



Land and Environment Court New South Wales

Case Name: **Universal Property Group Pty Ltd v Maitland City Council**

Medium Neutral Citation: [2024] NSWLEC 1243

Hearing Date(s): Conciliation conference held on 1 May 2024

Date of Orders: 14 May 2024

Date of Decision: 14 May 2024

Jurisdiction: Class 1

Before: Gray C

Decision: *Proceedings 2023/76776*

The Court orders that:

- (1) The applicant is granted leave to file the amended development application DA/2022/1133 referred to in [17].
- (2) The applicant is to pay the Council's costs, as agreed or as assessed, under s 8.15(3) of the *Environmental Planning and Assessment Act NSW 1979*.
- (3) The appeal is upheld.
- (4) Development Application No DA/2022/1133, for the subdivision of land into 108 lots comprising 105 residential lots, 1 residue lot and 2 onsite detention lots over two stages with the construction and dedication of public roads, tree removal and stormwater drainage works on land legally described as Lot 1 in DP983691, Lot 111 in DP1290111, Lot B and Lot C in DP348463, and Lot 10 in DP1229964 and known as 11, 21, 23, 25 and 33 Owlpen Lane, Farley NSW 2320, is determined by the grant of development consent subject to the conditions at Annexure A.

Proceedings 2023/111936

The Court orders that:

- (1) The applicant is granted leave to file the Amended Development Application DA/2023/31 referred to in [19].
- (2) The applicant is to pay the respondent's costs, as agreed or as assessed, under s 8.15(3) of the *Environmental Planning and Assessment Act 1979*.
- (3) The appeal is upheld.
- (4) Development Application No DA/2023/31, for the Torrens title subdivision of land to create 16 residential lots and 1 drainage basin lot, construction and dedication of a public road, tree removal, stormwater drainage and other associated works on land legally described as Lot 101 in DP1287298 and known as 131 Wollombi Road, Farley NSW 2320, is determined by the grant of development consent subject to the conditions at Annexure A.

Catchwords: APPEAL – development applications for subdivision of land – conciliation conference – agreement reached in each appeal – orders made

Legislation Cited: *Biodiversity Conservation Act 2016*, ss 7.7, 7.13
Environmental Planning and Assessment Act 1979, ss 4.15, 4.16, 7.4, 7.5, 7.7, 8.7, 8.15
Fisheries Management Act 1994, Pt 7
Land and Environment Court Act 1979, s 34
Rural Fires Act 1997, s 100B
Water Management Act 2000, s 91

Biodiversity Conservation Regulation 2017, cl 7.2
Environmental Planning and Assessment Regulation 2021, ss 37, 38, 204
Maitland Local Environmental Plan 2011, cll 2.6, 4.1, 4.2C, 5.10, 5.21, 6.1, 6.2, 6.3, 7.2, 7.4
State Environmental Planning Policy (Resilience and Hazards) 2021, s 4.6
State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023, s 4
State Environmental Planning Policy (Biodiversity and Conservation) 2021, Ch 4, s 4.9
State Environmental Planning Policy (Transport and Infrastructure) 2021, ss 2.48, 2.100, 2.120

Cases Cited: *Omya Investments Pty Limited v Dean Street Holdings Pty Limited (No 5)* [2020] NSWLEC 9

Texts Cited: Maitland Development Control Plan 2011

Category: Principal judgment

Parties: Universal Property Group Pty Ltd (Applicant)
Maitland City Council (Respondent)

Representation: Counsel:
M Staunton (Applicant)
H Irish (Respondent)

Solicitors:
Macpherson Kelley (Applicant)
Sparke Helmore Lawyers (Respondent)

File Number(s): 2023/76776
2023/111936

Publication Restriction: No

JUDGMENT

- 1 **COMMISSIONER:** These are two appeals concerning development applications for the subdivision of land at Farley. Proceedings 2023/76776 relates to a development application lodged with Maitland City Council on 26 October 2022 for the subdivision of land known as 11, 21, 23, 25 and 33 Owlpen Lane, Farley (the Owlpen Lane site). Proceedings 2023/111936 relates to a development application lodged with the Council on 24 January 2023 for the subdivision of land known as 131 Wollombi Road, Farley (the Wollombi Road site). Following the expiry of the period after which a development application is deemed to be refused, the applicant lodged each appeal pursuant to s 8.7 of the *Environmental Planning and Assessment Act 1979* (EPA Act). In exercising the functions of the consent authority in each of the appeals, the Court has the power to determine the development applications pursuant to ss 4.15 and 4.16 of the EPA Act. The final orders in each appeal, outlined in [1819] and [20] below, are made as a result of an agreement between the parties that was reached at a conciliation conference.
- 2 The hearing of the two appeals, which was listed to commence on 29 April 2024, was adjourned to allow the Court to arrange a conciliation conference between the parties, under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act), which was held on 1 May 2024. I presided over the conciliation conference.
- 3 At the conciliation conference, in each appeal proceedings, an agreement under s 34(3) of the LEC Act was reached between the parties as to the terms of a decision in the proceedings that was acceptable to the parties. In proceedings 2023/76776, concerning the Owlpen Lane site, the final signed agreement was provided on 6 May 2024 and in proceedings 2023/111936, concerning the Wollombi Road site, the final signed agreement was provided on 1 May 2024. In each matter the agreement was reached following the Council's approval of an application for an amendment to each development application pursuant to ss 37 and 38 of the *Environmental Planning and Assessment Regulation 2021*.

- 4 The development application (DA/2022/1133) that concerns the Owlpen Lane site (proceedings 2023/76776), as amended, is for the subdivision of the land into 108 lots comprising 105 residential lots, 1 residue lot and 2 lots for onsite detention. The proposed development is to be carried out over two stages, and includes the construction and dedication of public roads, tree removal and stormwater drainage works. On this development application, the applicant has also offered to enter into a voluntary planning agreement (VPA) with the Council for the carrying out of other works on land that is not the subject of the proposed development, but will either be acquired by the applicant and dedicated to the Council, or be acquired by the Council. The development the subject of the development application does not incorporate the carrying out of those works, and the plans the subject of the amended development application clearly exclude the area of land the subject of the VPA.

- 5 The development application (DA/2023/31) that concerns the Wollombi Road site (proceedings 2023/111936), as amended, is for the Torrens title subdivision of the land into 16 residential lots and 1 drainage basin lot, the construction and dedication of a public road, tree removal, stormwater drainage and other associated works. Vehicular access to the subdivided lots, as well as the provision of public utility infrastructure, will be provided by the carrying out of works that will be approved by the grant of development consent to the proposed development for the Owlpen Lane site in proceedings 2023/76776 (DA/2022/1133).

- 6 The decision agreed upon, in each matter, is for the grant of development consent subject to conditions of consent pursuant to s 4.16(1) of the EPA Act. The signed agreements are each supported by an Agreed Statement on Jurisdictional Prerequisites. In each appeal, I have considered the contents of the Agreed Statement, together with the documents referred to therein, the Class 1 Application and its attachments, and the documents that are referred to in condition 1. Based on those documents, I have considered the matters required to be considered pursuant to s 4.15(1) of the EPA Act.

7 As the presiding Commissioner, I am satisfied that, in each appeal, the decision to grant development consent to the amended application subject to conditions of consent is a decision that the Court can make in the proper exercise of its functions (this being the test applied by s 34(3) of the LEC Act). I formed this state of satisfaction for the reasons that follow.

In proceedings 2023/76776 (11, 21, 23, 25 and 33 Owlpen Lane, Farley)

8 In the proceedings concerning the Owlpen Lane site, which relate to development application DA/2022/1133, each of the preconditions to the grant of development consent identified by the parties is met, for the following reasons:

- (1) The Owlpen Lane site is predominantly zoned R1 General Residential, with a small portion at the eastern boundary zoned RU2 Rural Landscape, pursuant to the Maitland Local Environmental Plan 2011 (MLEP). The subdivision of land is permissible with consent under cl 2.6 of the MLEP.
- (2) Clause 4.1 of the MLEP imposes minimum subdivision lot sizes of 450m² for the R1 zoned land, and 400,000m² for the RU2 zoned land, with an exception to the latter in cl 4.2C for split zones. Clause 4.2C allows the exception to apply if a resulting lot containing the RU2 zoned land contains both all of the land in the RU2 zone that was in the original lot, and an area of R1 land that is not less than the minimum lot size of 450m². The development application, as amended, complies with the minimum subdivision lot size development standards pursuant to cll 4.1 and 4.2C, as the proposed subdivided lots meet the minimum subdivision lot size of 450m² and proposed Lot 108 meets the criteria for the exception in cl 4.2C as it contains all of the RU2 zoned land as well as an area of R1 land that is greater than 450m².
- (3) There are two heritage items located near the Owlpen Lane site, and a Statement of Heritage Impact dated 27 August 2022 has been provided that is consistent with cl 5.10(5) of the MLEP.

- (4) Clause 5.21 of the MLEP, concerning flood planning, applies to the Owlpen Lane site, and development consent must not be granted unless the Court, exercising the functions of the consent authority, is satisfied of the matters in cl 5.21(2). The development application, as amended, is supported by civil engineering plans dated April 2024 and a Stormwater Drainage Strategy prepared by GCA Engineering dated 4 March 2024. Based on those documents, I have considered the matters in cl 5.21(3) of the MLEP and I am satisfied of the matters in cl 5.21(2).
- (5) Clause 6.1 of the MLEP, which concerns arrangements for designated state public infrastructure, continues to apply to both the Wollombi Road site and the Owlpen Lane site as a result of the savings provision in s 4 of the State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023. Both sites form part of the Farley Urban Release Area and cl 6.1 prevents the grant of consent “unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot”. On 26 April 2024, a Satisfactory Arrangements Certificate was issued by delegation which certifies that satisfactory arrangements have been made for the Owlpen Lane site in accordance with cl 6.1 of the MLEP.
- (6) Clause 6.2 of the MLEP concerns public utility infrastructure, and prevents the grant of consent for the development of land in an urban release area “unless the Council is satisfied that any public utility infrastructure that is essential for the purposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required”. Public utility infrastructure is defined to include infrastructure for the supply of water and electricity. Based on the survey plan dated 7 October 2021, the Amended Statement of Environmental Effects dated 11 April 2024, the Draft Water and Sewer Reticulation Layout Plans and the Formal Notice of Requirements issued by Hunter Water Corporations on 26 April 2024, I am satisfied of the matters in cl 6.2.

- (7) Clause 6.3 of the MLEP prevents the grant of consent for development in an urban release area “unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land”. The Maitland Development Control Plan 2011 contains Chapter F.11, which satisfies the requirements of cl 6.3(3).
- (8) The development application includes earthworks for the construction of the roads and for the subdivided lots. Based on the cut and fill plan, the preliminary site investigation report dated 5 July 2022, the Stormwater Drainage Strategy dated 4 March 2024, the Preliminary Site Investigation Report dated 5 July 2022, and the Geotechnical Site Investigation dated 28 September 2022, I have considered the matters set out in cl 7.2(3) of the MLEP.
- (9) Clause 7.4 of the MLEP concerns riparian land and watercourses, and applies to the Owlpen Lane site. Based on the design of the proposed subdivision, the Streamlined Biodiversity Development Assessment Report (Small Area) (Version 7) dated 18 April 2024 (BDARV7), the Stormwater Drainage Strategy dated 4 March 2024, the Preliminary Site Investigation Report dated 5 July 2022, and the Geotechnical Site Investigation dated 28 September 2022, I am satisfied that the development is designed, sited and will be managed to avoid any significant adverse environmental impact, consistent with cl 7.4(4).
- (10) The proposed development includes the clearing of vegetation to an extent that exceeds the biodiversity offsets scheme threshold pursuant to cl 7.2(4) of the Biodiversity Conservation Regulation 2017 (BC Regulation) and a biodiversity development assessment report is therefore required pursuant to the *Biodiversity Conservation Act 2016* (the BC Act). Consistent with s 7.7 of the BC Act, the development application includes the BDARV7. The BDARV7 concludes that the site does not contain threatened species or any areas of biodiversity values, that the areas to be cleared contain managed land that lacks an understorey and provides minimal habitat, that the more intact areas will

be retained, that the proposed Vegetation Management Plan will maintain and protect the riparian corridor, and that biodiversity credits will offset any residual impacts. Pursuant to s 7.13 of the BC Act, I have considered the likely impact of the proposed development on biodiversity values as assessed in the BDARV7. The parties agree, and I am satisfied, that the applicable provisions of the BC Act and the BC Regulation have been satisfied, and that the agreed conditions of consent will meet the requirements of s 7.13(3) of the BC Act.

- (11) A portion of the Owlpen Lane site is mapped as being key fish habitat, pursuant to the *Fisheries Management Act 1994*. The BDARV7 assessed the key fish habitat, and concludes that the watercourse on the site is ephemeral and not permanently inundated with water, and the short duration of the civil works would not impact on potential fish habitat or passage. As such, the BDARV7 concludes, and the parties agree, that the proposed works are unlikely to impact any threatened or protected aquatic species, and that a permit under Pt 7 of the *Fisheries Management Act* can be obtained for the proposed works within the key fish habitat area before a subdivision work certificate is issued. This is reflected in condition 52.
- (12) Chapter 4 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP B&C), which concerns koala habitat protection, applies to both sites. Based on the BDARV7, there is no potential impact on koala habitat and I am satisfied that development consent can be granted in accordance with s 4.9(3) of the SEPP B&C.
- (13) Consideration has been given as to whether the Owlpen Lane site is contaminated as required by s 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021. Based on the Preliminary Site Investigation dated 5 July 2022, the site is or will be made suitable for the development. The agreed conditions include the carrying out of the recommendations made in the Preliminary Site Investigation.

- (14) The development application was publicly notified, and two submissions were received. I have considered the issues raised in those submissions.
- 9 The proposal is integrated development pursuant to s 100B of the *Rural Fires Act 1997*, and the NSW Rural Fire Service has issued a Section 100B Bush Fire Safety Authority. The general terms of approval from the Rural Fire Service are included in the agreed conditions of development consent.
- 10 The proposal is also integrated development pursuant to s 91 of the *Water Management Act 2000* as it requires a controlled activity approval due to the watercourse that spans from southwest to east. The Department of Planning and Environment - Water has provided general terms of approval under s 91 of the *Water Management Act*, and those terms of approval are incorporated into the conditions, at condition 78.
- 11 The proposed development is within 5m of an electricity power line, as a result of which s 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP TI) requires notification to the electricity supply authority and consideration of their response. Consistent with those requirements, Ausgrid was notified of the development application and I have considered the content of their response.
- 12 I am satisfied that the offer to enter into a VPA meets the requirements of s 7.4 of the EPA Act, including that it provides for either the carrying out of works and dedication of land, or the payment of a monetary contribution and the carrying out of works, which will provide a material public benefit, to be used for a public purpose. The Court has the power, pursuant to s 7.7(3) of the EPA Act, to impose a condition of consent that requires the developer to enter into the VPA in the terms of the offer made by the developer. The parties agree that this can be done by a deferred commencement condition, pursuant to s 4.16(3) of the EPA Act, and that the requirement to notify the proposed VPA, pursuant to s 7.5 of the EPA Act and s 204 of the EPA Regulation 2021, can be met following the grant of consent and prior to entry into the VPA (see *Omayia Investments Pty Limited v Dean Street Holdings Pty Limited* (No 5) [2020] NSWLEC 9 at [270]-

[272]). As set out above, the works to be carried out pursuant to the VPA are not on land the subject of the development application, and the proposed development does not include the carrying out of those works. Accordingly, if approvals (including a development consent) are required for those works, the VPA requires that such approvals be separately obtained.

In proceedings 2023/111936 (131 Wollombi Road, Farley)

13 In the proceedings concerning the Wollombi Road site, which relate to development application DA/2023/31, each of the preconditions to the grant of development consent identified by the parties is met, for the following reasons:

- (1) The Wollombi Road site is predominantly zoned R1 General Residential, with a small portion at the eastern boundary zoned RU2 Rural Landscape, pursuant to the MLEP. As set out above, the subdivision of land is permissible with consent under cl 2.6 of the MLEP.
- (2) The development application, as amended, complies with the minimum subdivision lot size development standards pursuant to cll 4.1 and 4.2C of the MLEP, as the proposed subdivided lots meet the minimum subdivision lot size of 450m² and proposed Lot 17 meets the criteria for the exception in cl 4.2C as it contains all of the RU2 zoned land as well as an area of R1 land that is greater than 450m².
- (3) There are two heritage items located near the Wollombi Road site, and a Statement of Heritage Impact dated 11 December 2022 has been provided that is consistent with cl 5.10(5) of the MLEP.
- (4) Clause 5.21 of the MLEP concerns flood planning and applies to the Wollombi Road site. The development application, as amended, is supported by civil engineering plans dated April 2024 and a Stormwater Drainage Strategy prepared by GCA Engineering dated 12 January 2024. Based on those documents, I have considered the matters in cl 5.21(3) of the MLEP and I am satisfied of the matters in cl 5.21(2).

- (5) Clause 6.1 of the MLEP, which concerns arrangements for designated state public infrastructure, continues to apply to Wollombi Road site for the reasons expressed above at [8(5)]. On 30 April 2024, a Satisfactory Arrangements Certificate was issued by delegation which certifies that satisfactory arrangements have been made in accordance with cl 6.1 of the MLEP.
- (6) Clause 6.2 of the MLEP concerns public utility infrastructure and also applies to the Wollombi Road site. The development relies upon the provision of public utility infrastructure and access through the adjoining Owlpen Lane site, once works are carried out pursuant to the development consent agreed upon in proceedings 2023/76776. Once orders are made in proceedings 2023/76776 for the grant of development consent, the Court can be satisfied that adequate arrangements have been made to make public utility infrastructure available when it is required, and the parties have agreed to a condition of consent in these proceedings that the subdivision certificate is not to be issued until such time as the works on the Owlpen Lane site have been carried out.
- (7) The Maitland Development Control Plan 2011 contains Chapter F.11, which satisfies the requirements of cl 6.3 of the MLEP.
- (8) The development application includes earthworks for the construction of the roads and for the subdivided lots. Based on the cut and fill plan, the Stormwater Drainage Strategy dated 12 January 2024, the Preliminary Site Investigation Report dated 22 August 2022, and the Geotechnical Site Investigation dated 6 September 2022, I have considered the matters set out in cl 7.2(3) of the MLEP.
- (9) The proposed development includes the clearing of vegetation to an extent that exceeds the biodiversity offsets scheme threshold pursuant to cl 7.2(4) of the BC Regulation and a biodiversity development assessment report is therefore required pursuant to the BC Act.

Consistent with s 7.7 of the BC Act, the development application includes the Streamlined Biodiversity Development Assessment Report (Small Area) (Version 3) dated 1 February 2024 (BDARV3). The BDARV3 concludes that the Wollombi Road site does not contain any areas of biodiversity values, that the vegetation is highly degraded, that any threatened species that use the site do not attract species credits and would be highly mobile and adapted to modified environments, and that biodiversity credits will offset any residual impacts. Pursuant to s 7.13 of the BC Act, I have considered the likely impact of the proposed development on biodiversity values as assessed in the BDARV3. The parties agree, and I am satisfied, that the applicable provisions of the BC Act and the BC Regulation have been satisfied, and that the agreed conditions of consent will meet the requirements of s 7.13(3) of the BC Act.

- (10) Based on the BDARV3, there is no potential impact on koala habitat and I am satisfied that development consent can be granted in accordance with s 4.9(3) of the SEPP B&C.
- (11) Consideration has been given as to whether the Wollombi Road site is contaminated as required by s 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021. Based on the Preliminary Site Investigation dated 22 August 2022, the site is or will be made suitable for the development. The agreed conditions include the carrying out of the recommendations made in the Preliminary Site Investigation, including the decommissioning of the existing onsite farm dam.
- (12) The Wollombi Road site is near a rail corridor and adjacent to the road corridor for Wollombi Road, which has an annual average daily traffic volume of more than 20,000 vehicles, such that both ss 2.100 and 2.120 of the SEPP TI applies to the development. Consistent with the requirements of cl 2.100(2) and cl 2.120(2), I have considered the relevant guidelines based on the content of the Acoustic Assessment dated 12 December 2022. The proposed development will be carried out

in accordance with the recommendations in the Acoustic Assessment that will ensure compliance with the LAeq levels in ss 2.100(3) and 2.120(3).

- (13) The development application was publicly notified, and no submissions were received.
- 14 The proposal is integrated development pursuant to s 100B of the *Rural Fires Act 1997*, and the NSW Rural Fire Service has issued a Section 100B Bush Fire Safety Authority. The general terms of approval from the Rural Fire Service are included in the agreed conditions of development consent. Whilst a further Bushfire Assessment Report was provided that was updated on 29 April 2024, which post-dates the grant of the Bush Fire Safety Authority, the parties agree that the proposed development can comply with the general terms of approval issued.

Final orders

- 15 Having reached the state of satisfaction that the decision on each appeal is one that the Court could make in the exercise of its functions, s 34(3)(a) of the LEC Act requires me to “dispose of the proceedings in accordance with the decision”. The LEC Act also requires me to “set out in writing the terms of the decision” (s 34(3)(b)).
- 16 In making the orders to give effect to the agreement between the parties in each proceedings, I was not required to make, and have not made, any assessment of the merits of each development application against the discretionary matters that arise pursuant to an assessment under s 4.15 of the EPA Act.

Proceedings 2023/76776

- 17 In proceedings 2023/76776, the Court notes that:
- (1) The respondent has agreed, as the relevant consent authority, under s 38(1) of the Environmental Planning and Assessment Regulation

2021, to the applicant amending development application DA/2022/1133 to rely upon the following further and amended plans and documents (amended development application DA/2022/1133), as filed with the Court:

Drawing No and Revision		Title	Prepared by	Date
Subdivision Plans				
1	Drawing No. DA 01 Revision 8	Site Analysis	The Bathla Group	3 April 2024
	Drawing No. DA 02 Revision 9	Subdivision Plan		6 May 2024
	Drawing No. DA 03 Revision 8	Building Envelope Plan		3 April 2024
	Drawing No. DA 04 Revision 2	Zoning Overlay Plan		31 Jan 2023
Civil Engineering Plans				
2	Drawing No. C00 Revision 17	Cover Sheet	GCA Engineering Solutions	April 2024
	Drawing No. C01 Revision 7	General Arrangement Plan		10 April 2024
	Drawing No. C02 Revision 7	Plan Sheet (1 of 2)		10 April 2024
	Drawing No. C03 Revision 14	Plan Sheet (2 of 2) (Interim Traffic Solution)		30 April 2024
	Drawing No. C03 Revision 17	Plan Sheet (2 of 2) (Final Traffic Solution)		30 April 2024
	Drawing No. C04 Revision 7	Road 1 Longitudinal Section		10 April 2024
	Drawing No. C05 Revision 7	Road 1 Cross Section (1 of 3)		10 April 2024
	Drawing No. C06 Revision 7	Road 1 Cross Section (2 of 3)		10 April 2024
	Drawing No. C07 Revision 7	Road 1 Cross Section (3 of 3)		10 April 2024
	Drawing No. C08 Revision 7	Road 2 Longitudinal Section		10 April 2024
	Drawing No. C09 Revision 7	Road 2 Cross Section (1 of 3)		10 April 2024
	Drawing No. C10 Revision 7	Road 2 Cross Section (2 of 3)		10 April 2024
	Drawing No. C11 Revision 7	Road 2 Cross Section (3 of 3)		10 April 2024
	Drawing No. C12 Revision 7	Road 3 Longitudinal Section		10 April 2024
	Drawing No. C13 Revision 7	Road 3 Cross Section (1 of 2)		10 April 2024
	Drawing No. C14 Revision 7	Road 3 Cross Section (2 of 2)		10 April 2024
	Drawing No. C15 Revision 7	Road 4 Longitudinal Section		10 April 2024
Drawing No. C16 Revision 7	Road 4 Cross Section (1 of 6)	10 April 2024		
Drawing No. C17 Revision 7	Road 4 Cross Section (2 of 6)	10 April 2024		

	Drawing No. C18 Revision 7	Road 4 Cross Section (3 of 6)		10 April 2024
	Drawing No. C19 Revision 7	Road 4 Cross Section (4 of 6)		10 April 2024
	Drawing No. C20 Revision 7	Road 4 Cross Section (5 of 6)		10 April 2024
	Drawing No. C21 Revision 7	Road 4 Cross Section (6 of 6)		10 April 2024
	Drawing No. C22 Revision 7	Road 5 Longitudinal Section		10 April 2024
	Drawing No. C23 Revision 7	Road 5 Cross Section (1 of 2)		10 April 2024
	Drawing No. C24 Revision 7	Road 5 Cross Section (2 of 2)		10 April 2024
	Drawing No. C25 Revision 7	Owl Pen Lane Longitudinal Section		10 April 2024
	Drawing No. C26 Revision 7	Owl Pen lane Cross Section (1 of 2)		10 April 2024
	Drawing No. C27 Revision 7	Owl Pen lane Cross Section (2 of 2)		10 April 2024
	Drawing No. C28 Revision 11	Typical Road Sections (Interim Traffic Solution)		28 April 2024
	Drawing No. C28 Revision 12	Typical Road Sections (Final Traffic Solution)		30 April 2024
	Drawing No. C29 Revision 7	Stormwater Longitudinal Sections		10 April 2024
	Drawing No. C30 Revision 7	Basin 1 Plan Sheet		10 April 2024
	Drawing No. C31 Revision 7	Basin 2 Plan Sheet		10 April 2024
	Drawing No. C32 Revision 7	Regrade Plan (1 of 2)		10 April 2024
	Drawing No. C33 Revision 7	Regrade Plan (2 of 2)		10 April 2024
	Drawing No. C34 Revision 7	Cut / Fill Relief Plan		10 April 2024
	Drawing No. C35 Revision 7	Erosion and Sedimentation Control Plan		10 April 2024
	Drawing No. C36 Revision 7	Typical Allan Block Retaining Wall Details		10 April 2024
Street Tree Planting Plans				
3	LP-01 Revision 8	Street Tree Plan	The Bathla Group	11 April 2024
	LP-02 Revision 8	Street Tree Plan		11 April 2024
Water and Sewer Plans				
4	Drawing No: WDRL01 Revision 4	Draft Reticulation Layout - Water	GCA Engineering Solutions	12 April 2024
	Drawing No: SDRL01 Revision 4	Draft Reticulation Layout - Sewer		12 April 2024
Reports / documents				
5	Statement of Environmental Effects		Universal Property Group Pty Ltd	11 April 2024
6	Response to NSW Rural Fire Service Letter		Firebird ecoSultants Pty Ltd	5 April 2024
7	Streamlined Biodiversity Development Assessment Report (Small Area) (Version 7)		Firebird ecoSultants Pty Ltd	18 April 2024

8	Satisfactory Arrangements Certificate SVPA2023-28	Department of Planning, Housing and Infrastructure	26 April 2024
9	Hunter Water Formal Requirements Notice	Hunter Water Corporation	26 April 2024
10	Letter of Offer to enter into a VPA	The Bathla Group	30 April 2024

18 The Court orders that:

- (1) The applicant is granted leave to file the amended development application DA/2022/1133 referred to in [17].
- (2) The applicant is to pay the Council's costs, as agreed or as assessed, under s 8.15(3) of the *Environmental Planning and Assessment Act NSW 1979*.
- (3) The appeal is upheld.
- (4) Development Application No DA/2022/1133, for the subdivision of land into 108 lots comprising 105 residential lots, 1 residue lot and 2 onsite detention lots over two stages with the construction and dedication of public roads, tree removal and stormwater drainage works on land legally described as Lot 1 in DP983691, Lot 111 in DP1290111, Lot B and Lot C in DP348463, and Lot 10 in DP1229964 and known as 11, 21, 23, 25 and 33 Owlpen Lane, Farley NSW 2320, is determined by the grant of development consent subject to the conditions at Annexure A.

Proceedings 2023/111936

19 In proceedings 2023/111936, the Court notes that:

- (1) The respondent has approved, as the relevant consent authority under s 38(1) of the Environmental Planning and Assessment Regulation 2021, the applicant amending development application No DA/2023/31 to rely upon the following further and amended plans and documents (amended development application DA/2023/31), as filed with the Court:

Drawing No and Revision	Title	Prepared by	Date
-------------------------	-------	-------------	------

Subdivision Plans				
1	Drawing No DA01 Revision 7	Site Analysis	The Bathla Group	27 March 2024
	Drawing No DA02 Revision 7	Subdivision Plan		27 March 2024
	Drawing No DA03 Revision 7	Zoning Overlaid Plan		27 March 2024
	Drawing No DA04 Revision 7	Building Envelope Plan		27 March 2024
Civil Engineering Plans				
2	Drawing No C00 Revision 6	Cover Sheet	GCA Engineering Solutions	4 April 2024
	Drawing No C01 Revision 6	Plan Sheet		4 April 2024
	Drawing No C02 Revision 3	Road 1 Longitudinal Section		1 September 2023
	Drawing No C03 Revision 6	Road 1 Cross Sections 1 of 2		4 April 2024
	Drawing No C04 Revision 6	Road 1 Cross Sections 2 of 2		4 April 2024
	Drawing No C05 Revision 3	Road 2 Longitudinal and Cross Sections		1 September 2023
	Drawing No C06 Revision 3	Accessway Longitudinal and Cross Sections		1 September 2023
	Drawing No C07 Revision 3	Typical Road Sections		1 September 2023
	Drawing No C08 Revision 6	Basin 1 & 2 Detail Plan		2 April 2024
	Drawing No C09 Revision 6	Regrade Plan		2 April 2024
	Drawing No C10 Revision 6	Cut / Fill Relief Plan		2 April 2024
	Drawing No C11 Revision 6	Soil and Water Management Plan		2 April 2024
	Drawing No C12 Revision 3	Typical Allan Block Retaining Wall Details		1 September 2023
	Drawing No C13 Revision 3	Turning Movement Plan for GPT Access Pad		1 September 2023
Street Tree Plan				
3	Drawing No. LP-01, Rev 06	Street Tree Plan	Bathla	23 March 2024
Water and Sewer Plans				
4	Drawing No: WDRL01 Revision 2	Draft Reticulation Layout - Water	GCA Engineering Solutions	12 April 2024
	Drawing No: SDRL01 Revision 2	Draft Reticulation Layout - Sewer		12 April 2024
Document				
5	Hunter Water Requirements		Bathla	23 April 2024
6	Bushfire Threat Assessment		Firebird ecoSultants	6 th September 2023, as revised on 29 th April 2024
7	Satisfactory Arrangements Certificate – SVPA2023-8		Department of Planning, Housing and Infrastructure	30 April 2024

20 In proceedings 2023/111936, the Court orders that:

- (1) The applicant is granted leave to file the Amended Development Application DA/2023/31 referred to in [19].
- (2) The applicant is to pay the respondent's costs, as agreed or as assessed, under s 8.15(3) of the *Environmental Planning and Assessment Act 1979*.
- (3) The appeal is upheld.
- (4) Development Application No DA/2023/31, for the Torrens title subdivision of land to create 16 residential lots and 1 drainage basin lot, construction and dedication of a public road, tree removal, stormwater drainage and other associated works on land legally described as Lot 101 in DP1287298 and known as 131 Wollombi Road, Farley NSW 2320, is determined by the grant of development consent subject to the conditions at Annexure A.

I certify that this and the preceding **15** pages are a true copy of my reasons for judgment.



.....

J Gray

Commissioner of the Court

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF DEFERRED DEVELOPMENT CONSENT

Development Application No: DA/2022/1133

Development: Development Application No. DA/2022/1133, for the subdivision of land into 108 lots comprising 105 residential lots, 1 residue lot and 2 OSD lots over two stages with the construction and dedication of public roads, tree removal and stormwater drainage works

Site: Lot 1 in DP983691, Lot 111 in DP1290111, Lot B and Lot C in DP348463, and Lot 10 in DP1229964 and known as 11, 21, 23, 25 and 33 Owlpen Lane, Farley NSW 2320

The above development application has been determined by the granting of deferred development consent subject to the conditions specified in this consent.

Date of determination: 14 May 2024

Date from which consent takes effect: Date of determination

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the "applicant" means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the "site", means the land legally identified as Lot 1 in DP983691, Lot 111 in DP1290111, Lot B and Lot C in DP348463, and Lot 10 in DP1229964.

The conditions of consent are as follows:

Part A

Deferred Commencement Conditions

This consent is issued as a Deferred Commencement Consent under Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*.

This consent is granted with “Deferred Commencement” conditions and is granted subject to a condition that the consent is not to operate until the consent authority is satisfied the “Deferred Commencement” conditions have been met.

Deferred Commencement

Part A of this consent clearly distinguishes the “deferred commencement” conditions concerning matters as to which the consent authority must be satisfied before the consent can operate; from Part B, which contains the conditions of consent.

Evidence required to satisfy these conditions shall be submitted to Council within **thirty six (36) months** of the date of this consent, or the consent will lapse in accordance with section 4.53(6) of the *Environmental Planning and Assessment Act 1979* and clause 76 of the *Environmental Planning and Assessment Regulation 2021*.

This consent is not to operate until the person entitled to the benefit of this consent satisfies the consent authority of the matters set out below:

VOLUNTARY PLANNING AGREEMENT

1. The Applicant is to enter into a Voluntary Planning Agreement (VPA) under section 7.4 of the *Environmental Planning Assessment Act 1979* agreeing to undertake road widening works and acquire land for the purposes of road widening, on the terms offered in the letter of offer dated 30 April 2024 in connection with the development the subject of this consent.
2. The VPA referred to in condition 1 must be registered in accordance with section 7.6 of the *Environmental Planning and Assessment Act 1979* on the title to the land to which this development consent applies.

Part B

Administrative Conditions

APPROVED PLANS AND DOCUMENTATION

- The development shall be carried out in accordance with the approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

Revised Subdivision Plans prepared by: The Bathla Group			
Name of Plan	Drawing Number	Issue	Date
Site Analysis	DA01	8	3 April 2024
Subdivision Plan	DA02	9	6 May 2024

Generally in accordance with revised Engineering Plans prepared by: GCA Engineering Solutions, Project Number 21412C.			
Name of Plan	Drawing Number	Issue	Date
General Arrangement Plan	C01	7	10 April 2024
Plan sheet (1 of 2)	C02	7	10 April 2024
Interim traffic solution Plan sheet (2 of 2)	C03	14	30 April 2024
Final traffic solution Plan sheet (2 of 2)	C03	17	30 April 2024
Road 1 Longitudinal section	C04	7	10 April 2024
Road 1 Cross section (1 of 3)	C05	7	10 April 2024
Road 1 Cross section (2 of 3)	C06	7	10 April 2024
Road 1 Cross section (3 of 3)	C07	7	10 April 2024
Road 2 Longitudinal section	C08	7	10 April 2024
Road 2 Cross section (1 of 3)	C09	7	10 April 2024
Road 2 Cross section (2 of 3)	C10	7	10 April 2024
Road 2 Cross section (3 of 3)	C11	7	10 April 2024
Road 3 Longitudinal section	C12	7	10 April 2024
Road 3 Cross section (1 of 2)	C13	7	10 April 2024
Road 3 Cross section (2 of 2)	C14	7	10 April 2024
Road 4 Longitudinal section	C15	7	10 April 2024
Road 4 Cross section (1 of 6)	C16	7	10 April 2024
Road 4 Cross section (2 of 6)	C17	7	10 April 2024
Road 4 Cross section (3 of 6)	C18	7	10 April 2024
Road 4 Cross section (4 of 6)	C19	7	10 April 2024
Road 4 Cross section (5 of 6)	C20	7	10 April 2024

Road 4 Cross section (6 of 6)	C21	7	10 April 2024
Road 5 Longitudinal section	C22	7	10 April 2024
Road 5 Cross section (1 of 2)	C23	7	10 April 2024
Road 5 Cross section (2 of 2)	C24	7	10 April 2024
Owlpen Lane Longitudinal section	C25	7	10 April 2024
Owlpen Lane Cross section (1 of 2)	C26	7	10 April 2024
Owlpen Lane Cross section (2 of 2)	C27	7	10 April 2024
Typical Road Sections (Interim Traffic Solution)	C28	11	28 April 2024
Typical Road Sections (Final traffic solution)	C28	12	30 April 2024
Stormwater Longitudinal sections	C29	7	10 April 2024
Basin 1 Detail plan	C30	7	10 April 2024
Basin 2 Detail plan	C31	7	10 April 2024
Regrade plan (1 of 2)	C32	7	10 April 2024
Regrade plan (2 of 2)	C33	7	10 April 2024
Cut/Fill relief plan	C34	7	10 April 2024
Erosion and sediment control plan	C35	7	10 April 2024
Typical Allan Block retaining wall details	C36	7	10 April 2024

Landscape plans prepared by: Bathla

Name of Plan	Drawing Number	Issue	Date
Street Tree Plan	LP-01	8	11 April 2024
Street Tree Plan	LP-02	8	11 April 2024

Document	Reference	Author	Date
Preliminary Geotechnical Site Investigation Assessment	NE1165	Geotesta Pty Ltd	28 September 2022
Preliminary Site Investigation Report	NE1165	Geotesta Pty Ltd	5 July 2022
Streamlined Biodiversity Development Assessment Report	Version 7	Firebird ecoSultants	18 April 2024
Revised Bushfire Assessment Report; as amended by addendum	-	Firebird ecoSultants Pty Ltd	6 March 2024 5 April 2024

Traffic and Parking Assessment Report	22337	Varga Traffic Planning Pty Ltd	2 September 2022
Stormwater Drainage Strategy	21412 revision 5	GCA Engineering Solutions	4 March 2024
Aboriginal Due Diligence Assessment	Revision 3	Apex Archaeology	26 August 2022

CONTRIBUTIONS & FEES

- Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979, the Farley Development Contributions Plan 2015 and the Maitland City Wide Development Contributions Plan 2016, a contribution of \$3,030,000 shall be paid to the Council.

The contribution is calculated from Council’s adopted Contributions Plans in the following manner:

Facility	Per Lot 1	Total 101
Farley Recreation & Open Space	\$11,192	\$1,130,392
Farley Community Facilities	\$3,098	\$312,898
Farley Road & Traffic Facilities	\$8,150	\$823,150
Farley Cycleways/Shared Paths	\$1,387	\$140,087
City Wide Aquatics	\$966	\$97,566
City Wide Recreation & Open Space	\$806	\$81,406
City Wide Road & Traffic	\$3,198	\$322,998
City Wide Cycleways/Shared Paths	\$570	\$57,570
Plan Management/Admin	\$633	\$63,933
TOTAL	\$30,000	\$3,030,000

Note: A 5 lot credit has been applied.

At the time of consent contributions levied in the Farley Urban Release Area were capped at \$30,000 per new residential lot. While any outstanding contributions would ordinarily be indexed quarterly in accordance with CPI, the contribution cap will be honoured unless legislative changes take place authorising the indexation of outstanding balances.

Payment of the above amount is required prior to the issue of the Subdivision Certificate for each stage of the development.

The above condition has been applied to ensure that:

- Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council’s adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
- Council’s administration expenses are met with respect to the processing of the application.

3. **Prior to the issue of the first Subdivision Certificate**, all the requirements of the State Voluntary Planning Agreement (SVPA2023-28, dated 26 April 2024) for 11-33 Owlpen Lane, Farley shall be complied with. Documentation shall be provided to Council with the application for the Subdivision Certificate demonstrating compliance with this condition.

Note: Section 6.15(1)(d) in the Environmental Planning and Assessment Act 1979 places a restriction on the issue of a Subdivision Certificate relating to this matter.

4. **Prior to the issue of the Subdivision Certificate**, “house numbering” and “subdivision certificate” fees, in accordance with Council’s Schedule of Fees and Charges, shall be paid to Council.

STAGING

5. The development shall be carried out in two consecutive stages as shown on the approved subdivision plan as follows:
 - o Stage 1: 99 residential lots (Lots 9 – 107 inclusive) and 1 lot for OSD / riparian corridor (Lot 108); and
 - o Stage 2: 6 residential lots (Lots 2 – 7 inclusive) and 1 lot for OSD (Lot 8) and 1 Superlot (Lot 1).

BUILDING ENVELOPE PLAN

6. Subsequent development carried out on the lots created by this subdivision are to site dwellings only within the building envelopes depicted for each lot on the following plan:

Building Envelope Plan prepared by: The Bathla Group			
Name of Plan	Drawing Number	Issue	Date
Building Envelope Plan	DA03	8	3 April 2024

CERTIFICATES & REPORTS

7. **Prior to issue of the Subdivision Certificate**, original plans and/or documents of survey/title, shall be submitted to Council.
8. **Prior to issue of the Subdivision Certificate**, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:
 - classifying each lot in accordance with Australian Standards AS 2870, and
 - verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing “level 1” inspection and testing.

9. **Prior to issue of the Subdivision Works Certificate for earthworks or road construction**, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.
10. **Prior to the first Subdivision Works Certificate** a dilapidation survey report shall be prepared by a suitably qualified person and lodged with Council. The dilapidation survey report shall cover public infrastructure including No.41 Owlpen Lane, roads and stormwater drainage on the roads adjoining the development and along any approved haulage routes. Where existing private buildings may be damaged by the proposed works, these buildings shall be included in the report.

The report shall consider the methodologies and equipment to be used during filling of the site and the length of the construction activities.

The report shall include a description of the location and nature of any existing observable defects, including a photographic record.

11. **Prior to the Subdivision Certificate** a final dilapidation survey report shall be prepared at the completion of the works to ascertain if any structural or cosmetic damage has occurred to the properties or infrastructure specified in the earlier report. A copy of the report shall be submitted to Council prior to the issue of the Subdivision Certificate.

Any damage identified in the dilapidation survey report shall be repaired prior to the issue of the Subdivision Certificate.

UTILITY SERVICES

12. Underground water, sewerage, telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider's requirements.
13. Street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:
 - Generally based on Australian Standard AS 1158 categories PR4 (Roads 2, 3 and 5) and PR3 (Owlpen Lane, Roads 1 and 4);
 - Providing "cut-off" luminaries (such as "Aeroscreen" or similar).
14. Any necessary alterations to public utility installations being at the developer's expense and to the requirements of both Council and the relevant authority.
15. **Prior to issue of the Subdivision Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.

Note: Where the proponent enters into an interim arrangement with Hunter Water for the provision of temporary sewerage disposal a copy of the

agreement between Hunter Water and the proponent shall also be provided to the Council prior to the issue of the Subdivision Certificate.

- 16. Prior to issue of the Subdivision Certificate**, documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.
- 17. Prior to issue of the Subdivision or Construction Certificate in connection with a development**, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- i. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- and
- ii. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

VEGETATION & LANDSCAPING

- 18. Prior to the issue of the Subdivision Works Certificate for road construction**, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The plan shall include:
- a) Be generally in accordance with the approved Street Tree Plans as referenced in condition 1 and designed by a suitably accredited landscape architect.
 - b) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.
 - c) Street trees (Roads 1-5 and Owlpen Lane) shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planting) include details of the height and spread at maturity (of the approved species).

Landscaping of any existing or proposed public land shall include:

- d) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries (Lot 12, Lot 8, Superlot 1, and Lot 1 DP 456996) for boundary maintenance purposes with a maximum slope of 5H:1V.
- e) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
- f) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.

Landscaping of water quality systems

- g) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.

19. Prior to the issue of the Subdivision Certificate, the applicant shall provide to the Council either:

- a) A copy of a 'landscape maintenance agreement' with a qualified landscape contractor to secure maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan; or
- b) Provide a landscape maintenance bond to the Council for the maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan.

Note: The applicant shall provide three quotations from qualified landscape consultants for the landscape maintenance work and the amount of the bond is to be determined having regard to these quotations.

20. Prior to the issue of the Subdivision Certificate, all landscaping shall be undertaken in accordance with the approved landscape plans referenced in condition 1 of this consent.

21. Prior to the issue of the Subdivision Certificate, the site shall be cleared of all trees:

- Within the road reserve;
- Along proposed lot boundaries;
- Within approved building "envelopes".

22. Prior to commencement of works an eradication report for noxious and environmental weeds shall be provided to, and approved by Council, by a suitably qualified professional. The report shall include the proposed public reserve, drainage reserve and/or creek waterways.

23. Prior to issue of the Subdivision Certificate noxious and environmental weeds shall be destroyed or removed from within the proposed public reserve and/or creek waterways, in accordance with the requirements of an approved eradication report. Certification shall be provided by a suitably qualified professional.

MANAGEMENT OF PUBLIC RESERVES

24. NOT USED.

BIODIVERSITY

Biodiversity Offset Scheme – Ecosystem Credit Retirement

25. Prior to the commencement of any clearing on site, the class and number

of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development prior to the commencement of works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in Table 1 must be provided to the consent authority **prior to the commencement of any clearing on site.**

Table 1 Ecosystem credits required to be retired - like for like.

Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset impacts of development
1593 – Red Ironbark - Spotted Gum - Prickly-leaved Paperbark shrubby open forest of the Lower Hunter	20	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions. This includes PCT's: 1590, 1592, 1593, 1600, 1602, 3433, 3442, 3443, 3444.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the commencement of any clearing on site.

Biodiversity Management Plan

26. Prior to the commencement of any clearing on site, a Biodiversity Management Plan (BMP) must be prepared by a suitably qualified person in consultation with Council. The BMP may form part of a Construction Environmental Management Plan. It shall include (but not be limited to) the following minimum detail:

- (a) Clearing Strategy developed in accordance with 'Guide 1: Pre-clearing process', 'Guide 4: Clearing of vegetation and removal of bushrock', and

'Guide 9: Fauna handling' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024). At minimum it shall include:

- Proposed pre-clearing and pre-demolition survey actions;
 - Proposed timing of clearing and demolition commencement, and pre-clearing checks;
 - Proposed vegetation clearing methods;
 - Monitoring and reporting requirements.
- (b) Artificial Hollow Plan, including:
- The size, type and quantity of natural tree hollows to be removed;
 - Target species and the design of artificial hollows available.
- Maps of existing natural hollows and planned artificial hollow installation locations;
- Monitoring and reporting requirements.
- (c) Identification of trees/vegetation to be retained and proposed actions to minimise damage such as installation and maintenance of exclusion fencing where adjoining the construction boundary.
- (d) Prohibition of compaction and the placement of fill within five metres of trees and native vegetation that shall be retained.
- (e) Appropriate weed control measures, including:
- Weed management priorities and objectives.
 - Location of weed-infested areas.
 - Measures to prevent the spread of weeds.
 - Procedures for onsite weed treatment (e.g. composting) and reuse, and/or offsite weed disposal.
 - Communication strategies to improve contractor awareness of weeds and weed management.
- (f) Machinery, plant and equipment hygiene protocol

The BMP shall be submitted to and approved by Council's Manager Environment and Sustainability prior to the commencement of clearing on site.

27. Artificial Hollow Installation

Prior to the commencement of any clearing on site, artificial hollows shall be installed in accordance with the Artificial Hollow Plan at a ratio of 2:1 per hollow removed from site. At least 70% of artificial hollows shall be installed at least two weeks prior to vegetation clearing and shall be maintained as needed for five years. Artificial hollows should be installed:

- (a) As close as possible to the location of the remove hollow-bearing tree

- (b) With an orientation that considers the target species' needs.
- (c) To avoid trees with existing hollows as the presence of other hollow-dependent fauna may act as a deterrent or may compete for the nest boxes.
- (d) With an attachment method which is appropriate for each artificial hollow type and allows for tree growth
- (e) Of a type and design to suit the target species in accordance with the Artificial Hollow Plan. If nest boxes are to be used, they should be constructed of a durable material (i.e., marine ply or equivalent).

28. Vegetation Management Plan

Rehabilitation of the areas marked on the as Vegetated Riparian Zone (VRZ), the super lot (Lot 1), and 'Area Provided for VRZ' on the approved Subdivision Plan, Rev 8, dated April 2024, prepared by Bathla Group must be accompanied by a 5-year Vegetation Management Plan (VMP) prepared by a qualified restoration ecologist or bush regenerator in consultation with Council.

The VMP shall include (but not be limited to) the following minimum detail:

- (a) Goals and objectives of the VMP;
- (b) Identification of management zones in text and on a site plan, including:
 - o identification of management actions and outcomes for each management zone;
 - o existing vegetation condition.
- (c) Detailed works schedule for a minimum of five (5) years including species list, planting density, timing;
- (d) Proposed weed management strategies;
- (e) Annual monitoring and reporting requirements for a period of five years;
- (f) Adaptive management actions to be employed if management outcomes are not achieved within five years. This shall include continuation of VMP management until actions and outcomes are achieved (or a suitable alternative approved Council's Manager Environment and Sustainability).

The VMP shall be submitted to and approved by Council's Manager Environment and Sustainability prior to issue of any Subdivision Works Certificate.

Monitoring reports are to be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years.

29. Retention of Trees

Prior to issue of the Subdivision Certificate, the vegetation shall be retained and protected within the superlot (Lot 1) in perpetuity by entering into a suitable instrument pursuant to 88B of the Conveyancing Act 1919 prior to the issue of a Subdivision Certificate.

The area to be protected must include the area marked as trees to be retained within Lot 1 on the approved Site Analysis Plan, numbered DA01, Revision 8, dated 3 April 2024, prepared by Bathla Group and must be at least 0.86 ha in area. An exception to this is the maintenance of areas required for an Asset Protection Zone.

Evidence shall be submitted to and approved by Council prior to issue of a Subdivision Certificate.

30. Vegetation Management Plan Implementation

Implementation of the VMP shall commence immediately upon any construction work commencing and shall be carried out in accordance with the VMP approved schedule of works.

31. Clearing Strategy Implementation

Implementation of the Clearing Strategy shall be undertaken by a qualified ecologist or wildlife carer and commence prior to clearing of any vegetation or demolition of structures.

Removal of trees with habitat features and structures identified during pre-clearance surveys as providing fauna habitat (e.g., microbats) shall be undertaken at a time that minimises impact to fauna.

A staged habitat removal process in accordance with 'Guide 4: Clearing of vegetation and removal of bushrock' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024) shall be used when identified habitat features are to be removed.

Once clearing of habitat features has been completed, a report shall be provided to Council's Manager Environment and Sustainability verifying compliance with the Clearing Strategy prior to commencement of works.

32. VMP Monitoring

Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years verifying compliance with the VMP.

33. Artificial hollow monitoring

Artificial hollows shall be monitored by a qualified ecologist to determine their usage and repairs or replacement (as required). Monitoring shall be carried out on an annual basis for a minimum period of three years following installation and/or as otherwise agreed with Maitland City Council. Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability.

ARCHAEOLOGY

- 34.** Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted to Council.

BATTERS AND RETAINING WALLS

- 35.** No retaining walls are approved within existing or future dedicated public land including road reserves. All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
- 36.** Retaining walls on common boundaries shall be in accordance with the approved retaining plan. No walls shall exceed the maximum height of 1.5m. Engineering certification is required for walls equal to or higher than 1.0m.
- 37.** Retaining walls for lot benching must comply with the following:
- (a) Be provided on the common boundary of private lots;
 - (b) Located within the uphill lot with the face of the wall on the boundary. An easement 0.9m wide within the downhill lot, to prevent excavation and for access for maintenance shall be created; and
 - (c) All side boundary retaining walls shall be tapered to 0.0m in height towards the front boundary meeting with the road reserve with a maximum of 1m in height for the first 5m from the road reserve for sight distances.
- 38.** Retaining walls adjoining common boundaries with properties that are not associated with the development must comply with the following:
- (a) Cut retaining walls up to 0.6m in height require a minimum of 0.6m clearance from the exposed face of wall to the common boundary. Cut retaining walls exceeding 0.6m in height are to be offset by the zone of influence at 1:1 slope from the exposed face of wall to the boundary or a minimum of 1m whichever is greater; and
 - (b) The face of any fill retaining walls must be located at least 0.1m from the common boundary measuring from the exposed face of wall. All wall components, footings, backfill, and subsoil drainage must be located wholly within the development site and not encroach upon adjoining lands.
- 39.** Retaining walls adjacent to the common boundary with the drainage reserves and road reserves must comply with the following:
- (a) No cut retaining walls are to be located along and/or adjacent to the

common boundary with the drainage reserves and road reserves, and

- (b) The face of any fill retaining walls along to the common boundary with the drainage reserves and road reserves must be located at least 0.1m from the common boundary measuring from the exposed face of wall. All wall components, footings, backfill, and subsoil drainage must be located wholly within the development site and not encroach upon adjoining lands.

TRAFFIC AND TRANSPORT

40. Prior to the issue of the Subdivision Certificate, the subdivision construction shall be carried out in the numerically consecutive stages as shown on the approved plans.

Specific works shall be completed by the following thresholds:

- a) Intersection upgrade of Owlpen Lane and Wollombi Road as part of DA/2019/707 to be constructed prior to the release of Stage 1 lots.
- b) Part road construction of Owlpen Lane as part of DA/2022/492 to be completed prior to the release of Stage 1 lots.
- c) Part road construction of Owlpen Lane as part of DA/2016/2140 to be completed prior to the release of Stage 1 lots.
- d) Part road construction of Owlpen Lane along the site frontage and Lot D DP 348463 to be completed- in accordance with condition 44 prior to the release of Stage 1 lots.
- e) Dedication of Basin 1 as a drainage reserve with the release of Stage 1 lots.
- f) Dedication of all new roads as part of DA/2019/707 prior to the release of Stage 2 lots.
- g) Dedication of Basin 2 as a drainage reserve with the release of Stage 2 lots.

41. Prior to the issue of the Subdivision Certificate, kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council’s Manual of Engineering Standards.

42. Prior to the issue of the Subdivision Works Certificate, the following road hierarchy shall apply to all roads (including widths, pavement design and the like) in accordance with Council’s Manual of Engineering Standards:

A minimum 300mm select layer of sub-base quarry product material shall be added to the pavement design and construction plans due to the presence of high shrink/swell clays in the Maitland Local Government Area.

ROAD TYPE	ROAD DESCRIPTION	Comments (shared paths, etc)
-----------	------------------	------------------------------

Public Route (ESA 5 x 10 ⁶)	Roads 1, 4, 5 and Owlpen Lane	<ul style="list-style-type: none"> • 1.5m footpath on Roads 1 and 5 • 2.5m shared path along the southern side of Road 4
Local Primary (ESA 5 x 10 ⁵)	Road 2, Road 3	<ul style="list-style-type: none"> • 1.5m footpath for Roads 2 and 3

Note: Where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

43. Prior to the issue of the Subdivision Certificate, public bus facilities shall be provided generally at 400m spacings and providing maximum 400m walking distances from surroundings lots. The applicant is to consult with Transport for NSW, the bus service provider and Maitland City Council with regard to location(s) and in corporate recommendations arising from the consultation. The works shall include:

- (a) Opposing bus stops (concrete slabs) generally adjacent to Lots 56/98, and Lots 42/43, and generally placed on the departure side of intersections and refuges.
- (b) Connecting footpaths, pram ramps, line marking, signage, and associated works

44. Prior to the issue of the Subdivision Certificate, the following works shall be provided within the existing road reserve(s):

- (a) If the relevant part of Lot D DP348463, 41 Owlpen Lane, Farley required for road widening purposes is not acquired in accordance with the terms of the VPA referred to in the deferred commencement Condition 1 in Part A, the interim traffic solution shall be implemented in accordance with the approved plan numbered C03, revision 14, dated 30 April 2024 including:
 1. A 3.5m wide travel lane, a 0.5m wide asphalt shoulder together with a 300mm concrete edge strip and associated works across the full frontage of Lot D DP 348463 at 41 Owlpen Lane, Farley and reconstruction of driveway crossing within the road reserve to Lot D DP 348463.
 2. Part road construction including kerb and guttering verge formation, ancillary drainage, and a sealed road pavement across the full frontage of the site. The new kerb shall be offset 6m from the existing centreline of the road reserve with a 4.5m wide footway to form a 21m wide road reserve along Owlpen Lane.
 3. A shared pedestrian/cycle path 2.5m wide from Road 4 is to be continued along Owlpen Lane and connected to the adjacent Castleton Close Stage 3 Subdivision's shared path refers to SW/2020/10. Pedestrian kerb ramps shall be

provided aligning with their partner on Owlpen Lane, excluding the frontage of Lot D DP348463.

- (b) If the relevant part of Lot D DP348463, 41 Owlpen Lane, Farley, required for road widening purposes is acquired in accordance with the terms of the VPA referred to in deferred commencement condition 1 in Part A, part road construction including kerb and guttering verge formation, ancillary drainage, and a sealed road pavement across the full frontage of the site and Lot D DP 348463 in Owlpen Lane and reconstruction of driveway crossing within the road reserve to Lot D DP 348463 shall be implemented in accordance with the approved plan numbered C03, revision 17, dated 30 April 2024. The new kerb shall be offset 6m from the existing centreline of the road reserve with a 4.5m wide footway to form a 21m wide road reserve along Owlpen Lane.

A shared pedestrian/cycle path 2.5m wide from Road 4 is to be continued along Owlpen Lane and connected to the adjacent Castleton Close Stage 3 Subdivision's shared path refers to SW/2020/10. Pedestrian kerb ramps shall be provided aligning with their partner on Owlpen Lane.

45. Prior to the issue of the Subdivision Certificate, the following subdivision works within the private property shall be provided in accordance with Council's Manual of Engineering Standards:

- (a) Internal roads and drainage.
- (b) Shared pedestrian/cycle path 2.5m wide along the southern side of Road 4 .
- (c) Pedestrian path 1.5m wide along one side of Roads 1, 2, 3, 5 (on the southern side), and the rest of Owlpen Lane.
- (d) Driveway crossing (commercial/Industrial concrete as per SD010) to the proposed pressure-reducing valve.
- (e) Ancillary roadside furniture and safety devices including fencing, signage, guideposts, chevrons, directional arrows, and guard rail.

46. Prior to the issue of the relevant Subdivision Works Certificate, all (traffic) Regulatory line marking and signage shall be approved by **Council's Local Traffic Committee**. *Note: Please allow three months from lodgement for the LTC process.* All recommendations of the committee shall be incorporated into approvals and works. The works to be approved include:

- (a) Regulatory signage and line marking at intersections identifying priority requirements.
- (b) No through-road signage at the entrance of the cul-de-sac roads (Roads 4 and 5).
- (c) No parking signage within the turning head bulbs on Roads 4 and 5.

47. Prior to the issue of a Subdivision Certificate, all turning heads with relevant signage and markers shall be provided. Turning heads shall comply with:

- (a) A 12.0m minimum radius shall be provided for bus and heavy vehicles on the end of Roads 4 and 5 with no parking restrictions within the turning head bulbs in accordance with Council's Manual of Engineering Standards and *Planning for Bushfire Protection 2019*.

- 48. Prior to issue of a Subdivision Works Certificate**, any major utilities facilities (water, sewer, electrical, telecommunication items larger than individual lot scale provisions) shall be located wholly within private lots and clearly shown on the construction drawings, unless otherwise shown in the approved plans. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.

STORMWATER DRAINAGE

- 49.** A drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:
- (a) In accordance with the approved Stormwater Drainage Strategy prepared by GCA Engineering Solutions (Ref: 21412, Rev: 5, Dated: 4/3/24).
 - (b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state.
 - (c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event.
 - (d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.
- 50.** Specific drainage requirements shall include the provision of:
- (a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
 - (b) Public drainage system (including pit and pipe network) along Owlpen Lane road.
 - (c) Interallotment drainage to internal lots as required with a maximum of 10 lots to a single interallotment drainage system.
 - (d) Interallotment drainage v-drain within and adjacent to the boundary of Lots 2-7 to capture external catchment runoff from Superlot 1.
 - (e) Concrete maintenance pads with suitable design loads to all GPTs.
 - (f) Safety fencing above headwalls.
 - (g) Flood warning signages to all basins as per Council's Standard Drawing

SD038.

- (h) Child-proof-grates to all basin inlets.
 - (i) Driveway crossings (commercial/Industrial concrete as per SD010) to the 3m wide 200mm minimum thick compacted gravel basin access tracks.
 - (j) Access gates on the common boundary between the road reserve and the drainage reserve across the basin crossings as per Council's Standard Drawings SD058.
 - (k) . Basin embankment slopes for mowing purposes shall be 1 in 5. A steeper slope up to 1 in 3 may be considered where landscape maintenance involving mowing is not required (mass planting). Batter slopes steeper than 1:3 shall consider stabilisation measures such as rock wall/natural bush planting.
 - (l) Intersection concrete dish drain as per Council's Standard Drawing SD026.
 - (m) Post and wire rope cable fence as per Council's Standard Drawing SD057 along the common boundary between the road reserves and the drainage reserves.
 - (n) Rural concrete posts and wire fencing along the common boundary between the drainage reserves and the neighbouring property Lot 1 DP 456996 and Superlot 1.
- 51. Prior to the issue of the Subdivision Works Certificate**, a copy of the controlled activity approval under the Water Management Act 2000 shall be provided to Council for the proposed works within and adjacent to the riparian corridor, including:
- (a) The proposed pressure-reducing valve;
 - (b) The proposed DN225 Gravity Sewer;
 - (c) The proposed Road 5 dead end and associated batter; and
 - (d) Basin construction works.
- 52. Prior to the issue of the Subdivision Works Certificate**, a copy of the permit from NSW Fisheries under the Fisheries Management Act 1994 shall be provided to Council for the proposed works within the area mapped as Key Fish Habitat.
- 53. Prior to issue of the Subdivision Certificate** a Maintenance Management Plan for the stormwater detention/retention systems shall be prepared by a suitably qualified and experienced person, shall be submitted to, and accepted as satisfactory by Council.

EROSION CONTROLS AND BULK EARTHWORKS

- 54.** The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by

the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "Managing Urban Stormwater" shall be submitted as part of the Subdivision Works Certificate application.

- 55. Prior to the issue of a Subdivision Works Certificate for subdivision works** a Bulk Earthworks Management Plan (BEMP) is required to be submitted to Council for approval. The BEMP must include a report from a suitably qualified engineer that examines and determines:
- a) the extent of bulk earthworks require for the construction of each stage
 - b) how stockpiles will be managed during construction
 - c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations
 - d) stock pile dimensions and stabilisation measures
 - e) site haulage routes and movement for each stage
 - f) how fill will be managed in the floodway during construction
 - g) any specific requirements relating to the management of Acid Sulfate Soils
- 56. Prior to the issue of a Subdivision Works Certificate,** a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater – Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

CIVIL WORKS - CERTIFICATION

- 57. Prior to issue of the Subdivision Works Certificate,** for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.
- 58. Prior to commencement of works within an existing public road reserve:**
- (a) An engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval;
 - (b) Consent under the Roads Act for the approved works, shall be issued by Council;
 - (c) All relevant Council fees shall be paid; and
 - (d) A Traffic Guidance Scheme (TGS) in accordance with the RMS publication "Traffic control at Worksites" shall be submitted to Council.

- 59. Prior to issue of the Subdivision Certificate**, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:
- (a) Confirmation that the construction works have been completed.
 - (b) Confirmation from the road authority for any Roads Act Approval requirements.
 - (c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
 - (d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
 - (e) Geotech certification of the detention basin works (including any clay core requirements).

FILLING

- 60.** Filling material, shall be limited to the following:
- a) virgin excavated natural material (VENM); and/or
 - b) excavated natural material (ENM) certified as such in accordance with Protection of the Environment Operations (Waste) Regulations 2014.
- 61.** Where ENM, is used, the applicant shall ensure that detailed records are kept identifying the source of the material and its composition and chain of custody documentation. Such records are to be provided to the Council within 30 days of the completion of the filling.
- 62.** Within 30 days of the completion of filling the applicant shall submit to the Council a validation report prepared in accordance with EPA requirements by a qualified geotechnical consultant confirming that the completed filling works (addressing both material type, compaction and stabilisation) has been undertaken in accordance with the approved development application documentation and associated consent conditions.

CONSTRUCTION DUST MANAGEMENT

- 63.** The applicant must implement best practice measures to minimise dust emissions from the site during construction. The site shall be managed to prevent the generation of dust, the measures to be employed include:
- The use of a water cart from the public road access point; and
 - Ceasing construction activities (i.e. no vehicles or equipment use) during adverse meteorological conditions (i.e. on windy days).

CONSTRUCTION HOURS

- 64.** Unless otherwise approved by Council in writing, all construction activities

including earthworks, truck arrivals and the unloading of fill from trucks shall be carried out between the hours of:

- a) 7.00am to 6.00pm Monday to Friday
- b) 7.00am to 5.00pm Saturday

Any work performed on Sunday's or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited.

CONTAMINATION

- 65. All works shall be managed in accordance with the approved Preliminary Site Investigation Report referenced in condition 1 of Part B of this consent.
- 66. In the event of an undisclosed or unidentified contamination being found on-site or any potentially contaminating infrastructure (e.g. underground storage tanks) or soils (e.g. staining, odours, asbestos) being identified during works, a qualified and experienced consultant must inspect, review and advise on remediation or mitigation prior to further construction proceeding. Council must be notified if this occurs and must be provided with any resulting reports and recommendations.

LAND TITLE

Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.

- 67. Upon registration of the plan of subdivision that creates Lot 108, an easement in gross for a right of carriageway 21m wide shall be created over Road 5 in favour of Council pursuant to s88A of the Conveyancing Act 1919. Following registration of the plan of subdivision that creates lot 108, Road 5 with 21m wide road reserve shall be dedicated to council as a public road prior to the release of Stage 2 lots, in accordance with condition 67A.

Note: The excising from a lot land that is, or is intended to be, used for public purpose is exempt development pursuant to s2.75(f) of SEPP (Exempt and Complying Development Codes) 2008.

- 67A. To the extent constructed in accordance with condition 44, the proposed public roads and Owlpen Lane road widening (approximately 10.5m from the existing centreline of the road reserve to the new boundary) shall be dedicated to Council, at no cost to Council. The Owlpen Lane road widening shall be compatible with the intent to create a 12m wide road (kerb to kerb) and 21m wide road reserve, taking into account previous and future road widening that may occur on the western side of Owlpen Lane by others.
- 68. The land containing the proposed stormwater basins and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to

Council.

69. The public reserve shall be dedicated to Council, at no cost to Council, and without compensation, works-in-kind, or “section 7.11 contribution” offset or similar.
70. A restriction or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:
 - (a) Where public water quality or stormwater detention systems are not dedicated at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve, and
 - (b) Retaining walls on the common boundary between the proposed new lots shall have a 900mm easement to prevent excavation and for maintenance access shall be provided on the downhill lot.
 - (c) Building envelopes in accordance with the approved building envelopes plan referenced in condition 6 of this consent.
71. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.
72. A positive covenant on the title of Lots 2-7, under Section 88B of the Conveyancing Act, shall be created over the drainage v-drain which requires maintenance (against alteration and/or obstruction) and acceptance of the upstream undeveloped flows.
73. The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as “the lots burdened and benefitted, only with the consent of Maitland City Council”.
74. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as “Maitland City Council”.

BUSHFIRE

75. **Prior to issue of the Subdivision Certificate**, Asset Protection Zones (APZ's) shall be created in accordance with the requirements of the NSW Rural Fire Service.
76. **Prior to issue of Subdivision Certificate**, the applicant shall provide certification from a suitably qualified bushfire consultant that the works comply with the General Terms of Approval issued by the NSW Rural Fire Service,

dated 18 April 2024.

77. NSW Rural Fire Service

The development shall comply with the General Terms of Approval issued by the NSW Rural Fire Service, dated 18 April 2024. A copy of the General Terms of Approval are attached to this determination notice in schedule 1.

DEPARTMENT OF PLANNING AND ENVIRONMENT - WATER

78. Department of Planning and Environment - Water

The development shall comply with the General Terms of Approval issued by the Department of Planning and Environment - Water, dated 27 March 2024 and 12 December 2022. A copy of the General Terms of Approval are attached to this determination notice in schedule 2.

AUSGRID

79. Ausgrid

Ausgrid's requirements, dated 27 March 2024, shall be complied with and are attached to this determination notice in schedule 3.

FENCING

80. Boundary Fencing with No.41 Owlpen Lane, Farley

Consent must be sought from the owner of 41 Owlpen Lane, Farley to replace the existing boundary fencing along the northern, eastern and southern boundaries of Lot D DP 348463, and if provided shall be replaced with a new 1.8m high Colorbond fence to reduce the impact of the development on the adjoining owners.

All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners.

14 days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a Subdivision Certificate for Stage 1 of the development.

81. Northern Boundary Fencing

Consent must be sought from the following adjoining owners to replace existing fencing along the northern boundary with new 1.8m high Colorbond fencing to reduce the impact of the development on the adjoining owners.

If consent is provided, the fencing shall be constructed along the common boundaries between the development site and the following adjoining properties:

- Lot 1 // DP1020104, known as 157 Wollombi Road FARLEY NSW 2320
- Lot 10 // DP1045827, known as 153 Wollombi Road FARLEY NSW 2320
- Lot 1 // DP199497 known as 151 Wollombi Road FARLEY NSW 2320
- Lot 3 // DP545503 known as 147 Wollombi Road FARLEY NSW 2320
- Lot 2 // DP555759 known as 137 Wollombi Road FARLEY NSW 2320
- Lot A // DP162222 known as 135 Wollombi Road FARLEY NSW 2320
- Lot 101 // DP1287298 known as 131 Wollombi Road FARLEY NSW 2320

All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners.

14 days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a Subdivision Certificate for Stage 1 of the development.

82. Eastern Boundary Fencing

Consent must be sought from the following adjoining owner to replace the existing fencing along the eastern boundary of proposed Lots 9 to 12 inclusive with new 1.8m high Colorbond fence to reduce the impact of the development on the adjoining owners.

If consent is provided, the fencing shall be constructed along the common boundaries between the development site being Lots 9 to 12 inclusive and, the following adjoining property:

- Lot 1 // DP456996 known as 121 Wollombi Road FARLEY NSW 2320

All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners.

14 days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a Subdivision Certificate for Stage 1 of the development.

83. Southern Boundary Fence

A 1.8m high Colorbond fence shall be erected along the southern boundary of proposed Lot 12 and stormwater basin 1 prior to the issue of a Subdivision Certificate for Stage 1 of the development.

84. Eastern Boundary Fence

A 1.8m high Colorbond fence shall be erected along the eastern boundary of proposed Lot 7 and basin 2 prior to the issue of a Subdivision Certificate for Stage 2 of the development.

85. Construction Management Plan

Prior to the issue of the first Subdivision Works Certificate or before site work commences, whichever occurs first, a Construction Management Plan (CMP) must be prepared by the applicant and approved by Council.

The plan must include the following matters:

- a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
 - i. Vehicular site access;
 - ii. Proposed truck movements (haulage routes) to and from the site;
 - iii. Estimated frequency of truck movements; and
 - iv. Measures to ensure pedestrian safety near the site;
 - v. Traffic management.
- e) Details of bulk earthworks to be carried out;
- f) The location of site storage areas, stockpiles and sheds;
- g) The equipment used to carry out works;
- h) The location of a garbage container with a tight-fitting lid;
- i) Dust, noise and vibration control measures;
- j) The location of temporary toilets;
- k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i) AS 4970 – Protection of trees on development sites;
 - ii) An applicable Development Control Plan;
 - iii) The BDAR and BMP approved as part of this consent.

A copy of the CMP must be kept on-site at all times while work is being carried out.

All works on site shall be undertaken in accordance with the approved CMP.

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A** You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.
- B** You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Subdivision Works Certificate.
- C** You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.
- D** You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.
- E.** You are advised that a Controlled Activity Approval is required under Section 91 of the Water Management Act 2000. This approval shall be sought prior to the commencement of any works within 40 metres from the top of bank of any watercourse.
- F.** You are advised that a Fisheries permit is required for works within Key Fish Habitat prior to the commencement of any works

Schedule 1 – General Terms of Approval issued by the NSW Rural Fire Service, dated 18 April 2024



Maitland City Council
PO Box 220
MAITLAND NSW 2320

Your reference: DA/2022/1133 (CNR 47501)
Our reference: DA20221028011350-CL55-1

ATTENTION: George White

Date: 18 April 2024

Dear Mr White:

Integrated Development Application

s1008 – Subdivision - Torrens Title Subdivision

11, 21, 23, 25 & 33 Owlpen Lane Farley NSW 2320, B//DP348463, C//DP348463, 10//DP1229964, 1//DP983691

I refer to your correspondence dated 14/03/2024 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997, are now issued subject to the following conditions.

General Conditions

1. The recommendations are based on the documents/plans supplied via Councils referral to the NSW RFS.

- 1,21,23,25&33 Owlpen Lane, Farley NSW 2320, LOT 1 DP 983691, LOT 10&11 DP 1229964, LOT B&C DP 348463 - SUBDIVISION PLAN, prepared by The Bathla Group, Dwg No. DA 02, Rev 8, dated April 2024; and
- PROPOSED RESIDENTIAL SUBDIVISION 11-33 OWL PEN LANE, FARLEY CONCEPT CIVIL ENGINEERING DESIGN FOR DA, prepared by GCA Engineering Solutions, Project no. 21412C, Rev 7, dated April 2024

Council is advised that where a minor amendment to the above-noted documents is proposed, Council may use its discretion to determine whether the minor amendment warrants further assessment by the NSW RFS.

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

2. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, a suitable mechanism, such as an Instrument pursuant to section 88 of the Conveyancing Act 1919 or an adopted Council Plan of Management, must be in place over the site where identified as an APZ in the document 1,21,23,25&33 Owlpen Lane, Farley NSW 2320, LOT 1 DP 983691, LOT 10&11 DP 1229964, LOT B&C DP 348463 - SUBDIVISION PLAN, prepared by The Bathla Group, Dwg No. DA 02, Rev 8, dated April 2024, to ensure

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5590
www.rfs.nsw.gov.au



its ongoing management as an inner protection area in accordance with Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an inner protection area, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 m above the ground;
- tree canopies should be separated by 2 to 5 m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings
- shrubs should not be located under trees
- trees should not be located within 2 m of a building
- large shrubs should be removed if they are taller than 1.5 m above the canopy of the trees or taller than the height of the vegetation
- grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height) and
- leaves and vegetation debris should be removed regularly

The name of authority empowered to release, vary or modify any instrument must be Maitland City Council

Access – Public Roads

The intent of measure is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area

3. Access roads must comply with the following general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019* and the following:

- subdivisions of three or more allotments have more than one access in and out of the development;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
- all roads are through roads;
- dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;
- where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
- where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access must be provided to an alternate point on the existing public road system;
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression;
- the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating;
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning; and
- there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.

Perimeter roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019* and the following:

- are two-way sealed roads;





- minimum 8m carriageway width kerb to kerb;
- parking is provided outside of the carriageway width;
- hydrants are located clear of parking areas;
- are through roads, and these are linked to the internal road system at an interval of no greater than 500m;
- curves of roads have a minimum inner radius of 6m;
- the maximum grade road is 15 degrees and average grade of not more than 10 degrees;
- the road crossfall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.

Non perimeter roads must comply with the general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:

- minimum 5.5m carriageway width kerb to kerb;
- parking is provided outside of the carriageway width;
- hydrants are located clear of parking areas;
- roads are through roads, and these are linked to the internal road system at an interval of no greater than 500m;
- curves of roads have a minimum inner radius of 6m;
- the road crossfall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.

4. Temporary turning heads must be provided to temporary dead end roads incorporating either a minimum 12 metre radius turning circle or turning heads compliant with A3.3 Vehicle turning head requirements of Planning for Bush Fire Protection 2019. The turning areas may be removed upon opening of future proposed through roads.

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

5. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in TSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;





- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal, polymer-sheathed flexible gas supply lines are not used, and
- above ground gas service pipes are metal, including and up to any outlets

General Advice – Consent Authority to Note

This approval is a final decision on the land use. Any further development on the site must comply with the building designs identified by the National Construction Code must be submitted to separate application under section 4.14 of the *Environmental Planning and Assessment Act 1979* and address the requirements of *Planning for Bush Fire Protection 2019*.

This letter is in response to an assessment of the application based on the submitted further information and supersedes previous general terms of approval dated 17/06/2020.

For any queries regarding this correspondence, please contact Joshua Calandra on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
Manager Planning & Environment Services
Built & Natural Environment





BUSH FIRE SAFETY AUTHORITY

Subdivision - Torrens Title Subdivision
17/02/2023 v 3 NSW Planning & Environment NSW 2320 (P - DP348463 (C - DP488467 (D - DP1114964
17/DP983691

RFS Reference: DA20221028011450-CL55-1

Your Reference: DA/2022/1133 (CNR-47503)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20221028011450-Original-1 issued on 17/02/2023 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Nika Fomin

Manager Planning & Environment Services
Built & Natural Environment

Thursday 18 April 2024

Schedule 2 – General Terms of Approval issued by Department of Planning and Environment – Water, dated 27 March 2024 and 12 December 2022

Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpe.nsw.gov.au

Letter: DA 2024-0194 IDAS 2022-10688
Journal: DA 2022-1133

2024/11/13, Monday
10:41 AM
2024/11/13, Monday
10:41 AM
2024/11/13, Monday
10:41 AM
2024/11/13, Monday
10:41 AM

Re: IDAS 2024-10194 IDAS 2022-10688 EP&A r155 Submission of amended plans - General Terms of Approval

Dev Ref: DA 2022-1133

Description: SUBDIVISION OF LAND INTO 119 LOTS COMPRISING 117 RESIDENTIAL LOTS, 1 RESIDUE LOT AND 1 SUPERLOT OVER TWO STAGES WITH THE CONSTRUCTION AND DEDICATION OF PUBLIC ROADS, TREE REMOVAL & STORMWATER DRAINAGE WORKS

Location: Lot L, DP983881, 11 OWLPEN LANE FARLEY 2320
Lot 10, DP1229884, 33 OWLPEN LANE FARLEY 2320
Lot 11, DP1229884, 21 OWLPEN LANE FARLEY 2320
Lot B, DP348463, 23 OWLPEN LANE FARLEY 2320
Lot C, DP348463, 25 OWLPEN LANE FARLEY 2320

The Department of Planning and Environment-Water has reviewed the additional and/or amended documents for the integrated Development Application (DA) proposed for the above location and considers that, for the purposes of the Water Management Act 2000 (WMA Act), previously issued General Terms of Approval are adequate, remain current, and no further assessment by this agency is necessary.

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then the Department of Planning and Environment-Water should be notified.

If you have any questions regarding this correspondence, please use Water Assist to obtain further information or make an enquiry: <https://www.dpe.nsw.gov.au/water/water-assist>

Yours Sincerely

For
Patrick Pabbew
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water

Contact: Department of Planning and Environment—Water
Phone: 1800 633 362
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2022-10688
Your ref: DA/2022/1133

12 December 2022

The General Manager
Maitland City Council
PO Box 220
MAITLAND NSW 2320

Attention:

Development Referral - 2022/1133

Dear Sir/Madam

Re: IDAS-2022-10688 - Integrated Development Referral – General Terms of Approval

Dev Ref: DA/2022/1133

Description: SUBDIVISION OF LAND INTO 119 LOTS COMPRISING 117 RESIDENTIAL LOTS, 1 RESIDUE LOT AND 1 SUPERLOT OVER TWO STAGES WITH THE CONSTRUCTION AND DEDICATION OF PUBLIC ROADS, TREE REMOVAL & STORMWATER DRAINAGE WORKS

Location: 11, 21, 23, 25, 33 OWLPEN LANE FARLEY 23201//DP983891, 10//DP1229964, B//DP348463, 11//DP1229964, C//DP348463

I refer to your recent referral regarding an Integrated Development Application (DA) proposed for the above location. Attached, please find the Department of Planning and Environment—Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment—Water will ascertain from the notification

if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent

The attached GTA issued by the Department of Planning and Environment –Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity

A completed application must be submitted to the department together with any required plans documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at: <https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment—Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment—Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely

For
Nathalie Whitby
Manager
Licensing and Approvals
Department of Planning and Environment—Water



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS-2022-10688
Issue date of GTA:	12 December 2022
Type of Approval:	Controlled Activity
Location of work/activity:	11, 21, 23, 25, 33 OWLPEN LANE FARLEY 23201//DP983691, 10//DP1229964, B//DP348463, 11//DP1229964, C//DP348463
Waterfront Land:	Unnamed tributary of Stony Creek
DA Number	DA/2022/1133
LGA	Maitland Council

The GTA issued by Department of Planning and Environment –Water do not constitute an approval under the Water Management Act 2000. The development consent must apply to the Department of Planning and Environment –Water for the relevant approval after development consent has been obtained by Council and before the commencement of any work or activity.

Condition Number	Details
TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment –Water and obtained for a controlled activity approval under the Water Management Act 2000.
TC G004	<p>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1 relating to Development Application DA/2022/1133 provided by Council to Department of Planning and Environment –Water.</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment –Water, must be notified in writing to determine if any variations to the GTA will be required.</p>
TC-G005	<p>A. The application for a controlled activity approval must include the following plan(s):</p> <ol style="list-style-type: none"> i. Site plans indicating the demarcation of waterfront land, designated riparian corridors ii. Detailed civil construction plans; iii. Construction streamworks plans; iv. Erosion and sediment control plans; v. Construction detailed drainage plans; vi. Construction stormwater drainage outlet plan; vii. Vegetation management plan; viii. Construction detailed basin design plans; ix. Itemised VMP costings; x. Civil and streamworks itemised costings; xi. Construction cut and fill cross sections and plan view details of site; xii. Construction detailed bulk earthworks plans; <p>B. The plan(s) must be prepared in accordance with Department of Planning and Environment –Water’s guidelines located on the website https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what-guidelines</p>

TC-G006

- A. A security deposit must be provided, if required by Department of Planning and Environment—Water
- B. The deposit must be
 - i. a bank guarantee, cash deposit or equivalent, and
 - ii. equal to the amount required by Department of Planning and Environment—Water for that controlled activity approval.



General Terms of Approval

for proposed development requiring approval under s89,
99 or 91 of the Water Management Act 2000

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment—Water for integrated development associated with IDAS-2022-10688 as provided by Council

- Statement of Environmental Effects - Development Application - Subdivision of land into 119 lots comprising 117 residential lots, 1 residue lot and 1 super lot over two stages with the construction and dedication of public roads, tree removal & stormwater drainage works - 11, 21, 23, 25 & 33 Owipen Lane, Farley NSW 2320 (Lot 1 DP983691, Lots 10 & 11 DP1229964 and Lots B&C DP348463) (undated) prepared by Universal Property Group

Schedule 3 - Ausgrid Referral Comments, dated 27 March 2024



TELEPHONE (02) 4910 1719
EMAIL jeffreyfryons@ausgrid.com.au
REFERENCE Notification No. 1900127607

170 George Street
Sydney NSW 2000
All mail to GPO Box 4009
Sydney NSW 2001
T: +61 2 9333 5233
F: +61 2 9369 2830
www.ausgrid.com.au

ATTN: George Williams
Maitland City Council
PO Box 220
Maitland NSW 2320

Re: DA/2022/111 - Five (5) into One Hundred and Nineteen (119) Lot Torrens Title Subdivision in Two Stages

Site: 11 Maitland Subdivision (Maitland NSW 2320) (DA/2022/111)

The site is the subject of a proposed development under the provisions of the State Environmental Planning and Assessment Act 1979.

The proposed development is a residential development of 11 lots. The development is subject to a development consent process undertaken in accordance with requirements of Section 79 of the Environmental Planning and Assessment Act 1979. One of the obligations upon consent authorities, such as local councils, is to consider the suitability of the site for the development which can include a consideration of whether the proposal is compatible with the surrounding land uses and the existing environment.

In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

With Regard to: Five (5) into One Hundred and Nineteen (119) Lot Torrens Title Subdivision in Two Stages

The site contains overhead Distribution and Transmission network assets that may be affected by the development. Ausgrid will not accept leaving the assets in situ over residential lots. The developer must arrange and fund removal or relocation into suitable locations such as future road reserve to Ausgrid's satisfaction.

Method of Electricity Connection

The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 - Premise Connection Requirements.

Supply of Electricity

It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

- The existing network can support the expected electrical load of the development
- A substation may be required on-site, either a pad mount kiosk or chamber style and;
- site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

Conduit Installation

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

Vegetation

All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines

Streetlighting

The developer is to consider the impact that existing streetlighting and any future replacement streetlighting and maintenance may have on the development. Should the developer determine that any existing streetlighting may impact the development, the developer should either review the development design, particular the placement of windows, or discuss with Ausgrid the options for relocating the streetlighting. The relocating of any streetlighting will generally be at the developers cost. In many cases it is not possible to relocate streetlighting due to its strategic positioning.

Proximity to Existing network Assets

Overhead Powerlines

There are existing overhead powerlines & cables located within the development lot and along Outpen Rd.

Safework NSW Document - Work Near Overhead Powerlines Code of Practice outlines the minimum safety separation requirements between these manholes to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operation of cranes and the location of any scaffolding.

The as constructed minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website: www.ausgrid.com.au

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

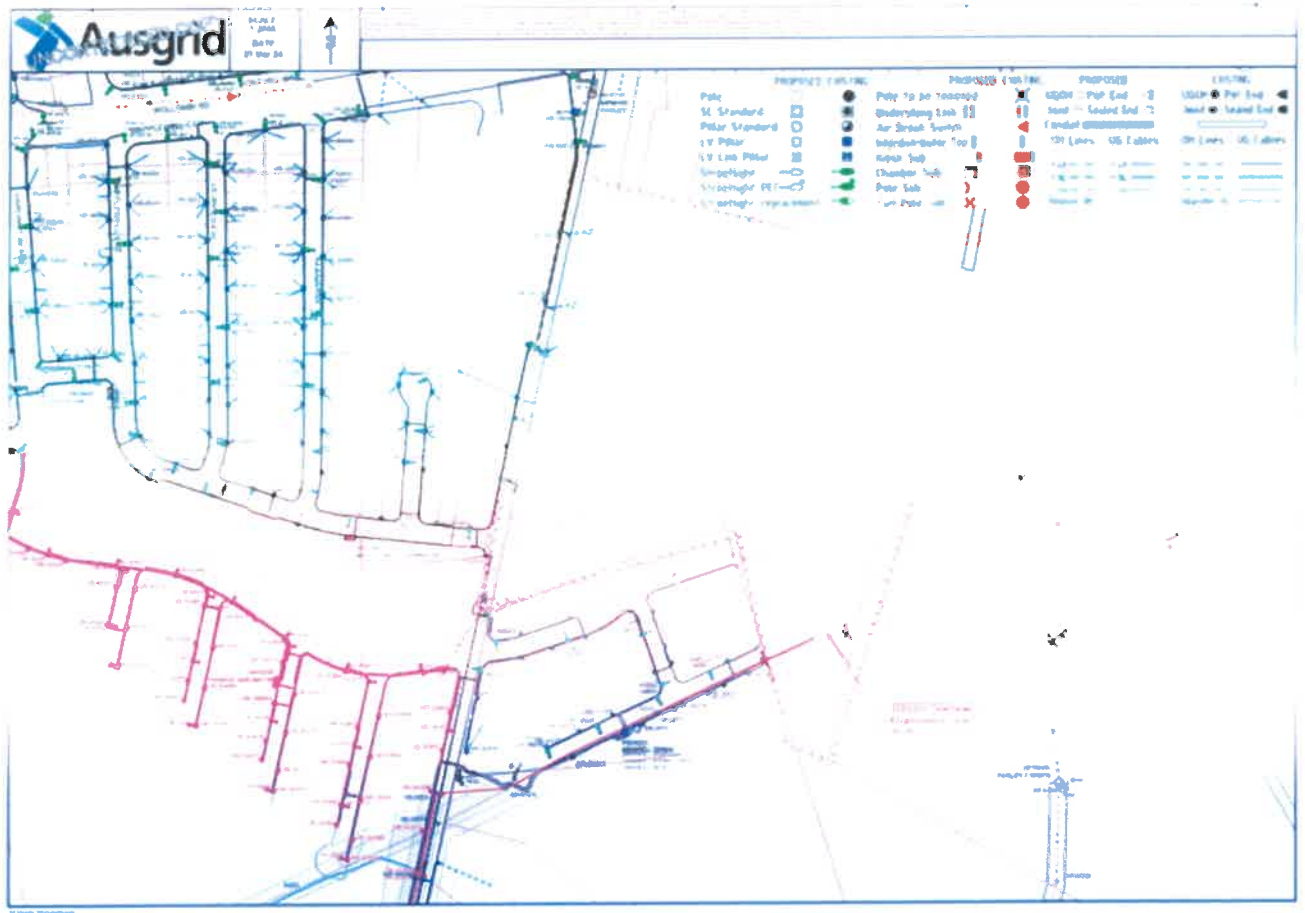
It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

Please do not hesitate to contact Jeffrey Lyons on Ph: (02) 4910 1719 (please quote our ref: TRM 2017/26/419) should you require any further information.

Regards, Jeff



Jeffrey Lyons
Engineering Officer
Ausgrid
Ph: (02) 4910 1719



Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA/2023/31

Development: Development Application No. DA/2023/31 for the Torrens title subdivision of land to create 16 residential lots and 1 drainage basin lot, construction and dedication of a public road, tree removal, stormwater drainage and other associated works

Site: Lot 101 in DP1287298 and known as 131 Wollombi Road, Farley NSW 2320

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 14 May 2024

Date from which consent takes effect: Date of determination

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 101 in DP1287298 and known as 131 Wollombi Road, Farley NSW 2320

The conditions of consent are as follows:

Administrative Conditions

APPROVED PLANS AND DOCUMENTATION

- The development shall be carried out in accordance with the approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

Plan Ref No.	Sheet No.	Rev No.	Revision Date	Prepared by: (consultant)
Site Analysis	DA 01	7	27/03/2024	The Bathla Group
Subdivision Plan	DA 02	7	27/03/2024	The Bathla Group
Zoning Overlaid Plan	DA 03	7	27/03/2024	The Bathla Group
Building Envelope Plan	DA 04	7	27/03/2024	The Bathla Group
Street Tree Plan	LP-01	6	23/03/2024	The Bathla Group

Generally in accordance with revised Engineering Plans prepared by: GCA Engineering Solutions, Project Number 22179C

Name of Plan	Drawing Number	Rev:	Date
Cover Sheet	C00	6	4 April 2024
Plan Sheet	C01	6	4 April 2024
Road 1 Longitudinal Section	C02	3	1 September 2023
Road 1 Cross Sections 1 of 2	C03	6	4 April 2024
Road 1 Cross Sections 2 of 2	C04	6	4 April 2024
Road 2 Longitudinal and Cross Sections	C05	3	1 September 2023
Accessway Longitudinal and Cross Sections	C06	3	1 September 2023
Typical Road Sections	C07	3	1 September 2023
Basin 1 & 2 Detail Plan	C08	6	2 April 2024
Regrade Plan	C09	6	2 April 2024

Cut/Fill Relief Plan	C10	6	2 April 2024
Soil and Water Management Plan	C11	6	2 April 2024
Typical Allan Block Retaining Wall Details	C12	3	1 September 2023
Turning Movement Plan for GPT Access Pad	C13	3	1 September 2023

Generally in accordance with the following documents:			
Document	Reference	Author	Date
Preliminary Geotechnical Basin Design Report	304001999-001.:IGP	Stantec	7 September 2023
Preliminary Site Investigation Report	NE1372	Geotesta Pty Ltd	22 August 2022
Streamlined Biodiversity Development Assessment Report (Small Area)	Version 3	Firebird ecoSultants	1 February 2024
Bushfire Threat Assessment	-	Firebird ecoSultants Pty Ltd	6 th September 2023, as revised on 29 th April 2024
Traffic and Parking Assessment Report	22386	Varga Traffic Planning Pty Ltd	6 December 2022
22179 - Stormwater Drainage Strategy	1-33	4	12 January 2024
Aboriginal Due Diligence Assessment	Revision 2	Apex Archaeology	11 December 2022

CONTRIBUTIONS & FEES

- Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979, the Farley Development Contributions Plan 2015 and the Maitland City Wide Development Contributions Plan 2016, a contribution of \$450,000 shall be paid to the Council.

The contribution is calculated from Council’s adopted Contributions Plans in the following manner:

Facility	Per Lot	Total
	1	15

Farley Recreation & Open Space	\$11,192	\$167,880
Farley Community Facilities	\$3,098	\$46,470
Farley Road & Traffic Facilities	\$8,150	\$122,250
Farley Cycleways/Shared Paths	\$1,387	\$20,805
City Wide Aquatics	\$966	\$14,490
City Wide Recreation & Open Space	\$806	\$12,090
City Wide Road & Traffic	\$3,198	\$47,970
City Wide Cycleways/Shared Paths	\$570	\$8,550
Plan Management/Admin	\$633	\$9,495
TOTAL	\$30,000	\$450,000

At the time of consent contributions levied in the Farley Urban Release Area were capped at \$30,000 per new residential lot. While any outstanding contributions would ordinarily be indexed quarterly in accordance with CPI, the contribution cap will be honoured unless legislative changes take place authorising the indexation of outstanding balances.

Payment of the above amount is required prior to the issue of the Subdivision Certificate for each stage of the development.

The above condition has been applied to ensure that:

- i. Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council’s adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
 - ii. Council’s administration expenses are met with respect to the processing of the application.
3. **Prior to the issue of a Subdivision Certificate** for any construction stage, all the requirements of the State Voluntary Planning Agreement (SVPA2023-8) for 131 Wollombi Road, Farley are to be complied with. Documentation is to be provided to Council with the application for the Subdivision Certificate.

Note: Section 6.15(1)(d) in the Environmental Planning and Assessment Act 1979 places a restriction on the issue of a Subdivision Certificate relating to this matter.

4. **Prior to the issue of the Subdivision Certificate**, “house numbering” and “subdivision certificate” fees, in accordance with Council’s *Schedule of Fees and Charges*, shall be paid to Council.

CERTIFICATES & REPORTS

5. **Prior to issue of the Subdivision Certificate**, original plans and/or documents of survey/title, shall be submitted to Council.

6. **Prior to issue of the Subdivision Certificate**, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:
 - classifying each lot in accordance with Australian Standards AS 2870, and
 - verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing “level 1” inspection and testing.

7. **Prior to issue of the Subdivision Works Certificate** for earthworks or road construction, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.

BUSHFIRE

8. The General Terms of Approval from New South Wales Rural Fire Service (Ref: DA20230202000450-CL55-1, Dated: 19 March 2024) must be complied with prior to, during, and at the completion of the development.
A copy of the General Terms of Approval is attached to this determination notice.
9. **Prior to issue of Subdivision Certificate**, the applicant shall provide certification from a suitably qualified bushfire consultant that the works comply with the General Terms of Approval , issued by the NSW Rural Fire Service (Ref: DA20230202000450-CL55-1, Dated: 19 March 2024).

UTILITY SERVICES

10. Underground water, sewerage, telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider’s requirements.
11. Street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:
 - Generally based on Australian Standard AS 1158 categories PR5,
 - providing lighting for the public accessway fronting lots 10 to 15; and
 - providing “cut-off” luminaries (such as “Aeroscreen” or similar)
12. Any necessary alterations to public utility installations being at the developer’s expense and to the requirements of both Council and the relevant authority.

13. **Prior to issue of the Subdivision Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.

Note: Where the proponent enters into an interim arrangement with Hunter Water for the provision of temporary sewerage disposal a copy of the agreement between Hunter Water and the proponent shall also be provided to the Council prior to the issue of the Subdivision Certificate.

14. **Prior to issue of the Subdivision Certificate**, documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.

15. **Prior to issue of the Subdivision or Construction Certificate in connection with a development**, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

- ii. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

VEGETATION & LANDSCAPING

16. **Prior to the issue of the Subdivision Works Certificate for road construction**, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The plan shall include:

- a) Be in accordance with the approved plan as referenced in condition 1 and designed by a suitably accredited landscape architect.
- b) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.
- c) Street trees (along Road 1, Road 2, Public Accessway, and Wollombi Road) shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planning) include details of the height and spread at maturity (of the approved species).
- d) Low landscape planting (that does not obstruct sightlines) within the central island on Road 1 cul de sac bulb.

Landscaping of any existing or proposed public land shall include:

- e) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries for boundary maintenance purposes with a maximum slope of 5H:1V.
- f) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
- g) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.

Landscaping of water quality systems

- h) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.

17. **Prior to the issue of the Subdivision Certificate** the applicant shall provide to the Council either:

- a) A copy of a 'landscape maintenance agreement' with a qualified landscape contractor to secure maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan; or
- b) Provide a landscape maintenance bond to the Council for the maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan.

Note: *The applicant shall provide three quotations from qualified landscape consultants for the landscape maintenance work and the amount of the bond is to be determined having regard to these quotations.*

18. **Prior to the issue of the Subdivision Certificate** all landscaping shall be undertaken in accordance with the approved landscape plan(s).

19. **Prior to the issue of the Subdivision Certificate** the site shall be cleared of all trees:

- within the road reserve
- along proposed lot boundaries
- within approved building "envelopes"

20. **Prior to commencement of works** an eradication report for noxious and environmental weeds shall be provided to, and approved by Council, by a suitably qualified professional. The report shall include the proposed public reserve, drainage reserve and/or creek waterways.

21. **Prior to issue of the Subdivision Certificate** noxious and environmental weeds shall be destroyed or removed from within the proposed public reserve and/or creek waterways, in accordance with the requirements of an approved

eradication report. Certification shall be provided by a suitably qualified professional.

BIODIVERSITY

22. **Prior to commencement of any clearing on site**, the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in Table 1 must be provided to the consent authority **prior to commencement of works**.

Table 1 Ecosystem credits required to be retired - like for like.

Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset impacts of development
1598 - Forest Red Gum grassy open forest on floodplains of the lower Hunter	6	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions This includes PCT's: 1591, 1598, 1603, 1605, 1691, 1692, 1749, 3328, 3446, 3634

23. **Prior to the commencement of any clearing on site**, a Biodiversity Management Plan (BMP) must be prepared by a suitably qualified person in consultation with Council. The BMP may form part of a Construction Environmental Management Plan. It shall include (but not be limited to) the following minimum detail:
- a) Clearing Strategy developed in accordance with 'Guide 1: Pre-clearing process', 'Guide 4: Clearing of vegetation and removal of bushrock', and

'Guide 9: Fauna handling' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024). At minimum it shall include:

- i. Proposed pre-clearing and pre-demolition survey actions
 - ii. Proposed timing of clearing commencement and pre-clearing checks
 - iii. Proposed vegetation clearing methods
 - iv. Monitoring and reporting requirements
- b) Artificial Hollow Plan, including:
- i. The size, type and quantity of natural tree hollows to be removed
 - ii. Target species and the design of artificial hollows available
 - iii. Maps of existing natural hollows and planned artificial hollow installation locations
 - iv. Monitoring and reporting requirements
- c) Dam Dewatering Strategy, including:
- i. Dewatering process
 - ii. Protection of aquatic fauna and proposed fauna relocation measures
- d) Installation and maintenance of exclusion fencing around trees and vegetation that adjoins the construction area to minimise damage to vegetation that shall be retained.
- e) Prohibition of compaction and the placement of fill within five metres of trees and native vegetation that shall be retained
- f) Appropriate weed control measures, including:
- i. Weed management priorities and objectives.
 - ii. Location of weed-infested areas.
 - iii. Measures to prevent the spread of weeds.
 - iv. Procedures for onsite weed treatment (e.g. composting) and reuse, and/or offsite weed disposal.
 - v. Communication strategies to improve contractor awareness of weeds and weed management.
- g) Machinery, plant and equipment hygiene protocol

The BMP shall be submitted to and approved by Council's Manager Environment and Sustainability **prior to the commencement of any clearing on site.**

24. **Prior to commencement of any clearing on site**, artificial hollows shall be installed in accordance with the Artificial Hollow Plan at a ratio of 2:1 per hollow removed from site. At least 70% of artificial hollows at least two weeks prior to clearing and maintenance as needed for five years. Artificial hollows should be installed:

- As close as possible to the location of the remove hollow-bearing tree
- With an orientation that considers the target species' needs.
- To avoid trees with existing hollows as the presence of other hollow-dependent fauna may act as a deterrent or may compete for the nest boxes.

- With an attachment method which is appropriate for each artificial hollow type and allows for tree growth
 - Of a type and design to suit the target species in accordance with the Artificial Hollow Plan. If nest boxes are to be used, they should be constructed of a durable material (i.e., marine ply or equivalent).
25. Rehabilitation of the 0.1 ha retained land zoned RU1 must be accompanied by a 5-year Vegetation Management Plan (VMP) prepared by a qualified restoration ecologist in consultation with Council. The VMP shall include (but not be limited to) the following minimum detail:
- a) Goals and objectives of the VMP
 - b) Identification of management zones in text and on a site plan, including:
 - i. identification of management actions and outcomes for each management zone
 - ii. existing vegetation condition
 - c) Detailed works schedule for a minimum of five (5) years including species list, planting density, timing
 - d) Proposed weed management strategies
 - e) Annual monitoring and reporting requirements for a period of five years
 - f) Adaptive management actions to be employed if management outcomes are not achieved within five years. This shall include continuation of VMP management until actions and outcomes are achieved (or a suitable alternative approved Council's Manager Environment and Sustainability).

The VMP shall be submitted to and approved by Council's Manager Environment and Sustainability **prior to issue of the Subdivision Works Certificate.**

Monitoring reports are to be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years.

26. Implementation of the VMP shall commence immediately upon any subdivision work commencing and shall be carried out in accordance with the VMP approved schedule of works.
27. Implementation of the Clearing Strategy shall be undertaken by a qualified ecologist or wildlife carer and commence **prior to clearing of any vegetation or demolition of structures.**

Removal of trees with habitat features and structures identified during pre-clearance surveys as providing fauna habitat (e.g., microbats) shall be undertaken at a time that minimises impact to fauna.

A staged habitat removal process in accordance with 'Guide 4: Clearing of vegetation and removal of bushrock' in Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects (Transport

for NSW, 2024) shall be used when identified habitat features are to be removed.

Once clearing of habitat features has been completed, a report shall be provided to Council's Manager Environment and Sustainability verifying compliance with the Clearing Strategy **prior to commencement of works**.

28. Implementation of the Dam Dewatering Strategy shall be undertaken by a qualified ecologist **immediately upon any work impacting the dam**.
29. Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years verifying compliance with the VMP.
30. Artificial hollows shall be monitored by a qualified ecologist to determine their usage and repairs or replacement (as required). Monitoring shall be carried out on an annual basis for a minimum period of three years following installation and/or as otherwise agreed with Maitland City Council. Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability.

ARCHAEOLOGY

31. Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted to Council.

BATTERS AND RETAINING WALLS

32. No retaining walls are approved within existing or future dedicated public land including road reserves. All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
33. Retaining walls on common boundaries shall be in accordance with the approved retaining plan. No walls shall exceed the maximum height of 1.5m.
34. Any retaining walls within the development shall comply with the following:
 - a) Any retaining walls for lot benching shall be provided on the common boundary between private lots,
 - b) Located within the uphill lot with the face of the wall on the boundary. An easement 0.9m wide within the downhill lot, to prevent excavation and for access for maintenance shall be created,
 - c) Engineering certification is required for walls equal to or higher than 1.0m,

- d) All side boundary retaining walls shall be tapered to 0.0m in height towards the front boundary adjoining the public road reserve with a maximum of 1m within the first 5m from the boundary perpendicular to the public road reserve for safe access sightlines,
- e) No cut retaining walls are to be located on and/or adjacent to the common boundary with the neighbouring properties (that are not associated with the development), drainage reserves and road reserves, and
- f) Fill retaining walls along the common boundary with the neighbouring properties (that are not associated with the development), drainage reserves and road reserves are to be located at least 0.1m from the common boundary measuring from the exposed face of wall. All wall components, footings, backfill, and subsoil drainage must be located wholly within the proposed lots.

TRAFFIC AND TRANSPORT

- 35. **Prior to the issue of the Subdivision Certificate** kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council’s Manual of Engineering Standards.
- 36. **Prior to the issue of the Subdivision Works Certificate** the following road hierarchy shall apply to all roads, (including widths, pavement design and the like) in accordance with council’s Manual of Engineering Standards:

A minimum 300mm select layer of sub-base quarry product material shall be added to the pavement design and construction plans due to the presence of high shrink/swell clays in the Maitland Local Government Area.

ROAD TYPE	ROAD DESCRIPTION	Comments (shared paths, etc)
Local – Primary (ESA 5 x 10 ⁵)	Road 1	2.5m shared path
Local – Secondary (ESA 2 x 10 ⁵)	Road 2	1.5m footpath
Commercial/Industrial concrete driveway pavement as per SD010	Accessway	Nil

Note: where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

- 37. **Prior to issue of the Subdivision Certificate**, the redundant vehicle driveway and kerb layback along the frontage of the site in Wollombi Road shall be removed and reinstated as new kerb and gutter.

38. **Prior to the issue of the Subdivision Certificate** the following subdivision works within the private property shall be provided in accordance with Council's Manual of Engineering Standards:
- a) Internal roads, drainage, and pathways.
 - b) A 12m wide public accessway corridor with a 3.5m verge against Lots 13 – 15, a 4.0m concrete road, and a 4.5m verge against Lots 10-12.
 - c) A passing bay 2m wide by 8m long minimum with splays within the accessway generally across lot 10 frontage.
 - d) Deletion of the 2.5m wide shared path from Road 1 through the 12m accessway corridor. Paths shall be directed onto the 4m concrete accessway/road from the cul-de-sac bulb to Wollombi Road.
 - e) Installation of proprietary bollards (lockable and removable) and wire rope fencing that deny vehicle access from the accessway onto Wollombi Road.
Note:
 - i. Maximum spacing of 1.5m between bollards for pedestrian/cycle access shall be provided.
 - ii. The location of these bollards shall be behind the area required for lot turning (Lots 12 and 13).
 - iii. The wire rope fencing shall allow restricted maintenance vehicle access.
 - f) Shared pedestrian/cycle path 2.5m wide along Road 1.
 - g) Pedestrian path 1.5m wide along Road 2.
 - h) Shared pedestrian/cycle path 2.5m wide across the full frontage of the development on Wollombi Road,
 - i) Ancillary roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rails.
39. **Prior to the issue of the relevant Subdivision Works Certificate**, all (traffic) Regulatory line marking and signage shall be approved by **Council's Local Traffic Committee**. *Note: Please allow three months from lodgement for the LTC process.* All recommendations of the committee shall be incorporated into approvals and works. The works to be approved include:
- a) One-way directional signage around the central landscape island at the cul-de-sac bulb.
 - b) No through road signage at the entrance of the cul-de-sac road.
 - c) No through road signage at the entrance of the public accessway.
40. **Prior to the issue of a Subdivision Certificate**, turning head with relevant signage and markers shall be provided. Turning head shall comply with:
- a) The 14.5m minimum radius shall be provided for bus and heavy vehicles on the end of Road 1. The 14.5m radius cul-de-sac bulb shall incorporate a central landscape rolled kerb island (with an 8m radius) providing with one-way 4m travel lane and 2.5m parking lane against the kerb.

41. **Prior to issue of a Subdivision Works Certificate**, any major utilities facilities (water, sewer, electrical, telecommunication items larger than individual lot scale provisions) shall be located wholly within private lots and clearly shown on the construction drawings. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.

STORMWATER DRAINAGE

42. A drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:
- a) In accordance with the approved Stormwater Drainage Strategy report prepared by GCA Engineering Solutions (Ref: 22179, Rev: 4, Dated: 12/1/24).
 - b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state.
 - c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event.
 - d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.
43. Specific drainage requirements shall include the provision of:
- a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
 - b) The existing dam shall be decommissioned. A geotechnical report and civil engineer design shall be provided for the new basin wall including any required clay core requirements.
 - c) Interallotment drainage to internal lots as required.
 - d) Interallotment drainage v-drain within and adjacent to the boundary of Lots 1-12 to capture external catchment runoff from the upstream properties (Lot A DP 162222 and Lot C DP162222).
 - e) Concrete maintenance pads with suitable design loads to all GPTs.
 - f) Safety fencing above headwalls.
 - g) Flood warning signages to all basins as per Council's Standard Drawing SD038.
 - h) Child-proof-grates to all basin inlets.
 - i) Driveway crossings to the 3m wide 200mm thick compacted gravel basin access tracks.
 - j) Access gates on the common boundary between the road reserve and the drainage reserve across the basin crossings as per Council's Standard Drawings SD058.

- k) Basin embankment slopes for mowing purposes shall be 1 in 5. A steeper slope up to 1 in 3 may be considered where maintenance is not required (rock wall/natural bush planting).
 - l) Intersection concrete dish drain as per Council's Standard Drawing SD026.
 - m) Raised grated inlet pit(s) within the road reserve adjacent to Lot A DP 162222 to capture external catchment runoff.
 - n) Post and wire rope cable fence as per Council's Standard Drawing SD057 along the common boundary between the road reserve and the drainage reserve.
 - o) Rural concrete posts and wire fencing along the common boundary between the drainage reserve and the neighbouring property (Lot 2 DP 456996).
44. **Prior to the issue of the Subdivision Works Certificate**, a copy of the controlled activity approval under the Water Management Act 2000 shall be provided to the Council for works within and adjacent to the Hydroline including the removal of the existing dam.
45. A suitably qualified geotechnical engineer shall supervise the decommissioning of the existing farm dam to ensure any contamination is identified and actioned appropriately. Where contamination is found during the decommissioning, an action plan is to be provided to, and approved by Council, **prior to undertaking the decontamination works**.
46. **Prior to issue of the Subdivision Certificate**, certification from a suitably qualified geotechnical engineer shall be provided confirming that any contamination at the decommissioned farm dam site has been removed.
47. **Prior to issue of the Subdivision Certificate** a Maintenance Management Plan for the stormwater detention/retention systems shall be prepared by a suitably qualified and experienced person, shall be submitted to, and accepted as satisfactory by Council.

EROSION CONTROL AND BULK EARTHWORKS

48. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "*Managing Urban Stormwater*" shall be submitted as part of the Subdivision Works Certificate application.
49. **Prior to the issue of a Subdivision Works Certificate for subdivision works** a Bulk Earthworks Management Plan (BEMP) is required to be submitted to Council for approval. The BEMP must include a report from a suitably qualified engineer that examines and determines:
- a) the extent of bulk earthworks require for the construction of each stage
 - b) how stockpiles will be managed during construction
 - c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations

- d) stock pile dimensions and stabilisation measures
 - e) site haulage routes and movement for each stage
 - f) how fill will be managed in the floodway during construction
 - g) any specific requirements relating to the management of Acid Sulfate Soils
50. **Prior to the issue of a Subdivision Works Certificate**, a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater – Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

BOUNDARY FENCING

51. **Prior to the issue of a Subdivision Certificate**, consent must be sought from the following adjoining owners and if provided, a 1.8m high *Colourbond* fence shall be constructed along the common boundaries between the development site and the following adjoining properties:

- Proposed Lots 1 to 12, and road 2 road reserve, as they adjoin the land to the east (Lot: A and Lot: C DP 162222).
- Proposed lots 13, 14, 15, 16, as they adjoin the land to the west (Lot: 2 DP456996).
- Proposed lot 1 and 16, as they adjoin the land to the south (Lot: 111 DP1290111).

All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners.

14 days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a Subdivision Certificate.

52. **Prior to the issue of a Subdivision Certificate**, consent must be sought from the owner of Lot 2 DP 456996 and if provided, rural concrete posts and wire fencing along the common boundary must be erected between the drainage reserve (lot 17) and the neighbouring property (Lot 2 DP 456996).

All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners. 14 days written notice shall be given to the

relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a Subdivision Certificate.

53. **Prior to the issue of a Subdivision Certificate**, post and wire rope cable fence as per Council's Standard Drawing SD057 is to be installed along the common boundary between the road reserve and the drainage reserve.

CIVIL WORKS - CERTIFICATION

54. **Prior to the issue of the Subdivision Certificate for the subject development**, all proposed public roads under the development approval DA/2022/1133 shall be dedicated to Council and the new road system has been fully constructed up to the southern boundary of the development that connects with the proposed Road 1.

55. **Prior to issue of the Subdivision Works Certificate** for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.

56. **Prior to commencement of works within an existing public road reserve:**

- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval
- b) consent under the Roads Act for the approved works, shall be issued by Council
- c) all relevant Council fees shall be paid
- d) A Traffic Guidance Scheme (TGS) in accordance with the RMS publication "Traffic control at Worksites" shall be submitted to Council.

57. **Prior to issue of the Subdivision Certificate**, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:

- a) Confirmation that the construction works have been completed.
- b) Confirmation from the road authority for any Roads Act Approval requirements.
- c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
- d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
- e) Geotech certification of the detention basin works (including any clay core requirements).

FILLING

58. Filling material, shall be limited to the following:
- a) virgin excavated natural material (VENM); and/or
 - b) excavated natural material (ENM) certified as such in accordance with Protection of the Environment Operations (Waste) Regulations 2014.
59. Where ENM, is used, the applicant shall ensure that detailed records are kept identifying the source of the material and its composition and chain of custody documentation. Such records are to be provided to the Council within 30 days of the completion of the filling.
60. Within 30 days of the completion of filling the applicant shall submit to the Council a validation report prepared in accordance with EPA requirements by a qualified geotechnical consultant confirming that the completed filling works (addressing both material type, compaction and stabilisation) has been undertaken in accordance with the approved development application documentation and associated consent conditions.

CONSTRUCTION DUST MANAGEMENT

61. The applicant must implement best practice measures to minimise dust emissions from the site during construction. The site shall be managed to prevent the generation of dust, the measures to be employed include:
- The use of a water cart from the public road access point; and
 - Ceasing construction activities (i.e. no vehicles or equipment use) during adverse meteorological conditions (i.e. on windy days).

CONSTRUCTION HOURS

62. Unless otherwise approved by Council in writing, all construction activities including earthworks, truck arrivals and the unloading of fill from trucks shall be carried out between the hours of:
- a) 7.00am to 6.00pm Monday to Friday
 - b) 7.00am to 5.00pm Saturday

Any work performed on Sunday's or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited.

LAND TITLE

(Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.)

63. The proposed public roads and/or road widening shall be dedicated to Council, at no cost to Council.
64. The land containing the proposed stormwater basin and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to Council.
65. The public reserve shall be dedicated to Council, at no cost to Council, and without compensation, works-in-kind, or "section 94 contribution" offset or similar.
66. A restriction or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:
 - a) The prohibition of vehicular access on Lots 12 and 13 across the common boundary with Wollombi Road,
 - b) The prohibition of vehicular access on Lots 10 and 15 across the frontage with the accessway,
 - c) Where public water quality or stormwater detention systems are not dedicated at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve, and
 - d) Retaining walls on the common boundary between private lots shall have a 900mm easement to prevent excavation and for maintenance access shall be provided on the downhill lot.
67. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.
68. A positive covenant on the title of lots 1 to 12, under Section 88B of the Conveyancing Act, shall be created over the drainage v-drain which requires maintenance (against alteration and/or obstruction) and acceptance of the upstream undeveloped flows.
69. The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".
70. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

CONSTRUCTION MANAGEMENT PLAN

71. Prior to the issue of the first Subdivision Works Certificate or before commencement of site works, whichever occurs first, a Construction Management Plan (CMP) must be prepared by the applicant and approved by Council.

The plan must include the following matters:

- a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
 - i. Vehicular site access;
 - ii. Proposed truck movements (haulage routes) to and from the site;
 - iii. Estimated frequency of truck movements; and
 - iv. Measures to ensure pedestrian safety near the site;
 - v. Traffic management.
- e) Details of bulk earthworks to be carried out;
- f) The location of site storage areas, stockpiles and sheds;
- g) The equipment used to carry out works;
- h) The location of a garbage container with a tight-fitting lid;
- i) Dust, noise and vibration control measures;
- j) The location of temporary toilets;
- k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
 - i. AS 4970 – Protection of trees on development sites;
 - ii. An applicable Development Control Plan;
 - iii. The BDAR and BMP approved as part of this consent.

A copy of the CMP must be kept on-site at all times while work is being carried out.

All works on site shall be undertaken in accordance with the approved CMP.

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.
- B. You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Subdivision Works Certificate.

- C. You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.

- D. You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.

