



**Land and Environment
Court**
of New South Wales

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

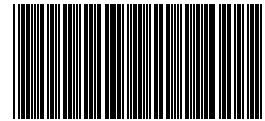
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <https://www.lec.nsw.gov.au>

ABN: 52 659 114 436

Thomas Kwok
thomas.kwok@holdingredlich.com

Your Ref:



D0001KWVS3

23 June 2022

NOTICE OF ORDERS MADE

Case number	2021/00044443
Case title	Graham Peter Meineke trading as GM Project Development and Management v Lismore City Council

On 23 June 2022 the following orders (and/or directions) were made:

The orders of the Court are:

- (1) leave is granted for the Applicant to amend the class 1 application to rely on the further and amended material comprising the amendments to the Application annexed hereto and marked "Annexure A";
- (2) the appeal is upheld;
- (3) development consent is granted to development application DA 19/438, as amended, for Torrens title subdivision resulting in 13 residential lots with a residual parcel containing a stormwater detention basin, extension of Greenwood Drive, bulk earthworks, tree and vegetation removal subject to the conditions annexed hereto and marked Annexure "B".

For the Registrar

Annexure "A"**PART A - INDEX OF DOCUMENTS COMPRISING THE CLASS 1 APPLICATION**

Tab	Description of document	Date
1.	Letter to Lismore City Council from GM Project Development and Management	4 December 2019
2.	Development Application Form	December 2018
3.	Owner's Consent	Undated
4.	Statement of Environmental Effects prepared by GM Project Development and Management	December 2019
Plans		
5.	Civil Engineering Plans prepared by CLA Consultants	26 June 2020
	a. Site Plan, Drawing Schedule, General Arrangement and Notes Drawing number: 01 revision C	
	b. Draft Lot Layout Plan Drawing number: 02 revision C	
	c. Slope Analysis Drawing number: 03 revision C	
	d. Bush Fire Assessment Drawing number: 04 revision C	
	e. Detail Plan Drawing number: 05 revision C	
	f. Stormwater Detention Drawing number: 06 revision C	
	g. Intersection Detail Drawing number: 07 revision C	
	h. Greenwood Drive Longitudinal Section Drawing number: 08 revision C	
	i. Greenwood Drive Cross Sections Sheets 1 of 2 Drawing number: 09 revision C	
	j. Greenwood Drive Cross Sections Sheets 2 of 2 Drawing number: 10 revision C	
	k. Road A Long and Cross Sections Drawing number: 11 revision C	
	l. Lots 1 and 2 Driveway Long and Cross Sections Drawing number 12 revision C	
	m. Lots 3 Driveway Long and Cross Sections Drawing number 13 revision C	
	n. Surface Profile Sheet 1 of 2	

- ~~Drawing number: 14 revision C~~
- ~~o. Surface Profile Sheet 2 of 2~~
~~Drawing number: 15 revision C~~
- ~~p. Driveway Profiles Lot 5 and Lots 6/7~~
~~Drawing number: 16 revision C~~
- ~~q. Bulk Earthworks~~
~~Drawing number: 17 revision C~~
- ~~r. Stormwater Detention Outlet Detail~~
~~Drawing number: 18 revision A~~
- ~~s. Staging Plan~~
~~Drawing number: 19 revision C~~
- ~~t. Koala Management~~
~~Drawing number: 20 revision C~~

Reports

- | | | |
|-----|---|-----------------------------|
| 6. | Contaminated Land Assessment prepared by EAL Consulting Services | 8 February 2012 |
| 7. | Geotechnical Slope Stability Assessment Report prepared by Protest Engineering | 12 June 2018 |
| 8. | Biodiversity Development Assessment Report prepared by Birdwing Ecological Services | 2 April 2020 |
| 9. | Biodiversity Development Assessment Report: Addendum prepared by Birdwing Ecological Services | 29 June 2020 |
| 10. | AHIMS Web Service Search prepared by Office of Environment and Heritage NSW | 13 October 2019 |
| 11. | Response to Development Control Plan Chapter 5A | 12 November 2019 |
| 12. | Bush Fire Risk Assessment, version 3 prepared by Bushfire Risk Pty Ltd | 20 November 2019 |
| 13. | Traffic Report prepared by TTM Consulting Pty Ltd | 21 November 2019 |
| 14. | Stormwater Management Plan, revision C prepared by CLA Consultants | 28 April 2020 |

Other documents

- | | | |
|-----|---|-----------------|
| 15. | General Terms of Approval from NSW Rural Fire Service | 31 January 2020 |
| 16. | Letter to Lismore City Council from GM Project Development and Management | 20 March 2020 |
| 17. | Correspondence between applicant's representatives and Council | 15 April 2020 |
| 18. | Assessment and Certification of Detention Basin (Wall Stability) prepared by Rhys French Geotechnical Pty Ltd | Undated |
| 19. | Summary of applicant's response to submissions | 15 July 2020 |
| 20. | Agenda of Lismore City Council for DA 19/438 – 658 Ballina Road – Subdivision to create 16 Lots | 13 October 2020 |

21. Notice of determination from Lismore City Council to GM Project Development and Management 21 October 2020

**PART B – DOCUMENTS THE SUBJECT OF THE NOTICE OF MOTION TO AMEND
DATED 21 MARCH 2022**

Tab to Exhibit KMH-1	Description of document	Date
3	Amended Civil Engineering Plans prepared by RCS Group 21037 issue No.5 <ul style="list-style-type: none"> a. Title page Sheet No. 1 Rev No. 5 b. Site Layout Existing – Overview Sheet No. 2 Rev No. 5 c. Site Layout Proposed – Overview Sheet No. 3 Rev No. 5 d. Lot Layout – Sheet No. 4 Rev No.5 e. Greenwood Drive Layout Sheet No. 5 Rev No. 5 f. Greenwood Drive Longitudinal Section Sheet No.6 Rev No. 5 g. Greenwood Drive Cross Sections Sheet No. 7-9 Rev No. 5 h. Shared Driveway Layout (Lots 2, 3 & 4) Sheet No. 10 Rev No. 5 i. Shared Driveway Longitudinal Sections Sheet No. 11 Rev No. 5 j. Shared Driveway Cross Sections Sheet No. 12-13 Rev No. 5 k. Electricity and Telecom Layout Plan Sheet No. 14 Rev No. 5 l. Sewer and Water Reticulation Layout Plan Sheet No. 15 Rev No. 5 m. Stormwater Drainage Layout Plan Sheet No. 16 Rev No. 5 n. Stormwater Basin Layout Sheet No. 17 Rev No. 5 o. Stormwater Basin Sections Sheet No. 18 Rev No. 5 p. Asset Protection Zone Sections Sheet No. 19 Rev No. 5 q. Bulk Earthworks Plan Sheet No. 20 Rev No. 5 	17 March 2022
4	Amended Statement of Environmental Effects prepared by GM Project Development and Management	March 2022
5	Amended Concept Stormwater Management Plan prepared by AW Consulting	21 March 2022
6	Amended Geotechnical Engineering Report prepared by	4 March 2022

	Protest Engineering Rev 9	
7	Hydraulic Assessment prepared by Floodworks	5 November 2021
8	Updated Test of Significance prepared by Cumberland Ecology	20 March 2022
9	Test of Significance prepared by Arbor Ecological	11 December 2021
10	Additional Information Report addressing requirements of Lismore CKPoM prepared by Birdwing Ecological Services	20 July 2021
11	Addendum to Traffic Impact Assessment prepared by McLaren Traffic Engineering	18 March 2022
12	Bushfire Management Plan prepared by Bushfire Risk (Version 2.1)	18 March 2022
13	Bushfire Risk Assessment Report prepared by Bushfire Risk (Version 3)	18 March 2022
14	Indicative Dwelling Drawing for proposed Lot 2 prepared by PRM Design	7 December 2021
15	Indicative Dwelling Drawing for proposed Lot 7 prepared by PRM Design	1 December 2021
16	Indicative Dwelling Drawing for proposed for Lot 8 prepared by PRM Design	29 November 2021

PART C – DOCUMENTS THE SUBJECT OF THE PROPOSED ORDER 1 OF THE s 34 AGREEMENT

Tab to Applicant's bundle	Description of document	Date
1	Koala Habitat Assessment Report prepared by North Coast Environmental Services	September 2018
2	Updated Bushfire Management Plan prepared by Bushfire Risk	12 May 2022
3	Indicative Dwelling Floor Plans Lots 9 – 11 Drawing No. 21037-DA1 Issue No. 6 prepared by RCS Group	13 May 2022

Annexure B

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: 2019/438

Development: Subdivision to create 13 Torrens title lots, and 2 residual lots containing a stormwater detention basin and extension of Greenwood Drive, dedication of assets, bulk earthworks, provision of infrastructure, tree and vegetation removal

Site: 658 Ballina Road, Goonellabah
Lot 4 DP 406893

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

Date of determination: 23 June 2022

Date from which consent takes effect: Date of determination

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Works 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 658 Ballina Road, Goonellabah NSW.

The conditions of consent are as follows:

A. GENERAL**Development in Accordance with Plans**

1. The development being carried out in accordance with following plans and documents, except where amended by the following conditions:

Drawing Title	Drawing Number	Revision	Date	Prepared by
Title Page	1 of 20	5	17/03/22	RCS Group
Existing Layout	2 of 20	5	17/03/22	RCS Group
Proposed Layout	3 of 20	5	17/03/22	RCS Group
Lot Layout Plan	4 of 20	5	17/03/22	RCS Group
Greenwood Drive Layout	5 of 20	5	17/03/22	RCS Group
Greenwood Drive Longitudinal Sections	6 of 20	5	17/03/22	RCS Group
Greenwood Drive Cross Sections (Sheet 1 of 3)	7 of 20	5	17/03/22	RCS Group
Greenwood Drive Cross Sections (Sheet 2 of 3)	8 of 20	5	17/03/22	RCS Group
Greenwood Drive Cross Sections (Sheet 3 of 3)	9 of 20	5	17/03/22	RCS Group
Shared Driveway Layout	10 of 20	5	17/03/22	RCS Group
Shared Driveway Longitudinal Section	11 of 20	5	17/03/22	RCS Group
Shared Driveway Cross Sections (Sheet 1 of 2)	12 of 20	5	17/03/22	RCS Group
Shared Driveway Cross Sections (Sheet 2 of 2)	13 of 20	5	17/03/22	RCS Group
Electricity and Telecommunications Layout Plan	14 of 20	5	17/03/22	RCS Group
Sewer and Water Reticulation Layout Plan	15 of 20	5	17/03/22	RCS Group
Stormwater Drainage Layout Plan	16 of 20	5	17/03/22	RCS Group
Stormwater Basin Layout	17 of 20	5	17/03/22	RCS Group
Stormwater Basin Example Sections	18 of 20	5	17/03/22	RCS Group
Asset Protection Zone Example Sections	19 of 20	5	17/03/22	RCS Group
Earthworks Plan	20 of 20	5	17/03/22	RCS Group
Document Title	Document Number	Revision	Date	Prepared by
Concept Stormwater Management	1-211472		March 2022	Australian Wetlands

Plan				Consulting Pty Ltd
Slope Stability Assessment	PTP/00739	Rev 9	4 March 2022	Protest Engineering
Hydraulic Assessment	FW00086	01.1	5 November 2021	Floodworks
Bushfire Management Plan	2105L&E	Final	12 May 2022	Bushfire Risk Pty Ltd

In the event of any inconsistency between conditions of this approval and the drawings/documents submitted as part of the application, the conditions of this approval prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information.

Plans on site

2. A copy of all approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times during the construction phase of the development so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance.

Release of lots in sub-stages

3. Where the person acting on this consent seeks lots to be released in sub-stages different from the stages approved on the stamped plans, then each such sub-stage shall be approved by Lismore City Council **prior to the issuing of any Subdivision Works Certificate** for that sub-stage to be developed.

The written request for approval of each sub-stage is to include:

- a. a description of all the works (civil infrastructure and other) and facilities (i.e. open space) and the number of lots proposed for that sub-stage and how those proposed works connect / relate to existing infrastructure works; and
- b. a list of all the conditions of consent that are required to be complied with for that sub-stage.

Reason: to allow flexibility in the staged release of the subdivision and to ensure the appropriate conditions of consent are complied with for each sub-stage.

Subdivision Certificate

4. The proponent shall submit an application for a subdivision certificate for each sub-stage (where applicable) for Council certification. Such application shall be accompanied by a subdivision certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

Reason: To comply with environmental planning instrument. (EPA Act Sec 4.15(a))

5. All works, services, facilities and / or public utility alterations required by this approval or stated conditions whether carried out by Council or otherwise, shall be at the proponent/s expense and at no cost to Council except where the works, services and/or public utility alterations form part of any contributions plan, Voluntary Planning Agreement or separate agreement formally adopted by Council.

Reason: *To provide adequate services for the development (EPA Act Sec 4.15(c))*

Maintenance of road reserves and stormwater detention basins

6. **A maintenance period of two (2) years** is required for stormwater detention basins and **a maintenance period of one (1) year** is required for road reserves, provided from the date of issue of any Subdivision Certificate. The developer is to maintain and repair any detention basin and associated works for this maintenance period. The proposed basin shall not be modified in any way without prior written approval from Council. Maintenance of these areas must be of a standard that ensures the land, assets and embellishments are in an operational, neat and tidy condition at all times. Weeds are to be continuously suppressed so they do not reproduce. Mowing and edging of grassed areas is to be completed regularly. Stormwater detention ponds are to be cleared of debris, rubbish and silt following each rain event. Street trees that fail are to be replaced.

Reason: *To ensure Council inherits a community asset, not a burden.*

Advertising Signage

7. No advertising, proposal or marketing sign(s) are to be erected or displayed on the site without prior submission of development application to, and approval from, Council, unless the proposed signage is consistent with the provisions of *Schedule 2 – Exempt Development of the Lismore Local Environmental Plan 2012*.

Reason: *To correctly describe what has been approved.*

Roads

8. Public road access shall comply with the Engineering Plans set referred to at condition 1 and the performance solution set out in the Bushfire Risk Assessment Report by Bushfire Risk dated 18 March 2022, and shall be suitable for firefighting vehicles to manoeuvre with a trafficable surface to carry up to 23 tonnes.

Reason: *To ensure suitable access for firefighting vehicles*

9. The connection of Greenwood drive will be a minimum of 9 metres in width, kerb to kerb, and will comprise roll top kerbs to the satisfaction of Council.

Reason: *To provide suitable access for firefighting vehicles*

B. CONDITIONS THAT MUST BE ADDRESSED PRIOR TO THE COMMENCEMENT OF ANY WORKS

Subdivision Works Certificate

10. **Prior to the commencement of works** the proponent shall obtain a **Subdivision Works Certificate** for the proposed works. The Subdivision Works Certificate application shall include full design details of the proposed engineering works to satisfy the relevant conditions.

Such application shall be accompanied with the relevant fee, as adopted at the time of the payment, as indicated in Council's Fees and Charges.

NOTE: Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

Reason: To ensure an adequate road network in accordance with adopted standards and to comply with requirements of EPA Act Sec 6.12

Construction Management Program

11. **Prior to the commencement of works** a Construction Management Program shall be submitted to and approved in writing by the Council. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through any Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across any public parks or reserves being allowed;
- (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- (c) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (d) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes shall be located wholly within the site;
- (e) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (f) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (g) Proposed protection for Council assets and adjoining properties and;
- (h) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- (i) Traffic management plan prepared in accordance with the Austroads guidelines

All work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Plan and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

Note: Lismore City Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, **prior to the issue of the relevant written concurrence**. Please note that failure to provide complete and detailed information may result in delays and requests for additional information.

Reason: *To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.*

Damage to Public Infrastructure

12. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing or by photographic record, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council **prior to the commencement of works**

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Reason: *To ensure the protection of existing built public infrastructure.*

13. **Prior to the commencement of works** all existing native trees and areas of native vegetation not identified for removal in the approved tree removal plan approved pursuant to condition 33 of this consent shall be clearly identified and protected from damage during works. In particular it is required that:

- a. A fenced Tree Protection Zone that does not inhibit access by koalas be established around native trees and vegetation to be retained on the subject site as indicated in the approved tree removal plan.

Native trees and vegetation may be fenced off in clusters where it is not practical to fence off individual trees.

Reason: *To ensure that native trees and vegetation are protected during works and that the structural integrity of native trees and vegetation is retained.*

14. **Prior to vegetation clearing works** the Applicant must ensure that:
- a. On the day of clearing and prior to any clearing taking place, all trees within 30 metres of those trees to be cleared are to be inspected for the presence of koalas from at least two locations by an experienced koala spotter;
- b. The koala spotter must not be involved in the vegetation clearing works whilst responsible for identifying koalas present on the site and will remain on site during any vegetation clearing works to ensure that any tree occupied by a koala is not accidentally cleared or interfered with.

Reason: *To ensure koala safety and protection.*

C. CONDITIONS THAT REQUIRE MATTERS TO BE COMPLETED PRIOR TO ISSUE OF ANY SUBDIVISION WORKS CERTIFICATE

Amended Plans

15. **Prior to the issue of any Subdivision Works Certificate** the Applicant shall submit amended plans which incorporate the following changes:

- (a) The easement nominated as 'B' on the Sheet 4 'Lot Layout' of the Engineering Plans set referred to at condition 1 shall be updated to show an easement width and alignment which contains the constructed overland flow channel, and maintains a width of no less than 6 m to allow for access and maintenance.

Reason: *To ensure the width of the easement aligns with the overland flow channel*

- (b) The bin storage areas located at the junction of Greenwood Drive and the driveway accessing Lots 2, 3 and 4 shall be appropriately screened, so the bins are not generally visible from the public domain.

Reason: *To ensure the bin storage area does not attract from the amenity of the street.*

16. **Prior to the issue of any Subdivision Works Certificate** a Soil Erosion and Sedimentation Control Plan (SECP) shall be submitted to the Certifying Authority for approval. **Within 7 days of approval** a copy of the submission and approval documentation must be provided to the Consent Authority for record purposes.

The SECP must detail what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site. The SECP must be in accordance with the *Managing Urban Stormwater-Soils and Construction - 4th Edition* (Blue Book). It must have a summary sheet and be in plain English to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the SECP.

The SECP must be implemented and remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent soil erosion or the transport of sediment from the development site.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites.*

Dwelling Upgrades

17. **Prior to the issue of any Subdivision Certificate**, the existing dwelling on Lot 3 shall be upgraded to meet BAL-19 construction requirements as set out in s.3 - construction general and section 6 - Construction requirements for BAL-19 of AS3959-2018 and the NSW Variations shall be applied pursuant to section 7.5.2 Planning for Bush Fire Protection 2019.

Reason: *To ensure the existing dwelling complies with the requirements of Planning for Bushfire Protection 2019*

Dust Management Plan

18. **Prior to the issue of any Subdivision Works Certificate** a Dust Management Plan (DMP) must be prepared and be submitted to

Council for approval. The DMP must detail what measures are proposed and the action that will be taken to manage dust emissions from the site. The DMP must be implemented and remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent the creation of dust on the development site.

Reason: *To ensure the proper management of dust on the development and to protect the amenity of the neighbourhood.*

19. **Prior to the issue of any Subdivision Works Certificate** the proponent shall obtain approval under Section 68 of the Local Government Act, 1993 **for the water supply and sewerage works** required for this development. The proponent shall submit the appropriate Activity Application Forms accompanied by all relevant information as required to construct the water management works sufficient for construction purposes. Such information shall include, but not limited to, plans, details and specification of all work. Note:

- a) The proponent shall not commence construction of any part of the water supply and sewerage works prior to receiving an Activity Approval specifically for the water supply and sewerage works and plans with Council's stamp of approval.
- b) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
- c) The plan submitted for development application purposes, by CLA Consultants, Project No. 17329, Drawing No. DA05, Rev C, dated 20 June 2020 has not been approved for construction.

Reason: *To comply with Section 68 (s68) of the Local Government Act, 1993.*

NOTE: The Applicant's Consulting Engineers are advised that no other services (reticulated sewer / stormwater / electrical / telecommunications) are permitted within Council's existing easement for trunk sewer mains other than to make a crossing perpendicular to the sewer main.

Additionally, no other service shall encroach within the zone of influence (projected from a point 300mm below the sewer main) of the trunk sewer main. The construction contractor shall be fully responsible of location and or protection of existing infrastructure.

Reason: *Condition imposed by Council to ensure access for sewer maintenance and adequate clearance from proposed infrastructure for maintenance purposes.*

Stormwater Report

20. **Prior to the issue of the any Subdivision Works Certificate** a Section 68 application **to carry out stormwater drainage work** comprising stormwater treatment measures must be submitted to and be approved by the Consent Authority (LCC). The application details must include an engineering report and plans prepared by an appropriately qualified professional engineer and must comply with the requirements of *Lismore Development Control Plan – Chapter 22 – Water Sensitive Design (DCP)*. The information submitted must include:

- a. An updated stormwater quality model (MUSIC) that is consistent with the development plans and has been prepared in accordance with accepted modelling guidelines, demonstrating compliance with water quality targets contained in the DCP.
- b. Hydraulic modelling to demonstrate for a range of storm durations and frequencies up to the 100 year ARI event, that the proposed on-site stormwater detention system will ensure that there is no increase in the discharge rate to downstream property. Assumptions made in the hydraulic modelling must be consistent with the MUSIC modelling
- c. Documentation to show that the overland flow channel located within lots 9, 10 and 11 has been designed to contain the critical 1 % AEP flow event and meets the following specifications: batter grades are no steeper than 1V in 4H; bed width is no less than 0.5 m; 0.5 m freeboard is provided; overland flow velocity is < 2.0 m/s; overland flow velocity x depth product is < 0.4 m²; includes a low flow pipe below to cater for flows up to the 1 in 1 year event; and includes a stormwater pit in the swale within each affected allotment to capture overland flow and drain to the low flow pipe and minimise overland flow nuisance.
- d. Detailed engineering plans to a construction detail standard, of all proposed drainage works, including pits, pipes, overland flow paths. The plans must include detail to demonstrate compliance with Council's engineering requirements.
- e. A comprehensive Water Management Plan that defines maintenance, auditing and accountability systems and requirements in terms of actions to be completed and their frequency. Responsible persons and contact details must be provided.
- f. Commentary that clearly demonstrates compliance with the DCP.
- g. Certification that the stormwater system design proposal complies with the DCP. The requirements of the approval must be complied with.

Reason: *To protect the environment, to satisfy the requirements of the Local Government Act, 1993, and to ensure the environmental management of stormwater complies with contemporary standards.*

Geotechnical Report

21. **Prior to the issue of the any Subdivision Works Certificate**, a detailed geotechnical investigation, report and certification shall be prepared by a practising qualified engineer experienced in soil mechanics. The following is required:
 - a. Sufficient geotechnical testing within all road, driveways, areas where earthworks are proposed, and retaining structures to determine appropriate geotechnical parameters for civil engineering design and any footings and foundations.
 - b. Specifications for drainage to ensure the long-term stability of civil works and retaining walls.
 - c. Specifications for earthworks during construction, including compaction, testing and supervision in accordance with relevant Council and Australian Standards.
 - d. Recommendations to be complied with during construction to ensure that the site and works remain in a stable condition during the works.

- e. Certification that the proposed civil works, drainage system and retaining walls are structurally adequate and will not be affected by landslip or subsidence within, above or below the works;
- f. Details that all inter-allotment drainage lines (IAD) are located within proposed lots and not within Council land or the road reserve.
- g. Details that any existing drainage from Lot 3 DP 406893 (656 Ballina Road) Lot 2 DP 380832 (654 Ballina Road) and Lot 1 DP 380832 (652 Ballina Road) has been considered and will not cause any impacts upon the proposed developments.

The report and certification prepared and certified by an appropriately qualified engineer for the construction of the works in accordance with these requirements shall be submitted to the Certifying Authority for approval with the **Subdivision Works Certificate**.

Reason: *To ensure protection from the effects of subsidence and/or slip.*

Subdivision Works Certificate for Earthworks – Subdivision

22. Bulk earthworks shall not commence on site **prior to the issue of a Subdivision Works Certificate**.

Reason: *To ensure protection from the effects of subsidence and/or slip and compliance with the definition of “subdivision works” and the need for a Subdivision Works Certificate*

Design and Survey for Public Infrastructure

23. **Prior to the issue of any Subdivision Works Certificate** the applicant shall engage an appropriately qualified person to undertake the survey, design and preparation of plans for all works located within Council's property or all works that revert to Council's care and control upon completion of the development. The design plans are to be certified by an appropriately qualified and practising Civil Engineer to confirm compliance with appropriate Australian Standards and submitted to the Certifying Authority.

Reason: *To ensure the provision of public infrastructure of an appropriate standard, and record keeping purposes.*

Drainage

24. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. Design plans are to be submitted to and approved by the Council **prior to the release of any Subdivision Works Certificate**.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 4.15(b))*

25. The proponent shall make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any existing or proposed lots can be directed to the detention basin to prevent intensification of discharge runoff onto

adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements. All costs shall be the responsibility of the proponent. Design plans are to be submitted to and approved by the Council **prior to the release of any Subdivision Works Certificate**.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff.*

Electrical Design

26. **Prior to the issue of any Subdivision Works Certificate** an electrical design prepared by a suitable qualified electrical consultant shall be submitted to Council to demonstrate that no conflicts arise with other services.

Reason: *To ensure the development is adequately serviced.*

Public Utilities

27. Street lighting is to be designed and installed in accordance with Australian Standard AS1158.1. Design plans are to be submitted to and approved by the Council **prior to the release of any Subdivision Works Certificate**.

Reason: *to ensure adequate and safer movement of pedestrians along a public road or pathway.*

Signage

28. If updating or replacement of the current road signage is required, a plan detailing all road signage to be used within the development including proposed street names shall be submitted to Council **prior to the release of a Subdivision Works Certificate**.

Reason: *to ensure the appropriate signage is used throughout the development*

Retaining Walls

29. **Prior to the release of a Subdivision Works Certificate** a qualified practicing structural engineer shall provide the Certifying Authority with a design certification for any proposed retaining walls in the development. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

Reason: *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans.*

Works in Road Reserve - Section 138 Approval

30. **Prior to the release of any Subdivision Works Certificate** Approval under section 138 of the Roads Act for the all works upon the public road shall be obtained (or approval from Transport NSW where required) and shall comply with the Northern Rivers Development & Design Manual and Council's Standard Drawings.

For this approval full design plans of the proposed engineering works required upon the public road shall be submitted to and approved by Council. Such plans shall be accompanied with the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

Details prepared by an appropriately qualified person demonstrating

compliance with these requirements are to be submitted to Certifying Authority

Reason: *To ensure an adequate road network in accordance with adopted standards can be provided and to specify requirements for approval under section 138 of the Roads Act.*

Ecology

31. **Prior to the release of any Subdivision Works Certificate** 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 BAM Credit Calculator (BAM-C).
 - Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in must be provided to the consent authority **prior to the issue of any Subdivision Works Certificate.**

Table 1. Ecosystem credits to be retired

Impacted plant community type	Number of ecosystem credits	IBRA Subregion	Plant community types(s) that can be used to offset the impacts from the development
841-Forest Red Gum grassy open forest of the coastal ranges of the NSW North Coast Bioregion	2	Scenic Rim, Burringbar Conondale Ranges, Clarence Lowlands and Woodenbong. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Northern Gorge Dry Sclerophyll Forests This includes PCT's: 841

Reason: *To comply with the requirements of the Biodiversity offset scheme*

32. **Prior to the release of any Subdivision Works Certificate** the class and number of *species credits* in Table 2 must be retired to offset the residual biodiversity impacts of the development. retire the biodiversity credits.
- 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 BAM Credit Calculator (BAM-C).
 - Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund 2 must be provided to the consent authority **prior to the issue of any Subdivision Works Certificate.**

Table 2. Species Credits to be retired

Impacted species credit species	Number of species credits	IBRA Subregion
<i>Macadamia tetraphylla</i> / Rough-shelled Bush Nut	2	Any in NSW

Reason: *To comply with the requirements of the Biodiversity offset scheme*

33. **Prior to the release of the Subdivision Works Certificate** the applicant is to submit to the Consent Authority for approval a tree removal plan.
- The site boundaries are to be established by a Registered Surveyor in order to confirm which trees are within the site boundaries. Any trees that are on the boundary line are to be retained.
 - The plan must accurately describe the species, location and size of the trees to be retained. For the purpose of adequately protecting the canopy and root zones of retained trees the plan is to include the trees to on the neighbouring land on the western boundary.
 - The plan must accurately describe the species, location and size of the trees to be removed.

Reason: *To ensure that the trees to be removed and retained are accurately described*

34. **Prior to the release of any Subdivision Works Certificate** the applicant is to submit to the Consent Authority for approval a Statement of Compliance with the provisions of the approved Comprehensive Koala Plan of Management as well as a Vegetation Management Plan ("VMP").

Guidelines for preparation of the VMP

The VMP shall be prepared by a suitably qualified environmental consultant or bush regenerator with theoretical and practical experience in native vegetation restoration and management and weed control.

The VMP is to be in accordance with both the structure and content of the following guidelines:

- Guidelines for the preparation of Vegetation Management Plans.* Lismore City Council, Lismore, NSW Lismore City Council (2010),
- Lismore City Council (2007), *Landscape Guidelines*. Lismore City Council, Lismore, NSW

The Statement of Compliance and VMP is to address relevant content from the following documents:

- Comprehensive Koala Plan or Management for south-east Lismore, Lismore City Council, Lismore, NSW – Appendix 5 Habitat Compensation Policy, Lismore City Council 2013
- Koala-sensitive Design Guideline: A guide to koala-sensitive design measures for planning and development activities, Department of Environment and Science, Queensland 2019
- The general terms of approval issued by the New South Wales Rural Fire Service for the subject application dated 31 January 2020 and forms part of this consent
- Biodiversity Development Assessment Report: 658 Ballina Road Goonellabah Residential Subdivision, prepared by Birdwing Ecological Services, 02.04.20
- Biodiversity Development Assessment Report: Addendum, 658 Ballina Road Goonellabah Residential Subdivision, prepared by Birdwing Ecological Services, 29.06.20

Management zones

At a minimum, the following management zones must be identified in the Plan:

Zone No.	Management zone size m ²	Management zone description
1	1350	Koala Habitat Creation (offsite compensation receive site)
3	890	Detention Basin area with native planting including koala food trees
4	Various points	Koala sensitive design features: Koala Signage and Traffic Calming
5	Various points	Street Trees- 45 Litre Pot, density 1 tree per 18m street frontage

The VMP must also detail koala habitat compensatory works to be undertaken on *receiving land* at an appropriate location for the Koala replacement trees to be *determined in consultation* with Council's ecologist and or equivalent position at the time. The location of Replacement trees and habitat compensatory works are to be included specifically in the VMP.

A works program must be incorporated in the VMP to ensure that all works associated with the submitted and approved plan are completed within an appropriate timeframe. Subject to compliance with the recommendations and measurable performance criteria detailed within the plan, following completion of initial planting and weed control all vegetation management works will be maintained for a period of five (5) years.

Control of listed weeds

The plan should incorporate a program for weed removal and for the control of any exotic species that is listed in:

- "North Coast Regional Weeds Lists LLS" Appendix 3 in North Coast Regional Strategic Weed Management Plan 2017-2022, Local Land Services, 2017.

Weeds are to be controlled according to current best practice.

Plantings(s)

Species used in the koala habitat compensatory works will consist of 'primary food tree species' as listed in the Comprehensive Koala Plan of Management for South-east Lismore and sourced from seed stock of local provenance ie: Wilson River Catchment.

Species used in the landscaping on the subject site should also be of local provenance. For the planting the, the VMP should detail:

- The planting schedule, including botanical name, common name, container size and quantity of plant species proposed for planting.
- The methods employed for soil bed preparation as well as mulching.
- How plantings will be protected from grazing / herbivory
- An ongoing maintenance schedule, including a program for weed suppression and removal.

Monitoring and Evaluation

The VMP will detail monitoring methods to be carried out at completion of the primary planting and then at annual intervals until the end of the five (5) year management period.

Reason: *To ensure that the Koala Plan of Management and works can*

be assessed in accordance with Lismore City Council guidelines. To ensure that implementation of the approved meets the approved works schedule and performance criteria established in the plan. To ensure appropriate control of weed species on the subject site. To ensure that loss of Koala habitat and other habitat is adequately offset. To ensure appropriate design, density and species selection to meet the objectives of the Landscape and Buffer areas. To enhance biodiversity values of the site.

35. Following approval of the Vegetation Management Plan including approved cost estimate and **prior to the release of any Subdivision Works Certificate**, the applicant and the lawful owner(s) of the subject site are to enter into a legally binding agreement with Council to secure completion of the vegetation management works. The legal agreement must:
- Clearly identify and include as an attachment the approved plan.
 - Identify the measurable performance criteria and schedule of works detailed in the plan approved by Council;
 - Identify a bond and a bond return schedule linked to the successful completion of works as evidenced by the meeting of agreed performance criteria in accordance with the
 - schedule of works identified in the plan;
 - Be enacted (i.e. signed and registered, or otherwise as per the legal requirements for the relevant agreement) prior to the commencement of any works related to the DA.

It is the responsibility of the Applicant to:

- Secure all resources and funds to implement the plan;
- Arrange for the relevant Council officer to review the plan;
- Arrange for any relevant Council inspections;
- Pay all costs associated with enacting the legal management agreement;
- Pay all inspection and assessment fees associated with the plan.
- Lodge the bond to be held in trust by Council.

Reason: *To ensure compliance with the recommendations and performance criteria contained in the approved Vegetation Management Plan.*

Roads Act Approval

36. **Prior to the issue of a Subdivision Works Certificate**, separate approval under section 138 of the Roads Act for all the works upon the public road shall be obtained. For this approval, full design plans of the proposed engineering works required upon the public road shall be submitted to and approved by Council. Plans shall include details of works required to satisfy the conditions of this consent. Such plans shall be accompanied with the fee, as adopted at the time of the payment as indicated in Council's Fees and Charges.

Reason: *To ensure an adequate road network in accordance with adopted standards can be provided. (EPA Act Sec 4.15(a)) and to specify requirements for approval under section 138 of the Roads Act*

Road works on Classified Roads

37. If any road works are required on a Classified road, **Ballina Road**, the person acting on this consent will be required to contact Transport for

New South Wales (TfNSW) to determine if a Road Occupancy Licence (ROL) or Works Authorisation Deed (WAD) with TfNSW is required for the access works. Details that a ROL or WAD has been entered into shall be supplied to Council **prior to the issue of a Subdivision Works Certificate.**

Reason: *To ensure an adequate road network in accordance with adopted standards and to specify requirements for approval under section 138 of the Roads Act.*

Vehicular Access

38. A 6m wide asphaltic sealed or equivalent access shall be constructed for the full length of the access handle commencing from the road pavement to service proposed Lots 2, 3, and 4. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). The following services shall be installed in the appropriate service corridors shown on the Engineering Plans set referred to at condition 1 for the full length of the access handle:

- a. water supply
- b. sewer
- c. stormwater
- d. telephone
- e. power

Details demonstrating compliance with this requirement shall be submitted to the Council **prior to the release of a Subdivision Works Certificate.**

Reason: *To ensure adequate access to and from the development.*

39. **Prior to the issue of a subdivision certificate**, the applicant shall construct a vehicular and driveway from the end of Greenwood Drive to the existing dwelling on proposed lot 3. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).

Reason: *To ensure adequate access to and from the development.*

Road Works

40. The applicant shall provide the following road works with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). The proponent shall be responsible for any costs, including maintenance, for a period of twelve months from the date of approval of completion of the work.

Required roadworks include:

Road Number	Classification	Pavement Width (m)	Reserve Width (m)
Greenwood Drive	Local Street	9.0	18.0

Any lesser specification for Greenwood Drive will need to be approved in writing by the Council prior to the issue of any Subdivision Works Certificate.

A certificate prepared by an appropriately qualified and practising Civil

Engineer, shall be provided to Council to certify compliance with these requirements **prior to the release of a Subdivision Works Certificate.**

Reason: *To facilitate suitable road access for vehicular traffic and to ensure appropriate access and infrastructure protection that is integral with infrastructure on surrounding sites.*

Vehicular Access

41. **Prior to the issue of any subdivision works certificate** the waste management facility (septic tank and absorption trenches) servicing the existing dwelling shall be decommissioned. Decommissioning shall include the excavation and removal of all on- site wastewater management facility infrastructure. All waste (including liquid wastes) generated from decommissioning works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste 2014*.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

D. ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH DURING CONSTRUCTION

Aboriginal Heritage

42. Any person undertaking works as part of this consent shall not knowingly destroy, deface or damage any Aboriginal relic or other item of archaeological significance within the development area without the prior written consent of Heritage NSW.

Reason: *To protect Aboriginal and Archaeological significance.*

43. Upon discovery of any Aboriginal relics within the meaning of the *National Parks and Wildlife Act 1974* (as amended) during site or excavation works, the person undertaking the works and the developer shall immediately notify Heritage NSW, the local Aboriginal Land Council and Council and shall cease operations within the vicinity thereof until such time as the consent of Heritage NSW is obtained (if required) for the destruction, removal or protection thereof and the developer has complied with the directions of Heritage NSW in that respect. The developer shall provide to Council copies of any direction given by the Heritage NSW in respect of Aboriginal relics that are subject of this condition.

Reason: *To protect Aboriginal and Archaeological significance.*

Sediment and Erosion

44. Sediment control measures must be put into place and be properly maintained to prevent soil erosion and the transport of sediment from the site to natural or constructed drainage lines or water courses. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Sediment control fencing must be completely removed once the site is adequately revegetated.

Reason: *To minimise soil erosion and sedimentation.*

45. All waste materials generated from construction and/or demolition works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of

Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2014'.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

46. The proponent shall be responsible for any new connection, disconnection and or reconnection of any water supply service required during the construction phase to service the existing dwelling on the site. Such work shall be carried out at no cost to Council.

Reason: *Condition imposed by Council to ensure continuity of water supply and that no costs are incurred by Council for Development activities.*

47. The proposed noise generating construction activity shall not result in the emission of offensive noise.

Offensive noise means:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

48. The proponent is required to construct the following water management works to Council satisfaction:
 - a. An extension to the reticulated water supply system linking Greenwood Drive at each end and a property service connection to each proposed Lot in accordance with Council standard water supply services layout details.
 - b. An extension to the reticulated sewerage system and a property service connection designed to maximise the building envelope to each proposed Lot.

These works shall be carried out in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe Work.

Reason: *To comply with the requirements of Lismore City Council for the acquisition of Public Assets and provision of services as required to each proposed Lot/s.*

49. Each parcel of land shall have its water and sewerage services wholly contained within its own boundaries or arrange for the placement of easements on Title in accordance with s88B of the Conveyancing Act.

Works required to comply with this condition shall be the subject of an Activity Approval issued by Lismore City Council.

Reason: *To ensure compliance with the statutory requirements of Lismore City Council.*

Drainage

50. Any area of seepage identified on site including at the base of filling or behind filling shall be brought to the attention of the supervising geotechnical engineer and treated by the provision of a suitable drainage mechanism. Seepage issues are to be treated as a hold point. Details of proposed rectification works are to be provided to Council for approval prior to work recommencing. All road works constructed in cut or natural subgrade shall have sub soil drainage located immediately behind the kerb.

Reason: *To ensure protection from the effects of subsidence and/or slip.*

51. The burning off of vegetative and other wastes arising from the subdivision development is prohibited. Suitable arrangements shall be made for the processing and/or re-use of all waste materials generated by the development activity or alternatively wastes shall be transported to an approved waste facility.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

52. The construction of the subdivision shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

53. Where a retaining wall is created between private lots and public land, these must be located within the private lot and not on current or future public land.

Reason: *To ensure retaining wall assets are privately owned, not a Council burden.*

E. CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE

54. **Prior to the issue of any Subdivision Certificate** a voluntary planning agreement shall be entered into for the dedication of the stormwater detention basin and water quality treatment and roads, in accordance with the Applicant's letter of offer dated 8 June 2022. Upon execution, the Applicant shall register the Voluntary Planning Agreement on the title to the land.

Reason: *to facilitate the dedication of the extension of Greenwood Drive and the stormwater detention basin to Council.*

55. **Should koalas be found on site during vegetation clearing works and/or earthworks** the Applicant must ensure that vegetation clearing works and/or earthworks are temporarily suspended within a range of 30 metres from any tree which is occupied by a koala. Works are to be avoided in any area between the koala and the nearest areas of habitat to allow the animal to move to adjacent undisturbed areas.

In addition, the above works must not resume until the koala has moved from the tree of its own volition.

Reason: *To ensure koala safety and protection.*

56. **During tree clearing works** the Applicant is to ensure that:
- Tree removal and any pruning works is completed by a fully qualified and insured Arborist (AQF level 3 qualifications as a minimum).
 - Any pruning work is undertaken in accordance with the AS 4373-2007 Pruning of amenity trees;
 - Tree removal and any pruning works are to be conducted in such a way as to ensure surrounding native vegetation, structures and boundary fences on the same or adjoining lots are not damaged;
 - The currency of all insurances is to be checked by the Applicant before work commences;

The Applicant will receive two copies of the consent, one to be retained by the Applicant and one to be given to the contractor if engaged to carry out work.

Reason: *To ensure that native trees and vegetation are protected during works and that the structural integrity of native trees and vegetation is retained.*

Bushfire Management Plan

57. **Prior to the issue of any subdivision certificate** the Applicant address the issues in relation to fuel management requirements for public reserves, road widths, Koala corridors, APZ, building lines, landscaping, fencing utilities and construction through the approved Bushfire Management Plan, dated 12 May 2022.
- The approved Bushfire Management Plan and this consent shall be provided to each intended purchaser(s) and comprise part of the contract of sale for each residential block. The Bushfire Management Plan will be implemented by the Applicant to ensure:

- a. Identification of asset protection zones, including the management of proposed outer protection areas, consistent with the Vegetation Management Plan, and in accordance with the following:

All lots shall be managed as an asset protection zone (APZ) as outlined within Appendix 4 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' (RFS 2005), with the following additional requirements:

- Koala Food Trees identified on Sheet 4, 'Lot Layout' of the Engineering Plan set referred to at condition 1 as trees nos. 1, 2, 3, 4, 6 within the area identified as a Koala Corridor will be managed as an outer protection area (OPA);
- Canopy cover of these trees is excluded from requiring individual canopy separation (i.e. 2 to 5m spacing between each canopy) but shall be considered equivalent to one tree canopy as they mature;
- Outer protection areas (OPAs) are to be mown at regular intervals of no less than every month, from 1 August until 1 May of each year.

- All inner protection areas (IPAs) on each lot, shall be maintained by mowing all grasses and understorey vegetation, to a height no greater than 25mm, at least every fortnight, between 1 August to 1 May of each year, consistent with the landscaping requirements of the Vegetation Management plan.
- b. Construction requirements for all new dwellings, in accordance with the following:
 - The Existing dwelling on Lot 3 shall be upgraded to meet BAL-19 construction requirements as set out in s.3 - construction general and s.6 - Construction requirements for BAL-19 of AS3959-2018 and the NSW Variations shall be applied pursuant to s.7.5.2 PBP 2019.
 - Any future building constructed upon Lots 4, 8, 9, 10, 11, 12 and 13 shall be constructed to BAL-29 as set out in section 3 - construction general, and section 7 - Construction requirements for BAL-29 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 of Planning for Bushfire Protection 2019.
 - Any future building constructed upon Lot 7 shall be constructed to BAL-19 as set out in section 3 - construction general and section 6 - Construction requirements for BAL-19 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 Planning for Bushfire Protection 2019.
 - Any future building constructed upon Lots 1, 2, 5 and 6 shall be constructed to BAL-12.5 as set out in section 3 - construction general and section 5 - Construction requirements for BAL-12.5 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 Planning for Bushfire Protection 2019.
 - All future dwellings shall install non-combustible sarking instead of sarking with a flammability index of less than 5 where required under AS3959-2018.
 - All future dwelling shall install gutter guards and valley guards to prevent the build-up of leaf litter and other debris, and shall be architecturally integrated with the building, with a slope of no less than 12 degrees from the horizontal.
- c. Upgrading construction requirements to BAL-19 for the existing dwelling plus the use of gutter guards and non-combustible sarking;
- d. Landscaping requirements, including the use of non-combustible fencing;
- e. Landscaping/fuel management requirements for the public reserves;
- f. Road widths to a minimum of 9m carriageway for Greenwood Dr (including traffic treatments engineering details) and 6m for the Laneway, including a 12m turning circle; and
- g. Location of water hydrants with engineering details, so as to prevent any obstruction by parking cars, street lighting or the like.

- h. Building line setbacks for lots in accordance with Sheet 4 'Lot layout plan' of the Engineering Plans set referred to at condition 1.

Reason: To ensure compliance with the requirements of Planning for Bushfire Protection 2019.

Civil Works

58. **Prior to the issue of any subdivision certificate** the applicant shall obtain a certificate of completion for the civil works required by the relevant conditions from Council. Prior to obtaining this certificate a practising qualified surveyor or engineer shall submit to Council for approval, a "works-as-executed" set of plans, completed asset record forms and a construction certification. The certification shall certify that all roads, drainage and civil works required by this development consent and the approved design plans have been completed in accordance with Council's Development and Construction Manual (as amended).

Reason: To ensure an adequate road network in accordance with adopted standards.

Section 7.11 Contributions

59. Payment of contributions levied under Section 7.11 of the *Environmental Planning and Assessment Act* and *Lismore Contributions Plan 2014* are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the subdivision works certificate **is released for each relevant stage**. The rates and amounts applying at the date of this notice, totalling **\$64,440.00**, are set out in **schedule 1** for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the release of the applicable Subdivision Certificate**.

The levies are those applicable as at date of original consent. If these levies are not paid within twelve (12) months of the date of original consent, the rates shall then be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index and the Producer Price Index, as applicable at the time of payment.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act

1999 or any amending or succeeding legislation.

Reason: *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development.*

60. **Prior to the issue of any Subdivision Certificate**, a Certificate of Compliance issued by Lismore City Council (and on behalf of Rous Water) under s.305-307 of the Water Management Act 2000, must be obtained in relation to contributions payable.

Notes:

- a) The Certificate of Compliance confirms that all contributions levied under s.64 of the Local Government Act have been paid and existing infrastructure has the capacity to service the proposed development. In this regard, Lismore City Council also acts as an agent for Rous Water for the collection of contributions and the issue of the Certificate.
- b) There is a schedule attached to the end of this notice that details the Water and Sewer Contributions applicable to this development that must be paid prior to the issue of the Compliance Certificate.
- c) If the proposed development requires public water/sewer infrastructure works, those requirements will need to have been completed in accordance with conditions of this consent or under a separate approval under s.68 of the Local Government Act 1993.
- d) An application under s.305 of the Water Management Act 2000 must be made (the form is available on Council's website) and the applicable application fee paid in order for a Compliance Certificate to be issued.

Reason: *To ensure compliance with the statutory requirements of the Local Government Act and Water Management Act in relation to the provision of water and sewer infrastructure to service the development.*

61. **Prior to the issue of any subdivision certificate** the proponent is required to create an easement over pipelines in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe-work, and create an easement which contains the entire constructed overland flow channel within lots 9, 10 and 11, and is no less than 6 m wide at any location.

Note: The width of an easement is determined by the depth and size of the pipeline. For sewer mains only a minimum of 3.0m is required.

The proponent shall obtain direction from Council confirming the width of any easement and sample terms of any s88B Instrument in accordance with the Conveyancing Act, prior to submitting an application for a Subdivision Certificate.

Reason: *To ensure compliance with the statutory requirements of Lismore City Council.*

Public Utilities – Electricity (Urban)

62. **Prior to the issue of any subdivision certificate** a Certificate of Compliance from an accredited electricity infrastructure provider shall be required confirming that it has provided underground electrical power to each lot, adequate street lighting for the development as

required by the Australian Standard and that charges for the extension of electricity supply have been paid.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

Telecommunications Services - Subdivisions

63. **Prior to the issue of any subdivision certificate** telecommunication infrastructure shall be installed to service each lot in the development to comply with the following:
- a) The requirements of the Telecommunications Act 1997 (Cth);
 - b) For a fibre ready facility, the nbn co.'s TM standard specifications current at the time of the installation; and
 - c) For a line that is to connect a lot to telecommunications infrastructure external to the premises, is located underground.

The person with the benefit of this consent shall submit to the Principal Certifying Authority a letter from a qualified telecommunications installer confirming that the above requirements have been met.

Reason: *Provision of adequate telecommunication facilities.*

Street Name Signage

64. If updating or replacement of the current road signage is required **prior to the issue of any subdivision certificate** street signage in accordance with Council's adopted standard shall be erected at all new street intersections with street names approved with the Development Application.

Reason: *To ensure an adequate road network in accordance with adopted standards.*

Street Number Signage

65. **Prior to the issue of any subdivision certificate** the proponent shall place street number identification at the road frontage of the property to indicate the property address.

Reason: *To identify the property correctly (EPA Act Sec 4.15(e)).*

Works as Executed

66. **Prior to the issue of any subdivision certificate** the applicant shall, upon completion of the development works, submit to Council the works-as-executed drawing (W.A.E.) and Compliance Certificate certifying compliance with the requirements of AS3500.3.2 and this consent, prepared by an appropriately qualified and practising Civil Engineer or Registered Surveyor. The W.A.E. drawing shall show the alignment, depth and grade of the stormwater drainage pipelines, easement and associated structures. A video inspection must also be carried out of completed drainage works that are to revert to Council's care and control, and the video files forwarded to Council to support the certification.

Reason: *Compliance with the Consent.*

67. **Prior to the issue of any subdivision certificate** a Registered Surveyor shall provide certification that all services (e.g. drainage, stormwater, and water supply) as constructed are contained within each lot or within appropriate easements to accommodate such services to the satisfaction of the utility service provider. Alternatively, a letter from the relevant supply authority stating the same may be

submitted to satisfy this condition.

Reason: *To ensure adequate servicing of the development.*

Geotechnical Report – Fill Material

68. **Prior to the issue of any subdivision certificate** a NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any lot fill material has been placed in accordance with Australian Standard 3798 “Guidelines on earthworks for commercial and residential developments”. In this regard all allotments must have a minimum fall of 1 in 150 to prevent ponding.

Reason: *To ensure the development is completed in accordance with the conditions and approved construction design plans.
(EPA Act Sec 4.15(b))*

Subdivision

69. **Prior to the issue of any subdivision certificate** a suitably qualified person is required to furnish a statutory certificate confirming:
- a. all drainage lines have been located within the respective easements,
 - b. roadworks are in accordance with the approved design plan,
 - c. any other structures like retaining walls are located in accordance with the Subdivision Works Certificate,
 - d. all stormwater has been directed to a Council approved drainage system.
 - e. all conditions of consent/approval have been complied with.

Reason: *To ensure the development is completed in accordance with the conditions and approved engineering construction design plans.
(EPA Act Sec 4.15(a))*

Linen Plans and 88B Instruments - Koalas

70. The final plan of subdivision shall be supported by an instrument under Section 88B of the *Conveyancing Act 1919*. The instrument shall burden **Lots 1 - 13** with restrictions to the user as follows:
The instrument is to include the following restrictions:
- a. Lismore City Council is the only entity that has the power to vary, modify or extinguish any of the following restrictive covenants on the title;
 - b. The keeping of any dog, within the meaning defined in the *Companion Animals Act 1998*, must be within an internal enclosure that excludes koalas:
Construction may include:
 - A non-combustible fence unclimbable to koalas that is constructed of material such as brick, metal sheeting, or Perspex; or
 - A fence that is climbable to koalas (e.g. chain mesh) that includes a non-climbable top section such as a floppy top that falls in the direction that the koala will attempt to climb the fence, or the top of the fence being constructed from a smooth metal or Perspex sheets of at least 600 mm width (including posts and supports) that is also at least 1.5 m above the ground.
 - c. Where present, fence bracing or supports are to be located on the inside of the fence.
 - d. Vegetation (including trees) is to be kept clear within 2 m of the fence.

- e. Lot boundary and associated internal fencing must be maintained so as to effectively allow for safe koala movement. Acceptable fencing solutions are:
 - A fence with the base a minimum of 300 mm above the ground.
 - For post and wire fencing, the bottom strand of wire must be a minimum of 300 mm above the ground at any in-line fence post and/or dropper.

Reason: To ensure koala safety and protection and comply with the Comprehensive Koala Plan of Management for south-east Lismore.

88B Instruments - Bushfire

71. The final plan of subdivision shall be supported by an instrument under Section 88B of the *Conveyancing Act 1919*. The instrument shall impose the following restrictions to user:
 - a. All fences shall be non-combustible.
 - b. Trees 1, 2, 3 located on Lot 8, and tree 4 located on Lot 8 & tree 6 located on Lot 11 shall be pruned regularly by the owners of those lots so as not to overhang any building, however, it is acknowledged upon maturity, minor overhang by branch tips is deemed acceptable.
 - c. All lots shall be managed as an asset protection zone (APZ) as outlined within Appendix 4 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' (RFS 2005), with the following additional requirements:
 - Koala Food Trees identified on the plan as trees nos. 1, 2, 3, 4, 6 within the area identified as a Koala Corridor will be managed as an outer protection area (OPA);
 - Canopy cover of these trees is excluded from requiring individual canopy separation (i.e. 2 to 5m spacing between each canopy) but shall be considered equivalent to one tree canopy as they mature;
 - Outer protection areas (OPAs) are to be mown at regular intervals of no less than every month, from 1 August until 1 May of each year.
 - All inner protection areas (IPAs) on each lot, shall be maintained by mowing all grasses and understorey vegetation, to a height no greater than 25mm, at least every fortnight, between 1 August to 1 May of each year, consistent with the landscaping requirements of the Vegetation Management plan.
 - d. Any future dwellings on lots shall be constructed within the building envelopes identified within the approved Bushfire Management Plan.
 - e. Any future building constructed upon Lots 4, 8, 9, 10, 11, 12 and 13 shall be constructed to BAL-29 as set out in section 3 - construction

general, and section 7 - Construction requirements for BAL-29 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 of Planning for Bushfire Protection 2019.

- f. Any future building constructed upon Lot 7 shall be constructed to BAL-19 as set out in section 3 - construction general and section 6 - Construction requirements for BAL-19 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 Planning for Bushfire Protection 2019.
- g. Any future building constructed upon Lots 1, 2, 5 and 6 shall be constructed to BAL-12.5 as set out in section 3 - construction general and section 5 - Construction requirements for BAL-12.5 of AS3959-2018 and NSW Variations to be applied as per section 7.5.2 Planning for Bushfire Protection 2019.
- h. All future dwellings shall install non-combustible sarking instead of sarking with a flammability index of less than 5 where required under AS3959-2018.
- i. All future dwelling shall install gutter guards and valley guards to prevent the build-up of leaf litter and other debris, and shall be architecturally integrated with the building, with a slope of no less than 12 degrees from the horizontal.
- j. All lots are required to comply with the Bushfire Management Plan prepared pursuant to these conditions.

Reason: *To ensure the site is managed in accordance with the requirements of Planning for Bushfire Protection 2019.*

72. **Prior to the release of a subdivision certificate** for a residential subdivision on land containing or adjacent to core koala habitat, road design within the proposed subdivision must promote a low speed environment in accordance with Lismore DCP Chapter 5A - Urban Residential Subdivision

Reason: *To ensure koala safety and protection and comply with the Comprehensive Koala Plan of Management for south-east Lismore.*

73. **Prior to the release of the subdivision certificate** koala signage incorporating an image of a walking koala and the words "Slow Down. Koala Habitat Area" (or words of similar intention) must be placed at the entrance of roads into the proposed development.

Reason: *To ensure koala safety and protection and comply with the Comprehensive Koala Plan of Management for south-east Lismore.*

74. Linen Plans and 88B Instruments

Prior to the issue of any subdivision certificate the final plan of subdivision shall be supported by an instrument under Section 88B of the *Conveyancing Act 1919*. The instrument shall burden **Lots 9, 10 and 11** with restrictions to the user as follows:

- a. The land identified as 'Koala Corridor 7m wide' in the approved Lot Layout plan listed in Condition 1 shall be established and retained as a conservation area *Koala Movement Corridor*. The land shall not be

- permitted to be cleared, altered or damaged except as required to remove noxious weeds or other exotic plant species;
- b. The land shall be managed in accordance with the approved Koala Plan of Management prepared for the site.

Reason: *To ensure koala safety and protection and comply with the Comprehensive Koala Plan of Management for south-east Lismore.*

Rights of Carriageway

75. **Prior to the issue of a subdivision certificate** the proponent shall create the following rights of carriageway;
- a. benefiting proposed lot 4 over the vehicular access and driveway constructed upon lots 3 and 2
 - b. benefiting proposed lot 2 over the vehicular access and driveway constructed upon lots 3 and 4
 - c. benefiting proposed lot 3 over the vehicular access and driveway constructed upon lots 2 and 4

Reason: *To ensure adequate access to and from the development*

Schedule 1 – S 7.11 Contributions

Levy Area	Receipt No.	No. of lots	Rate per lot	Amount Payable
Community Services and Facilities				
Residential (Urban)	715	12	\$195.55	\$ 2,346.60
Public Domain Facilities				
Residential (Urban)	723	12	\$751.27	\$ 9,015.24
Open Space and Recreational Facilities				
- Tucki Tucki Creek				
- Residential (Urban)	727	12	\$77.58	\$ 930.96
- Lismore Park				
- Residential (Urban)	729	12	\$262.59	\$ 3,151.08
Cycleway Facilities				
Residential (Urban)	678	12	\$911.30	\$ 10,935.6
Urban Traffic Management Facilities				
Residential (Urban)	682	12	\$3,000.16	\$ 36,001.92
Stormwater				
Residential (Urban)	731	12	\$48.81	\$ 585.72
Section 94 Plan Administration				
Residential (Urban)	690	12	\$122.74	\$ 1,472.88
Total				\$64,440.00

Schedule 2 – S64 Contributions**Local Government Act - Section 64 Contributions**

The developer shall pay to Council all Water and Sewerage levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993. The rates and amounts applying at the date of this notice, totalling **\$280,647**, are set out below for your information. Such levies shall be paid, as required by Council, prior to being issued with a Section 307 - Certificate of Compliance.

Charges are levied to provide funds for the provision of services and facilities identified in Lismore City Council's and Rous Water's Development Servicing Plans as required by an increase in population or development activity (Water Management Act 2000, Sec 306).

Levy Area	Account No.	No. of ET's	Cost Per ET	Amount Payable
Water and Sewerage Development Servicing charges are levied under Section 306 of the Water Management Act 2000 and amounts payable are set out below.				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	12.0	\$1,506	\$18,072
Rous County Council (Except Nimbin)	509	12.0	\$8,943	\$107,316
Sewerage Services – East Lismore Catchment				
Lismore Sewer	507	13.0	\$11,943	\$155,259
Total				\$280,647

IMPORTANT TO NOTE

The rates and amounts shown against the various items above are indicative only and are the rates applicable as at date of this Notice and remain valid for three (3) months in the case of Lismore City Council.

Development Servicing Plans are reviewed every 3-5 years. The charges nominated in the respective Development Servicing Plans for each Network Utility Operator increase by CPI each year for the life of the plan.

Lismore Council and Rous Water Development charges are the adopted Development Servicing Charges per Equivalent Tenement (ET) current at the time of payment multiplied by the assessed number of ET's for the development.

The cost per ET is in accordance with the relevant Development Servicing Plan as at the date of this Notice.

Levies Correct – Accounting Finance Officer **Date**

Total levies at current rates (actual amount to be calculated when final plan submitted).

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT

DATE:

CASHIER:

RECEIPT NO: