

ATTACHMENT A – MODIFIED CONDITIONS OF CONSENT

Note. Proposed changes are shown in **blue text** for the purposes of reporting this S4.56 to the Planning Panel. Once the determination is made blue text will be changed to black and blue strikethrough text will be deleted.

Attachment A – Amended conditions of consent

RECOMMENDATION**Condition 1 – Development in accordance with approved plans****Amend Condition 1 to read as follows**

The development is to be in accordance with plans and documents listed below:

Plan No.	Description	Prepared by	Dated:
0050 Rev C	General Arrangement - Overall	Planit Consulting	27/8/20
0051 Rev C	General Arrangement – Sheet 1 of 2	Planit Consulting	27/8/20
0052 Rev C	General Arrangement - Sheet 2 of 2	Planit Consulting	27/8/20
0200 Rev B	Finished Surface Cut and Fill Plan – Sheet 1 of 2	Planit Consulting	27/8/20
0201 Rev B	Finished Surface Cut and Fill Plan – Sheet 2 of 2	Planit Consulting	27/8/20

S c h e d u l e o f C o n d i t i o n s

0210 Rev B	Earthworks Plan Sheet 1 of 6	Planit Consulting	27/8/20
0211 Rev B	Earthworks Plan Sheet 2 of 6	Planit Consulting	27/8/20
0212 Rev B	Earthworks Plan Sheet 3 of 6	Planit Consulting	27/8/20
0213 Rev B	Earthworks Plan Sheet 4 of 6	Planit Consulting	27/8/20
0214 Rev A	Earthworks Plan Sheet 5 of 6	Planit Consulting	26/6/20
0215 Rev A	Earthworks Plan Sheet 6 of 6	Planit Consulting	26/6/20
0220 Rev B	Site Sections	Planit Consulting	27/8/20
0230 Rev A	Retaining Wall Sections	Planit Consulting	26/6/20
0300 Rev C	Road and Drainage Plan – Sheet 1 of 6	Planit Consulting	27/8/20
0301 Rev C	Road and Drainage Plan – Sheet 2 of 6	Planit Consulting	27/8/20
0302 Rev C	Road and Drainage Plan – Sheet 3 of 6	Planit Consulting	27/8/20
0303 Rev C	Road and Drainage Plan – Sheet 4 of 6	Planit Consulting	27/8/20
0304 Rev B	Road and Drainage Plan – Sheet 5 of 6	Planit Consulting	24/7/20
0305 Rev B	Road and Drainage Plan – Sheet 6 of 6	Planit Consulting	24/7/20
0310 Rev C	Typical Road Sections – Sheet 1 of 7	Planit Consulting	27/8/20
0311 Rev C	Typical Road Sections – Sheet 2 of 7	Planit Consulting	27/8/20
0312 Rev C	Typical Road Sections – Sheet 3 of 7	Planit Consulting	27/8/20
0313 Rev C	Typical Road Sections – Sheet 4 of 7	Planit Consulting	27/8/20
0314 Rev C	Typical Road Sections – Sheet 5 of 7	Planit Consulting	27/8/20
0315 Rev B	Typical Road Sections – Sheet 6 of 7	Planit Consulting	27/8/20
0316 Rev A	Typical Road Sections – Sheet 7 of 7	Planit Consulting	27/8/20
0320 Rev B	Road 01 Longitudinal Section – Sheet 1 of 2	Planit Consulting	24/7/20
0321 Rev B	Road 01 Longitudinal Section – Sheet 2 of 2	Planit Consulting	24/7/20

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0322 Rev A	Road 02 Longitudinal Section	Planit Consulting	26/6/20
0323 Rev A	Road 03 & Melaleuca Drive Longitudinal Sections	Planit Consulting	26/6/20
0324 Rev A	Road 04 Longitudinal Section	Planit Consulting	26/6/20
0325 Rev A	Road 05 Longitudinal Section	Planit Consulting	26/6/20
0326 Rev B	Road 06 Longitudinal Section – Sheet 1 of 2	Planit Consulting	24/7/20
0327 Rev A	Road 06 Longitudinal Section – Sheet 2 of 2	Planit Consulting	26/6/20
0328 Rev A	Road 07 & 08 Longitudinal Sections	Planit Consulting	26/6/20
0329 Rev A	Road 09 Longitudinal Section	Planit Consulting	26/6/20
0340 Rev A	Kerb Return 01 Longitudinal Section	Planit Consulting	26/6/20
0341 Rev A	Kerb Return 02 Longitudinal Section	Planit Consulting	26/6/20
0342 Rev A	Kerb Return 03 Longitudinal Section	Planit Consulting	26/6/20
0410 Rev C	Proposed and Impacted Catchment Plan	Planit Consulting	27/8/20
0420 Rev A	Typical Swale Sections	Planit Consulting	26/6/20
0430 Rev A	Swale 01 Longitudinal Section	Planit Consulting	26/6/20
0440 Rev A	Bio-retention & Bio-swale Details	Planit Consulting	26/6/20
0450 Rev A	Plan of Swales – Sheet 1 of 2	Planit Consulting	13/8/20
0451 Rev A	Plan of Swales – Sheet 2 of 2	Planit Consulting	13/8/20
0500 Rev A	Sewer and Water Plan Set – Sheet 1 of 4	Planit Consulting	27/8/20
0501 Rev A	Sewer and Water Plan Set – Sheet 2 of 4	Planit Consulting	27/8/20
0502 Rev A	Sewer and Water Plan Set – Sheet 3 of 4	Planit Consulting	27/8/20
0503 Rev A	Sewer and Water Plan Set – Sheet 4 of 4	Planit Consulting	27/8/20
0510 Rev A	Sewer Pump Detail	Planit Consulting	26/6/20
0520 Rev A	Low Pressure Catchment Plan	Planit Consulting	26/6/20

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0530 Rev B	Regional Sewer Pump Station Network Connections	Planit Consulting	27/8/20
0531 Rev A	Regional Sewer Pump Station Site Layout	Planit Consulting	26/6/20
0532 Rev A	Regional Sewer Pump Station General Details	Planit Consulting	26/6/20
0533 Rev A	Regional Sewer Pump Station Fittings Details	Planit Consulting	26/6/20
0534 Rev A	Regional Sewer Pump Station Wet Weather Storage Details	Planit Consulting	26/6/20
0600 Rev B	Staging Plan	Planit Consulting	27/8/20
0610 Rev C	Stage 1 Phase A Plan	Planit Consulting	27/8/20
0611 Rev C	Stage 1 Phase B Plan	Planit Consulting	22/10/21
0620 Rev C	Stage 2 Plan	Planit Consulting	22/10/21
0630 Rev B	Stage 3 Plan	Planit Consulting	27/8/20
0640 Rev C	Stage 4 Plan	Planit Consulting	27/8/20
0650 Rev C	Stage 5 Plan	Planit Consulting	27/8/20
0660 Rev B	Stage 6 Plan	Planit Consulting	27/8/20
J5644_02 Rev 02	Acid Frogs Habitat Plan – Habitat Creation Areas for Acid Frogs	Planit Consulting	16/6/20
J5644_03 Rev 02	Acid Frogs Habitat Plan – Sections & Details	Planit Consulting	16/6/20
J5644_04 Rev 02	Acid Frogs Habitat Plan – Detailed Pond Plan & Details	Planit Consulting	16/6/20
J5644_0501 Rev 02	Rehabilitation Plan – Zone 1	Planit Consulting	16/6/20
J5644_0502 Rev 02	Rehabilitation Plan – Zone 2	Planit Consulting	16/6/20
J5644_0503 Rev 02	Rehabilitation Plan – Zone 3	Planit Consulting	16/6/20
J5644_0504 Rev 02	Rehabilitation Plan – Zone 4	Planit Consulting	16/6/20
J5644_0505 Rev 03	Rehabilitation Plan – Zone 5	Planit Consulting	27/7/20
	Landscape Sections, Section 01, Section 02		20/8/20
	Landscape Sections, Section 03		16/6/20
J6539_001	Overall Masterplan	Planit	27/5/20

S c h e d u l e o f C o n d i t i o n s

Rev 04		Consulting	
J6539_002 Rev 04	Subdivision Plan	Planit Consulting	27/5/20
J6539_101 Rev 03	Overall Open Space Plan	Planit Consulting	16/6/20
J6539_102 Rev 03	Open Space Plan As amended by Council on 031120 to identify "all roads are to be dedicated to Council free of cost"	Planit Consulting	3/11/20
J6539_210 Rev 02	Vegetation Clearing Plan	Planit Consulting	22/5/20
J6539_001 Rev 01	E2 Zone Buffer	Planit Consulting	21/5/20
J6682 Revision A	Rehabilitation Zones Plan – Pages 1 and 2		18/6/20
SK090 Rev A	Frog Habitat Sections (sheet 1 of 2)	Planit Consulting	20/8/20
SK091 Rev A	Frog Habitat Sections (sheet 2 of 2)	Planit Consulting	20/8/20
	Management Plans		
HMC 2016.119	Acid Sulfate Soils Management Plan Residential Subdivision	HMC environmental consulting	November 2016
	Harvest Estate Landscape Masterplan	Planit Consulting	28/8/2020
Revision D	Harvest Estate Groundwater Management Plan	Australian Wetlands Consulting	26/8/2020
Revision C	Harvest Estate Belongil Creek Plan of Management	Australian Wetlands Consulting	26/8/2020
Revision D	Harvest Estate Acid Frog Management Plan	Australian Wetlands Consulting	26/8/2020
Version 1.3	Harvest Estate Koala Plan of Management	Planit Consulting	26/8/2020
Version 1.3	Harvest Estate Threatened Species Management Plan	Planit Consulting	26/8/2020
Version D	Harvest Estate Vegetation Management Plan	Planit Consulting	27/8/2020
Version E	Harvest Estate Biodiversity Conservation Management Plan	Planit Consulting	27/8/2020
Revision E	Harvest Estate Stormwater Management Plan (SWMP)	Planit Consulting	27/8/2020
	Documents / Reports		
	West Byron Urban Release Area	Bitzios	27 August

S c h e d u l e o f C o n d i t i o n s

	(WBURA) Traffic Impact Assessment	Consulting	2020
	Cover Letter - s34 Traffic Experts Actions Response - Villa World Pty Ltd V Byron Shire Council	Bitzios Consulting	27 August 2020
	Harvest Estate, West Byron NSW: Cultural Heritage Assessment	Everick Heritage Consultants	October 2017

As subsequently amended by the following plans

J7148 0010 Rev A- Overall Staging Plan (26/07/23), Prepared by Planit Consulting
J7148 0013 Rev A - Stage 3 Plan (26/07/23), Prepared by Planit Consulting
J7148 0014 Rev A - Stage 4 Plan (26/07/23), Prepared by Planit Consulting
Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023), Prepared by Planit Consulting

The development is also to be carried out in accordance with any changes made pursuant to these conditions of consent. Where there is an inconsistency between any of the aforementioned plans and documents and the conditions below, the relevant condition(s) are to prevail to the extent of the inconsistency.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while construction work is being undertaken.

Condition 3 – Staged development

Amend Condition 3 to read as follows

The development to be carried out in the following stages as per the approved staging plans ([Planit Consulting, J7148 0010, Rev A, 26/07/23](#)):

Stage 1-A: The environmental restoration and enhancement and landscaping works within Stage 1 [and 4](#), including the Ewingsdale Road buffer. This is as referenced in the Rehabilitation Plan - Zone 5 (J5644-505), and is subject to the updated Landscape Plan required by condition 36.

Stage 1-B: Lots 1-18, 29 - 34, 58 - 61 and 146 including all swales and the permanent basin shown as Stage 1 works in Drawings 0610 Rev C and 0611 Rev C, noise/acoustic barriers for lots 1 to 11 and the items detailed at a) and b) below.

Stage 2: Lots 19 - 28, 35 - 50 including the permanent basin shown as Stage 2 works on Drawing 0620 Rev C.

Stage 3: [Lots 51- 57, 62 -71](#), 72 - 86, 147 - [149](#), including all swales shown as Stage 3 works on Drawing [0013 Rev B](#), the Main Drain embellishment works as described by the

SWMP (Version E, 27/8/20) and Road 9 construction from the intersection with Road 01 to the boundary with the neighbouring land as shown in Drawing 0304 Rev B.

Stage 4: ~~Lots 87 -145 including all swales shown as Stage 4 works on Drawing 0014 Rev B, and noise/acoustic barriers (as identified in the Environmental Noise Impact Assessment (Ref: crgref: 16147 report rev.6 CRG Acoustics 25 August 2020), subject to the detailed design requested by Conditions 36 and 38.~~

~~**Stage 5:** Lots 87—114 including all swales shown as Stage 5 works on Drawing 0650 Rev G.~~

~~**Stage 6:** Lots 115—145 including all swales shown as Stage 6 works on Drawing 0660 Rev B and noise/acoustic barriers (as identified in the Environmental Noise Impact Assessment (Ref: crgref: 16147 report rev.6 CRG Acoustics 25 August 2020), subject to the detailed design requested by Conditions 36 and 38, excluding the items detailed at a) below.~~

~~**Stage 7:** Lots 148 and 149, excluding the items detailed at b) below.~~

The development is to progress sequentially as per the stages above, with the previous stages being complete to Council's satisfaction prior to works commencing on the next stage.

A maximum of one (1) stage may be under construction at any one time. ~~with only the following exceptions:~~

- ~~a) Part of Stage 6—Comprising landscaping, vegetation planting, drain embellishment, construction of pathways, cycle ways and other public recreation infrastructure within the Ewingsdale Road buffer area of Stage 6, in accordance with the relevant drawings and plans including Landscape Sections, J5644_505, J6539_101, J6539_102, J6682, Landscape Masterplan, which must be carried out during Stage 1-A.~~
- ~~b) Part of Stage 7—Comprising frog habitat creation and vegetation rehabilitation/enhancement within Stage 7, in accordance with the relevant drawings and plans including the Acid Frog Management Plan (Rev D, 26/8/20), Biodiversity Conversation Management Plan (Version E, 27/8/20) and Drawings J5644_02, J5644_03, J5644_04, J5644_503, J5644_504, J6682, SK090, which must be carried out during Stage 1-A.~~
- ~~c) Stage 1B and Stage 2 may be constructed simultaneously. A reference to Stage 1B or Stage 2 in the conditions of this consent should be taken to be a reference to the either or both stages where these two stages are constructed simultaneously.~~

Where roads terminate on stage boundaries, temporary turning heads in line with relevant requirements of the Northern Rivers Design Guides (<https://www.byron.nsw.gov.au/Services/Building-development/Plans-maps-andguidelines/Development-Design-Manuals>) and the General Terms of Approval from NSW Rural Fire Service (Schedule 1) are to be provided to facilitate turning for all vehicles.

Where conditions are required to be satisfied prior to a particular event, those conditions are the conditions relevant to the works being carried out in the stage.

The relevant conditions that are applicable to each stage are the conditions stated as being necessary for the completion of each stage in this consent., or, where pursuant to the issue of a Construction Certificate, the relevant consent authority.

Condition 8 – Integrated approvals from other State Government Approval Bodies

Amend Condition 8 to read as follows

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being an authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety of development of land for subdivision of land, and is subject to the General Terms of Approval from NSW Rural Fire Service dated ~~6 November 2020~~ 30 July 2021 contained in Schedule 1 of these conditions of consent and subject to amended plans as per condition 1 of this consent.

Condition 11 - Updated Groundwater Management Plan – Monitoring

Amend Condition 11 to read as follows

Prior to issue of a subdivision works certificate for each stage, an updated Groundwater Monitoring Plan (GMP) shall be prepared and provided to Council's Director of Planning (or nominee). The GMP (AWC, 26/8/20) shall be updated to include monitoring of groundwater levels and quality prior to, during and following construction of the subdivision works as they progress, including, but not limited to:

- a) Monitoring of groundwater levels and quality for at least 12 months prior to commencement of Stage 1-B subdivision construction works;
- b) Monitoring of groundwater levels and quality from the commencement of subdivision construction works until the issue of a subdivision certificate for **Stage 4** with submission of an updated report to Council prior to the issue of the subdivision works certificate for each stage of works;
- c) Monitoring of groundwater levels and quality for at least 12 months following the issue of a subdivision certificate for **Stage 4**; and
- d) Targets for groundwater quality and levels and the commitment to use these targets in required, routine reporting.
- e) **Data and learning from monitoring to date, including any additional adaptation and contingency measures garnered from monitoring conducted to date.**

The groundwater monitoring shall take into account the specific details of the site, proposed subdivision construction works methodology and subdivision layout. The construction stage monitoring must be designed and conducted as appropriate for each stage with details to be given in the CEMP.

The Groundwater Management Plan (AWC, 2020b) and the Belongil Creek Plan of Management (AWC, August 2020) provide details on baseline groundwater levels and quality and this information is to be incorporated into the Updated Groundwater Management Plan.

Condition 13 - Additional Monitoring and Reporting Requirements

Amend Condition 13 to read as follows

The monitoring requirements in the BCMP, VMP, KPOM, AFMP, BCPM, AFMP, ASSMP and GMP shall be updated in the CEMP to include, but not be limited to:

- a) Monitoring site locations including site descriptions, photos and coordinates.
Monitoring site locations shall be included on a map/plan;

- b) Parameters to be measured;
- c) Monitoring/sampling frequencies for each parameter to be measured;
- d) The duration of sampling for all parameters to be measured;
- e) Sampling and analysis methodologies to be used; and
- f) Data analysis methodologies including thresholds, limits and triggers for contingency actions.

The reporting requirements in the BCMP, VMP, KPoM, AFMP, BCPM, AFMP, ASSMP and GMP shall be updated in the CEMP to include, but not be limited to:

- a) Analysis of all monitoring and sampling data against baseline data and approved thresholds (in the approved CEMP), limits and triggers,
- b) At least six (6) monthly reporting during subdivision construction works for at least five (5) years or until the issue of a subdivision certificate for **Stage 4**, whichever is the later.
- c) At least annual reporting thereafter for a total period of at least ten (10) years from the commencement of subdivision works.

Condition 19 – Fill material

Amend Condition 19 to read as follows

Prior to the issue of a Subdivision Works Certificate for each stage, the type of fill material to be used is to be nominated by a suitably qualified geotechnical engineer. The fill is to be provided with certification that it is clean, uncontaminated and suitable for use as engineering fill.

The nominated fill for swales or other areas that rely on infiltration is to be provided to the Certifying Authority for approval showing that the parameters of the fill meet the minimum infiltration rates as required by the Stormwater Management Plan.

~~Fill sources are to be nominated such that at least 50,000m³ can be provided from the same source, to limit the amount of differing imported materials being used on site.~~

The location of stockpile area(s) for imported fill material and stripped topsoil is to be shown on plans submitted with the application for a Subdivision Works Certificate.

Stockpile areas can be located outside of the stage work area, but appropriate erosion and sedimentation controls must be in place and regularly maintained in accordance with Managing Urban Stormwater – Soils and Construction (“the Blue Book”) as a minimum.

Stockpiles can remain in place between construction of stages but must be removed prior to completion of Stage 4 construction works.

Condition 32 - Acid Frog Management Plan (AFMP)

Amend Condition 32 to read as follows

Prior to the issue of the Subdivision Works Certificate for **Stage 3**, a modified AFMP shall be submitted to Council for approval including the following additions:

- a) Details of proposed monitoring of pH and water levels of groundwater in and/or adjacent to wallum sedge frog and wallum froglet habitat and wetlands, before, during and post subdivision construction.

- b) Updated monitoring provisions that detail monitoring to continue for at least ~~20 years~~ **10 years** including annual reporting.

Condition 34 – Acid Sulfate Soils Management Plan (ASSMP)

Amend Condition 34 to read as follows

Acid sulfate soils are to be managed generally in accordance with the recommendations in the Acid Sulfate Soil Management Plan (West Byron Urban Release Area HMC 2016.119 November 2016). Prior to the issue of the Subdivision works certificate for each stage, an updated ASSMP shall be submitted to Council for approval which includes but is not limited to:

- a. Identification of activities that are expected to intersect and disturb acid sulfate soils;
- b. Identification of the acid sulfate soils risks and identified acid sulphate soils layerson site;
- c. Estimation of volumes of acid sulphate soils requiring treatment and proposed treatment measures;
- d. Estimated liming rates and treatment procedures;
- e. Validation procedures and target criteria for treated soils;
- f. Monitoring protocols and target criteria as per the Acid Sulfate Soil Manual (ASSMAC, 1998) guidelines for surface and groundwater within the site; and
- g. Monitoring protocols for Belongil Creek including baseline data and target criteria for water quality and pH levels as per Guidelines for Fresh and Marine Water Quality (ANZECC & ARMCANZ 2000) and Guidelines for Managing Risk in Recreational Water (NHMRC, 2008).
- h. **Incorporating data and learning from monitoring to date. Include adaptation and contingency measures garnered from monitoring conducted to date.**
- i. **The plan must also include measures to minimise the impact of any acid sulfate soils treatment on the pH of the environments required for targeted acid frogs.**

Investigations and management of acid sulfate soils must be undertaken by a suitably qualified and experienced environmental consultant in accordance with the Acid Sulfate Soil Manual (ASSMAC, 1998).

Condition 42b) – Footpath, Cycleway and Pedestrian Refuge Construction

Amend Condition 42b) to read as follows

Footpaths (minimum 1.2m wide), shared cycleways (minimum 2.5m wide) and pedestrian refuges are to be provided generally in accordance with Drawings 0300, 0301, 0302, 0303 and 0304, and with the Harvest Estate Landscape Masterplan. In addition, the following must be provided for:

- (i) a shared pathway/cycleway (minimum 2.5m wide) along the Ewingsdale Road frontage connecting to the internal path network (including extension of drainage infrastructure and safety rails/fencing) **in accordance with Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023)**;
- (ii) a path (minimum 1.2m wide) providing connectivity from the Road 3 cul-de- sac to the path through the open space identified in the Harvest Estate Landscape Masterplan;
- (iii) a path (minimum 1.2m wide) providing connectivity from the Road 5 (in vicinity of CH80 Road 2) to the path through the open space identified in the Harvest Estate Landscape Masterplan;

- (iv) a shared pathway/cycleway (minimum 2.5m wide) providing connectivity from the Road 6 (in vicinity of CH300) to the path through the open space identified in the Harvest Estate Landscape Masterplan; and
- (v) no pedestrian link to the western side of Road 1 (near CH0).

Condition 42p) - Road 4 culverts

Amend Condition 42p) to read as follows

Prior to the issue of a Subdivision Works Certificate for **Stage 3** detailed design is to be provided to the satisfaction of the Certifying Authority

- (i) that the culverts under Road 1 conveying the Main Drain flows have the capacity to convey the 2100 climate change 1% Annual Exceedance Probability flows with minimum 0.3m freeboard to the underside of the culvert, and
- (ii) that show the conveyance of stormwater flows under the extended hardstand area for the bus stops. Flow widths and depth in the minor and major events are to be addressed in line with the Northern Rivers Design Guidelines.

Condition 45 - Erosion and Sediment Control Plan

Amend Condition 45 to read as follows

The plans and specifications to accompany the subdivision works certificate application are to include an Erosion and Sediment Control Plan (ESCP). The ESCP is to detail the measures to be employed to control erosion and loss of sediment from the site, is to be prepared in accordance with the requirements of Managing Urban Stormwater: Soils and Construction (NSW Government, 2004) and is to be generally in accordance with Drawings 0610, 0611, 0620, 0630, 0640, 0650, 0660, as detailed in **condition 1**.

The plan must include, without being limited to:

- a) Information on general site management;
- b) Material handling practices;
- c) Soil stabilisation;
- d) **Stockpile location**
- e) Sediment basin inclusion and maintenance;
- f) Water control;
- g) Sediment control;
- h) Wind erosion control;
- i) Water quality monitoring during construction works;
- j) Specific measures to protect sensitive environments such as frog habitat, vegetation to be retained, waterways and E2 zoned land; and
- k) Access measures and any fencing of 'No Go Zones' as required by the CEMP or other related reports.

A suitably qualified and experienced person must prepare the ESCP. Note: Suitably qualified people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.
- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

Condition 51 - Long-term Delivery of Environmental restoration and Management

Amend Condition 51 to read as follows

A draft positive covenant pursuant to Section 88E of the Conveyancing Act 1919 is to be submitted to Council for approval prior to the issue of Subdivision Works Certificates for **Stages 1 and 3**. As outlined below the proposed Section 88E Instrument is to provide for the ongoing maintenance, management, monitoring and reporting of vegetation and frog habitat, on proposed Lots 146, 147, 148 and 149 (as identified on the Overall Masterplan, drawing no. J6539_001, Rev 06 dated 27/05/2020 prepared by Planit Consulting Pty Ltd).

The positive covenant is to create an obligation on future owners of Lots 146, 147, 148 and 149 to carry out ongoing maintenance, management, monitoring and reporting of the identified rehabilitation zones, existing vegetation, existing frog habitat and created frog habitat and E2 zoned land in accordance with the relevant requirements of the approved CEMP and associated management plans approved pursuant to condition 35.

The positive covenant must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the instrument.

Condition 55 - Lots 69 and 70 Sight Distance

Amend Condition 55 to read as follows

Prior to the issue of a Subdivision Works certificate for **Stage 3**, sight distance plans are to be provided to show that vehicles leaving proposed lots 69 and 70 have adequate sight distance to safely exit the lots to the satisfaction of Council.

Condition 58 - Emergency access provision

Amend Condition 58 to read as follows

Prior to the issue of a Subdivision Works Certificate for **Stage 3**, a design must be provided for a two way all-weather access road providing secondary emergency access from the intersection of Roads 1 and 6 to Ewingsdale Road. This access road is to be constructed as part of **Stage 3**.

A lockable gate or similar to Council's approval, must be provided at the emergency access location closest to Ewingsdale Rd to eliminate unlawful use of this access way.

If/when the permanent West Byron Urban Release Area secondary access point is operational at the SAE roundabout and through connection is available from Road 01 to this secondary access point, the temporary emergency access is to be removed at the applicant's expense unless Council deems the access appropriate to remain for the purpose of further emergency access.

Prior to the issue of a Subdivision Works Certificate for **Stage 3**, a bond is to be lodged to Council for the removal of the temporary emergency access. The value of the bond is to be approved by Council and cover the cost of the removal of the emergency access road and all ancillary works.

Condition 91m) - Easement for Support

Amend Condition 91m) to read as follows

The creation of suitable easements for support to suit the arrangement of retaining walls built as part of **Stage 4** works, where the retaining wall at the rear of one lot supports the

adjoining lot. The creation of a suitable easement for support to suit the arrangement of retaining wall/s built on Lot 146 supporting Road 1.

Condition 93 - Section 88E Instruments

Amend Condition 93 to read as follows

The positive covenant under Section 88E of the Conveyancing Act 1919, approved by Council under condition 51, must be registered on title prior to issue of the subdivision certificate for Stage 1 and **Stage 3**.

Documentary evidence is to be provided with the application for subdivision certificates for **Stages 1 and 3** that the positive covenant has been registered on the title to the land.

Condition 105 - Landscaping to be completed and maintenance bond paid

Amend Condition 105 to read as follows

The site is to be landscaped in accordance with the approved landscape plan. A bond of \$20,000 is to be paid to Council, which will be released six (6) months following the issue of a subdivision certificate for **Stage 4** if the landscaping for the entire subdivision is maintained to Council's satisfaction.