of Integral Energy and who are to confirm in writing that conditions of supply have been met.
  - (b) The provision of telephone service to each lot to the requirements of Telstra.

### ***Section 88B Restrictions-as-to-User***

54. Given the presence of identified threatened species habitat (*listed under the NSW Threatened Species Conservation Act 1995*) and native vegetation within a Scenic Preservation Area on the proposed lots, the following restrictions-as-to-users shall be imposed on the subdivision. In this regard:

#### ***Compliance with Restrictions***

- (a) The applicant, and any future owner or owners of the subject land, or parts thereof shall comply with all relevant restrictions on the use of the land imposed under S88B of the Conveyancing Act 1919 (as amended) where Shoalhaven City Council is the authority empowered to vary those restrictions.

#### ***Keeping of Cats and Dogs – Lot 11***

- (b) The keeping of cats and dogs within the tourist cabins located on Lot 11 is prohibited for the life of the development (Lot 11);

#### ***Keeping of Cats***

- (c) To protect native fauna in the locality, cats must be kept completely within the dwelling or in a cattery within the dwelling curtilage at all times (day and night);

#### ***Fences***

- (d) So as not to inhibit native fauna movement, any boundary and internal fences to be erected on the property shall comply with the following conditions:
  - (i) To protect native gliding and flying fauna the use of barbed-wire for fences is prohibited;
  - (ii) Except for fencing to contain domestic pets within the approved asset protection zones for dwellings, boundary and internal fences must not impede the movement of native fauna;

- (iii) Fences shall be constructed of wire, with the top wire and the bottom two wires consisting of non-electrified plain wire.
- (iv) The bottom fence wire shall be no closer than 40 cm to the ground at any point.

### **Subdivision Certificate**

- 55. A **Subdivision Certificate** must be issued prior to lodgement of the Final Plan of Survey with the Land Property Information Office. Council must issue a Subdivision Certificate except where an environmental planning instruction provides that a Subdivision Certificate may be issued by an Accredited Certifier for a specified subdivision.
- 56. The applicant shall submit 10 copies of the plan of survey to Council for their record **prior to the issues of a Subdivision Certificate**.
- 57. All conditions of this consent relating to construction of the proposed Tourist Facility development (DA) and provision of associated fencing, driveways, landscaping shall be complied with and an Occupation Certificate issued for the proposed dwelling prior to release of a final plan of survey and issue of a Subdivision Certificate.

### **Advice to the Applicant - Fee Advice**

*Each financial year Council sets fees and charges for the release of the Final Plan of Survey/Subdivision Certificate, for the 2006/2007 financial year this fee is \$356.00 plus \$27.00 per lot. Engineering plan checking fees and Road Inspection fees may also apply.*

### **Advice to the Applicant - Notes**

*Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, other than those approved under this consent, shall be carried out without the prior approval of Council.*

*Where there is an inconsistency between the documents lodged with this application and the following conditions, the condition shall prevail to the extent of that inconsistency.*

### **Other Restrictions**

- 58. The following shall be created as restrictions-as-to-user under Section 88B of the Conveyancing Act.
  - (a) Use of Lot 11 shall be for no purpose other than that approved in DA07/2540 (tourist facility), and in accordance with Clause 11(3) of Shoalhaven Local Environmental Plan 1985.
  - (b) No person shall occupy a tourist cabin for more than 42 consecutive days or for more than 150 days in any one year period in accordance with Par 4 – Definitions of Development Control Plan No. 63 – *Tourist Development in Rural Areas*.

- (c) In preparing the Instrument setting out the terms of easements and restrictions affecting this land, ensure that such restrictions cannot be varied, modified or released without the consent of the necessary parties involved and without the consent of the Shoalhaven City Council, where appropriate.
- (d) 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.

### **Fee Advice**

*Each financial year Council sets fees and charges for the release of the Final Plan of Survey/Subdivision Certificate, for the 2006/2007 financial year this fee is \$336.00 plus \$25.00 per lot. Engineering plan checking fees and Road Inspection fees may also apply.*

### **Notes:**

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the condition shall prevail to the extent of that inconsistency.*
- *The Environmental Planning & Assessment Act, 1979 provides that development consents are subject to conditions, which are prescribed by the Regulations under the Act. These conditions are listed on the attached sheet and form part of this development consent. Not all of the prescribed conditions are relevant to every development proposal.*
- *Development Consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the lapse date except where a condition specifies a limit to the duration of the consent.*
- *Where construction work is proposed, the granting of development consent is the first step in the process. Before construction work may commence, a Construction Certificate must be obtained from Council or an Accredited Certifier.*

## **PART I**

### **CONDITIONS THAT RELATE TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT**

#### **Manager's Residence**

- 59. The Manager's residence shall be used only in conjunction with the management of the tourist cabins and the tourist development and is not to be used for any other purpose.

## **Signage**

60. To ensure that all advertising signs and structures for such development do not adversely affect, and are in keeping with the visual character of a locality, no signage shall be erected on the subject land without the approval of the Council. In this regard:

- (a) the exhibition of any notice, advertisement or sign shall be restricted to one sign on the property;
- (b) the sign will be no larger than 0.6m x 1.0m;
- (c) The sign should be designed and manufactured so as not to detract from the visual or scenic quality of the area;
- (d) the sign shall identify the name and occupation of the premises and must relate only to the activities conducted on the subject land; and,
- (e) Signage shall be in accordance with the provisions of Development Control Plan No.82 – *A Signage Strategy for the City of Shoalhaven*.

Conceptual details of advertising sign and its location shall be submitted for Council approval **prior to the issue of an Occupancy Certificate**.

**Note:** *Council, for a fee, is able to provide 'finger' location signs for tourism developments. Enquiries in this regard should be directed to Council's City Services Group for further details. Council will generally support 'low key' tourism signage. Council however will not support the use of 'neon' lit or 'flashing' advertisements for tourism developments.*

## **Tourist Cabin Accommodation and Register**

61. In accordance with the provisions of Shoalhaven Local Environmental Plan 1985, the tourist cabins shall not be used for any industrial or residential purposes. In this regard:

- (a) To ensure that the tourist cabins development continues to operate for the purposes tourist accommodation only, the maximum period of tourist occupation to the guesthouse farm stay accommodation is regulated as follows:
  - (i) The maximum period of occupancy in any one year being limited to 150 days; and,
  - (ii) The maximum period of consecutive occupancy being limited to 42 days; and,
- (b) To ensure that the tourist cabins shall only be used in accordance with the approved use and shall cater only for the tourist accommodation market, a Tourist/Holiday Cabin Accommodation Register shall be kept by the owner of the tourist facility and shall be made available to Council as may be requested from time to time.

***Amenity – Noise***

62. To maintain the rural amenity of the local area once the tourist facility becomes operational:

- (a) The measured source noise level from the subject premises (measured using the  $L_{A10}$  noise level descriptor) from the proposed activity must not exceed the background noise level in any octave band (measured using the  $L_{A90}$  noise level descriptor) by more than 5 dB(A) when measured at the boundary of the closest residential premises;
- (b) Notwithstanding the above criteria:
  - (i) no offensive noise generally shall be audible at the boundary of the nearest affected residence;
  - (ii) no noise shall be audible at the property boundary between the hours of 6pm and 8am at any time; and,
  - (iii) no offensive or unacceptable noise generally shall be audible at the boundary of the nearest affected residence at any time in accordance with the NSW Department of Environment and Conservation (DEC) - Noise Guide for Local Government, the NSW DEC Industrial Noise Policy 1999 and the relevant Noise Control provisions under the Protection of the Environment Operations Act 1997.