

Revised Statement of Environmental Effects

DA2015/0096

Proposed One Hundred and Eighty Four (184) Lot Subdivision including:

- One Hundred and Seventy Five (175) Residential Lots;
- Three (3) Residue Lots
- Four (4) Public Reserves
- One (1) Drainage Reserve
- One (1) Sewer Pump Station Lot
- Upgrading of Iron Gates Drive
- Demolition of Existing Structures Onsite
- Subdivision Work including road works, drainage, water supply, sewerage, landscaping and embellishment work and street tree planting

Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lots 163 DP 831052 and Lot 276 DP 755724, Crown Foreshore Reserve and Iron Gates Drive, Evans Head NSW



Prepared by

DAC PLANNING PTY LTD

Prepared for

GOLDCORAL P/L

OCTOBER 2014 – Revised December 2018 – Revised July 2019

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Acknowledgement:

The original Statement of Environmental Effects for this project was prepared by Planit Consulting Pty Ltd (October 2014).

The original Statement of Environmental Effects has been revised by DAC Planning Pty Ltd, with permission, to address requests for further information from Richmond Valley Council and amendment to the Development Application to include upgrading of Iron Gates Drive.

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1 - Introduction

1.1 BRIEF

DAC Planning Pty Ltd has been engaged by Goldcoral P/L to prepare and submit a revised Statement of Environmental Effects for a proposed one hundred and eighty four (184) lot subdivision and subdivision work at Iron Gates Drive, Evans Head.

This revised Development Application Form (see **Appendix 23**), Statement of Environmental Effects and Appendices address issues raised in Councils letter dated 18 February 2019, the letter from Malcolm Scott dated 2 February 2019 and relevant issues raised by State Agencies and in public submissions.

1.2 THE SITE AND SURROUNDS

1.2.1 General Summary



Figure 1 – Aerial Photograph – Source: Google Earth

The subject site is described Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lots 163 DP 831052 and Lot 276 DP 755724, Crown Foreshore Reserve and Iron Gates Drive, Evans Head NSW. It is located west of the Evans Head town centre and accessed via Iron Gates Drive (See **Fig. 1**). The site fronts the Evans River to the south. Local native forest surrounds the site on to the north, east and west.

Part of the foreshore area south of proposed Road 11 was resumed and vested in fee simple in the Minister for Public Works in 1894 (see **Appendix 15**). No development is proposed in the resumed area.

Former subdivision works and bushfire maintenance have been undertaken on the land, which has resulted in a number of large cleared areas and informal roadways and trails. A single dwelling, shed and gravel driveway is also located in the south eastern corner of Lot 163 DP 831052. The proposed development footprint is contained largely within the cleared areas of the site.

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A roadway linking the site and the Evans Head urban area exists, being Iron Gates Drive. This roadway will be utilised as the access route to the site and upgraded in order to implement a Bushfire Safety Authority. RVC has advised, in correspondence dated 18 February 2019, that council will grant owner's consent for the upgrade work on Iron Gates Drive.

In relation to the Crown road reserve and Crown foreshore reserve adjacent to the Evans River, the NSW Department of Trade and Investment provided advice by letter dated 24 February 2014. A copy of the letter is provided at **Appendix 15**.

The following responses are provided to the issues raised by Crown Lands:

Email 29 March 2019

1. The area shown by red outline was vested in fee simple in the Minister for Public Works.

Response

No development or use of the red edged land is proposed under DA2015/0096 as amended.

On the 9 May 2019 Richmond River County Council (now known as Rous County Council) advised as follows in relation to ownership and control of the red outlined area.

"Rous is the owner of Tuckombil Canal which is approximately 10km from this site.

It is our understanding that the parcel of land was resumed by the government for drainage works, being the widening of the natural restriction in the river known as iron gates.

We have no records of ownership or any active management or future plans of the subject parcel of land you refer to. Suggest it may be Crown land.

In our role as flood mitigation authority, we have an indirect interest in development of the subject land in that any restriction of flows by development in what is a natural restriction in the river will have a negative impact on flooding upstream."

No work is proposed which is likely to restrict flows in the Evans River.

2. Capacity of proposed foreshore offset area including public lands to function as an effective environmental buffer.

Response

The revised Plans of Proposed Subdivision propose to dedicate a public reserve between the proposed road and the existing foreshore road reserve, having an area of 4959m² (in two parts). The former Lot 183 comprises a similar area as the currently proposed foreshore public reserve.

Richmond Valley Council (RVC) does not want any additional freehold land dedicated as public reserve beyond that proposed on the amended Plan of Proposed Subdivision at **Appendix 1**.

In summary, the revised application complies with Council's requirements for open space. Council is requested to apply to Crown Lands to have the two Crown Road reserves transferred to Council pursuant to Section 152 I of the Roads Act, 1993.

It is also proposed to embellish the Crown foreshore reserve including appropriate pathways, amenities, playground equipment and landscaping (see Appendix 7).

3. Future management of foreshore offset area.

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Response

As indicated above it is intended that the foreshore road reserve would be transferred to RVC in accordance with Section 152I of the Roads Act, 1993.

This can be achieved by imposing a condition on the consent requiring the road to be transferred to Council prior to the issue of a Subdivision Certificate for the first residential lot.

4. It is also proposed that the section of Crown road to be constructed between Lots 163 and 276 be transferred to RVC in accordance with Section 152 I of the Roads Act, 1993 as amended. This can be achieved by imposing a condition of consent.

Letter 24 February 2014

1. Enhance public access to the Evans River.

Response

It is proposed to embellish the Evans River foreshore road reserve, including appropriate public pathways, however there are constraints imposed by fisheries habitat in relation to physical works to access the River. The Landscaping Plans at **Appendix 7** detail the proposed embellishment work.

In summary, the foreshore area and proposed adjoining public reserves will be embellished and landscaped and will provide more than adequate usable casual open space for the demand generated by the proposed development and will also be accessible to the general public.

2. Future management of the foreshore road reserve.

Response

As indicated above, it is proposed that the foreshore road reserve will be transferred to RVC and together with the proposed adjoining public reserves will be landscaped and embellished. The Landscape Plan will be submitted to Crown Lands together with the revised Statement of Environmental Effects formally requesting owner's consent. The combined foreshore area will be managed by RVC.

1.2.2 Constraints

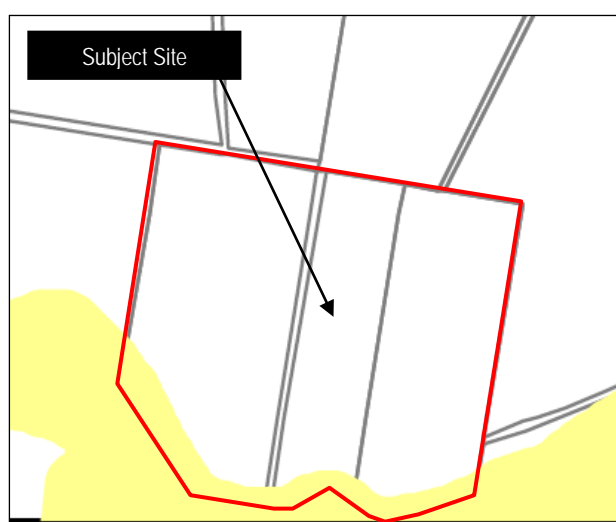


Figure 2 – Flood Prone Land Mapping – Source: RVC Mapping

Flood Prone Land

Part of the site is mapped as flood prone under Richmond Valley Council's Q100 flood level mapping (See **Fig. 2**). A **Flood Impact Assessment** has been carried out for the proposed development and is contained within **Appendix 2**. Appropriate flood management responses have been incorporated into the proposal. This is discussed further in Section 3.4 and **Appendix 2** of this report.

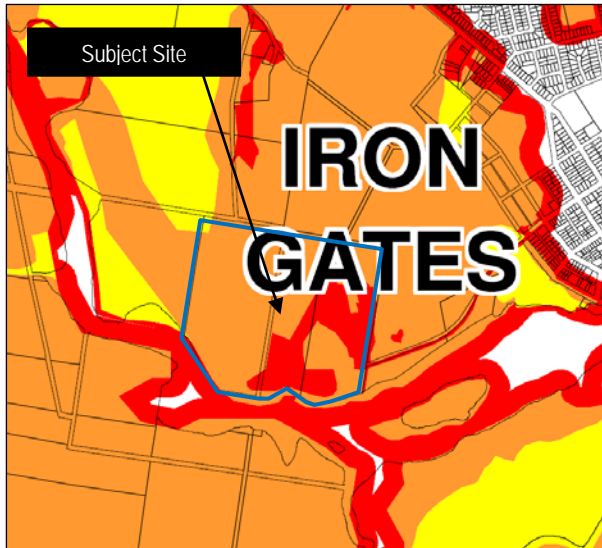


Figure 3 – Bushfire Prone Land Mapping – Source: RVC Mapping

Bushfire Prone Land

The site is identified as containing both Category 1 (shown in orange) and Category 2 (shown in yellow) bushfire prone vegetation under Richmond Valley Council's bushfire mapping (See Fig.3). Further detail citing the proposed design response to the surrounding bushfire threat has been included within **Appendices 3 and 4** of this document.

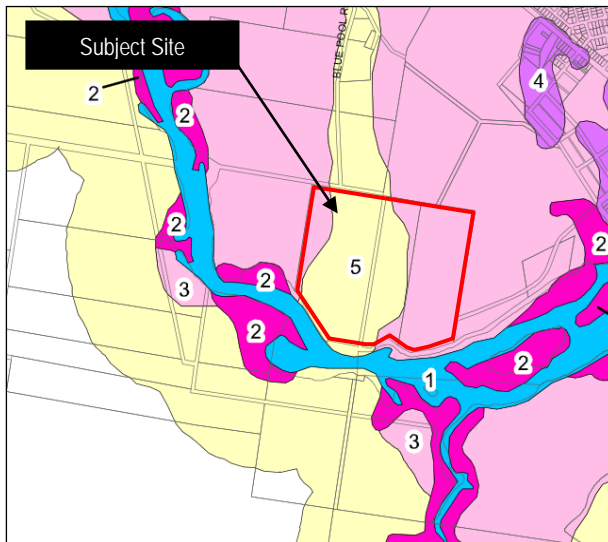


Figure 4 – Acid Sulfate Soils Mapping – Source: RVLEP2012

Acid Sulfate Soils

The site has been mapped as potentially containing Class 3 and 5 Acid Sulfate Soils (See Fig. 4).

Acid sulfate soils are addressed at Section 3.4 and in **Appendix 2**.

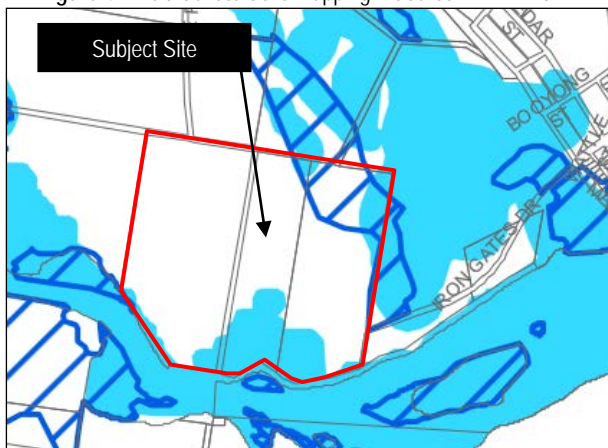


Figure 5 – Wetlands and Waterways Mapping – Source: RVLEP2012

Wetlands, Riparian Lands, Waterways and Key Fish Habitat

The site contains mapped potential fish habitat and wetland areas (See Fig. 5). An assessment of the proposal's potential impact on these waterways and wetlands has been provided within **Appendices 5 and 6**.

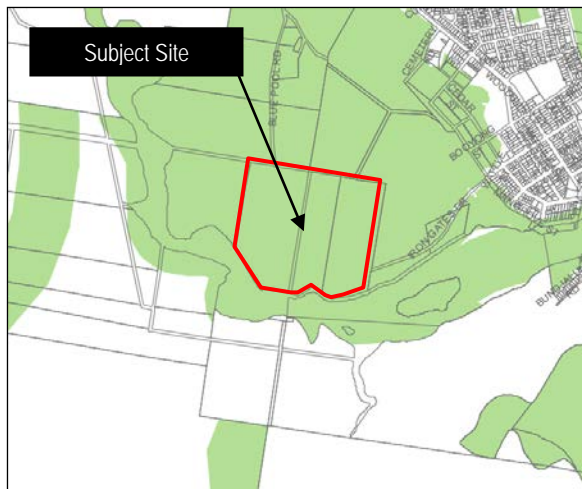


Figure 6 – Biodiversity Mapping – Source: RVLEP2012

Biodiversity

The land contains areas of remnant native vegetation and is mapped within a biodiversity value area under the Richmond Valley LEP 2012 (See Fig. 6). The proposed development footprint is contained largely within the cleared areas of the site. An assessment of the proposed development and its impact upon the biodiversity values is discussed throughout this report. A Flora and Fauna Impact Assessment has been carried out and is contained within **Appendices 5 and 6**.

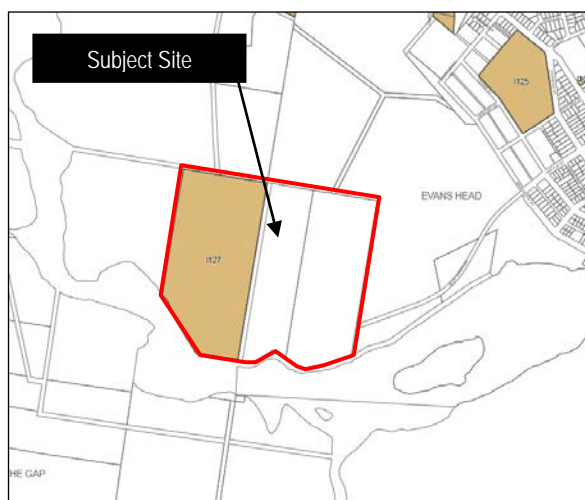


Figure 7 – Heritage Mapping – Source: RVLEP2012

Heritage

The site is identified to contain a local heritage item, being "Paddon Grave, Iron Gates (Ref No. 1127)". The site also contains a midden (See Fig. 7). A Cultural Heritage Assessment has been completed for the development and is contained at **Appendix 8**.

1.3 APPROVALS SOUGHT

Approval for the proposed subdivision, subdivision work and upgrading of Iron Gates Drive is sought pursuant to Part 4 of the *Environmental Planning & Assessment Act 1979*. Approvals relating to Section 68 of the *Local Government Act 1993* are to be conditioned as part of the approval. An application under Section 138 of the *Roads Act 1993* for upgrading of Iron Gates Drive will be lodged with the Construction Certificate Application.

Designated Development

The works are not considered to be Designated Development as defined under Schedule 3 of the *Environmental Planning & Assessment Regulations 2000*.

Integrated Development

- For the purposes of regionally significant development, the amended Development Application is integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act, 1979* (as amended) on the basis that the following integrated approvals are required.
- NSW Rural Fire Service pursuant to Section 100B of the *Rural Fires Act 1997*;
- National Park & Wildlife Service under Section 87 and 90 of the *National Park & Wildlife Act*;
- NSW Office of Water pursuant to Sections 89, 90 and 91 of the *Water Management Act 2000*; and
- NSW Department of Planning, Industry & Environment – Crown Lands pursuant to Section 138 of the *Roads Act 1993*

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Upgrade work is proposed on Iron Gates Drive, however this does not trigger the integrated development provisions because RVC is the consent authority and road authority.

Regional Development

The original Development Application and this revised Development Application are Regionally Significant Development pursuant to Clause 8 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore, the Northern Regional Planning Panel is the consent authority.

1.4 ADVERTISING / NOTIFICATION

The amended proposal seeks to create One Hundred and Seventy Five (175) Residential Lots; Three (3) Residue Lots; Four (4) Public Reserves; One (1) Drainage Reserve; One (1) Sewer Pump Station Lot; Upgrading of Iron Gates Drive; Demolition of Existing Structures Onsite; Subdivision Work including road works, drainage, water supply, sewerage, landscaping and embellishment work and street tree planting in one (1) stage. In accordance with Council's policy, the original development proposal was publicly notified. The applicable fees have been paid with the original Development Application.

1.5 HISTORY

The site has historically been identified and zoned for residential purposes.

In 1998, Richmond Valley Council granted development consent to the residential subdivision of the site under Development Application No. 111/1988. This consent lapsed before any significant works had commenced on the land. However, in 1993 Richmond Valley Council granted a new consent under Development Application No. 149/92 for the creation of one hundred and ten (110) residential lots on the site. Subdivision works associated with this development approval had commenced in the mid 1990's including the construction of roadways and drainage services.

In addition to these subdivision works, construction of Iron Gates Drive, which would provide access to the site from the Evans Head urban area was also undertaken. The construction of Iron Gates Drive was approved by Richmond Valley Council under Development Consent No. 110/88

An order was subsequently given to a previous entity of the site to cease works and restore the land. To date, no further subdivision works have been undertaken on the land.

DA2015/0096 was lodged on 27 October 2014.

1.6 Request for Further Information No. 1 and 2

On 18 November 2014 (No. 1) and 15 December 2014 (No. 2) Richmond Valley Council requested the applicant to provide further information. On 23 October 2015, Planit Consulting provided a letter to Council on behalf of Goldcoral Pty Ltd. The letter includes the following attachments:

- ♦ Attachment A- Revised Development Plans
- ♦ Attachment B- Revised Flora & Fauna Report
- ♦ Attachment C- Revised Engineering Impact Assessment & Plans
- ♦ Attachment D - Revised Heritage Impact Assessment
- ♦ Attachment E - Biting Insect Impact Assessment
- ♦ Attachment F - Bushfire Impact Assessment
- ♦ Attachment G- River Foreshore Reserve Concept Plan
- ♦ Attachment H - Demolition Plan
- ♦ Attachment I - Public Submissions Review Table
- ♦ Attachment J - NOW Comments
- ♦ Attachment K- Review of NSW Coastal Design Guidelines
- ♦ Attachment L - Riparian Offset Plan
- ♦ Attachment M- SEPP 71 Draft Master Plan

The letter includes a response to issues raised by Council, State Agencies and Public Submissions.

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1.7 Request for Further Information No. 3

On 1 March 2016, Richmond Valley Council requested the applicant to provide further information. On 20 May 2016, Planit Consulting Pty Ltd provided a letter to Council responding to the issues raised. Appended to the letter were amended Engineering Plans and an Engineering Response from Arcadis dated 11 May 2016.

1.8 Request for Further Information No. 4

An Addendum to the original Statement of Environmental Effects (August 2018) was submitted to Richmond Valley Council on 10 September 2018. On 7 November 2018, Council requested further amended documentation.

1.9 Request for Further Information No. 5

A revised Development Application Form and revised Statement of Environmental Effects were submitted to Richmond Valley Council on 17 January 2019. On 18 February 2019, Richmond Valley Council forwarded a letter dated 18 February 2019 to DAC Planning Pty Ltd (which includes a letter from Council's Consulting Town Planner dated 2 February 2019) requesting that the application be further revised to ensure that the Statement of Environmental Effects and Appendices are current, consistent and comprehensive. This revised Statement of Environmental Effects and Appendices addresses the issues raised by Council.

This revised Development Application, Statement of Environmental Effects and Appendices provide a consolidated response to the issues raised in the RFI's.

2 – Proposed Development

2.1 REVISED DEVELOPMENT APPLICATION

We have been instructed by Goldcoral Pty Ltd to prepare a revised DA2015/0096 in relation to amendment of the subdivision layout, upgrading of Iron Gates Drive carriageway and clearing of certain vegetation within the road reserve.

We attach, at **Appendix 9**, a legal opinion from Mills Oakley dated 16 October 2016 confirming that the applicant can seek approval for the carrying out of works within the Iron Gates Drive road reserve as part of the existing Development Application.

On 7 November 2018, Council agreed to accept an earlier version of the amended Application (Addendum SEE, August 2018), subject to a number of conditions.

In accordance with Clause 55 of the Environmental Planning and Assessment Regulation 2000, the applicant hereby requests Council to agree to the proposed amendments to DA2015/0096 as described in this revised Statement of Environmental Effects and Appendices. The following table describes the key variations between the original Development Application and this revised Application.

TABLE 1 – KEY VARIATIONS TO ORIGINAL DA	
Original DA2015/0096 Lodged on 27.10.2014	Revised DA2015/0096 July 2019
1. Iron Gates Drive No upgrading work proposed.	Upgrading of Iron Gates Drive proposed.
2. Subdivision Layout To assist in understanding the extent and location of the proposed layout changes, the original Plan of Subdivision (Planit), Rev 3, 7 October 2014 and Zoning Plan (Planit), Rev3 7 October 2014 are attached at Appendix 17 .	The amended Subdivision Plans are at Appendix 1 . Key changes include: <ul style="list-style-type: none">• Changes to the street alignments.• Changes to the lot layout.• Changes in lot numbers and lot numbering (no change in development footprint).

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TABLE 1 – KEY VARIATIONS TO ORIGINAL DA	
Original DA2015/0096 Lodged on 27.10.2014	Revised DA2015/0096 July 2019
	<ul style="list-style-type: none"> All relevant plans and specialist reports have been updated to 2019. Appendix 1 Iron Gates Drive Engineering Plans retain the original 2017 date as does the Iron Gates Drive Bushfire Report at Appendix 4. The detail level and survey plan at Appendix 10 also retains the previous 2014 date as these documents have not changed.
3. Development Description Proposed One Hundred and Eighty Six (186) Subdivision including: · One Hundred and Seventy Eight (178) Residential Lots; · Three (3) Public Reserve Lots · Two (2) Fire Trail Lots · Three (3) Residue Lots	Proposed One Hundred and Eighty Four (184) Lot Subdivision including: <ul style="list-style-type: none"> One Hundred and Seventy Five (175) Residential Lots; Three (3) Residue Lots Four (4) Public Reserves One (1) Drainage Reserve One (1) Sewer Pump Station Lot Upgrading of Iron Gates Drive Demolition of Existing Structures Onsite Subdivision Work including earthworks, road works, drainage, water supply, sewerage, vegetation removal, landscaping and embellishment work, street tree planting and development within a midden scatter and retention of the main midden in situ.
4. Land to which Application Relates Lot 163 in Deposited Plan 831052 and Lots 276 and 277 in Deposited Plan 755624, Iron Gates Drive, Evans Head NSW	Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lots 163 DP 831052 and Lot 276 DP 755724, Crown Foreshore Reserve and Iron Gates Drive, Evans Head NSW.
5. Evans River Crown Foreshore Reserve Embellishment See Waterfront Layout Plans at Appendix 22	See revised Landscape Plans at Appendix 7 . Higher level of foreshore embellishment proposed.
6. Specialist Reports and Plans 2014	Revised Reports and Plans 2014, 2017 and 2019.
7. Draft SEPP71 Master Plan dated 06/04/18	Revised SEPP71 Master Plan dated 27/06/19, Rev O

The amended proposal seeks to obtain the appropriate approvals to enable the residential subdivision of the site and utilise existing infrastructure where possible. No works are proposed to be undertaken on the site under any former development consent.

The amended development proposal involves the following key elements:

- One Hundred and Seventy Five (175) Residential Lots;
- Three (3) Residue Lots – proposed Lots 176 and 177 (littoral rainforests) will be retained in private ownership and managed as conservation land. The residue lots will be retained in private ownership.
- Four (4) Public Reserves – these lots will be dedicated to RVC
- One (1) Drainage Reserve
- One (1) Sewer Pump Station Lot – this lot will be transferred to RVC
- Upgrading of Iron Gates Drive
- Demolition of Existing Structures Onsite
- Subdivision Work including earthworks, road works, drainage, water supply, sewerage, vegetation removal, landscaping and embellishment work, street tree planting and development within a midden scatter and retention of the main midden in situ.

Full details of the proposal are contained in the Application Plans and Appendices.

It is proposed that the subdivision will be constructed as one stage, with construction planned to be commenced in early 2020, subject to obtaining all relevant approvals. The estimated cost of the original development was \$11,395,333.00 and the estimated cost of the proposed Iron Gates Drive upgrade is \$618,200.00. The total estimated cost is \$12,013,533.00

In support of this request to amend the Development Application, the revised Reports and Plans in the Appendices are provided.

2.2 IRON GATES DRIVE

As indicated in the letter attached at **Appendix 9** from Mills Oakley, the site is bushfire prone land. In order to implement a Bushfire Safety Authority, upgrading of Iron Gates Drive is required. The work will involve (along the whole stretch of Iron Gates Drive, other than the mapped SEPP14 wetland areas) the following:

- ♦ Clearing the full road reserve width (20m) of vegetation/trees (generally native plants other than SEPP14 areas);
- ♦ Widening the existing 6m to 6.5m pavement (ie. the carriageway for vehicles) to 8m;
- ♦ Installing traffic management devices such as reflective road markers and (in some locations) signage.
- ♦ Trim branches overhanging the road reserve in the SEPP14 areas (see letter from Mills Oakley dated 23 October 2016 at **Appendix 9**.)
- ♦ As indicated on the plans, the upgrade work is limited to shoulder widening and pavement sealing. No earthworks are proposed or required to widen the road formation and no widening of culverts is required.

Access to the site will be achieved via Iron Gates Drive. Iron Gates Drive was constructed in the road reserve alignment in the mid 1990's.

Iron Gates Drive is entirely contained within the E3 Environmental Management zone under Richmond Valley Local Environmental Plan 2012 (RVLEP2012) as shown on **Figure 8**.

On 30 August 2016, an Officer of the Council advised that Richmond Valley Council (RVC) is the roads authority for the road, however, all construction within the road has never been formally accepted by Council as an asset.

Issues in relation to upgrading of Iron Gates Drive, trimming vegetation in the SEPP14 wetland and the legal status of Iron Gates Drive are addressed in the legal advice at **Appendix 9**. In summary, Mills Oakley advise that:

- ♦ Trimming of vegetation does not trigger SEPP14.
- ♦ The applicant can seek approval to carry out the upgrade works on Iron Gates Drive as part of the existing Development Application.
- ♦ In summary, the Wilson Case Orders and Gazettal date for Iron Gates Drive do not change their advice of 26 December 2016.

2.3 LANDSCAPING, REVEGETATION AND REHABILITATION

There are large areas on the site which have historically been cleared of native vegetation. The former subdivision works have also resulted in a number of cleared areas, which have naturally revegetated with native pioneer species (See **Appendix 5**).

Revised Landscape Plans have been prepared to illustrate the proposed planting works throughout the site and embellishment of the Evans River foreshore reserve area and the proposed foreshore public reserves (Lots 181 and 182 - see **Appendix 7**).

On 28 May 2019, Richmond Valley Council provided advice in relation to public furniture standard designs (Park Furniture, Shelters, Equipment, Toilet Blocks, etc.). Those Plans are attached at **Appendix 7**.

In accordance with normal practice, the Consent Authority is invited to impose a condition on the consent requiring the submission and approval of detailed Landscape Plans prior to the issue of a Construction Certificate.

The landscape strategy seeks to use indigenous and native trees in street plantings to create attractive low maintenance residential streetscapes and contribute to the existing native vegetation onsite.

3 - Statutory Assessment

The following provides an assessment of the proposed development in accord with the matters under Section 4.15(1)(a) of the Environmental Planning & Assessment Act, 1979 and the relevant Council controls applying to the subject site.

Section 4.15(1)(a) the provisions of:

3.1 ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

3.1.1 Terrestrial Flora and Fauna Assessment

The Terrestrial Flora and Fauna Assessment at **Appendix 5** (Planit – JWA revised July 2019) addresses the provisions of this Act and concludes that:

"Based on the assessment provided above, Referral to the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) is not required. The proposed action is unlikely to result in a significant impact on any matter of NES. It is concluded that Commonwealth Assessment is not required for the proposed development of the subject site."

3.1.2 Amended Ecological Assessment

The amended Ecological Assessment for the Iron Gates Drive upgrade work at **Appendix 6** (JWA, Version 9, April 2019) also addresses this Act and concludes that:

"Based on the assessment provided above, Referral to the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) is not required. The proposed action is unlikely to result in a significant impact on any matter of NES. It is concluded that Commonwealth Assessment is not required for the proposed development of the subject site."

3.2 S. 5A ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 & FISHERIES MANAGEMENT ACT, 1994

3.2.1 Amended Terrestrial Flora and Fauna Assessment

The amended Terrestrial Flora and Fauna Assessment at **Appendix 5** (Planit – JWA revised July 2019) addresses these Acts and concludes that:

"The assessment concludes that the impacts of the proposed development are unlikely to threaten the viability of any local populations of the nominated species/communities and the proposal did not result in a significant impact. A species impact is therefore not required."

Although the proposed development does not specifically require offsets under the (now superseded) Threatened Species Conservation Act 1995 or the (current) Biodiversity Conservation Act 2016, in addition to the proposed measures to avoid and minimise ecological impacts, direct and potential indirect impacts of the development on the retained Littoral rainforest (including minor pruning/clearing works) and other native vegetation communities will be offset in accordance with requirements of the Biodiversity Offsets Scheme (i.e. under the current Biodiversity Conservation Act 2016).

The Biodiversity Offset Package (accepted by OEH) will include:

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- Rehabilitation of the retained Littoral rainforest including site preparation, weed control, planting locally endemic species and fencing;
 - Protection of the retained Littoral rainforest in perpetuity and continued management under a stewardship agreement (under the Biodiversity Conservation Act 2016); and
 - Acquittal of remaining offset credits via payment to the Biodiversity Conservation Trust Fund.

A SEPP 44 assessment was also conducted which concludes that the site does not contain core koala habitat. A Koala Management Plan is therefore not required.

An assessment against the requirements of the Fisheries Management Act 1994 has determined that the proposed development does not constitute an integrated development. No listed Threatened species or Key Fish Habitats will be impacted, and no marine vegetation will be removed or damaged.

Whilst the Iron Gates development proposal is considered unlikely to significantly affect native flora, fauna or associated habitat, it will result in the minor loss of local habitat for native species through tree removal/vegetation removal.

In this regard recommendations have been included in this report regarding the management of works to minimize disruption to native fauna, minimize damage to retained vegetation and local weed management and revegetation to compensate for minor habitat losses."

The Report also addresses the Fisheries Management Act, 1994 and concludes that:

"An assessment against the requirements of the Fisheries Management Act 1994 has determined that the proposed development does not constitute an integrated development. No listed Threatened species or Key Fish Habitats will be impacted, and no marine vegetation will be removed or damaged."

3.2.2 Amended Ecological Assessment (Iron Gates Drive)

The amended Ecological Assessment for the Iron Gates Drive upgrade work at **Appendix 6** (JWA , Version 9, April 2019) also addresses these Acts and concludes that:

"Results of Assessment of Significance

On the basis of this assessment, it is not considered that the proposed development will result in any significant impacts on any EEC occurring on the Subject Site. A Species Impact Statement would not be required.

The Ecological Assessment Report also addresses the Fisheries Management Act and concludes that:

"No mangroves or saltmarsh vegetation, or any other marine plants, are proposed to be cleared or trimmed. These works will therefore not trigger an integrated development application."

3.3 STATE ENVIRONMENTAL PLANNING POLICIES

3.3.1 State Environmental Planning Policy 14 – Coastal Wetlands

There are no mapped SEPP14 wetland areas on that part of the site proposed for residential subdivision. Mapped SEPP14 wetlands exist on and adjacent to Iron Gates Drive. However, the proposed upgrade work does not involve clearing, draining, filling or levee construction within the mapped wetland and therefore an Environmental Impact Statement is not required. The Iron Gates Drive Amended Ecological Assessment at **Appendix 6** contains the following assessment in relation to SEPP14.

"5.4 Coastal Wetlands – SEPP 14

5.4.1 Introduction

In response to the state-wide degradation of coastal wetlands, the Department of Planning enacted the State Environment Planning Policy (SEPP) – 14 Coastal Wetlands in 1985. The policy aims to "ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State".

5.4.2 Site assessment

SEPP 14 Wetland No. 147 is mapped as occurring on and adjacent to the Iron Gates road reserve (**FIGURE 3**). The proposed works will involve some trimming of branches overhanging the road reserve in the SEPP 14 areas. However, as the proposed trimming does not involve the destruction or removal of any native plants, as defined in clause 7(4), it is not considered that SEPP 14 will be triggered.

5.4.3 Conclusion

Generally, buffers would need to be provided to SEPP 14 land. However, as the subject site is an existing road reserve, buffers are not considered to be applicable to the proposed development. The implementation of the measures provided in **SECTION 4.4** will ensure that any potential indirect impacts on the SEPP 14 wetland are appropriately mitigated."

3.3.2 State Environmental Planning Policy 26 – Littoral Rainforests

The aim of this Policy is to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas, with a view to the preservation of those areas in their natural state. No SEPP 26 mapped vegetation is located on or within 100 metres of the subject site. Littoral rainforest vegetation has been identified within the site however, as noted under **Appendix 5** – revised Terrestrial Flora and Fauna Assessment, this vegetation community is proposed to be retained and managed by the landowner.

3.3.3 State Environmental Planning Policy 44 – Koala Habitat Protection

The Terrestrial Flora and Fauna Assessment at **Appendix 5** concludes that:

"In February 1995 the NSW Department of Infrastructure, Planning and Natural Resources enacted the State Environmental Planning Policy No. 44: Koala Habitat Protection. This Policy 'aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.'

In association with development applications and in areas where the policy applies a number of criteria are to be addressed to determine levels of assessment and to govern management considerations. The steps are as follows:

1. Does the Policy Apply?

Is the land greater than 1 ha in size and located within one of the Local Government areas listed within Schedule 1 of SEPP 44?

Yes. The land is greater than 1 ha in area and located within the Richmond Valley Council Local Government Area which is listed in Schedule 1.

2. Is the land potential koala habitat?

The SEPP defines 'potential koala habitat' as 'areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.' The trees within Schedule 2 are tabulated below:

Scientific Name	Common Name
<i>Eucalyptus tereticornis</i>	Forest red gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus viminalis</i>	Ribbon or manna gum
<i>Eucalyptus camaldulensis</i>	River red gum
<i>Eucalyptus haemastoma</i>	Broad leaved scribbly gum
<i>Eucalyptus signata</i>	Scribbly gum
<i>Eucalyptus albens</i>	White box
<i>Eucalyptus populnea</i>	Bimble box or poplar box
<i>Eucalyptus robusta</i>	Swamp mahogany

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Although eucalypt forest in association with Vegetation Community 3 contains koala trees as listed in the above table, and these trees constitute at least 15% of the total number of trees in the upper or lower strata of the tree component, the extent of clearing is minimal.

The area to be cleared is approximately 1,400 m² and would require the removal of approximately 10 - 15 trees. These are offset through plantings in the open space and or street trees.

3. Is the land core koala habitat?

The SEPP defines 'core koala habitat' means 'an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.'

Whilst the Koala is noted to be present in the locality and scratch marks were present on several eucalypts immediately external to the development footprint, no individuals were recorded within the works zone. With the exception of the scratch marks recorded from the site in 2014, two (2) other records occur from the vicinity of the development footprint (BioNet Atlas of NSW Wildlife 2019):

1. A record to the north of the development footprint from 1990, however this record has a listed accuracy of +/- 1,000 m; and
2. A record to the west of the development footprint from 1989, however this record also has a listed accuracy of +/- 1,000 m.

The assessment of current levels of Koala activity/usage over the site utilising the RG-bSAT in March 2019 (**Attachment 4**) identified areas of "low" level usage outside of the proposed development footprint (i.e. adjacent to the south-western corner). A small number of Koala faecal pellets were recorded under a total of three (3) trees in this portion of the site. As noted by Phillips and Callaghan (2011), where the results of a SAT site returns an activity level within the low use range, the level of use by the Koala is likely to be transitory. It is also noted that none of the faecal pellets recorded were considered to be fresh. The results indicate that a resident/sedentary population is not currently present on the site.

It is considered that koalas may occasionally traverse the site as they move or disperse through the broader locality. However, there are no recent sightings of koalas from the subject site, and the historical records are not considered likely to suggest that a "resident population" of koalas occurs. As such, it is considered that the proposal with respect to its definition under SEPP 44 is not located within land that is core koala habitat.

4. Is there a requirement to prepare a Plan of Management for land containing core koala habitat?

No. It is considered that the site does not contain core Koala habitat as described."

The Iron Gates Drive amended Ecological Assessment at **Appendix 6** concludes that:

"5.5 Koala Habitat Assessment - SEPP 44

5.5.1 Introduction

In response to the state-wide decline of Koala populations the Department of Planning has enacted SEPP-44 Koala Habitat Protection. The Policy aims to "encourage the proper conservation and management of area of natural vegetation that provide habitat for Koalas, to ensure permanent free-living populations over their present range and to reverse the current trend of population decline."

"A number of criteria in the SEPP are to be addressed. These are addressed in the following section.

5.5.2 Site assessment

1. Does the policy apply?

Does the subject land occur in an LGA identified in Schedule 1?

The Subject site occurs in the Richmond Valley LGA, which is listed under Schedule 1.

Is the landholding to which the DA applies greater than 1 hectare in area?

Yes.

2. Is the land potential Koala habitat?

Does the site contain areas of native vegetation where the trees of types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component?

Yes. The Schedule 2 species Swamp mahogany (*Eucalyptus robusta*) occurs on the subject site. Swamp mahogany constitutes > 15% of the total number of trees in the upper strata of vegetation community 4. These areas are therefore considered to represent potential Koala habitat.

3. Is there core Koala habitat on the subject land?

Under SEPP 44 core Koala habitat is defined as 'an area of land with a resident population of Koalas, evidenced by attributes such as breeding females (that is females with young) and recent sightings of and historical records of a population'.

No. Koala populations are known to occur in the locality. However, no evidence of recent Koala activity was recorded in the study area. No females with back young have been recorded within the Study Area. Core Koala habitat is not considered to occur on the site.

4. Is there a requirement for the preparation of a Plan of Management for identified core Koala habitat?

No. In accordance with this SEPP 44 assessment, a KPoM is not required for the subject site.

3.3.4 State Environmental Planning Policy 55 – Remediation of Land

SEPP 55 is a NSW-wide planning approach to the remediation of contaminated land. When considering a Development Application, the consent authority must observe the requirements of SEPP 55.

Under Clause 7, a consent authority must not consent to the carrying out of any development on land unless:

- a) It has considered whether the land is contaminated, and
- b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- c) the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Stage 1 Preliminary Contamination Assessment was undertaken to identify any risks and constraints to the proposal through identification of areas of potentially contaminated land (See **Appendix 2** – Stage 1 Preliminary Contamination Assessment). The assessment determined that potential for contamination on the site was low.

The Stage 1 Preliminary Contamination Assessment at **Appendix 2** contains the following conclusions and recommendations:

"CONCLUSION & RECOMMENDATIONS

Desktop studies revealed that eastern parts of the site and the property adjacent of the Iron Gates development was subject to sandmining activities during the 1970s and early 1980s. As a result there may be potential for the existence of sand mining residues with elevated radiation levels on site that may have been associated with tailings dams from rutile separation processes.

Site investigations were undertaken and surface radiation levels monitored on the Iron Gates site in areas where previous sand mining activities were located are all equivalent to background levels displayed at the three off site background control locations. Surface radiation levels generally varied between 0.00 uSv/Hr to 0.3 uSv/Hr. Some discrete areas displayed levels of 0.4 and 0.5 uSv/Hr however these areas are still below Action Level Criteria for dwellings.

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It is recommended that further surface radiation level monitoring should be undertaken in areas where works are more than 1 metre below current surface levels during construction to determine the presence/absence of contaminated materials in the form of radioactive residues associated with sand mining activities so appropriate management strategies can be developed if required."

3.3.5 State Environmental Planning Policy 71 – Coastal Protection

The site is located within the coastal zone and as such the provisions of SEPP 71 apply. As defined within the SEPP, the site is located within a sensitive coastal location as it is 100m from the mean high water mark of a sea, bay or estuary and within 100m of mapped SEPP 14 Coastal wetlands.

Clause 8 – Matters for consideration

The proposed subdivision has been designed considering the site attributes and constraints. Appropriate measures have been included in the design and will be established at construction stage to minimise potential impact on environmental and scenic values. The subdivision layout will provide new opportunities for public access to Evans River.

A review of the heads of consideration (Section 8) and other key matters listed under the SEPP has been undertaken and is provided below.

Section 8

(a) The aims of this Policy set out in clause 2,

(1) This Policy aims:

(a) To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and

Comment: The proposal seeks to subdivide land which has historically been zoned for urban purposes. All proposed residential lots are contained within the R1 General Residential land use zone boundary.

- Natural Environment

The development footprint has been mainly contained within the R1 Zoned land and on land that has been subject to land clearing and degradation in association with former subdivision works onsite.

The development footprint has been guided by a detailed flora and fauna ecological assessment, which confirmed the land suitable for urban development. Revegetation and rehabilitation works will be undertaken within proposed reserve areas to ensure environmental values are retained. Minor encroachments into the E2 and E3 zones are proposed in areas which are highly disturbed and degraded, as indicated in the Terrestrial Flora and Fauna Assessment at **Appendix 5**.

An average 40m setback has been proposed to the Evans River foreshore. This area will be revegetated and maintained as public open space, promoting usability of the foreshore and visual buffering between the urban footprint.

- Cultural

A detailed Cultural Heritage Assessment has been undertaken for the site. This has included consultation with representatives of the traditional land owners and ongoing community consultation processes. The assessment identified a shell scatter / midden within the south of the site, adjoining the foreshore area. Minor works are proposed over this culturally significant site. Ongoing negotiations are being undertaken regarding the future protection and/or relocation of this shell midden. This is being considered under an Aboriginal Heritage Impact Permit application for the land.

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In addition to the protection of the shell midden, the proposed setback from the foreshore area will ensure views along the river are not impeded by residential development. This will assist in protecting the traditional views towards the foreshore area.

- Recreational

As discussed above, the proposal seeks to establish a public reserve along the river foreshore. This lot will be suitably embellished to promote usability and recreation activity. Details of these facilities are contained in the Statement of Landscape Intent at **Appendix 7**.

- Economic

The proposal will provide for new housing opportunity on the Far North Coast. The proposed subdivision includes a range of residential lot types which will encourage housing diversity and lifestyle choice in the locality and achieve the objectives of the North Coast Regional Plan 2036.

(b) To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: Despite a road reserve currently fronting the river foreshore, there is no opportunity for public access to the river from the site. The proposal seeks to establish a new public open space area fronting this foreshore that will improve access opportunities to the Evans River. An average 40m setback is proposed to this foreshore which is consistent with the NSW Office of Water requirements for development on water front land.

(c) To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: As mentioned above, the proposal creates new opportunities for public access to and along the Evans River foreshore.

(d) To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and

Comment: A Cultural Heritage Assessment has been undertaken as part of the preparation of this Development Application.

This assessment has concluded that the proposed subdivision is unlikely to have any detrimental impact on aboriginal cultural significance and has included a number of recommendations to ensure appropriate management during construction works.

A shell scatter was identified on the site. Subject to the support of the Bandjalang, the shell scatter will be collected and placed in a safe area within the site. An Aboriginal Heritage Impact Permit Application has been submitted (6 July 2015) to National Parks and Wildlife to undertake these works, however the permit has not been issued to date (see **Appendix 8**).

(e) To ensure that the visual amenity of the coast is protected, and

Comment: The proposal seeks to subdivide land which has historically been zoned for residential purposes. Future dwellings constructed on the land will be guided by the existing planning controls which prescribe maximum building height, bulk and scale provisions. A 8.5m building height requirement is applied to the whole site which will ensure any future dwelling on the land will not significantly protrude into the skyline.

As mentioned above, an average 40 meter wide setback from the Evans River waterline is provided and will be landscaped and embellished as part of the proposed works on site. These works will contribute to the protection of the natural amenity of the coastline.

(f) To protect and preserve beach environments and beach amenity, and

Comment: The proposal will not have any impact on beach environments or beach amenity.

(g) To protect and preserve native coastal vegetation, and

Comment: Required clearing works are restricted to highly modified / previously cleared areas. A Flora and Fauna Assessment has been undertaken for the site which confirms that these clearing works will not have any significant environmental impact on flora and fauna species or their habitats.

Landscaping within road reserve and open space areas will also contribute to the existing native vegetation onsite.

(h) To protect and preserve the marine environment of New South Wales, and

Comment: The proposal does not impact upon fish, marine vegetation or estuarine habitats (see Appendices 5 and 6).

(i) To protect and preserve rock platforms, and

Comment: No rock platforms will be impacted by the proposed development.

(j) To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and

Comment: As discussed above the proposed subdivision provides for population growth and economic development without putting the natural, cultural and heritage values of the coastal environment at risk. The proposal is in accordance with the principles of sustainable development.

(k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

Comment: Any future dwellings onsite will be designed in accordance with the general housing guidelines prescribed by Richmond Valley Council's LEP & DCP. These controls include provisions for building setbacks, height and bulk as well as landscaping and infrastructure provision. These controls have been prepared specific to the Richmond Valley LGA and will ensure any future building works are consistent with the natural scenic quality of the area.

(l) To encourage a strategic approach to coastal management.

Comment: The site has been historically earmarked for residential development. The proposal is consistent with the strategic planning for the area, including the North Coast Regional Plan 2036.

(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

Comment: As discussed above the land fronting the Evans River Foreshore Reserve is currently privately owned, which prohibits public access. Two areas will be dedicated as public reserve and embellished. The Evans River foreshore reserve will also be embellished, including the provision of public access.

(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

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Comment: The proposal seeks to establish a new public foreshore open space and access area. A range of public services including picnic and seating areas will be provided to promote recreation activity in this area.

(d) The suitability of development given its type, location and design and its relationship with the surrounding area,

Comment: The proposal is consistent with the relevant land use zone and development provisions. It will provide new housing opportunity on land that has historically been earmarked for this purpose. The proposal is consistent with the strategic planning for the area.

(e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment: As discussed in detail above, appropriate measures have been included in the design to ensure the proposed works and future land use on site will not have any detrimental impact on the amenity of the coastal foreshore. The proposed 40m average setback from the foreshore will ensure overshadowing or view losses of this natural area do not occur.

(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment: Similar to the comments provided above, the proposed subdivision is consistent with the provisions for residential development provided by Richmond Valley Council's LEP and DCP. There will be a significant amount of native vegetation retained along the foreshore and within proposed Lots 176 and 177, which will ensure the natural scenic qualities of the NSW coast are protected.

(g) Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment: A Flora and Fauna Assessment has been undertaken for the site. This report confirms that by limiting the development footprint to the already cleared /low ecological value areas of the site, the proposed development will not create any significant adverse impact on terrestrial biodiversity in the locality. Proposed landscaping and revegetation works consistent with the regrowth vegetation on site will assist in maintaining and regenerating natural habitat in the area. The proposal will have minimal impact on animals and their environments.

(h) Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,

Comment: The proposal will have minimal impact on fish and marine vegetation (see **Appendices 5 and 6**).

(i) Existing wildlife corridors and the impact of development on these corridors,

Comment: The proposal seeks to retain vegetated corridors through the site and along the foreshore to protect wildlife movements. The Flora and Fauna Assessment confirms that the proposal will not have any detrimental impact on wildlife corridors in the area.

(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment: The site is not mapped within a coastal hazard zone. Setting development appropriately back from the foreshore area will assist in minimising the risk of impact from coastal processes.

(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment: The proposal will promote land and water based activity along the coastal foreshore in an area that was previously only accessible by private property. No site specific controls are considered necessary to manage land and water based activities.

(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment: As discussed above, a Cultural Heritage Assessment (**Appendix 8**) has been undertaken as part of the preparation of this Development Application. The recommendations in the report will be complied with.

(m) Likely impacts of development on the water quality of coastal waterbodies,

Comment: The proposal will have minimal impact on water quality. Appropriate measures have been proposed to manage potential water quality impacts such as bio-retention areas, seepage pits and gross pollutant traps as well as erosion and sediment control.

The supporting Engineering Assessment at **Appendix 2** confirms that water quality can be appropriately managed under the revised development scenario.

(n) The conservation and preservation of items of heritage, archaeological or historic significance,

Comment: A local heritage item, being "Paddon's Grave, Iron Gates" is identified approximately 70m west of the development footprint. The Cultural Heritage Assessment confirms that the proposal will not impact this local heritage item.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment: The site has been zoned for residential development for approximately 25 years.

(p) Only in cases in which a development application in relation to proposed development is determined:

(i) The cumulative impacts of the proposed development on the environment, and

Comment: The impacts of the proposal have been identified as short term and manageable. Significant environmental, social and economic benefits would be experienced over a longer period.

(ii) Measures to ensure that water and energy usage by the proposed development is efficient.

Comment: Energy saving measures will be incorporated in future dwelling designs.

Clause 14 – Public Access

The proposed development will not impact upon or prevent access to the coastal reserve as it is wholly contained within private property. The foreshore reserve / open space area (Lots 181 and 182) at the south of the development will be dedicated to Richmond Valley Council for use. Public access will be available to the Evans River frontage.

Despite a road reserve currently fronting the river foreshore, there is no opportunity for public access to the river from within the site. The proposal will establish a new public open space area fronting this foreshore that will improve access opportunities to the Evans River. An average 40m setback is proposed to this foreshore which is consistent with the NSW Office of Water requirements for water front land development.

Clause 15 – Effluent Disposal

Reticulated sewer is accessible for the site and all of the residential allotments are to be connected to Council's sewerage network. Detail of the proposed connection is provided within **Appendix 2**. The proposal is compliant with Clause 15.

Clause 16 – Stormwater

The proposed subdivision layout seeks to maintain the natural drainage regime for the land. Bio-retention areas, ponds and gross pollutant traps are proposed to collect and manage stormwater from the site. Appropriate erosion and sedimentation controls will be implemented during the construction phase (see **Appendix 2**).

Clause 18 – Master plan required before certain consents may be granted

The proposed subdivision is located within a sensitive coastal location as defined by the SEPP. A Master Plan is required pursuant to Clause 18(1) of the Policy.

A revised Master Plan has been submitted to the Department of Planning, Industry and Environment for approval. The revised Master Plan is consistent with this revised Development Application.

In summary, it is proposed that when the Rural Fire Service issue General Terms of Approval for the revised Development Application, the Department of Planning, Industry and Environment can approve the revised Master Plan to enable the Northern Regional Planning Panel to approve the revised Development Application.

3.3.6 State Environmental Planning Policy (Infrastructure) 2007

Division 17, Roads and Traffic contains provisions that are relevant to this application, excluding Clause 104(3) and Schedule 3 which require subdivisions of 200 or more lots where the opening of a public road is proposed or 50 or more lots where the site has access to a classified road or to a road that connects to a classified road (if access is within 90m measured along alignment of connecting road). The subdivision is for less than 200 lots and access is proposed via Iron Gates Drive which is not a classified road. Referral to RMS is therefore not required.

3.3.7 State Environmental Planning Policy (Rural Lands) 2008

A small area (approximately 1 hectare) in the north western corner of Lot 163 DP 831052 is zoned RU1 Primary Production under RVLEP2012 (see **Figure 2**). Relevant clauses of the Policy are addressed in the following table.

TABLE 2 – SEPP (RURAL LANDS) 2008	
CLAUSE	COMMENT
8 Rural Subdivision Principles	
The Rural Subdivision Principles are as follows:	
(a) the minimisation of rural land fragmentation,	The RU1 land will not be fragmented by the proposed development.
(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,	The RU1 land is approximately 500m west of the Residential land and has an area of approximately 1 hectare.
(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,	The land adjoining the Residential zoned land proposed for subdivision is zoned E2 and E3 and is not currently used for primary production. Creation of a residue lot comprising all E2, E3 and RU1 zoned land is proposed (Lot 178, 47.4 hectares).
(d) the consideration of the natural and physical constraints and opportunities of land,	No development is proposed on that part of the site in private ownership zoned E2, E3 or RU1, with the exception of minor road encroachments into the E2 and E3 areas.
(e) ensuring that planning for dwelling opportunities takes account of those constraints.	Dwellings will be built on that part of the site zoned R1 Low Density Residential.

TABLE 2 – SEPP (RURAL LANDS) 2008	
CLAUSE	COMMENT
Note. Under section 9.1 of the Act, the Minister has directed that councils exercise their functions relating to changes in minimum lot sizes under local environmental plans in accordance with the Rural Planning Principles and the Rural Subdivision Principles. Under section 3.33 of the Act, the Minister may also direct a council to prepare a local environmental plan.	
10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings	
(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.	The subject land is zoned part RU1, part R1, part E2 and part E3.
(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes: (a) subdivision of land proposed to be used for the purposes of a dwelling, (b) erection of a dwelling.	This clause applies.
(3) The following matters are to be taken into account: (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).	 The adjoining land to the north and west is currently not used. The highest and best use is considered to be grazing. No significant impact is likely having regard to the limited agricultural capability of adjoining land and likely future uses. No incompatibility is likely to arise. Not applicable, there are no adjoining Rural Residential areas. No specific measures are necessary.

3.3.8 State Environmental Planning Policy (State and Regional Development) 2011

This State Environmental Planning Policy nominates a range of developments for which the Minister is the consent authority (or the Independent Planning Commission as delegate of the Minister) or determination is to be made by Regional Panels depending on the class of development (type of use and value) and certain developments on specified sites. Relevant parts of Clause 8 of the Policy are in the following terms:

"8 Declaration of State significant development: section 4.36

- (1) *Development is declared to be State significant development for the purposes of the Act if:*
 (a) *the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and*
 (b) *the development is specified in Schedule 1 or 2."*

The proposal is not a State Significant Development or Infrastructure as mandated by Schedules 1, 2, 3 or 4.

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Part 4 of the Policy deals with Regional Development, for which the Joint Regional Planning Panel (JRPP) is the consent authority. Clause 20 of the SEPP identifies Regional Development as development described in Schedule 7 of the Policy.

The following **Table 3** addresses Schedule 7.

TABLE 3 – SCHEDULE 7 REGIONALLY SIGNIFICANT DEVELOPMENT – SEPP STATE AND REGIONAL DEVELOPMENT	
CRITERIA	COMMENT
Schedule 7 Regionally significant development	
2 General development over \$30 million	
Development that has a capital investment value of more than \$30 million.	The development does not have a CIV of more than \$30 million (original DA estimated CIV \$11,395,333 + Iron Gates Drive upgrades \$618,200 = \$12,013,533).
3 Council related development over \$5 million	
Development that has a capital investment value of more than \$5 million if: (a) a council for the area in which the development is to be carried out is the applicant for development consent, or (b) the council is the owner of any land on which the development is to be carried out, or (c) the development is to be carried out by the council, or (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).	Council is not the applicant. Council is owner of the Iron Gates Drive road reserve. The development is not being carried out by the Council. Not applicable.
4 Crown development over \$5 million	
Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million.	The proposal is not a Crown development.
5 Private infrastructure and community facilities over \$5 million	
Development that has a capital investment value of more than \$5 million for any of the following purposes: (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities, (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.	The proposal has a CIV of more than \$5 million. The proposed development is not caught by any of the categories in Subclauses (a) or (b). Not applicable.
6 Eco-tourist facilities over \$5 million	
Development for the purpose of eco-tourist facilities that has a capital investment value of more than \$5 million.	The proposed development is not for the purpose of eco-tourist facilities.
7 Particular designated development	
Development for the purposes of: (a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or (b) marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or (c) waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.	The proposed development is not designated development.
8 Coastal subdivision	
(1) Development within the coastal zone for the purposes of subdivision of the following kind:	The site is located within the coastal zone.

TABLE 3 – SCHEDULE 7 REGIONALLY SIGNIFICANT DEVELOPMENT – SEPP STATE AND REGIONAL DEVELOPMENT	
CRITERIA	COMMENT
<p>(a) subdivision of land for any purpose into more than 100 lots, if more than 100 of the lots will not be connected to an approved sewage treatment work or system,</p> <p>(b) subdivision of land for residential purposes into more than 100 lots, if the land:</p> <p>(i) is not in the metropolitan coastal zone, or</p> <p>(ii) is wholly or partly in a sensitive coastal location,</p> <p>(c) subdivision of land for rural-residential purposes into more than 25 lots, if the land:</p> <p>(i) is not in the metropolitan coastal zone, or</p> <p>(ii) is wholly or partly in a sensitive coastal location.</p>	<p>The proposal is for 184 lots.</p> <p>The site is within a sensitive coastal location (within 100m of the Evans River and within 100m of a SEPP14 wetland).</p> <p>Not applicable.</p>
<p>(2) In this clause:</p> <p>coastal zone has the same meaning as in the Coastal Management Act 2016.</p> <p>metropolitan coastal zone means that part of the coastal zone between the northern boundary of the local government area of the City of Newcastle and the southern boundary of the local government area of the City of Shellharbour.</p> <p>sensitive coastal location means any of the following that occur within the coastal zone:</p> <p>(a) land within 100m above mean high water mark of the sea, a bay or an estuary,</p> <p>(b) a coastal lake,</p> <p>(c) a declared Ramsar wetland within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth,</p> <p>(d) a declared World Heritage property within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth,</p> <p>(e) land declared as a marine park or an aquatic reserve under the Marine Estate Management Act 2014,</p> <p>(f) land within 100m of any of the following:</p> <p>(i) the water's edge of a coastal lake,</p> <p>(ii) land to which paragraph (c), (d) or (e) applies,</p> <p>(iii) land reserved under the National Parks and Wildlife Act 1974,</p> <p>(iv) land to which State Environmental Planning Policy No 14—Coastal Wetlands applies,</p> <p>(g) residential land (within the meaning of State Environmental Planning Policy No 26—Littoral Rainforests) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)".</p> <p>subdivision of land does not include a boundary adjustment, a strata subdivision, or a community title subdivision associated with another development that has been approved.</p>	<p>The site is within a sensitive coastal location.</p>
8A Certain coastal protection works	
<p>(1) The following development on land within the coastal zone that is directly adjacent to, or is under the waters of, the open ocean, the entrance to an estuary or the entrance to a coastal lake that is open to the ocean:</p> <p>(a) development for the purpose of coastal protection works carried out by a person other than a public authority, other than coastal protection works identified in the relevant certified coastal management program,</p> <p>(b) development for the purpose of coastal protection works carried out by or on behalf of a public authority (other than development that may be carried out without development consent under clause 19 (2) (a) of State Environmental Planning Policy (Coastal Management) 2018).</p>	<p>Not applicable.</p>
<p>(2) Words and expressions used in this clause have (in relation to coastal protection works) the same meaning as they have in State Environmental Planning Policy (Coastal Management) 2018.</p>	

TABLE 3 – SCHEDULE 7 REGIONALLY SIGNIFICANT DEVELOPMENT – SEPP STATE AND REGIONAL DEVELOPMENT	
CRITERIA	COMMENT
9 Development subject to delays in determination	
Development that has a capital investment value of more than \$10 million but less than \$30 million: (a) for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and (b) that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel, unless the chairperson of the regional panel concerned determines that the delay in determining the development application was caused by the applicant.	The capital investment value is more than \$10 million, however at this stage this clause is not applicable.
10 Development in council areas where development assessment unsatisfactory	
(1) Development within the area of a particular council for particular purposes designated by the Minister by order published on the NSW legislation website. (2) Such an order cannot be made unless the Minister is satisfied that the performance of the council concerned in dealing with development matters has not met applicable performance criteria.	No such orders have been published.

In summary, this application is not State significant development. The proposal is caught by the Regionally significant development criteria contained in Schedule 7 and therefore the Northern Regional Planning Panel is the Consent Authority, for this application.

3.3.9 NSW Coastal Policy 1997

The NSW Government Coastal Policy applies to the land. The proposed development is considered to be consistent with the design and locality objectives of the NSW Government Coastal Policy as discussed in this section.

Natural Environment

Clause 1.2.5 Threatened species

The revised Reports and **Appendices 5 and 6** address this issue.

Clause 1.2.7 Threatening processes

The revised Reports and **Appendices 5 and 6** address this issue.

Clause 1.3.2 Non-point source of pollution

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** addresses this issue.

Clause 1.3.7 Water quality

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** addresses this issue.

Clause 1.3.8 Contaminated stormwater

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** addresses this issue.

Clauses 1.4.5 & 1.4.7 Assessment of coastline development proposals

The development site is not in close proximity to the coastline and is not subject to coastal processes. No development is proposed in, or immediately adjacent to, the Evans River and potential adverse impacts have been avoided and mitigated in the design and siting of the development.

Natural Processes & climate change

Clause 2.1.3 Physical and ecological processes

Physical and ecological processes are addressed in the revised Engineering Services and Civil Infrastructure Report at **Appendix 2**, the Terrestrial Flora and Fauna Assessment at **Appendix 5** and the revised Ecological Assessment at **Appendix 6**.

Clause 2.1.4 Acid sulfate soils

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** addresses this issue.

Clause 2.2.2 Sea level change

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** addresses this issue.

Aesthetic qualities

Clause 3.2.1 North Coast design guidelines (1989)

The proposed development is not inconsistent with the guidelines and in particular, the location principles as the development is not on a headland, ridge or foreshore and will retain existing littoral rainforests and wetlands and provide appropriate treatment of the Evans River foreshore.

Clauses 3.2.2 & 3.2.4 Design to ensure more compact, human scale towns

The site is identified in the North Coast Regional Plan 2036 for Urban development and is zoned for residential development and the proposal is therefore not inconsistent with these Clauses. The proposal is also not inconsistent with the Design and Locational Policies in Appendix C, Table 3 which are relevant to the Development Application in the context of the site location and existing zone.

Cultural heritage

Clause 4.2.3 Aboriginal heritage

Cultural heritage issues are addressed in Section 3.4 and **Appendix 8**.

3.3.10 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Clearing of vegetation ancillary to the proposed subdivision work is required and therefore the provisions of this Policy do not apply because development consent is required for the proposed subdivision and the clearing is ancillary to that development.

Potential impacts arising from vegetation removal and proposed mitigation measure are addressed in the Terrestrial Flora and Fauna Assessment at **Appendix 5** and the amended Ecological Assessment at **Appendix 6**.

3.4 LOCAL ENVIRONMENTAL PLANS

3.4.1 Richmond Valley Local Environmental Plan 2012

The site is zoned part R1 - General Residential, part RU1 – Primary Production, part E2 – Environmental Conservation and part E3 – Environmental Management under the *Richmond Local Environmental Plan 2012* (See **Figure 8**).



Figure 8 – Richmond Valley Local Environmental Plan 2012

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All proposed residential lots and much of the proposed streets are within the R1 General Residential zone. Clause 2.3(2) of the Plan is in the following terms:

"2.3 Zone objectives and Land Use Table

- (1) *The Land Use Table at the end of this Part specifies for each zone:*
 - (a) *the objectives for development, and*
 - (b) *development that may be carried out without development consent, and*
 - (c) *development that may be carried out only with development consent, and*
 - (d) *development that is prohibited.*
- (2) *The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*
- (3) *In the Land Use Table at the end of this Part:*
 - (a) *a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and*
 - (b) *a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.*
- (4) *This clause is subject to the other provisions of this Plan."*

Compliance with the R1 zone objectives is addressed in the following table:

TABLE 4 – RVLEP2012	
CLAUSE	COMMENT
Zone R1 General Residential	
1 Objectives of zone	
<ul style="list-style-type: none"> To provide for the housing needs of the community. 	<p>Direction 2.2 of the NCRP2036 requires Council to deliver greater housing supply. Figure 10 of the Plan indicates that an additional 1550 dwellings will be required in the Richmond Valley Local Government Area by 2036. The Iron Gates site is zoned for residential development and as indicated in the Socio-Economic Impact Assessment at Appendix 18, there is a significant demand for additional housing in the Evans Head area and Iron Gates is the only site which is suitably zoned to enable additional housing to be provided to meet community needs. In this context, the proposed development is consistent with this objective.</p>
<ul style="list-style-type: none"> To provide for a variety of housing types and densities. 	<p>The R1 Land Use Table permits a range of housing types, including dwelling houses and dual occupancies. Having regard to the established predominantly low density residential character of Evans Head, it is considered that a mix of dwelling houses and dual occupancies provides an appropriate variety of housing types. The proposed residential lot sizes are not less than 600m² and therefore potentially all lots could accommodate a dual occupancy.</p> <p>However, because of infrastructure capacity constraints it is anticipated that up to 70 lots could accommodate a dual occupancy. In this context, the proposed development is consistent with this objective.</p>
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	<p>Given the scale of the development (potentially 105 dwelling house and 70 dual occupancies), it is not commercially feasible or practical to provide child care, retail and other facilities to meet the day to day needs of the future residents. Evans Head is conveniently located approximately 1.5 kilometres east of the site and provides all necessary facilities and services to meet the demands of future residents (see SEIA at Appendix 18).</p> <p>In this context, the proposed development is consistent with this objective.</p>
<ul style="list-style-type: none"> To ensure that housing densities are generally concentrated in locations accessible to public transport, employment, services and facilities. 	<p>It is the intention of this objective to locate higher density development, such as multi dwelling housing and residential flat buildings, in locations close to appropriate facilities, that is to say, within the existing Evans Head township.</p> <p>In this context, the proposed development is consistent with this objective.</p>

TABLE 4 – RVLEP2012	
CLAUSE	COMMENT
<ul style="list-style-type: none"> To minimise conflict between land uses within the zone and land uses within adjoining zones. 	All land uses within the R1 zoned land will be residential and therefore no conflicts are likely to arise. Adjoining land is zoned Environmental Protection and is not currently used for any economic purpose. Given the topography of the adjoining land, it is highly unlikely to be used for any purpose which may give rise to any conflicts.

Compliance with the RU1 zone objectives is addressed in the following table:

TABLE 5 – RVLEP2012	
CLAUSE	COMMENT
Zone RU1 Primary Production	
1 Objectives of zone <ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To encourage diversity in primary industry enterprises and systems appropriate for the area. To minimise the fragmentation and alienation of resource lands. To minimise conflict between land uses within this zone and land uses within adjoining zones. To ensure that development does not unreasonably increase the demand for public services or public facilities 	<p>The north western part of the site is zoned RU1, being an area of approximately 1 hectare. The RU1 land will not be developed or fragmented and therefore the proposal is not inconsistent with the RU1 zone objectives.</p>

Compliance with the E2 zone objectives is addressed in the following table:

TABLE 6 – RVLEP2012	
CLAUSE	COMMENT
Zone E2 Environmental Conservation	
1 Objectives of zone <ul style="list-style-type: none"> To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. To prevent development that could destroy, damage or otherwise have an adverse effect on those values. 	<p>Parts of the development footprint are located on land zoned E2 as follows:</p> <ul style="list-style-type: none"> Part of Road 6 comprising approximately 1800m² adjacent to Lots 101, 102, 116 and 145 to 151. Development for the purposes of a road is permissible, with development consent, in the E2 zone. Parts of proposed Lots 181 and 182, being proposed public reserves are also within the E2 zoned land. <p>In addition, part of the Crown foreshore reserve adjoining the Evans River is in the E2 zone.</p> <p>Both RVC and Crown Lands require the foreshore to be embellished to facilitate public recreational use and public access to the Evans River. In this context, it is considered that the proposed embellishment work would be appropriately characterised as development for the purposes of an "environmental facility", which is defined as follows:</p> <p><i>"environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures."</i></p>

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TABLE 6 – RVLEP2012	
CLAUSE	COMMENT
	<p>Development for the purposes of an environmental facility is permissible, with development consent, in the E2 zone.</p> <p>The Terrestrial Flora and Fauna Assessment at Appendix 5 (Figure 4) indicates that Road 6 is within an area of open paddock and cleared land and therefore does not have the values referred to in the objectives.</p> <p>In relation to the foreshore area, Figure 4 of Appendix 5 indicates that this area comprises open paddock/cleared land and littoral rainforest adjacent to the Evans River bank.</p> <p>The Landscape Statement of Intent at Appendix 7 at Figure 3.3 (Riverfront Park Layout) indicates that the proposed embellishment will be located adjacent to Road 6 within the area mapped as open paddock/cleared land. No embellishment is proposed within the shell midden area or the immediate foreshore area.</p> <p>In summary, roads and environmental facilities are permitted in the E2 zone and are not antipathetic to the zone objectives.</p>

Compliance with the E3 zone objectives is addressed in the following table:

TABLE 7 – RVLEP2012	
CLAUSE	COMMENT
Zone E3 Environmental Management	
<p>1 Objectives of zone</p> <ul style="list-style-type: none"> To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values. 	<p>Parts of the development footprint are in the E3 zoned land as follows:</p> <ul style="list-style-type: none"> Part of Road 6 adjacent to Lots 167 to 174 (approximately 1000m²). Part of Road 7 adjacent to Lots 130 and 165 to 167 (approximately 1000m²). Part of Road 11 adjacent to Lots 152 to 157 (approximately 1300m²). Iron Gates Drive upgrade <p>Development for the purposes of a road is permissible, with development consent, in the E3 zone.</p> <p>The Terrestrial Flora and Fauna Assessment at Appendix 5 (Figure 4) indicates that:</p> <ul style="list-style-type: none"> Road 6 comprises mainly open paddock/cleared land with a small area of approximately 900m² mapped as a Eucalypt Forest. Road 7 comprises mainly open paddock/cleared land with a small area of approximately 100m² mapped as a Eucalypt Forest. Road 11 comprises mainly open paddock/cleared land with a small area of approximately 200m² mapped as a Eucalypt Forest. <p>In summary, the Terrestrial Flora and Fauna Assessment at Appendix 5 concludes that the proposed development will not have a significant effect. Roads are permissible, with development consent, in the E3 zone and are not antipathetic to the zone objectives.</p> <p>In relation to the proposed Iron Gates Drive upgrade work, the amended Ecological Assessment at Appendix 6 assesses the potential impacts of the road widening and partially clearing the road reserve and concludes that:</p> <p><i>"With consideration of the proposed amelioration measures, including the purchase and/or retirement of applicable ecosystem credits in accordance with the NSW Biodiversity Offset Scheme, the carrying out of the proposed development is not likely to have a significant effect on threatened species, populations or ecological communities, or their habitats."</i></p> <p>In summary, roads are permissible, with development consent, in the E3 zone and the proposed development is not antipathetic to the zone objectives.</p>

Compliance with the W1 zone objectives is addressed in the following table:

TABLE 8 – RVLEP2012	
CLAUSE	COMMENT
Zone W1 Natural Waterways	
1 Objectives of zone <ul style="list-style-type: none"> To protect the ecological and scenic values of natural waterways. To prevent development that would have an adverse effect on the natural values of waterways in this zone. To provide for sustainable fishing industries and recreational fishing. 	<p>Stormwater runoff from the majority of the site will be discharged to the Evans River via the existing watercourse on the south eastern boundary of the site. No work is proposed or required within the watercourse.</p> <p>Treated stormwater will be piped from the stormwater treatment pond on proposed Lot 183 via the existing underground pipe system and discharged into the watercourse via an existing head wall adjacent to Road 5.</p> <p>A bioswale will be constructed adjacent to Road 6 in the south western section of the site to enable stormwater runoff from a small catchment in this area to be treated and discharged to the Evans River by infiltration.</p> <p>The revised Engineering Services and Civil Infrastructure Report at Appendix 2 addresses groundwater, stormwater management, flooding, contamination and acid sulphate soils and includes appropriate measures to avoid and mitigate potential adverse impacts on the Evans River. This includes retaining the riparian rainforest vegetation adjacent to the River bank, constructing Road 6 to provide a “hard” edge and buffer to the riparian area and limiting the extent of foreshore embellishment.</p> <p>The revised Terrestrial Flora and Fauna Assessment at Appendix 5 addresses fisheries habitat issues and concludes that there will be no significant impact.</p> <p>In summary, no development is proposed in or in close proximity to the Evans River and accordingly it is considered that the development is not antipathetic to the W1 zone objectives.</p>

Development standards

Clause 4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

- (a) to ensure that lot sizes have a practical and efficient layout to meet their intended use, and*
(b) to prevent the fragmentation of rural lands.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

The proposed residential allotments have been designed to comply with the 600m² minimum lot size requirement prescribed for the R1 zoned land.

During previous consultations, RVC Officers have advised that Council will accept dedication of Lots 181 and 182 marked as proposed public reserve on the proposed Subdivision Plan at **Appendix 1**.

Except for a small portion of E2 and E3 zoned land which will be utilised as a roadway and foreshore public open space, all portions of RU1, E2 and E3 zoned land have been retained in their existing configuration. The proposed public reserves will be dedicated to Council. In relation to proposed residue Lot 178, the proposed lot achieves the minimum lot size requirement of 40 hectares.

Council is not prepared to accept dedication of Lot 176 (2.201 hectares, zoned E2) and Lot 177 (4.942 hectares, zoned part E2 and part R1).

In relation to proposed Lot 176, there is no minimum lot size applicable to the majority of the lot. A minimum lot size of 600m² applies to a narrow strip parallel to the western boundary of the lot. The narrow strip has an area of approximately 625m² and therefore Lot 176 complies with Clause 4.1.

In relation to proposed Lot 177:

- ♦ There is no minimum lot size applicable to that part of the lot zoned E2.
- ♦ A minimum 600m² lot size applies for that part of the lot zoned R1. The area of R1 land in Lot 177 is well in excess of 600m² and therefore Lot 177 complies with RVLEP 2012.

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The residue Lot 178 has a total area 47.41 hectares and therefore complies with the required minimum lot size of 40 hectares for this land.

4.1B Minimum lot sizes for dual occupancies

This Clause provides that an attached dual occupancy is permissible on a 400m² lot and attached and detached dual occupancy are permissible on a 600m² lot.

All residential lots have areas of 600m² or greater and therefore, in theory, a dual occupancy could be approved on each lot. However, as indicated in the revised Engineering Services and Civil Infrastructure Report at **Appendix 2** there are infrastructure capacity constraints which will limit the number of dual occupancies to 70 lots.

5.3 Development near zone boundaries

(3) This clause does not apply to:

(a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or

(b) land within the coastal zone, or

Comment

Flexible zoning provisions do not apply in the coastal zone.

Clause 5.5 – Development within the Coastal Zone

Clause 5.5 was repealed on 23 March 2018.

5.7 Development below mean high water mark

(1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.

(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

No development is proposed on land below mean high water mark and consistency with the W1 zone objectives and impact mitigation measures for the Evans Rivers are addressed in Table 8.

Clause 5.9 – Preservation of trees or vegetation and 5.9AA Trees or Vegetation not Prescribed by a DCP

These clauses have been repealed.

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

TABLE 9 – RVLEP2012	
CLAUSE	COMMENT
5.10 Heritage conservation	
(1) Objectives The objectives of this clause are as follows: (a) to conserve the environmental heritage of Richmond Valley, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The project will not disturb any item of European heritage and will have a limited impact on a shell midden scatter.

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TABLE 9 – RVLEP2012

CLAUSE	COMMENT
<p>(2) Requirement for consent Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>	<p>Schedule 5 of RVLEP2012 nominates "Paddon's" grave on Lot 163 DP 831052 as Heritage Item No. 1127. No development is proposed on, or in close proximity to, the grave site.</p> <p>The development proposal will disturb a shell midden scatter in the south western part of the site and therefore development consent is required for this work. The revised Aboriginal Cultural Heritage Assessment at Appendix 8 addresses potential impacts and mitigation measures. The work will trigger the integrated development provisions of the Act. As part of the original Development Application an application was lodged with the Office of Environment and Heritage for an Aboriginal Heritage Impact Permit and fees were paid. Further advice is awaited from OEH in relation to processing of the AHIP.</p> <p>Not applicable (the site is not within a heritage conservation area).</p> <p>Not applicable.</p> <p>See comments above.</p> <p>See comments above.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>See comments above.</p> <p>Not applicable.</p> <p>See comments above.</p>

TABLE 9 – RVLEP2012	
CLAUSE	COMMENT
(3) When consent not required However, development consent under this clause is not required if: (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:	Not applicable
(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	This Clause applies to Paddons grave site but is not applicable to Aboriginal cultural heritage. Paddon's grave is located approximately 70m west of the development footprint. Therefore there will be no adverse impact on the grave site.
(5) Heritage assessment The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	See comments above. Not applicable. See comments above. This Clause applies to Paddons grave site but is not applicable to Aboriginal cultural heritage. Given the juxtaposition of the grave site in relation to the development site, a Heritage Management Document is not considered to be necessary.
(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.	Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and consideration not resolved. For the reasons above, a Heritage Conservation Management Plan is not considered to be required.
(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies): (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.	This is a matter for Council to notify the Heritage Council.
(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance: (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.	See comments above in relation to Clause 5.10(2). RVC have to renotify the Aboriginal Land Council and persons previously notified and consulted.

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TABLE 9 – RVLEP2012	
CLAUSE	COMMENT
(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:	Not applicable
<p>(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	Not applicable

Clause 5.11 - Bush fire hazard reduction

Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.

Note.

The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land.

Comment

Not applicable

6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class of land

1

Works

2

*Any works.
Works below the natural ground surface. Works by which the watertable is likely to be lowered.*

3

Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.

4

Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.

5

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

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(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

Comment

The subject land is mapped as part Class 3 and part Class 5 in terms of acid sulphate soils. Excavation more than 1m below natural ground level will be required in the Class 3 land for services.

The Acid Sulphate Investigation and Soil Management Plan Report at **Appendix 2** contains the following comments:

“1.2 Soil Management Plan - Environmental Objectives

As field and laboratory testing by Coffey has indicated low acid generating potential, not actual or potential acid sulfate soil (ASS), specific management measures are not considered necessary for ASS. However, some non-sulphuric actual acidity may be present in soils on site, therefore a Site Specific Soil Management Plan and measures will be adopted to deal with “incidental” acid generation where base materials are excavated, drained or dewatered for periods of greater than 24 hours during construction.

The specific environmental objectives of this Site Specific Soil Management plan are to:

- To prevent acid leachate to groundwater resources;*
- To prevent acidification of storm water; and*
- To prevent acidification of adjacent surface waters.*

A Soil Management Plan is contained at Section 3 of the Report.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:
(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and
(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

Comment

Not applicable.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):

Comment

Not applicable

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
(a) the works involve the disturbance of less than 1 tonne of soil, and
(b) the works are not likely to lower the watertable.

Comment

Not applicable

(7) Despite subclause (2), development consent is not required under this clause for the carrying out of works on land for the purpose of agriculture if:

Comment

Not applicable

6.2 Essential services

Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,

Comment

Water supply issues are addressed in Section 9.1 of Appendix 2 and the Water Supply Assessment at Appendix G of Appendix 2. In summary, sufficient capacity is available.

(b) the supply of electricity,

Comment

Electricity supply is addressed at Section 9.3 of Appendix 2. In summary, supply can be readily provided.

(c) the disposal and management of sewage,

Comment

Sewer supply issues is addressed at Section 9.2 of Appendix 2. In summary sufficient capacity is available.

All residential lots will be connected to the Evans Head reticulated sewerage treatment system.

(d) stormwater drainage or on-site conservation,

Comment

Stormwater Drainage and Management is addressed at Sections 5, 6, 7 and 8 of the Revised Engineering Services and Civil Infrastructure Report at Appendix 2.

(e) suitable road access.

Comment

Iron Gates Drive is a dedicated Council public road and is constructed to a public road standard. Iron Gates Drive provides legal and practical access to the development site. Mills Oakley has provided legal advice regarding Iron Gates Drive in relation to the status of the road, a copy of which is attached at **Appendix 9**.

It is proposed to upgrade Iron Gates Drive as shown in the Engineering Plans at **Appendix 1**.

The proposed internal street network will be constructed by the developer and dedicated to RVC at no cost. The proposed street network will provide legal and practical access to all proposed lots.

Appendix 2 comprises a revised Engineering Services and Civil Infrastructure Report and Engineering Plans of the proposed streets. A Traffic Report is also provided addressing capacity issues in the existing and proposed roads and street network.

The Traffic Report contains the following conclusion:

"Conclusions

Based on the assessment contained within this letter, it is considered that the proposed local road suitably designed to cater for the expected development traffic and there is to be suitable public transport infrastructure to cater for the needs of the local area."

Appendix 1 comprises Engineering Plans addressing the proposed Iron Gates Drive upgrade work to achieve compliance with Planning for Bushfire Protection 2006 in the context of access which is addressed in the revised Bushfire Assessments at **Appendices 3 and 4**.

Ecological impacts of the proposed subdivision roads and upgrading of Iron Gates Drive are addressed in the revised Terrestrial Flora and Fauna Assessment at **Appendix 5** and the revised Ecological Assessment at **Appendix 6**.

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Clause 6.3 - Earthworks

(1) The objectives of this clause are as follows:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

Comment

The proposed subdivision layout has been designed to respond to the natural topography and drainage regime of the land. This was to ensure that the site could utilise the existing drainage channels and minimise potential disruption in the locality. Fill will be imported to the site as indicated in **Appendix 2**.

The backfilling of drains will be undertaken by utilising soil materials currently onsite. Final earthwork requirements and management procedures will be determined at the Construction Certification phase of the project.

(2) Development consent is required for earthworks unless:

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or

Comment

The proposed earthworks are not exempt development.

(b) the earthworks are ancillary to other development for which development consent has been given.

Comment

The earthworks are ancillary to the subdivision DA and subdivision work.

(3) Before granting development consent for earthworks, the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

Comment

Proposed earthworks include cutting, filling and importation of fill material to achieve compliant lot levels in relation to the flood planning level and compliant road geometry.

A retaining wall up to 6.2m high is proposed on the north western side of Road 6 to minimise earthworks on the elevated ridge. A "green wall" concept will be used to minimise visual impacts. Earthworks and retaining walls details are contained in the revised Engineering Services and Civil Infrastructure Report (**Appendix 2**), which also addressed drainage. There is no visual evidence of slippage or instability on the sloping land and as discussed at the meeting with Council Officers on 23 May 2019, further geotechnical work will be undertaken prior to the issue of a Construction Certificate.

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

Comment

The earthworks are required to enable the proposed lots and streets to be created and will not affect the future residential use of the site.

(c) the quality of the fill or the soil to be excavated, or both,

Comment

The revised Engineering Services and Civil Infrastructure Report at **Appendix 2** indicates that the cut material is suitable for fill.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

Comment

The surrounding land is rural in character and is not used for any economic purpose and any impacts are therefore likely to be negligible.

(e) the source of any fill material and the destination of any excavated material,

Comment

Earthworks cut and fill volumes and material to be imported are addressed in Section 3.2 of Appendix 2, which is reproduced as follows:

"3.2 EARTHWORKS QUANTITIES

The Iron Gates earthworks design estimates that earthwork volumes will not be balanced and fill will be imported. Table 3-1 below presents a summary of the estimated earthworks quantities and assume no compaction factors, road boxing or topsoil striping.

Table 3-1 Summary of Estimated Earthworks Quantities

Total Cut Volume (m ³)	Total Fill Volume (m ³)	Balance Volume (m ³)
130,103	194,672	64,569

All imported fill will be sourced from local quarries with the truck haulage route nominated as being Woodburn-Evans Head Road, Woodburn Street, Wattle Street and Iron Gates Drive. The imported material will consist generally of sand fill as well as RMS specification road base and aggregates. It is expected that the earthworks activities will occur over a 16 week period and all fill will be placed in accordance with AS3798 under level 1 supervision, with all unsuitable material removed from the site."

(f) the likelihood of disturbing relics,

Comment

As indicated above, the development will not impact on Paddon's Grave, however the shell midden will be impacted. Mitigation and management measures are addressed in the revised Aboriginal Cultural Heritage Assessment at **Appendix 8**.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,

Comment

Drainage of the development site is such that no direct runoff will occur into the adjacent SEPP14 wetlands to the east and all runoff will be contained within the estate and piped, via a water quality control pond, to the existing watercourse discharging to the Evans River. A small catchment in the south western part of the site will be treated in a bioswale and discharged to the Evans River by infiltration.

The revised Reports within the Appendices address potential impacts on the watercourse, drinking water catchment and environmentally sensitive areas. In summary, potential impacts have been avoided in the design of the subdivision and unavoidable impacts will be mitigated by appropriate offsetting..

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

See comments above.

6.5 Flood planning

(1) The objectives of this clause are as follows:

(a) to minimise the flood risk to life and property associated with the use of land,

-
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
(c) to avoid significant adverse impacts on flood behaviour and the environment.

Comment

The subject site contains land mapped below Council's Q100 flood level (See Fig. 3 of this report).

The proposed subdivision layout has been designed to respond to the natural topography and drainage regime of the land. This was to ensure that the site could utilise the existing natural drainage channels and minimise potential disruption in the locality. Filling of some building envelopes will be required to ensure they are above Richmond Valley Council's Q100 flood planning level.

Flood management is discussed in **Appendix 2** – revised Engineering Services and Civil Infrastructure Report.

The design flood level is RL 3.1m AHD and the proposed fill level is RL 3.3m AHD. A habitable floor level of RL 3.6m AHD is proposed which achieves the 500mm freeboard above the design flood level.

(2) This clause applies to land at or below the flood planning level.

(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:

a) is compatible with the flood hazard of the land, and

Comment

See comments above.

(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

Comment

See comments above.

(c) incorporates appropriate measures to manage risk to life from flood, and

Comment

See comments above.

(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

Comment

As indicated in the comments above, appropriate erosion and sedimentation control measures will be implemented during the construction phase and no new stormwater outfalls are proposed to the Evans River. Water quality control facilities will be incorporated into the permanent drainage system and no disturbance of the riparian vegetation adjacent to the Evans River is proposed.

(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Comment

Given the proposed design of the subdivision and infrastructure arrangements and existing and proposed access arrangements in a flood event, it is considered that unsustainable social and economic costs are unlikely to arise.

(5) In this clause, flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Comment

The FPL nominated in the DA is RL 3.6m(AHD).

The design flood level is RL 3.1m AHD and it is proposed to fill the residential lots to RL 3.3m AHD. For slab on ground dwellings it is normally a requirement that the minimum floor level be 300mm above the natural ground level which achieves a flood planning level of RL 3.6m AHD incorporating 500mm of freeboard above the design flood level.

6.6 Terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by:

(a) protecting native fauna and flora, and

(b) protecting the ecological processes necessary for their continued existence, and

(c) encouraging the conservation and recovery of native fauna and flora and their habitats.

Comment

The revised Terrestrial Flora and Fauna Assessment at **Appendix 5** and the revised Ecological Assessment at **Appendix 6** conclude that the proposed development will have no significant impact.

(2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.

Comment

The subject land is mapped as having biodiversity values (see **Figure 6**).

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether the development:

(i) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

Comment

The subject site is mapped as having biodiversity value (See **Fig. 6** of this report). An assessment of the proposed development against the provisions of clause 6.6 of the Richmond Valley LEP 2012 is provided at **Appendix 5 – Terrestrial Flora and Fauna Assessment** and **Appendix 6 – Amended Ecological Assessment**.

The Reports confirm that by limiting the development footprint to the already cleared / low ecological value areas of the site, the proposed development will not create any significant adverse impact on terrestrial biodiversity in the locality. Proposed landscaping and revegetation works consistent with the regrowth vegetation on site will assist in maintaining and regenerating natural habitat in the area. The proposed development is consistent with this clause.

(ii) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

Comment

See comments above.

(iii) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

Comment

See comments above.

(iv) is likely to have any adverse impact on the habitat elements providing connectivity on the land, and

Comment

See comments above.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

Mitigation measures include:

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-
- ♦ Limiting the development footprint to the urban zoned land with very limited infrastructure in the E2 and E3 zones, limiting vegetation removal on the Evans River foreshore and within Iron Gates Drive.
 - ♦ Retaining the two littoral rainforest areas (Lots 176 and 177) together with appropriate ongoing management.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

Comment

As indicated above, the development has been designed and sited to avoid adverse impacts.

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

Comment

The development has been designed to avoid high conservation value vegetation removal (littoral rainforests or wetlands) and minimise disturbance of the Evans River foreshore riparian area. Perimeter streets on the northern, western and southern boundaries of the residential lots will minimise edge effects and provide compliant bushfire access protection zones and access.

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

The littoral rainforest areas and Evans River riparian area will be managed to ensure that infrastructure and human activities in these areas are minimised by way of appropriate signage.

6.7 Landslide risk

(1) The objectives of this clause are to ensure that development on land susceptible to landslide:

- (a) matches the underlying geotechnical conditions of the land, and*
- (b) is restricted on unsuitable land, and*
- (c) does not endanger life or property.*

(2) This clause applies to land identified as “Landslide risk” on the Landslide Risk Map.

Comment

The land is not mapped as a landslide risk. A Geotechnical Report for the hillside to be excavated will be undertaken prior to the issue of a Construction Certificate.

Clause 6.8 Riparian land and watercourses

(1) The objective of this clause is to protect and maintain the following:

- (a) water quality within watercourses,*
- (b) the stability of the bed and banks of watercourses,*
- (c) aquatic and riparian habitats,*
- (d) ecological processes within watercourses and riparian areas.*

Comment

The site contains land mapped as Riparian Land and Waterways (key fish habitat) (See **Fig. 5** of this report).

A revised Terrestrial Flora and Fauna Assessment has been prepared to supplement this proposal (refer to **Appendix 5**). This report notes that it is highly unlikely that the site provides any key fish habitat in the south as this portion of the site is significantly elevated from the river.

(2) This clause applies to land identified as “Key Fish Habitat” on the Riparian Land and Waterways Map.

Comment

Land in immediate vicinity of mapped fish habitat.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether or not the development is likely to have any adverse impact on the following:

(i) the water quality and flows within the watercourse,

Comment

The revised Terrestrial Flora and Fauna Assessment at **Appendix 5** and amended Ecological Assessment at **Appendix 6** address this issue and conclude that adverse impacts are unlikely to arise.

(ii) aquatic and riparian species, habitats and ecosystems of the watercourse,

Comment

See comments above.

(iii) the stability of the bed and banks of the watercourse,

Comment

The existing watercourse on the eastern boundary of the subject land discharging to the Evans River will remain and no works are proposed or required on the watercourse or the outfall to the River.

(iv) the free passage of fish and other aquatic organisms within or along the watercourse,

Comment

The proposed development will not obstruct the passage of fish or other aquatic organisms within the Evans River.

The existing artificial drain on the eastern boundary of the site north of Iron Gates Drive will be filled however, as indicated in the revised Terrestrial Flora and Fauna Assessment at **Appendix 5** no impacts on the Pygmy Perch threatened species are likely to arise.

(v) any future rehabilitation of the watercourse and its riparian areas, and

Comment

Filling of the artificial drain on the eastern side of the site is proposed to enable this area to be used as a bushfire trail.

(b) whether or not the development is likely to increase water extraction from the watercourse, and

Comment

Not applicable.

(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

The design of the development is such that potential impacts have been avoided, however where they cannot be avoided appropriate mitigation measures are identified in the Specialist Reports in the Appendices.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

Comment

See comments above.

(b) if that impact cannot be avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

Comment

See comments above.

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

See comments above.

Clause 6.10 - Wetlands

(1) The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development.

Comment

The site contains land mapped as wetlands (See **Fig. 5** of this report).

The Terrestrial Flora and Fauna Assessment notes that no wetland areas are located within the developmental footprint. The site assessment has determined that the mapped wetland habitat is actually located to the north and east of the site. The proposed development will not impact these areas.

There are no mapped SEPP14 wetlands on that part of the site proposed for urban development. A small triangular area adjacent to the north eastern corner of the urban development footprint is mapped as a wetland. No development is proposed in the wetland area and it will be buffered by proposed streets and a fire trail.

Mapped SEPP14 wetlands exist adjacent to Iron Gates Drive, however no filling, draining, clearing or levee construction is proposed in the wetland. The objectives of this Clause are therefore achieved.

(2) This clause applies to land identified as "Wetland" on the Wetlands Map.

Comment

The land is mapped as wetland on the Wetland Map at Figure 6 however the land is elevated and highly disturbed.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether or not the development is likely to have any significant adverse impact on the following:

(i) the condition and significance of the existing native fauna and flora on the land,

Comment

As indicated in the revised Terrestrial Flora and Fauna Assessment at **Appendix 5** and the revised Ecological Assessment for Iron Gates Drive at **Appendix 6**, no significant adverse impact on flora and fauna is likely to arise as a result of the proposed development.

(ii) the provision and quality of habitats on the land for indigenous and migratory species,

Comment

See comments above.

(iii) the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and

Comment

Appropriate water quality management measures will be implemented including onsite detention basins, bioswales and appropriate erosion and sedimentation controls as outlined in the revised Engineering Services and Civil Infrastructure Report at **Appendix 2**.

Appendix 2 contains a Dewatering Management Plan addressing potential groundwater impacts.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

See comments above.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

Comment

See comments above.

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

Comment

See comments above.

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

See comments above.

6.11 Airspace operations

(1) The objectives of this clause are as follows:

(a) to provide for the effective and ongoing operation of the Casino and Evans Head Airports by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,

Comment

The northern boundary of Lot 277 DP 755624 is approximately 1.3 kilometres south of the southern limit of Runway 36 of the Evans Head Airport, as indicated on the OSL Plan at **Appendix 19**.

RVC have advised for runway #36 the approach Limitation or Operations Surface level is RL 86.5m (AHD) stopping immediately to the north of the development but inside the boundary of Lot 277 DP 755624. Surrounding this Limitation or Operations Surface level is RL 51.5m (AHD) which applies to the land to be developed. Peak existing land level (though that will be reduced) is approx. 22.5m (AHD), therefore the clearance is approx. 29m.

The proposed finished surface contours at the highest point in the north western part of the site are approximately RL 14m AHD (Lot 167).

Assuming dwellings were to be erected on this lot to the maximum allowable height of 8.5m would result in a roof height of approximately RL 22.5m AHD which is well below the allowable OSL of RL 51.5m AHD.

(b) to protect the community from undue risk from that operation.

Comment

Not applicable, the site is below the OSL level of RL 51.5m AHD.

(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.

Comment

Not applicable, see above.

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(3) *The consent authority may grant development consent for the development if the relevant Commonwealth body advises that:*

- (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or*
(b) the development will not penetrate the Limitation or Operations Surface.

Comment

Not applicable, see above.

(4) *The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.*

Comment

Not applicable, see above.

(5) *In this clause:*

Limitation or Operations Surface means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Casino and Evans Head Airports.

Relevant Commonwealth body means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Casino and Evans Head Airports.

Noted.

6.12 Development in areas subject to aircraft noise

(1) *The objectives of this clause are as follows:*

- (a) to prevent certain noise sensitive developments from being located near the Casino and Evans Head Airports and its flight paths,*
(b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

Comment

As indicated on the Evans Head Airport – 2025 ANEF Maps at **Appendix 20** the subject land is well clear of the 20 ANEF Contour.

(2) *This clause applies to development that:*

- (a) is on land that:*
(i) is near the Casino and Evans Head Airports, and
(ii) is in an ANEF contour of 20 or greater, and
(b) the consent authority considers is likely to be adversely affected by aircraft noise.

Comment

The subject land is approximately 1.7km from Runway #36 in a direct line. As indicated above, the 2025 ANEF Contour is well outside the proposed development footprint.

(3) *Before determining a development application for development to which this clause applies, the consent authority:*

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*

Comment

Not applicable.

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(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and

Comment

Not applicable.

(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

Comment

Not applicable.

(4) In this clause:

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Casino and Evans Head Airports prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.

Noted.

3.5 RICHMOND VALLEY DEVELOPMENT CONTROL PLAN 2012 (RVDCP 2012)

The following provides summary comments in regard the relevant parts of the RVDCP 2012.

Part A-Residential Development

Comment

The land is categorised as low medium density – max. dwelling site coverage of 65% permissible, max. dwelling roof coverage of 70% permissible, 30% of allotment to be open space. Max. dual occupancy site coverage of 55% permissible, max. dwelling roof coverage of 70% permissible, 30% of allotment to be open space.

Building line setbacks of 6m to front boundary and 900mm to side and rear boundaries applies. A height of buildings 8.5m and within building height plane applies.

The Bushfire Threat Assessment Report at **Appendix 3** prepared by Bushfire Certifiers Pty Ltd indicates that adjoining public roads and fire trails, open space and setback areas of buildings within allotments mapped as bushfire prone have to be managed as an IPA generally between 27m & 21m wide in perpetuity. Appendix 3 also contains a plan showing compliant building envelopes on each lot.

A further Bushfire Threat Assessment will be required for future residential development on all proposed allotments mapped as bushfire prone.

The floor level of habitable rooms in future dwellings is to be above the 1 in 100 year ARI flood event plus a 500mm freeboard (the Flood Planning Level).

All utility services are proposed to be provided to residential development on all allotments.

Part A - Residential Development

The site is mapped as M1 – Low-Medium Density on Map A4 Evans Head under the Richmond Valley DCP 2012. The proposed subdivision provides for low-medium density sized residential lots, ranging in size from approximately 600m² to 969m².

The proposed lot size and configuration will enable compliant dwelling houses and dual occupancy developments to be designed for each lot.

Part G-Subdivisions

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Comment

The proposed 184 lot subdivision will be carried out in accordance with the requirements of Part G.3 of the Richmond Valley DCP 2012. Compliance with the controls set out within Part G.3 is demonstrated in **Table 10** below.

TABLE 10 – PART G SUBDIVISION	
Part G. 3 – Design standards/controls	Comment
(1) Site Analysis	
A site analysis plan identifies the opportunities and constraints relating to the subdivision pattern and potential end use of the land	Complies – The site has historically been zoned for low-medium density residential purposes. A Site Analysis Plan is provided at Appendix 1 . The Site Analysis Plan informs the subdivision layout. Site constraints have been responded to in terms of the overall subdivision design. See Section 1.2.2 and Appendix 1 – Proposed Subdivision Plans.
(2) Subdivision and Road Design	
(a) Subdivisions should be designed having regard to the environmental constraints of the site	Complies – The proposed subdivision layout has been designed to respond to all site constraints. See Section 1.2.2 and Appendix 1 – Proposed Subdivision Plans and Site Analysis Plan at Appendix 1 .
(b) The road hierarchy of subdivisions should also reflect road function, and should be designed accordingly	Complies – The proposed layout utilises a number of existing informal roadways within the site. All proposed roadways have been designed as Collector (Iron Gates Drive), Local or Minor Local Roads, promoting a low speed traffic environment, where roadways can operate as shared spaces encouraging pedestrian and cycle movements throughout the development and provide suitable bus routes. See Traffic Report at Appendix 2 .
(c) The layout of new roads should be designed so as to: <ul style="list-style-type: none">• provide road links to adjoining properties,• facilitate the use of public transport,• achieve efficient access to all lots,• encourage safe levels of vehicle speed,• provide adequate sight distances (particularly at intersections),• provide efficient access for service vehicles (bushfire and garbage trucks),• provide for safe and functional vehicle and pedestrian movement,• adopt CPTED design principles (refer to Chapter I10), and• provide for landscaping, utility services, driveways, mailboxes,• street lighting, etc.	Complies - All roads within the site have been designed with a view to providing pedestrian friendly localised streetscapes which slow vehicle traffic speeds, while maintaining opportunity for on-street parking and incorporating definitive green edges. The proposed Collector Road (Iron Gates Drive) within the land to be subdivided has been provided with a minimum carriageway width of 11m which incorporates 5.5m travel lanes to support on street parking on either side of the roadway. A reduced verge is provided where this roadway adjoins open space / reserve land (E3 Zoned Land). Local Roads have been provided with a minimum carriageway width of 9m, incorporating 4.5m travel lanes and 3.75m verges. A reduced verge is provided where Local Roads adjoin open space / reserve land (E3 Zoned Land). The Traffic Report at Appendix 2 identifies bus routes, road hierarchy, traffic generation and bus stops.

TABLE 10 – PART G SUBDIVISION	
Part G. 3 – Design standards/controls	Comment
(d) The layout of main roads should follow a reasonably regular configuration to make the subdivision easy to navigate, and should: <ul style="list-style-type: none"> • provide memorable places to aid navigation, • provide people with directional choice to enable traffic to run • smoothly and not confuse or overtly hinder thoroughfare 	Complies - The street network proposed for the site achieves the design principles outlined in the DCP, providing a permeable road network with appropriate connectivity.
(e) Cul-de-sacs should be avoided, but be short in length if utilised	Complies - Only one cul-de-sac is proposed within the subdivision layout. The cul-de-sac is relatively short (approximately 40m), and provides access to five (5) residential lots.
(f) Lots are to be designed to allow the construction of a dwelling which does not involve more than 1 metre cut or fill, measured from natural ground level, outside the dwellings external walls. Geotechnical reports are required for subdividing steep land.	Complies - All residential lots within an identified potential flood area will be provided above the 1 in 100 year flood level. Most lots will be level or have modest slopes with the exception of the north western lots where natural surface slopes of 9% to 11% exist and these lots will be landformed to achieve required road gradients. As indicated in Section 3.4 there are no indications of landslip on the elevated areas and therefore a Geotechnical Report will be provided prior to the issue of a Construction Certificate.
(g) Subdivisions should be designed to minimise impacts on the natural environment and retain significant landscape features	Complies - The subdivision has been designed to minimise impacts on the natural features and environmental qualities of the site. The subdivision layout generally matches the existing natural contours of the land and retains significant core vegetation including littoral rainforest areas.
(h) Subdivisions should incorporate regular sized lots to avoid clashes involving housing character and amenity	Complies - The subdivision layout provides a range of lot typologies and areas which will accommodate a variety of housing types and densities. The majority of lots are circa 600m ² .
(i) It must be demonstrated that each allotment to be created, that is capable of being used for residential or rural residential development, has at least one suitable building site having regard to: <ul style="list-style-type: none"> • flooding, • effluent disposal, • bush fire hazard, • safe, practical, access between the building site and a formed public road, and • readily capable of being connected to infrastructure and services 	Complies - Each lot achieves a minimum lot size of 600m ² , will be located above the 1 in 100 flood line, will be connected to all required utility services, will have direct access to a safe public roadway network and comply with all bushfire planning requirements. The Building Envelope Plan at Appendix 3 shows a complying building envelope for each lot.
(3) Energy Efficiency – Lot Orientation	
(a) Subdivisions should be designed to maximise solar access	Complies - Residential lots have been designed with a general north-south or east-west orientation to maximise solar access.
(b) Where possible roads are to be orientated so that the majority of their length are within the range N20oW to N30oE or E20oN to E30oS	Complies - The proposed road layout utilises a number of existing informal roadways within the site. The road layout generally achieves an orientation within N20oW to N30oE or E20oN to E30oS.

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TABLE 10 – PART G SUBDIVISION	
Part G. 3 – Design standards/controls	Comment
(c) On sloping sites, north-facing slopes improve opportunities for solar access while south facing slopes impose a penalty on solar access. Accordingly, smaller lots should be concentrated on northern slopes and large lots on southern slopes.	Complies - The subdivision layout provides a range of lot typologies and areas which will accommodate a variety of housing types and densities. Allotments will have a northerly aspect.
(4) Density (Minimum Lot Size) and dimensions (Residential)	
Subdivisions are not to produce lots which have areas less than that set out in the Lot Size Map	Complies - All proposed residential lots achieve a minimum of 600m ² .
<i>Battle Axe Lots</i> a) Battle axe allotments are largely to be avoided, except in circumstances to provide access to a small number of allotments which would otherwise be difficult, or cost prohibitive to access by formal road system. b) If a small number of battleaxe lots are utilised, they are required to be larger in size, exclusive of the access handle (i.e. 1000m ² where regular lots are 600-800m ²). c) The handle should have a minimum width of 4.5 metres in areas requiring line-of-sight and should be constructed of concrete at the subdivision stage.	N/A - No battle-axe lots are proposed.
<i>Minimum Frontage</i> a) Allotments should have a minimum frontage to a public road of 15 metres, to be measured at the front boundary building line. b) A subdivision which will involve a lot having vehicular access to a lane will only be permitted after the lot has been substantially developed (i.e. vacant lots off laneways are not to be created), and c) the lot adjoining the lane is to have 2 metres wide frontage fenced and paved to the primary road, to provide for pedestrian access, mailbox, services (water, sewer, electricity, communication).	Complies – All lots have been designed with a minimum frontage of 15m at the front building line with the exception of Lots 104, 105 and 106 in the cul-de-sac (Road 10). These lots are deep and triangular in shape and can readily accommodate a 10m x 15m envelope with a setback of approximately 10m.
<i>Strata/Community Title</i> a) Inspection of existing buildings will be required to ensure compliance with all relevant building and fire regulations standards. b) Certification of all building work, including final occupation certificates, will be required prior to release of the strata/subdivision certificate.	N/A – The proposal does not include strata/community title subdivision.
<i>Dual Occupancy</i> a) Both dwellings within the development must be complete prior to release of the subdivision certificate. As such no vacant allotments can be created. b) Each allotment must comply with BCA requirements for fire separations. c) Each resulting allotment must maintain private open space requirements for each dwelling along with an equitable distribution of communal open space, car parking etc.	N/A – The proposal only seeks to subdivide the land. No dwelling construction is proposed as part of this DA.

TABLE 10 – PART G SUBDIVISION	
Part G. 3 – Design standards/controls	Comment
(5) Services	
<p><i>Urban Areas</i></p> <p>Subdivisions in urban areas are generally required to provide infrastructure to all lots including:</p> <ul style="list-style-type: none"> • road; • footpath; • kerb and gutter; • drainage (including interallotment drainage); • reticulated sewer and water; • telecommunications; • street lighting; and • electricity. 	<p>Complies – see revised Engineering Services and Civil Infrastructure Report at Appendix 2.</p> <p>The report identifies that the development can be adequately serviced by all required utility and road infrastructure.</p>
(6) Stormwater Drainage	
(a) Stormwater drainage shall be designed and provided in accordance with Council's specifications.	<p>Complies - The proposed subdivision layout seeks to utilise existing stormwater infrastructure and natural drainage channels, as well as proposed bio-retention areas and gross pollutant traps to collect and manage stormwater from the site.</p> <p>Backfilling and piping of existing drains will be undertaken as part of the proposed works.</p>
(b) The design details will need to be certified by Council before the drainage is provided, and will need to be completed to Council's satisfaction prior to the issue of the Subdivision Certificate.	<p>Noted - Provision of drainage services is discussed within Appendix 2 – revised Engineering Services and Civil Infrastructure Report and will be designed and certified by a specialist consultant and will form part of the future Construction Certification application.</p>
(c) Stormwater is to be gravity drained to Council's drainage system. In some circumstances inter-allotment drainage and easements over downstream properties may be required. This will necessitate a letter of consent from the owner(s) of the downstream properties to be submitted with the development application	<p>Complies - Provision of drainage services is discussed within Appendix 2. In summary, stormwater runoff will be treated and discharged to the Evans River via the existing watercourse on the south eastern boundary of the site and by infiltration from the bioswale in the south western part of the site.</p>
(d) Drainage from sites should reflect the pre-existing or natural situation in terms of location, quantity, quality and velocity.	<p>Complies – The subdivision has been designed to maintain the natural drainage regime for the site.</p>
(e) Water Sensitive Urban Design principles should be employed, particularly with larger subdivisions.	<p>Complies - The proposal seeks to include bio-retention areas, ponds and gross pollutant traps to manage and treat water quality.</p>

TABLE 10 – PART G SUBDIVISION				
Part G. 3 – Design standards/controls				Comment
(7) Utility Services				
Utility services must be extended to all lots within a subdivision in accordance with the following table (except for common property in community title and strata subdivisions):				Complies – All of the created allotments will be provided with access to reticulated water, sewer, telecommunications and electricity services. These services will be provided underground. For further detail see Appendix 2 – revised Engineering Services and Civil Infrastructure Report.
Utility Service	Urban Area	Rural Residential Area	Rural area	
Council's water main	Yes	No ⁴	No ⁴	
Council's sewer main	Yes	No ³	No ³	
Telephone	Yes ¹	Yes ¹	No	
Electricity	Yes ¹	Yes ¹	Yes ²	
Note. ¹ In greenfield subdivisions these services must be underground. ² Unless the applicant can demonstrate that alternative methods of providing electricity exists or that the provision of this service is cost prohibitive. ³ Subject to demonstrating the capability of the lots to accommodate on-site effluent disposal. ⁴ Each allotment would be serviced by rain water tank to be provided as part of the construction of subsequent development.				
Conditions on the development consent will outline how, when and to what standard, these services are to be provided.				Noted
(8) Erosion and Sediment Control				
(a) Subdivisions should be designed to minimize the disturbance of lands with topographical constraints.				Complies - The proposed subdivision layout has been designed to respond to the natural topography and drainage regime of the land. It also utilises a number of existing informal roadways onsite. This will ensure earthworks are minimised.
(b) Conditions on the development consent will indicate whether erosion and sediment controls will be necessary, and if so, these controls will need to be in place before site works commence. The controls will need to be provided in accordance with Landcom (2004) Blue Book – Managing Urban Stormwater: Soils and Construction.				Complies - Sediment and Pollution controls will be implemented prior to and during works minimising any risk of harm to the environment. See Appendix 2 .
(9) Street Tree Masterplan				
(a) A Street Tree Masterplan will be required for subdivisions on greenfield sites. The Masterplan aims to guide street tree planting, providing for a more appealing streetscape which complements its natural setting.				Complies – The revised Statement of Landscape Intent at Appendix 7 includes a Street Tree Master Plan at Section 3.1.
(b) Planting proposed by the Masterplan is to be determined having regard to: <ul style="list-style-type: none">• site and dwelling boundaries,• location and canopy of existing trees, noting any trees that• overhang the site,• adjacent streets and trees,• any connection to open space networks or proposed public• reserves,• paving materials and drainage• treatment,• details of any existing fencing and walls, and• location of underground services.				Complies - The revised Statement of Landscape Intent at Appendix 7 seeks to use indigenous and native trees in street plantings to create attractive, low maintenance residential streetscapes.

TABLE 10 – PART G SUBDIVISION	
Part G. 3 – Design standards/controls	Comment
(10) Developer Contributions	
In many cases the payment of contributions are required to cover the cost of services and facilities which are provided by Council. These contributions are often levied with subdivision, prior to the issue of the Subdivision Certificate. Contributions levied on developments may include: <ul style="list-style-type: none"> • section 64 contributions under the Local Government Act 1993 for such services as water, sewer and drainage, and/or • section 94A contributions under the Environmental Planning and Assessment Act 1979 which consists of a 1% levee on the cost of the development. 	Noted
Contributions on the development consent will indicate whether these contributions are required.	Noted
The value of these contributions are outlined in Council's Revenue Policy which is available on line.	Noted
(11) Adoption of Northern Rivers Local Government Development Design and Construction Manuals	
The Northern Rivers Local Government Development Design and Construction Manuals are utilised for the design and construction of civil engineering works associated with development approvals. The Manual is contained within 3 volumes being: <ul style="list-style-type: none"> • Development & Design Manual, • Construction Manual, and • Standard Drawings. 	Complies - The proposed development will utilise as much of the existing infrastructure as possible, including roads, stormwater, sewer and water infrastructure. Where necessary, existing infrastructure will be upgraded to ensure it meets the standards of the Northern Rivers Local Government Design and Construction Manuals. Utility infrastructure will be provided via extensions to existing services.

Part H- Environmental Sensitivity and Hazards

- flood planning
The design flood level is RL 3.1m AHD and proposed lots will be filled to RL 3.3m AHD and a minimum floor level of RL 3.6m AHD will apply to habitable buildings. This will achieve the required 500mm freeboard above the design flood level.
- bushfire prone land
See revised Bushfire Assessment at **Appendices 3 and 4**.
- acid sulfate soils or
see revised Engineering Services and Civil Infrastructure Report at **Appendix 2**.
- natural resources in regard to native vegetation, key fish habitat, habitat corridors and wetlands.
These issues are addressed in **Appendices 5, 6 and 12**.

Part I-Other Considerations

Part I1 Heritage

Comment

Part 1-1 – Environmental Heritage

The site is identified to contain a local heritage item, being 'Paddon Grave, Iron Gates (Ref No. I127)' (See **Figure 7** of this report). This item is located outside of the development footprint and will not be impacted by the development.

A Cultural Heritage Assessment has been undertaken as part of the preparation of this Development Application. This assessment has included a process of community consultation and is included in **Appendix 8**. This assessment has concluded that the proposed subdivision is unlikely to have any detrimental impact on aboriginal cultural significance. It has included a number of recommendations to ensure appropriate management during construction works.

A shell scatter was identified on the site. Subject to the support of the Bandjalang, the shell scatter will be collected and placed in a safe area within the site. An Aboriginal Heritage Impact Permit will be required. It should be noted that an application for an Aboriginal Heritage Impact Permit has commenced and will be run concurrent to the DA process. Landscaping around this cultural site is proposed and discussed below.

See comments at Section 3.4.1 in relation to Clause 5.10 of RVLEP2012.

Part I-2 – Development In, On, Over or Under a Public Road

As indicated in Section 2.1, development consent is sought for upgrading work on Iron Gates Drive. The proposed work is detailed in the Engineering Plans at **Appendix 1** and the revised Engineering Services and Civil Infrastructure Report at **Appendix 2**.

A Section 138 Roads Act Application for this work will be submitted with the Construction Certificate Application.

A Traffic Impact Assessment addressing the adequacy of Iron Gates Drive, existing intersections, bus routes and the capacity of the existing road network generally is contained at **Appendix 2**. The Report concludes that:

“Conclusions

Based on the assessment contained within this letter, it is considered that the proposed local road suitably designed to cater for the expected development traffic and there is to be suitable public transport infrastructure to cater for the needs of the local area.”

Part I-5 – Landscaping Guidelines

A revised Statement of Landscape Intent has been prepared to illustrate the proposed planting works throughout the site (See **Appendix 7 – Landscape Plans**). The landscape strategy seeks to use indigenous and native trees in street plantings to create attractive, low maintenance residential streetscapes which are consistent with the existing vegetation in the area.

Revegetation and rehabilitation works will also be undertaken within proposed open space / reserve areas to ensure environmental values are retained. This includes the provision of informal bike trails and public seating areas to promote recreational activity along the Evans River foreshore together with picnic facilities and amenities.

Part I-7 – Noise Impact Assessment

The site is surrounded by undeveloped land and is separated from existing urban areas. The proposed development will not have any detrimental noise impact on adjoining land uses. The proposed road network includes only local roadways and one collector roadway. Noise mitigation from these roadways can be controlled through building setbacks and design.

A noise impact assessment is not considered to be required.

Part I-8– Social Impact

A Socio-Economic Impact Assessment is provided at **Appendix 18**. In summary the Report concludes that:

"9.0 CONCLUSION

Goldcoral Pty Ltd is seeking development consent for 175 residential lots located on Iron Gates Drive, Evans Head NSW.

The proposal has been assessed having regard for the requirements of Richmond Valley Council's guideline for social impact assessment as specified under the Richmond Valley Development Control Plan 2012. The subdivision will add to the local population of Evans Head. The potential impact of the proposed development to local community services (e.g. schools, community facilities) has been assessed. The analysis has found that existing social infrastructure is adequate but it will be important for community service providers to be kept informed of the progress of housing development at the site, in order to prepare for the needs of the incoming population. The relatively isolated location of the proposal from the township itself also poses risks to the future population, however the risk is considered to be manageable, but monitoring of future residents' needs is recommended. This report has assessed social risks and found them to be acceptable, with appropriate mitigation measures.

Potential benefits arising from the development include 211 jobs years arising from construction and 63 additional local jobs when completed. There will also be significant flow on effects both during and after construction, further increasing local economic activity and making significant differences in a region with higher levels of economic disadvantage. Retail spend generated by residents on site would be around \$6.6 million (\$2018) with around 50% to 60% expected to be captured in the local area. The proposed development would provide sources for an increase in retail sales captured by Evans Heads retailers in the order of between \$3.3 to \$3.9 million per annum.

Overall, the proposal is supported."

Part I-9 – Water Sensitive Urban Design

The proposed subdivision layout seeks to maintain the natural stormwater drainage regime across the site. Bio-retention areas, ponds and gross pollutant traps are proposed to collect and manage stormwater before leaving the site.

The revised Engineering Services and Civil Infrastructure Report (refer to **Appendix 2**) includes plans and commentary regarding the proposed stormwater management strategy for the site. Further detail will form part of the future Construction Certification applications.

The proposal achieves the principles for Water Sensitive Urban Design.

Part I-10 Crime prevention through environment design

A Crime Prevention Through Environmental Design Report is contained at **Appendix 21**. Section 6.1 of the Report concludes that the development has been identified as minor crime risk. The recommendations contained in Section 6.0 of the Report will be implemented.

Part I-11 Land use conflict risk assessment

Comment

Given that the site is surrounded by land which is forested and is either vacant or only used for grazing, conflicts are unlikely to arise and therefore a formal assessment is not considered to be necessary.

The revised Terrestrial Flora and Fauna Assessment at **Appendix 5** and Bushfire Assessment at **Appendix 3** address buffers and asset protection zones. In summary, sensitive areas adjoining the development footprint will be buffered by proposed streets or fire trails.

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Part I-12 Context and site analysis

Comment

The Site Analysis Plan at **Appendix 1** and Specialist Reports and Plans in the Appendices identify the key site opportunities and constraints together with existing topographic features. These documents have informed the subdivision design and layout.

Part I-15-Notification and Advertising

Comment

The DA is a Category 'A' development for the purposes of notification and advertising because it is nominated integrated development and potentially impacts on threatened species. The DA exhibition period is 30 days.

The DA is to be notified in a local newspaper and exhibition commences after the date of the newspaper. Formal written notice is to be given to all adjoining landowners. In instances where a development has potential to impact on properties beyond adjoining land RVC may extend notification to potentially affected landowners.

A display notice is to be erected on the land.

3.6 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)

3.6.1 *Integrated*

The DA is integrated development as the General Terms of Approval (GTA) of the following are required prior to determination of the DA:

- NSW Rural Fire Service - s.100B *Rural Fires Act 1997*, relating to bushfire safety
- NSW Office of Environment & Heritage - s. 90 *National Parks & Wildlife Act 1974*, relating to an application for and approval of an Aboriginal Heritage Impact Permit and
- NSW Office of Water - s.89, s. 90 & s. 91 of the *Water Management Act 2000*, relating to water management work or activity (ie. work within 40m of the Evans River and dewatering).
- NSW Department of Planning, Industry & Environment – Crown Lands pursuant to Section 138 of the Roads Act 1993 relating to embellishment work in the Evans River foreshore Crown public road reserve and construction of part of the Crown public road reserve between Lot 163 DP 831052 and Lot 276 DP 755624.

The NSW Office of Environment & Heritage is processing an Aboriginal Heritage Impact Permit under s. 90 *National Parks & Wildlife Act 1974* as part of this integrated development application.

3.6.1 *DA Evaluation Environmental Planning & Assessment Act, 1979 (as amended)*

Section 4.15 of the Act identifies a number of matters which the consent authority is required to take into consideration when determining a Development Application. For completeness, the relevant heads of consideration are addressed in the following sections.

79C Evaluation

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

Comment

All relevant Environmental Planning Instruments are addressed in Sections 3.3 and 3.4 of this Statement of Environmental Effects.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

Comment

Not applicable.

(iii) any development control plan, and

Comment

All relevant provisions of RVCDP2012 area addressed in Section 3.5 of this Statement of Environmental Effects.

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

Comment

No Voluntary Planning Agreement has been entered into and the developer is not offering to enter into a Voluntary Planning Agreement.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

Comment

NSW Government Coastal Policy 1997

The DA was lodged prior to the commencement of *SEPP – Coastal Management 2018* and as a consequence of the savings provisions of cl. 21 is still subject to the provisions of *SEPP No. 71*. Therefore, it is assumed that the NSW Coastal Policy still applies to the land. The Department of Planning Industry and Environment has advised that the *Coastal Management SEPP 2018, in effect*, repealed the Policy. However, in 2014 when the DA was lodged cl. 92 of the Environmental Planning and Assessment Regulation 2000 required consideration of the NSW Coastal Policy. For completeness, the Coastal Policy is addressed in Section 3.3.9 of this Statement of Environmental Effects.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Comment

The likely impacts of the development are addressed in this Statement of Environmental Effects and the Appendices. In summary, the development has been designed to avoid adverse impacts on sensitive areas and mitigate impacts by incorporating water quality devices, erosion and sedimentation control, provision of reticulated sewer and other measures as identified in the Specialist Reports.

(c) the suitability of the site for the development,

Comment

The site is zoned for residential development and the subdivision design has regard to the key site opportunities and constraints and relevant development standards and controls. Subdivision of the land as proposed is consistent with key statutory planning controls and the North Coast Regional Plan 2036 and the layout has been informed by the Specialist Reports and the Appendices.

(d) any submissions made in accordance with this Act or the regulations,

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Comment

Following re-exhibition of the revised Development Application, the consent authority will need to consider any further submissions.

3.7 SUBMISSIONS

Public Submissions

The RFI Response dated 23 October 2015 to Council's Request for Further Information includes a response to the public submissions and Government Agency submissions received in relation to the original Development Application. Relevant issues raised in the submissions have been addressed in this revised Development Application.

Government Agency Submissions

NSW Rural Fire Service

Since submission of the Development Application in October 2014, the Iron Gates project team have been working closely with the NSW RFS to ensure the objectives and provisions of Planning for Bushfire Protection 2006 have been addressed in the reporting and revised design layout.

A BPAD Certified Bushfire Threat Practitioner has been commissioned to review the development proposal and to guide any required changes to the proposed layout to ensure that bushfire risk is appropriately managed on the site. A copy of the Bushfire Impact Assessment is attached at **Appendix 3**.

Changes which have occurred to the proposed development layout to improve bushfire safety onsite include, incorporating perimeter roads around the development site to reduce APZ widths within residential blocks and improve emergency access throughout the site, increased widths to proposed fire trails to improve access and reduce APZs within residential blocks and an upgrade to the western trail into the site for emergency access/evacuation purposes.

The Bushfire Impact Assessment confirms that the proposal complies with the requirements for bushfire management and protection as required under Planning for Bushfire Protection 2006.

NSW Office of Water

The revised development layout has been prepared in accordance with the NOWs Guidelines for Riparian Corridors on Waterfront Land and the NSW Coastal Design Guidelines.

The proposed layout nominates all development outside of any wetland vegetation or mapped SEPP 14 wetland communities. No dwelling will be located within 40m of any intermittent water course. All non-riparian development has been setback an average of 40m from the Evans River foreshore, providing protection to estuarine habitats and the Evans River (**Appendix 7**).

Whilst development is proposed within 40m of a mapped SEPP 14 wetland area, this mapped area has been inspected, which identified that the mapping does not reflect the site vegetation. The area does not display characteristics of a wetland in either physical conditions or vegetation communities, comprising no permanent water, regenerating acacia and or cleared land. Land within this mapping area which did display characteristics of a coastal wetland was identified further to the north, outside of the development site boundaries (see **Appendix 5**).

The updated Flora and Fauna Report confirms that there will be no detrimental impact on wetland communities. It is in this regard that NOW allow a relaxation to the 40m setback requirement from SEPP 14 mapping given that this mapping does not reflect the actual vegetation communities within 40m of the site and that there will be no detrimental impact on nearby wetland communities.

NSW Police

Footpaths will be included within the verge and along one side of all roadways in the development site. Details of these footpaths will be provided at construction certificate stage (as detailed under the Engineering Impact Assessment).

The River Foreshore Reserve has been redesigned to achieve the principles of CPTED (see **Appendix 21**). Parking will be available along the adjoining roadway. The concept design indicates the provision of bbq spaces, toilets and playground facilities, however their final design will be detailed at the construction certificate phase. This will include an electrical and lighting design (see **Appendix 7**).

All houses previously backing onto this reserve area have been removed.

Local Land Services - North Coast

The proposed development footprint is contained largely within the cleared areas of the site and along existing access routes. Areas of significant vegetation have been retained and will be protected within reserve areas.

The proposal has been designed in accordance with NSW Office of Water's recent Riparian Guidelines, achieving an average 40m setback between the foreshore and non-riparian land uses. The provision of perimeter roadways and swales create a transition between the private residential land to the surrounding vegetated areas and will ensure that the proposed residential development does not destroy, damage or otherwise have an adverse effect on ecological values from increased or untreated stormwater flows.

The supporting Flora and Fauna Assessment and Engineering Impact Assessment confirm that the proposal will not have any detrimental impact on significant resources or waterways. The proposal in this regard is consistent with the overarching principles and goals of the Northern Rivers Catchment Action Plan 2013.

Office of Environment & Heritage

An AHIP application was submitted to OEH on 6 July 2015 and it is understood that the application will be processed in conjunction with the revised Statement of Environmental Effects.

Office of Environment & Heritage - ecological

The comments below are provided in relation to the specific matters raised by OEH.

- *Buffers*

The proposal is consistent with the objectives of the land use zones as detailed above.

This matter is further addressed in the Ecological response provided at **Appendix 5**.

- *Bushfire*

A BPAD Certified Bushfire Threat Practitioner has been commissioned to review the development proposal and to guide any required changes to the proposed layout to ensure that bushfire risk is appropriately managed on the site. A copy of the Bushfire Impact Assessment is attached at **Appendix 3**.

Changes which have occurred to the proposed development layout to improve bushfire safety onsite include, incorporating perimeter roads around the development site to reduce APZ widths within residential blocks and improve emergency access throughout the site, increased widths to proposed firetrails to improve access and reduce APZs within residential blocks.

The Bushfire Impact Assessment confirms that the proposal complies with the requirements for bushfire management and protection as required under Planning for Bushfire Protection 2006.

- *Biodiversity Offsets*

This matter is further addressed in the Ecological response provided at **Appendix 5**.

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-
- *Flooding*

This matter has been addressed under the revised Engineering Services and Civil Infrastructure Report at **Appendix 2**.

Department of Defence

The Department of Defence Weapons Range south east of the site within the Bundjalung National Park. It is noted that the existing residential areas of Evans Head South are located closer to this weapons range than the Iron Gates development site and hence the suggested opposition to the proposed development is at odds with the already existing interrelationship of the wider Evans Head township with the bombing range.

The correspondence from the Department of Defence has provided recommendations that development on the site should not impact on the operations of the weapons range. This includes ensuring stormwater management systems are engineered to prevent them acting as preferred bird habitat. No long term detention basins are proposed onsite. The proposed bio retention basins and swales have been designed to drain within less than 48 hours.

Council will need to consider the impact of lighting and use of reflective materials on the operation of the weapons range at Development Application stage for individual dwellings.

The relevant issues raised in the submissions have been addressed in this revised Statement of Environmental Effects. The consent authority will need to consider any further submissions following public exhibition of this revised Development Application.

(e) the public interest.

Comment

The Orders of the NSW Land and Environment Court in relation to a previous Development Application are addressed in the advice from Mills Oakley dated 16 October 2016, 23 October 2016 and 5 March 2019, copies of which are contained at **Appendix 9**.

Figure 17 – Urban Growth Area Map for Richmond Valley LGA contained in the North Coast Regional Plan 2036 identifies the Iron Gates site as an Urban Growth Area. The Plan, at Page 68, identifies the following key objectives for Richmond Valley LGA:

Economy and Employment

- ♦ Deliver new employment opportunities at Casino, Woodburn, Broadwater and Evans Head.

Housing

- ♦ Delivery new housing in Rileys Hill, Evans Head, Woodburn and Casino.
- ♦ Enhance the variety of housing options available in Casino, Evans Head and Coraki and support the unique character of local towns and villages.

Enquiries made to local Real Estate Agents indicate that there is a significant demand for residential lots at Evans Head and development of the site would satisfy this demand and achieve the objectives of the North Coast Regional Plan 2036.

In this context, the development is considered to be in the public interest by contributing to land supply in Evans Head. The proposal will provide a range of residential housing options to assist meeting housing demands. The subdivision layout has been designed to minimise potential environmental impact. In summary, the proposal is considered to be in the public interest.

Ecologically sustainable development Protection of the Environment Administration Act 1991

The following provides summary evaluation comments in regard the DA and the principles of ecological sustainable development established by the objectives of the *Environmental Planning and Assessment Act 1979* and defined by the *Protection of the Environment Administration Act 1991* (identified in *italics*).

(2) For the purposes of subsection (1) (a), ecologically sustainable development requires the effective integration of social, economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

(a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
- (ii) an assessment of the risk-weighted consequences of various options,*

Comment

The design and siting of the project has been informed by the Specialist Reports and Plans in the Appendices and as such will avoid serious irreversible damage to the environment. The “do nothing” option is not appropriate in view of the above.

(b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,

Comment

The developer will meet the capital cost of creating the lots and infrastructure and managing the littoral rainforest in perpetuity. Future owners of the lots will meet the cost of maintaining the proposed and existing infrastructure by way of rates and charges.

(c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,

Comment

The high conservation value littoral rainforests will be retained and managed in perpetuity.

(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:

(i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Comment

The development is designed to ensure that initial and potential ongoing adverse impacts are avoided, minimised and mitigated. Future lot owners will meet ongoing costs for infrastructure and services on an equitable basis consistent with the user pays principle.

3.6 SITE SUITABILITY

The site is zoned for residential purposes and contains land suitable for residential development.

The proposal substantially complies with all State, regional and local Environmental Planning Instruments relevant to the site, and also complies with the NSW Government's and Richmond Valley Council's planning policies.

The site is considered to be suitable for the proposed development.

Integrated Development

The requirement for approvals under the legislation nominated as "integrated" pursuant to Section 4.46 of the EP&A Act 1979 (as amended) are described in **Table 11**.

TABLE 11 – INTEGRATED DEVELOPMENT			
Act	Provision	Approval	COMMENTS
<i>Fisheries Management Act 1994</i>	s 144	Aquaculture permit.	Not applicable.
	s 201	Permit to carry out dredging or reclamation work.	Not applicable.
	s 205	Permit to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease.	Not applicable.
	s 219	Permit to:(a) set a net, netting or other material, or(b) construct or alter a dam, floodgate, causeway or weir, or(c) otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat.	Not applicable.
<i>Heritage Act 1977</i>	s 58	Approval in respect of the doing or carrying out of an act, matter or thing referred to in s 57(1).	No buildings or structures on the site are listed under the Heritage Act and therefore approval under this Act is not required.
<i>Mine Subsidence Compensation Act 1961</i>	s 15	Approval to alter or erect improvements within a mine subsidence district or to subdivide land therein.	Not applicable.
<i>Mining Act 1992</i>	ss 63, 64	Grant of mining lease.	Not applicable.
<i>National Parks and Wildlife Act 1974</i>	s 90	Consent to knowingly destroy, deface or damage or knowingly cause or permit the destruction or defacement of or damage to, a relic or Aboriginal place.	Approval is required to disturb the shell midden scatter.
<i>Petroleum (Onshore) Act 1991</i>	s 9	Grant of production lease.	Not applicable.
<i>Protection of the Environment Operations Act 1997</i>	ss 43 (a), 47 and 55	Environment protection licence to authorise carrying out of scheduled development work at any premises.	No approvals are required under this Act.
	ss 43 (b), 48 and 55	Environment protection licence to authorise carrying out of scheduled activities at any premises (excluding any activity described as a waste activity but including any activity described as a waste facility).	
	ss 43 (d), 55 and 122	Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity.	

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TABLE 11 – INTEGRATED DEVELOPMENT			
Act	Provision	Approval	COMMENTS
<i>Roads Act 1993</i>	s 138	Consent to:(a) erect a structure or carry out a work in, on or over a public road, or(b) dig up or disturb the surface of a public road, or(c) remove or interfere with a structure, work or tree on a public road, or(d) pump water into a public road from any land adjoining the road, or(e) connect a road (whether public or private) to a classified road.	Approval is required under this Act to upgrade Iron Gates Drive, however as RVC is the consent authority and road authority the integrated provisions are not triggered. Approval is required from Crown Lands to embellish the Evans River Crown public road reserve and construct part of the Crown public road between Lot 163 DP 831052 and Lot 275 DP 755264.
<i>Rural Fires Act 1997</i>	s 100B	Authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes.	The site is mapped as bushfire prone and therefore the proposed subdivision is integrated development.
<i>Water Management Act 2000</i>	ss 89, 90, 91	Water use approval, water management work approval or activity approval under Part 3 of Chapter 3.	Excavation is proposed which is likely to intercept the water table and in addition excavation work will be undertaken within 40m of the bank of the Evans River. Therefore, approval is required under this Act.

The proposed development requires approvals under the nominated legislation. Accordingly the proposal is “integrated development” for the purpose of Section 4.46 of the Environmental Planning and Assessment Act 1979 (as amended).

Flora and Fauna

Clause 50 of the Environmental Planning and Assessment Regulations requires the application to identify whether or not the site contains critical habitat and whether or not the development is likely to have significant effect on threatened species or communities.

The Terrestrial Flora and Fauna Assessment at **Appendix 5** and amended Ecological Assessment at **Appendix 6** address these issues and conclude that the site does not contain critical habitat and the development is unlikely to have a significant effect.

ENVIRONMENTAL ASSESSMENT

Clause 50(1)(a) of the Environmental Planning and Assessment Regulations, 2000 provides that a Development Application must contain the information and be accompanied by the documents specified in Part 1 of Schedule 1 of the Regulations. All relevant information is provided in this revised Statement of Environmental Effects and Appendices.

Clause 2(4) of Part 1 of Schedule 1 provides that a Development Application must be accompanied by a Statement of Environmental Effects which must indicate the following matters:

- ♦ The environmental impacts of the development;
- ♦ How the environmental impacts of the development have been identified;
- ♦ The steps to be taken to protect the environment or to lessen the expected harm to the environment.

These matters are specifically addressed in the following sections.

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Identification of Potential Environmental Impacts

Potential adverse impacts arising from the proposed development are summarised as follows:

- ♦ Impacts on native flora and fauna.
- ♦ Impacts on groundwater.
- ♦ Amenity impacts in Evans Head.
- ♦ Impacts on water quality in the Evans River.
- ♦ Exposure of acid sulphate soils.
- ♦ Social and Economic Impact Statement.

Method of Determining Environmental Impacts

A range of measures have been used to identify potential environmental impacts of the proposed development, these include:

- ♦ A review of all relevant Planning Instruments, Development Control Plans and Council Policies.
- ♦ Consideration of other development in the locality.
- ♦ Preparation of a suite of Specialist Reports addressing key issues (see Appendices).

Proposed Measures to Mitigate Potential Adverse Impacts

Mitigation and management of potential adverse impacts arising from the proposed development are identified in relevant sections of this Statement and the various annexures. In summary, those measures include but are not limited to:

- ♦ Substantial compliance with all relevant Council Instruments, Codes and Policies.
- ♦ Design and operation of the development to avoid potential adverse impacts.
- ♦ Compliance with the recommendations contained in the Specialist Reports.
- ♦ Compliance with all relevant Management Plans.

4 – Conclusion

As reflected in this revised Statement of Environmental Effects and the application generally, the proposal substantially complies with all statutory and policy requirements. The proposed development is permissible, with development consent and has been designed to avoid or mitigate potential adverse impacts.

The application is considered to be a logical and appropriate approach to the development of the land having regard to relevant planning controls, the context of the surrounding area, and the circumstances of this case. On this basis the Northern Regional Planning Panel is respectfully requested to grant development consent to the application as lodged.