

## **Attachment No. 1**

**Copy of the review report 2 Feb. 2019**

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General Manager  
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Att Tony McAteer

2 Feb. 2019

Dear Mr McAteer

**Re Development Application No. 2015/96**  
**Lot 163 DP 831052, Lot 276 DP 755624 & Lot 277 DP 755624**  
**Crown road reserve between Lot 276 DP 755624 & Lot 163 DP 831052**  
**Crown reserve adjoining the Evans River**  
**Iron Gates Dr., Evans Head NSW**

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1. Summary of submissions – government
2. Summary of submissions – public
3. Revised DA SEE - notes
4. Revised consolidated Bushfire Report - notes

## **1 Introduction**

I was requested by Richmond Valley Council (RVC) to undertake a peer review of RVC's processing of Development Application (DA) No. 2015/96. This request was extended to prepare a preliminary town planning assessment report of DA No. 2015/96.

I am a qualified Town Planner with 8 years' experience as a community development officer / town planner, development assessment town planner and strategic town planner in Local Government and 24 years' experience as a consultant Town Planner.

## **2 Tasks undertaken**

The following tasks have been undertaken:

- Two (2) preliminary meetings with Richmond Valley Council (RVC) staff
- Reviewed a brief history of Iron Gates prepared by RVC staff
- Reviewed copy of the DA file provided by RVC April 2017
- Prepared summary of correspondence (letters & emails RVC, proponents consultant & state agencies) in file
- Prepared summary of submissions in file
- Read DA as lodged & taken notes
- Read documentation relating to the 1<sup>st</sup> amendment of the DA & taken notes
- Read documentation relating to the 2<sup>nd</sup> amendment of the DA & taken notes
- Review of local & state planning controls relating to the land
- Site inspection 11 Dec 2018 with RVC staff
- Reviewed copy of the DA file since April 2017 and
- Preparation of this letter report.

## **3 General overview of proposed development**

Subject to RVC accepting the 2<sup>nd</sup> amendment to it, DA No. 2015/0096 (the DA) is for an urban residential subdivision comprising:

- 175 residential allotments with areas between 600m<sup>2</sup> & 959m<sup>2</sup>
- 2 environmental allotments (Lots 176 & 177) to be retained by the landowner
- 2 allotments for the purposes of bushfire trails to be dedicated to RVC
- 1 allotment for recreation / open space / environmental purposes to be dedicated to RVC adjoining Crown land beside the Evans River
- removal of existing infrastructure
- bulk earthworks
- provision of new infrastructure and utilities
- provision of landscaping, community facilities & infrastructure
- roadworks in Iron Gates Dr and
- a residual allotment (Lot 178, 47.4ha).

The subdivision is proposed in 1 stage. The timing of construction for the subdivision is not indicated in the DA.

Vehicular and pedestrian access to the subdivision is proposed via Iron Gates Dr.

The subdivision will involve substantial bulk earthworks to achieve the flood planning level and to alter the existing landform to provide level allotments and building envelopes. The engineering assessments prepared by Arcadis Australian Pacific Pty Ltd (Rev 6, 10/5/2016 & Rev 7, 1/11/2018) provided the following estimation of earthworks volumes over the previous 4 stages.

Stage	Cut volume m3	Fill volume m3	Balance
1	21	76,756	76,735
2	115	59,409	59,409
3	6,769	32,288	32,288
4	117,307	16,313	100,994

The bulk earthworks involve the excavation of approx. 129,487m<sup>3</sup> from the ridgeline / hill in the SW part of the development site and presumably simultaneously placing the excavated material together with an additional approx. 64,414m<sup>3</sup> of fill to the proposed residential areas of the site.

The bulk earthworks involve moving approx. 193,901m<sup>3</sup> of material. The excavation of the ridgeline / hill is variable to approx. 7m max. deep which is proposed to be retained by a landscaped crib wall.

Neither the timing of the bulk earthworks nor is a preliminary construction program for the development of the subdivision provided in the DA.

The DA does not identify the source and type of material to be used as fill. The DA does not demonstrate that the source of the fill (excavated ridgeline / hill) is suitable for the purpose as no specialist geotechnical assessment has been provided.

The subdivision will involve the removal of all vegetation within the proposed development footprint. The subdivision retains the littoral rainforest [endangered ecological community (ECC)] within 2 allotments (Lots 176 & 177) together with other vegetation (eucalypt forest) to the NW of the proposed allotments, an area to be used for 'assisted natural regeneration' and land to be dedicated to RVC adjoining the Crown reserves adjoining the Evans River.

The stormwater management system for the DA proposes no on-site detention, as that would not achieve the desirable outcome in regard to impact from flooding. The DA proposes a 'rapid disposal method' as per the NSW Floodplain Development Manual which enables the discharge of floodwater run-off into the river where the water drains with the receding tide. The system proposes use of bio-retention areas and use of gross pollutant traps.

I cannot find in the *NSW Floodplain Development Manual, April 2005* discussion on a 'rapid disposal method' to enable the discharge of floodwater run-off.

#### **4 The land to which the DA relates**

The DA form, Statements of Environmental Effects and 2 amendments to the DA describe the land the subject of the DA as:

- Lot 163 DP 831052
- Lot 276 DP 755624 and
- Lot 277 DP 755624.

The DA also involves the following land:

- Part of the road reserve between Lot 276 DP 755624 and Lot 163 DP 831052
- Part of the reserve adjoining the Evans River and
- Iron Gates Dr.

Crown Lands have advised RVC (letter 24 Feb 2015) that a Crown road separates Lot 163 DP 831052 from Lot 276 DP 755624, which runs along the foreshore of Evans River on

southern side of boundary Lot 163 DP 831052 & Lots 276 & 277 DP 755624, and is held under Enclosure Permit 40019 to Goldcoral Pty Ltd.

The road reserve between Lot 276 DP 755624 and Lot 163 DP 831052 is a Crown road reserve and is proposed in part to be developed as the western internal road and to form access to the allotments proposed in the SE corner of Lot 163 DP 831052.

The status of the Crown reserve/s adjoining the Evans River appears to be unclear.

Crown Land has advised RVC that part of the reserve is a residual of Water Reserve (No. 28105) created in 1898 and that it appears the road reserve does not exist entirely along the southern boundary of Lot 276 DP 755624.

The public works resumption for drainage works in 11/5/1894 F 3086 (schedule 5), shows that the road reserve limits should be approx. 48m east of the western boundary of Lot 276 DP 755624. The road reserve should not appear west of this point. The Water Reserve is owned by the Crown, though it may have been in part revoked and consolidated in Lot 277 DP 755624.

RVC understands that the Crown reserve at the southern most end of the road reserve between Lot 276 DP 755624 and Lot 163 DP 831052 is a 'drainage reserve' created to enable widening of the river at the time the Tuckombil canal was dug near Woodburn to divert floodwaters from the Richmond River to the Evans River.

The DA engineering plans show earthworks and road infrastructure in the Crown reserve at the SW part of the subdivision. The DA proposes provision of park facilities in the reserve.

The reserve adjoining the Evans River, it appears is not wholly a road reserve as stated and shown in the DA SEE and additional information, development plans and on all plans provided in the supporting specialist reports.

The revised DA SEE indicates the river foreshore area (comprising the residual land to be dedicated to RVC and the Crown reserve/s) will be used for a variety of purposes including; ecological restoration, open space, recreational purposes and for access to the river. The area will also have to be managed for bushfire protection to for protection of the midden.

The DA assumes that RVC will take ownership and control of the Crown Reserves adjoining the river.

The Statement of Landscape Intent (Appendix E) contains no detail as to how these potentially conflicting uses will occur and there is no surety that the Crown will consent to the use of that land for those purposes or that the Crown will 'hand-over' the reserve land to RVC.

The status of the Crown Reserves and what activities are permissible in them needs to be clarified in the DA.

Neither the DA Form nor documentation shows that the consent/s of the owners of the Crown road reserve or Crown Water Reserve has been sought.

The DA should not be processed any further until the written consent of the owner/s of the Crown road reserve and Crown Water Reserve have been obtained and provided to RVC.

## **5 DA Ownership and Applicant**

The owner of the land known as:

- Lot 163 DP 831052
- Lot 276 DP 755624 and
- Lot 277 DP 755624.

is Goldcoral Pty Ltd, for which Mr Graeme Ingles is the Sole Director.

The total land area in private ownership is approx. 72ha and the land proposed to be developed for residential purposes has an area of approx. 16ha. The total development 'footprint' is approx. 34.5ha (including the parts of Crown road reserve land and 2 proposed environmental reserves of approx. 18.5ha).

The Applicant for the DA as lodged and 1<sup>st</sup> amendment was Goldcoral Pty Ltd C/- Planit Consulting Pty Ltd.

The Applicant for the DA 2<sup>nd</sup> amendment is Goldcoral Pty Ltd with DAC Planning Pty Ltd as the town planning consultants.

The adjoining land known as:

- Lots 544 & 545 DP 48550 immediately to the north and northeast is owned by the NSW Aboriginal Land Council
- Lot 546 DP 48550 is an easement for electricity lines
- Lot 547 DP 48550 immediately to the east is owned by the Crown and
- Lot 162 DP 755624 immediately to the northwest is privately owned.

The Iron Gates Dr road reserve is owned by RVC.

## **6 Land use zones**

The land is part zoned:

- R1-General residential
  - E2-Environmental conservation
  - E3-Environmental management and
  - RU1-Primary production
- under Richmond Valley Local Environment Plan 2012 (RVLEP 2012).

The land immediately adjoins the Evans River, which from high water mark is zoned W1-Natural Waterways.

Subdivision and roads are permissible developments in the RU1, R1, E2 and E3 zones.

The DA proposes to use the open drain within Lot 176 (zoned E2) which drains / opens to the Evan River and is within/adjoins the W1-Natural Waterways zone.

## **7 DA lodgement**

The DA was lodged with RVC on 27 Oct. 2014. The DA number is DA No. 2015/0096.

The DA was registered (No. 2014NTH020) with the Dept. of Planning on 29 Oct. 2014 as a matter with the Northern Joint Regional Planning Panel.

## 8 DA legislative planning controls

The following state planning policies and local planning controls apply to the land and DA;

- s. 5A Environmental Planning & Assessment Act 1979
- s. 79 Environmental Planning & Assessment Act 1979
- State Environmental Planning Policies (SEPP)
  - SEPP No. 14 – Coastal Wetlands
  - SEPP No. 44 – Koala Habitat Protection
  - SEPP No. 55 – Remediation of Land
  - SEPP No. 71 – Coastal Protection
  - SEPP – Infrastructure 2007
  - SEPP – Rural Lands 2008
  - SEPP – State and Regional Development 2011
  - SEPP – Exempt and Complying Development Codes 2008
- Richmond Valley Local Environmental Plan 2012
- Richmond Valley Development Control Plan 2012
  - Part A-Residential Development
  - Part G-Subdivisions
  - Part H-Natural Resources and Hazards
  - Part I-Other Considerations including;
    - I1 Heritage
    - I2 Development in on over or under a public road
    - I5 Landscaping guidelines
    - I8 Social impact assessment
    - I9 Water sensitive urban design
    - I10 Crime prevention through environment design
    - I11 Land use conflict risk assessment
    - I12 Context and site analysis and
    - I15 Advertising and advertise development
- NSW 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*. The land is a 'sensitive coastal location' as defined under *SEPP No. 71* as parts of it are within 100m of high water, within 100m of a national park and a *SEPP No. 14* wetland. The DA is defined as 'significant coastal development' under the SEPP.

The DA cannot be determined as a masterplan prepared and approved in accordance with Part 5 of *SEPP No. 71* has not been approved. A masterplan is required to be prepared as the land is in a 'sensitive coastal location'.

The DA as lodged sought to waiver the preparation and approval of the masterplan. The application was not successful and a masterplan had to be prepared. That process has been largely remote of RVC as the file records show.

The DA is regionally significant development under Part 4 of *SEPP – State and Regional Development 2011* because the DA proposes greater than 100 allotments and the land (or part of it) is within a 'sensitive coastal location'.

The DA is to be determined by the Northern Region Joint Regional Planning Plan (JRPP).

The DA is integrated development as the General Terms of Approval of the following State government authorities 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, for the DA this relates to drainage to the Evans River.

Given the nature and scale of the development and potential for environment impact in regard s. 201 of the *Fisheries Management Act 1994*, the GTA of NSW Fisheries should also be sought.

Whether or not the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1999* applies to the proposed development needs to be clarified as there is potential for adverse impact on threatened species and their habitats.

## **9 DA documentation**

### **9.1 The DA as lodged**

The DA as lodged was for:

- 178 residential allotments between 600m<sup>2</sup> & 959m<sup>2</sup>
- 2 environmental allotments (Lots 179 & 182) to be dedicated to RVC
- 1 allotment for emergency bushfire access to Blue Pool Rd to be dedicated to RVC
- 4 bushfire trail allotments (Lots 184, 185 & parts of Lots 179 & 183) to be dedicated to RVC
- 1 reserve (Lot 183) adjoining the Crown reserve/s to be dedicated to RVC
- re-use & removal of existing infrastructure
- provision of new infrastructure

The DA as lodged was supported by the following specialist assessments:

- Statement of Environmental Effects, Oct 2014, prepared by Planit Consulting Pty Ltd
- Appendix A – Proposed Development Plans, Set 3, 8 sheets, 7/10/2014, prepared by Planit Consulting Pty Ltd (the locality plan shows the hill in the SE section vegetated, the site plan shows the vegetation removed)
- Appendix B – Engineering Services and Civil Infrastructure Report, Rev 3, 13/10/2014, prepared by Hyder Consulting Pty Ltd – report also includes:
  - engineering plans – 37 sheets
  - Assessment of local run-off, 22 Aug 2014 prepared by BMT WBM Pty Ltd
- Appendix C – Bushfire Safety Authority, Sept. 2014, prepared by Planit Consulting Pty Ltd
- Appendix D – Terrestrial Flora and Fauna Assessment, Aug. 2014, prepared by Planit Consulting Pty Ltd
- Appendix E – Statement of Landscape Intent, Sept. 2014, prepared by Planit Consulting Pty Ltd
- Appendix F – Aboriginal Cultural Heritage Assessment, Rev. 1 (7/10/14), Sept. 2014, prepared by Everick Heritage Consultants Pty Ltd
- Appendix G – Stage 1 Preliminary Contamination Assessment, 28 Aug. 2014, prepared by Hyder Consulting Pty Ltd
- Appendix H – Preliminary Radiation Site Assessment, 22 May 2014, prepared by Hyder Consulting Pty Ltd
- Appendix I – Acid Sulfate Soils review letter report, 9 Oct. 2014, prepared by Hyder Consulting Pty Ltd
- Appendix J – Sepp 71 – Request to Waiver Masterplan, 25 Oct. 2014, prepared by Planit Consulting Pty Ltd

## 9.2 The 1<sup>st</sup> amendment to the DA

The 1<sup>st</sup> amendment was lodged with RVC on 29 Oct. 2015. There were a number of changes to the configuration of roads and allotments as a consequence of the 1<sup>st</sup> amendment.

The amended DA was for:

- 176 residential allotments between 600m<sup>2</sup> & 959m<sup>2</sup>
- 1 environmental allotment (Lot 177) to be retained by the landowner & subject to a plan of management. The fire trails within this allotment were deleted as a consequence of changes to the configuration of roads and allotments.
- 1 allotment for emergency bushfire access to Blue Pool Rd to be dedicated to RVC
- 1 environmental allotment (Lot 178) adjoining the Crown reserve to be dedicated to RVC
- 3 allotments (Lot 181 & Lot 182) for the purposes bushfire trails to be dedicated to RVC
- 1 allotment (Lot 184) for the purposes stormwater management to be dedicated to RVC
- removal of existing infrastructure
- bulk earthworks
- provision of new infrastructure and utilities and
- provision of community facilities & infrastructure.

The 1<sup>st</sup> amendment to the DA was supported by the following specialist assessments:

- Letter report making amendment of the DA, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment A – Revised Development Plans, 7 sheets, Aug. 2015, prepared by Planit Consulting Pty Ltd
- Attachment B – Letter report response to request for further information (flora & fauna), 23 Oct. 2015, prepared by Mr B Sargeant Planit Consulting Pty Ltd
- Attachment C – Engineering Services and Civil Infrastructure Report, Rev 5, 15/10/2015, prepared by Hyder Consulting Pty Ltd – report also includes:
  - Engineering plans – 56 sheets, Rev 4, 14/10/15
  - Assessment of local run-off, 22 Aug. 2014, prepared by BMT WBM Pty Ltd
  - Additional flood advice, 2 July 2015, prepared by BMT WBM Pty Ltd
  - Engineering plans fire trail (property access road) – 7 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd
  - Result on in-situ permeability testing, 2 June 2015, prepared by Geotech Investigations Pty Ltd – 10 test locations
  - Engineering plans (access road) – 9 sheets, 11 Nov. 2014, prepared by Hyder Consulting Pty Ltd
- Attachment D – Aboriginal Cultural Heritage Assessment, Rev. 4 (31/8/15), Sept. 2014, prepared by Everick Heritage Consultants Pty Ltd – includes copy of a draft letter, 9 Sept. 2015, to Office of Environment & Heritage in regard consultation with Aboriginal people & organisations
- Attachment E – Biting insect impact assessment, 25 March 2015, prepared by Mosquito Consulting Services Pty Ltd
- Attachment F – Bushfire Threat Assessment Report, 14 Aug. 2015, prepared by Bushfire Certifiers Pty Ltd and report titled 'Iron Gates Suitability Review Public Access Requirements' 12 Aug. 2015, prepared by Bushfire Risk
- Attachment G – Iron Gates Waterfront Layout, undated, prepared by Planit Consulting Pty Ltd
- Attachment H – Demolition plan, undated, prepared by Planit Consulting Pty Ltd
- Attachment I – Public submission review table, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment J – Copy of emails Planit Consulting Pty Ltd and NSW Office of Water, 27/29 Jan 2015 – riparian off-sets



- Attachment K – Review NSW coastal guidelines, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment L – Riparian offset plan, Aug. 2015, prepared by Planit Consulting Pty Ltd
- Attachment M – Draft Masterplan Iron Gates Residential Release, July 2015, prepared by Planit Consulting Pty Ltd

The engineering report and plans provided as Attachment C with the 1<sup>st</sup> amendment to the DA was again amended 20 May 2016.

The Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd is the current report and includes:

- Engineering plans – 47 sheets, Rev 4, 04/04/16
- Engineering plans fire trail (property access road) – 7 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd
- The plan showing the location of the in-situ permeability testing, 2 June 2015, prepared by Geotech Investigations Pty Ltd – 10 test locations
- Engineering plans (access road) – 9 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd

The letter report dated 15/05/2016, prepared by Arcadis Australian Pacific Pty Ltd supplies information in regard:

- The 6.25m high retaining wall indicating that the visual excess of the structure can be mitigated by planting of vegetation between the concrete cribs suited to the Richmond Birdwing Butterfly
- Plan C140 was amended to show a 2.5m wide pedestrian walkway to RVCs cycleway requirements
- Advises that in relation to traffic generation the existing road (Iron Gates Dr) can provide to the traffic generated by Stage 1 and most of Stage 2 when an up-grade of the pavement to 8m is required.
- Report amended to account for the flow generated by existing lots connected to the DN150 sewer in Mangrove St
- All roads will be provided with sub-surface drainage to avoid risk of saturating road sub-base
- Location of driveways will be co-ordinated with drainage during preparation of detailed plans
- Shows conceptually how infiltration system will be provided within allotments prior to connection to street drainage and that an easement for stormwater will be provided over each device to enable future access.

The plans for the property access road relate to the provision of the emergency bushfire access road to connect to Blue Pool Rd and the plans for the access road relate to the existing condition of Iron Gates Dr.

The plans of subdivision for the 2<sup>nd</sup> amendment of the DA do not show the bushfire emergency allotment / access road to Blue Pool Rd which was to be dedicated to RVC.

### 9.3 The 2<sup>nd</sup> amendments to the DA

#### 9.3.1 The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA

The 1<sup>st</sup> / 2<sup>nd</sup> amendment was lodged with RVC on 10 Sept. 2018. There were again a number of changes to the configuration of roads and allotments and to the numbering of allotments.

The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA sought to include the upgrade of Iron Gates Dr as part of the DA. A s. 138 application under the *Roads Act 1993* was included in the requested amendment. The s. 138 application was not accepted and required to be withdrawn by RVC and submitted following determination of the DA.

As a consequence of the 1<sup>st</sup> / 2<sup>nd</sup> amendment the DA was for:

- 176 residential allotments between 600m<sup>2</sup> & 959m<sup>2</sup>
- 1 environmental allotment (Lot 177) to be retained by the landowner & subject to a plan of management
- 1 environmental allotment (Lot 176) adjoining the Crown reserve/s to be dedicated to RVC
- 2 allotments (Lot number not identified) for the purposes bushfire trail to be dedicated to RVC
- removal of existing infrastructure
- bulk earthworks
- provision of new infrastructure and utilities and
- provision of community facilities & infrastructure.

The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA was supported by the following specialist assessments:

- Addendum to Statement of Environmental Effects Accompanying DA 2015/0096, Aug. 2018, prepared by DAC Planning Pty Ltd
- Annexure A - Mills Oakley Advice Letters Dated 16 October 2016 and 23 October 2016
- Annexure B - Aerial Photograph Showing the Alignment of Iron Gates Drive in Relation to the Subject Land and the Village of Evans Head
- Annexure C - Contour Level and Detail Plan (2 Sheets) Showing Iron Gates Drive Road Reserve – Robert A Harries Registered Surveyor, 23 July 2014
- Annexure D - Engineering Drawings (8 Sheets) Rev 02 – ARCADIS, 21 August 2017
- Annexure E - State Environmental Planning Policy No. 71 Draft Master Plan Number BRJD.100-015, Rev F – Land Partners, 6 April 2018
- Annexure F - Proposed Subdivision Plan, Rev G (2 Sheets) and Proposed Subdivision Plan Zone Overlay, Rev I – Land Partners, 6 September 2018
- Annexure G - Ecological Assessment of Iron Gates Drive Evans Head, Version RW6 – JWA Pty Ltd, 5 September 2018
- Annexure H - Section 138 Roads Act, 1993 Application for Work on Iron Gates Drive
- Annexure I - Bushfire Assessment – Additional Information Response – Bushfire Risk, 8 March 2017
- Annexure J - SEPP14 Coastal Wetlands, Figure 3 – JWA Pty Ltd, 31 October 2016

The plans of the subdivision relating to the 2<sup>nd</sup> amendment to the DA do not show:

- the bushfire emergency allotment / access road to Blue Pool Rd which was to be dedicated to RVC or
- the allotment (Lot 184) proposed for the purposes stormwater management which was to be dedicated to RVC.

#### 9.3.2 The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment was lodged with RVC on 17 Jan. 2019. RVC has not formally acknowledged receipt and satisfaction of the amended DA and supporting documentation.

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA provided an amended DA Form and landowners consent and seeks to make number of changes to the configuration of roads and allotments and to the numbering of allotments and includes the upgrade of Iron Gates Dr as part of the DA. The DA seeks consent of RVC for works in the Iron Gates Dr road reserve and the General Terms of Agreement (GTA) under the *Roads Act 1993*.

If accepted by RVC the 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA will be for:

- 175 residential allotments with areas between 600m<sup>2</sup> & 959m<sup>2</sup>
- 2 environmental allotments (Lots 176 & 177) to be retained by the landowner
- 1 allotment for the purposes of a bushfire trail to be dedicated to RVC
- 1 allotment for recreation / open space / environmental purposes to be dedicated to RVC adjoining Crown land beside the Evans River
- removal of existing infrastructure
- bulk earthworks
- provision of new infrastructure and utilities
- provision of landscaping, community facilities & infrastructure
- roadworks in Iron Gates Dr and
- a residual allotment (Lot 178, 47.4ha).

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA was supported by a revised SEE prepared by DAC Planning Pty Ltd (Oct. 2019).

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA was supported by the following specialist assessments:

- Appendix A – Proposed Subdivision Plans, Rev G, 6 September 2018 & Proposed Subdivision Plans with Zone Overlay, Rev I, 6 September 2018 - LandPartners
- Appendix B – Iron Gates Residential Development Revised Engineering Services and Civil Infrastructure Report – Arcadis Consulting Pty Ltd, 12 November 2018 and Engineering Plans, 26 November 2018
- Appendix C – Revised Consolidated Bushfire Report – Bushfire Risk Pty Ltd, 16 January 2019
- Appendix D – Terrestrial Flora and Fauna Assessment – Planit Consulting, August 2014 as amended by JWA Pty Ltd, November 2018
- Appendix E – Statement of Landscape Intent – Planit Consulting, September 2014
- Appendix F – Aboriginal Cultural Heritage Assessment – Everick Heritage Consultants, November 2018
- Appendix G – Stage 1 Preliminary Contamination Assessment – Hyder Consulting, 28 August 2014
- Appendix H – Preliminary Radiation Site Assessment – Hyder Consulting, 22 May 2014
- Appendix I – Acid Sulfate Soils Review – Hyder Consulting, 9 October 2014
- Appendix J – Letters of Advice – Mills Oakley, 16 October 2016 and 23 October 2016
- Appendix K – Aerial Photograph Showing Alignment of Iron Gates Drive in relation to Subject Land and Village of Evans Head – Planit Consulting, 7 October 2014
- Appendix L – Contour Level & Detail Survey – Robert A Haries (sic Harris), 23 July 2014
- Appendix M – Engineering Plans, Rev 02 – Arcadis, 21 August 2017
- Appendix N – SEPP71 Draft Master Plan, BRJD6396.100.015, Rev F – LandPartners, 6 April 2018
- Appendix O – Ecological Assessment – JWA Pty Ltd, September 2018
- Appendix P – Bushfire Assessment – Additional Information Response – Bushfire Risk, 9 March 2017
- Appendix Q – SEPP14 Coastal Wetlands Map – JWA Pty Ltd, 31 October 2016
- Appendix R – Public Submissions Review Table Response to Key Matters Raised in Public Submissions – Planit Consulting, 23 October 2015
- Appendix S – Review of NSW Coastal Design Guidelines – Planit Consulting, Undated (Annexure K of 23 October 2015 RFI Response)
- Appendix T – Biting Insect Impact Assessment – Mosquito Consulting Services Pty Ltd, 24 March 2015 (Annexure E of 23 October 2015 RFI Response)
- Appendix U – Iron Gates Waterfront Layout – Planit Consulting, Undated (Annexure G of 23 October 2015 RFI Response)

- Appendix V – Demolition Plan – Planit Consulting, Undated (Annexure H of 23 October 2015 RFI Response)
- Appendix W– NOW Comments (Annexure J of 23 October 2015 RFI Response) and Riparian Offset Plan, Planit Consulting, (Annexure L of 23 October 2015 RFI Response)

The plans of the subdivision relating to the 2<sup>nd</sup> amendment to the DA do not show:

- the bushfire emergency allotment / access road to Blue Pool Rd which was to be dedicated to RVC or
- the allotment previously proposed for the purposes stormwater management which was to be dedicated to RVC

both of which are assumed to be now not part of the DA.

## **10 DA additional information requests**

RVC has formally in writing sought the provision of additional information on 4 occasions:

- 18 Nov. 2014
- 15 Dec. 2014
- 18 Dec. 2014
- 1 March 2016 and
- 7 Nov. 2018

The Applicant (Planit Consulting Pty Ltd) for the Proponent supplied a response to the RVC information requests of 18 Nov. 2014 & 15 & 18 Dec. 2014 and made the 1<sup>st</sup> amendment to the DA on 23 Oct 2015.

The Applicant (Planit Consulting Pty Ltd) for the Proponent supplied a response to the RVC information request of 1 March 2016 on 20 May 2016.

The information supplied by Planit Consulting Pty Ltd on 20 May 2016 provided a further amendment to the Engineering Services and Civil Infrastructure Report, Rev 5, 15/10/2015, prepared by Hyder Consulting Pty Ltd. This report is prepared by Arcadis Australian Pacific Pty and titled Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016 and included a letter report dated 15/05/2016, responding to RVC's request of 1 March 2016.

The 2<sup>nd</sup> amendment to the DA by the Applicant (DAC Planning Pty Ltd) for the Proponent was not in response to an information request.

Following receipt of the 2<sup>nd</sup> amendment RVC (7 Nov. 2018) wrote to the Applicant advising it would agree to the amendment provided the following be addressed:

- DA 2015/96 was consolidated into 1 bundle of documents
- DA form would need to be amended to include the landowners (Iron Gates Rd RVC) requests that it be obtained from RVC, not construed as support for the DA
- Payment of additional fees for advertising
- RVC reserves right to issue further stop the clock requests
- Flora and fauna assessment lodged with DA does not include consideration of biodiversity offsets for clearing of vegetation within the development and this should include the road reserve to the development
- Land and Environment Court Orders – declaration and orders – RVC only accepts addendum in so far it only relates to proposed upgrades and vegetation along Iron Gates Dr and in no way addresses the declaration and orders
- DA must be consistent with the adopted final version of the masterplan – once consolidated DA is lodged referrals and public notification will be undertaken
- Preliminary appraisal of roadworks through SEPP No. 14 appear satisfactory – notes treatments rely on 50km/hr speed limit

- Legal advice from Mills Oakley 23 Oct. 2016 considers that trimming of plants in the wetland area will not trigger the DA been designated development

RVC received the response to its letter of 7 Nov. 2018 on 19 Jan. 2019 when DAC Planning Pty Ltd lodged the 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA with supporting documentation.

## **11 What currently comprises the DA**

The following identifies what the DA currently comprises and the amendments to it:

### 11.1 The DA as lodged – current

- Statement of Environmental Effects, Oct 2014, prepared by Planit Consulting Pty Ltd
- Appendix D – Terrestrial Flora and Fauna Assessment, Aug. 2014, prepared by Planit Consulting Pty Ltd
- Appendix E – Statement of Landscape Intent, Sept. 2014, prepared by Planit Consulting Pty Ltd
- Appendix G – Stage 1 Preliminary Contamination Assessment, 28 Aug. 2014, prepared by Hyder Consulting Pty Ltd
- Appendix H – Preliminary Radiation Site Assessment, 22 May 2014, prepared by Hyder Consulting Pty Ltd
- Appendix I – Acid Sulfate Soils review letter report, 9 Oct. 2014, prepared by Hyder Consulting Pty Ltd

### 11.2 The 1<sup>st</sup> amendment to the DA as lodged - current

- Letter report making amendment of the DA, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment B – Letter report response to request for further information (flora & fauna), 23 Oct. 2015, prepared by Mr B Sargeant Planit Consulting Pty Ltd
- Attachment C – The following reports from the Engineering Services and Civil Infrastructure Report, Rev 5, 15/10/2015, prepared by Hyder Consulting Pty Ltd:
  - Assessment of local run-off, 22 Aug. 2014, prepared by BMT WBM Pty Ltd
  - Additional flood advice, 2 July 2015, prepared by BMT WBM Pty Ltd
  - Results on in-situ permeability testing, 2 June 2015, prepared by Geotech Investigations Pty Ltd – 10 test locations
- Attachment D – Aboriginal Cultural Heritage Assessment, Rev. 4 (31/8/15), Sept. 2014, prepared by Everick Heritage Consultants Pty Ltd – includes copy of a draft letter, 9 Sept. 2015, to Office of Environment & Heritage in regard consultation with Aboriginal people & organisations
- Attachment E – Biting Insect Impact Assessment, 25 March 2015, prepared by Mosquito Consulting Services Pty Ltd
- Attachment F – Bushfire Threat Assessment Report, 14 Aug. 2015, prepared by Bushfire Certifiers Pty Ltd and report titled 'Iron Gates Suitability Review Public Access Requirements' 12 Aug. 2015, prepared by Bushfire Risk
- Attachment G – Iron Gates Waterfront Layout, undated, prepared by Planit Consulting Pty Ltd
- Attachment H – Demolition plan, undated, prepared by Planit Consulting Pty Ltd
- Attachment I – Public submission review table, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment J – Copy of emails Planit Consulting Pty Ltd and NSW Office of Water, 27/29 Jan 2015 – riparian off-sets
- Attachment K – Review NSW coastal guidelines, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd
- Attachment L – Riparian offset plan, Aug. 2015, prepared by Planit Consulting Pty Ltd

The Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd including:

- Engineering plans – 47 sheets, Rev 4, 04/04/16
- Engineering plans fire trail (property access road) – 7 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd
- Engineering plans (access road) – 9 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd

The letter report dated 15/05/2016, prepared by Arcadis Australian Pacific Pty Ltd supplies information in regard:

- The 6.25m high retaining wall indicating that the visual excess of the structure can be mitigated by planting of vegetation between the concrete cribs suited to the Richmond Birdwing Butterfly
- Shows the how infiltration system will be provided within allotments prior to connection to street drainage and that an easement for stormwater will be provided over each device to enable future access.

#### 11.3 The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA – not accepted by RVC

The 1<sup>st</sup> / 2<sup>nd</sup> amendments to the DA have not yet formally been accepted by RVC. The following identifies what documentation the 1<sup>st</sup> of 2<sup>nd</sup> amendment comprises.

- Addendum to Statement of Environmental Effects Accompanying DA 2015/0096, Aug. 2018, prepared by DAC Planning Pty Ltd
- Annexure A - Mills Oakley Advice Letters Dated 16 October 2016 and 23 October 2016
- Annexure B - Aerial Photograph Showing the Alignment of Iron Gates Drive in Relation to the Subject Land and the Village of Evans Head
- Annexure C - Contour Level and Detail Plan (2 Sheets) Showing Iron Gates Drive Road Reserve – Robert A Harries Registered Surveyor, 23 July 2014
- Annexure D - Engineering Drawings (8 Sheets) Rev 02 – ARCADIS, 21 August 2017
- Annexure E - State Environmental Planning Policy No. 71 Draft Master Plan Number BRJD.100-015, Rev F – Land Partners, 6 April 2018
- Annexure F - Proposed Subdivision Plan, Rev G (2 Sheets) and Proposed Subdivision Plan Zone Overlay, Rev I – Land Partners, 6 September 2018
- Annexure G - Ecological Assessment of Iron Gates Drive Evans Head, Version RW6 – JWA Pty Ltd, 5 September 2018
- Annexure H - Section 138 Roads Act, 1993 Application for Work on Iron Gates Drive
- Annexure I - Bushfire Assessment – Additional Information Response – Bushfire Risk, 8 March 2017
- Annexure J - SEPP14 Coastal Wetlands, Figure 3 – JWA Pty Ltd, 31 October 2016

Annexure E shows a draft masterplan, 6 April 2018. The draft masterplan has no status in regard the DA other than to inform the possible latest layout of the proposed subdivision. The lot numbering of the draft masterplan differs from that of Annexure F showing the proposed subdivision. The draft masterplan shows no bushfire emergency allotment / access road to Blue Pool Rd which was to be dedicated to RVC.

Annexure F shows the proposed amended subdivision layout, 6 Sept. 2018. The amended proposed subdivision layout is not consistent with the Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd.

The amended Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd makes no comment in regard the Engineering plans fire trail (property access road) – 7 sheets, 13 March 2015.

#### 11.4 The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA – not yet accepted by RVC

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA has not yet formally been accepted by RVC. The following identifies what documentation the 2<sup>nd</sup> / 2<sup>nd</sup> amendment comprises.

- Revised SEE prepared by DAC Planning Pty Ltd (Oct. 2019)
- Appendix A – Proposed Subdivision Plans, Rev G, 6 September 2018 & Proposed Subdivision Plans with Zone Overlay, Rev I, 6 September 2018 - LandPartners
- Appendix B – Iron Gates Residential Development Revised Engineering Services and Civil Infrastructure Report – Arcadis Consulting Pty Ltd, 12 November 2018 and Engineering Plans, 26 November 2018
- Appendix C – Revised Consolidated Bushfire Report – Bushfire Risk Pty Ltd, 16 January 2019
- Appendix D – Terrestrial Flora and Fauna Assessment – Planit Consulting, August 2014 as amended by JWA Pty Ltd, November 2018
- Appendix E – Statement of Landscape Intent – Planit Consulting, September 2014
- Appendix F – Aboriginal Cultural Heritage Assessment – Everick Heritage Consultants, November 2018
- Appendix G – Stage 1 Preliminary Contamination Assessment – Hyder Consulting, 28 August 2014
- Appendix H – Preliminary Radiation Site Assessment – Hyder Consulting, 22 May 2014
- Appendix I – Acid Sulfate Soils Review – Hyder Consulting, 9 October 2014
- Appendix J – Letters of Advice – Mills Oakley, 16 October 2016 and 23 October 2016
- Appendix K – Aerial Photograph Showing Alignment of Iron Gates Drive in relation to Subject Land and Village of Evans Head – Planit Consulting, 7 October 2014
- Appendix L – Contour Level & Detail Survey – Robert A Haries, 23 July 2014
- Appendix M – Engineering Plans, Rev 02 – Arcadis, 21 August 2017
- Appendix N – SEPP71 Draft Master Plan, BRJD6396.100.015, Rev F – LandPartners, 6 April 2018
- Appendix O – Ecological Assessment – JWA Pty Ltd, September 2018
- Appendix P – Bushfire Assessment – Additional Information Response – Bushfire Risk, 9 March 2017
- Appendix Q – SEPP14 Coastal Wetlands Map – JWA Pty Ltd, 31 October 2016
- Appendix R – Public Submissions Review Table Response to Key Matters Raised in Public Submissions – Planit Consulting, 23 October 2015
- Appendix S – Review of NSW Coastal Design Guidelines – Planit Consulting, Undated (Annexure K of 23 October 2015 RFI Response)
- Appendix T – Biting Insect Impact Assessment – Mosquito Consulting Services Pty Ltd, 24 March 2015 (Annexure E of 23 October 2015 RFI Response)
- Appendix U – Iron Gates Waterfront Layout – Planit Consulting, Undated (Annexure G of 23 October 2015 RFI Response)
- Appendix V – Demolition Plan – Planit Consulting, Undated (Annexure H of 23 October 2015 RFI Response)
- Appendix W – NOW Comments (Annexure J of 23 October 2015 RFI Response) and Riparian Offset Plan, Planit Consulting, (Annexure L of 23 October 2015 RFI Response)

Appendix N shows a draft masterplan, 6 April 2018. The draft masterplan has no status in regard the DA other than to inform the possible latest layout of the proposed subdivision. The lot numbering of the draft masterplan differs from that of Appendix A showing the proposed subdivision and shows the development been undertaken in 4 stages. The draft masterplan shows no bushfire emergency allotment / access road to Blue Pool Rd which is now assumed to be deleted.

The amended Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd (Appendix B):

- does not clearly identify the amendments made to the previous version (Rev 6, 10/05/2016) and appears to have only changed the proposed number of allotments and inserted information provided in the letter report dated 15/05/2016
- is missing all Appendices referred to in the report and
- makes no comment in regard the Engineering plans fire trail (property access road) – 8 sheets, 21/8/2017 (Appendix M).

The amended Revised Consolidated Bushfire Report – Bushfire Risk Pty Ltd, 16 January 2019 (Appendix C):

- is fragmented and is not a comprehensive bushfire assessment of the proposed development and draws upon 3 other separate bushfire assessments undertaken including:
  - Bushfire Threat Assessment Report, 14 Aug. 2015, prepared by Bushfire Certifiers Pty Ltd (provided to RVC as Attachment F by Planit Consulting on 29 Oct. 2015)
  - The report titled 'Iron Gates Suitability Review Public Access Requirements' 12 Aug. 2015, prepared by Bushfire Risk (provided to RVC 29 Oct. 2015 as Attachment F by Planit Consulting) and
  - The report titled Bushfire Assessment Additional Information Response by Bushfire Risk, 9 March 2017 (Appendix P)

The amended Terrestrial Flora and Fauna Assessment by Planit Consulting, August 2014 as amended by JWA Pty Ltd, November 2018 (Appendix D):

- does not clearly identify the amendments made to the Aug. 2014 version and has appeared to have only replaced the plans of the proposed subdivision (Appendix A)
- is missing a Table of Contents and Appendices referred to in the report
- appears to only have changed the plan of the proposed subdivision
- has not provided any calculation of the biobanking offset credits need to be retired to offset biodiversity impacts of the proposal and
- does not articulate whether or not 'biodiversity certification' or a 'biobanking statement' is required in accordance with Parts 7AA and/or 7A of the *Threatened Species Conservation Act 1995* is required to be assessed in accordance with threatened species protection measures provided by Parts 4 & 5 of the EP&A Act. If a 'biobanking statement' is issued by NSW OE&H the development is taken, to be development that is not likely to significantly affect any threatened species, population or ecological community under this Act, or its habitat.

The amended Aboriginal Cultural Heritage Assessment by Everick Heritage Consultants, November 2018 (Appendix F):

- does not clearly identify the amendments made to the previous version and has appeared to have only referred to (but does not include) the amended plans of the proposed subdivision (Appendix A).

The Statement of Landscape Intent – Planit Consulting, September 2014 (Appendix E):

- shows a very different subdivision layout and landscaping which may not be possible to achieve having regard to the excavation and filling of the residential areas

The Acid Sulfate Soils Review – Hyder Consulting, 9 October 2014 (Appendix I):

- is a desktop review and does not achieve the requirements of the Acid Sulfate Soils Manual nor have regard to the excavation and filling of the residential areas and potential for groundwater and water table impacts.



The Aerial Photograph Showing Alignment of Iron Gates Drive in relation to Subject Land and Village of Evans Head – Planit Consulting, 7 October 2014 (Appendix K):

- is a very old aerial image showing vegetation on the hill / ridgeline now cleared
- shows a very different subdivision layout and
- show a bushfire trail to Blue Pools Rd to be up-graded to comply with the planning for bushfire guidelines, which appears to be omitted from the 2<sup>nd</sup> / 2<sup>nd</sup> amendment.

The Iron Gates Waterfront Layout – Planit Consulting, Undated (Annexure G of 23 October 2015 RFI Response) (Appendix U):

- in part shows a very different subdivision layout and
- should form part of the overall landscaping of the development and Crown reserve (refer to Appendix E)
- should provide more detail including levels, measures to protect the midden, access points to the river, bioswale treatment, landscaping and vegetation management of the riparian area.

The NOW Comments (Annexure J of 23 October 2015 RFI Response) and Riparian Offset Plan, Planit Consulting, (Annexure L of 23 October 2015 RFI Response) (Appendix W):

- provides no detailed description of the off-sets
- shows a very different subdivision layout and
- appears to supply a different plan than that described in the email in regard the location of the southern road.

I have appended copy of the revised DA SEE and revised consolidated Bushfire Report which contain commentary notes in the text of those 2 documents.

## **12 DA public notification**

### **12.1 The DA as lodged**

The DA as lodged was publicly notified and exhibited from 3 Nov 2014 to 8 Dec 2014 and documentation made available on RVC's website, though it appears in a number of submissions that the documentation may not have been readily / easily accessed. A sign was placed at Iron Gates Dr adjoining the land.

The DA was publicly notified in the Express Examiner 5 Nov 2014. The notification in the Express Examiner did not indicate that the DA was integrated development, or that the JRPP was the consent / determining authority.

RVC wrote to 32 adjoining landowners and those within immediate locality advising them of the DA.

The file is not clear which State government agencies RVC wrote to the advising of the DA and its exhibition. RVC has advised the following agencies and community organisations were on 3 Nov 2014 wrote to:

- RVC Traffic committee
- NSW Police
- NSW RFS
- Joint Regional Planning Panel
- NSW Office of Environment & Heritage (OE&H)
- NSW OE&H (Aboriginal Heritage)
- NSW Planning
- NSW DPI – fisheries
- NSW Dept of Water & Energy
- NSW Dept of Land & Water Conservation

- Jali LALC
- Ngulingah LALC
- Birrigan Garlgle LALC and
- Bogal LALC

and on 10 Nov 2014 to:

- Office of Environment & Heritage Operations Group and
- Local Land Services.

### 12.2 The 1<sup>st</sup> amendment to the DA

The 1<sup>st</sup> amendment to the DA was publicly notified and exhibited from 4 Nov 2015 to 7 Dec 2015 and documentation presumably made available on RVC's website.

It is not clear whether or not another sign was placed at Iron Gates Dr adjoining the land.

The 1<sup>st</sup> amendment to the DA was publically notified in the Express Examiner 4 Nov 2015. The notification in the Express Examiner indicated that the DA was integrated development.

RVC wrote (10 Nov 2015) to the following State & Federal government agencies advising of the amendment of the DA and its exhibition and supplied copies of the submissions from the public to the agencies that are required to provide GTA's under other legislation:

- NSW Land & Water Conservation
- NSW Police
- RVC Traffic committee
- Joint Regional Planning Panel
- Jali LALC
- Local Land Services
- NSW RFS
- Ms D Wray
- NSW Dept of Water & Energy
- NSW Dept of Planning
- NSW DPI – fisheries
- NSW Dept of Land & Water Conservation
- Birrigan Garlgle LALC
- Bogal LALC
- NSW OE&H (Aboriginal heritage)
- Ngulingah LALC
- Local Land Services and
- Dept of Defence.

It is not clear whether or not RVC wrote to the 32 landowners it previously advised and it appears it did notify some of those people and organisations of receipt of their submission to the re-exhibited DA

### 12.3 Future notifications

At a minimum comply with the relevant chapter / part of the advertising and notifications development control plan and the following landowners, state agencies and community organisations should be notified in writing of any future DA or amended DA:

- adjoining landowners & those landowners in the immediate locality that it originally notified and
- landowners along Wattle St to Woodburn St.

Those people and community organisations and State & Federal agencies that made submissions to the DA as lodged and the 1<sup>st</sup> amendment should be notified in writing of any future DA or amended DA.

It would be appropriate that the DA be also referred to local community and State agencies involved in the delivery of community and social services in Evans Head and locality.

### **13 DA submissions**

#### **13.1 The DA as lodged**

##### *Public submissions*

Fifty (50) submissions of objection from the public were received by RVC.

One (1) submissions of support from the public was received by RVC.

##### *Government submissions*

Responses were received from:

- NSW Police
- NSW RFS
- NSW OE&H
- North Coast Local Land Services
- Dept of Defence
- NSW Office of Water
- NSW Fisheries
- Crown Lands

It appears RVC was not acknowledging submissions to DA's during the 1<sup>st</sup> period of exhibition.

#### **13.2 The 1<sup>st</sup> amendment to the DA**

##### *Public submissions*

Twenty five (25) submissions of objection were received by RVC.

Six (6) submissions of support were received by RVC.

**Attachment No. 1** is a summary of the issues raised in submissions from the public to the DA as lodged and 1<sup>st</sup> amendment.

The majority of the key issues raised by submitters making objections to the DA cannot be addressed by conditions of consent and the submissions should be given weight in the determination of the DA.

##### *Government submissions*

Responses were received from:

- NSW RFS
- NSW OE&H
- NSW Fisheries (advises comments to be co-ordinated by DPI) and
- NSW Dept of Planning.

**Attachment No. 2** is a summary of the submissions and comments from the government agencies to the DA as lodged and its 1<sup>st</sup> amendment.

The file is incomplete and does not show that the DA has been lawfully and properly notified and exhibited.

The notification and exhibition of the DA and the 1<sup>st</sup> amendment has not been undertaken in a manner which enables ease of public or government understanding of the DA and together with the preparation of the masterplan this has made the situation more complex.

The 2<sup>nd</sup> amendment to the DA has not been notified and advertised.

### 13.3 RVC internal referrals

RVC has referred the DA to the following sections of council who have on several occasions met internally to provide co-ordinated responses to and requests for information from the Applicant:

- Town planning
- Engineering – roads & drainage
- Engineering – water & sewer
- Environmental health
- Building and
- Community projects and social planning.

The preliminary comments of the town planning and engineering - roads & drainage and water and sewer sections were referred to the Applicant on 18 Nov. 2014 and response provided to RVC on 23 Oct. 2015.

The final comments / requirements of the sections of RVC cannot be finalised, as the masterplan is yet to be resolved.

## **14 The land history**

The following is a summary of the planning development history of the land.

### 14.1 Town planning zoning

1. Interim Development Order No. 1 – Shire of Woodburn (13 Feb 1970). Land zoned Non-urban A.
2. Richmond River Local Environmental Plan No 3 (9 Dec. 1993) amendment to Interim Development Order No. 1 – Shire of Woodburn. Land zoned 2(d)-residential, 3(c)-business neighbourhood, 6(c)-open space & 9(a)-tourist.
3. Richmond River Local Environmental Plan 1992 (31 Dec 1992) repealed Interim Development Order No. 1 – Shire of Woodburn. Land zoned 2(v)-village, 6(a)-open space & 7(a)-environmental protection wetlands.
4. Richmond Valley Local Environmental Plan 2012 (21 April 2012) repealed Richmond River Local Environmental Plan 1992. Land zoned R1-general residential, E2-environmental conservation, E3-environmental management & RU1-primary production.

The land was 1<sup>st</sup> rezoned to enable urban and tourist uses on 9 Dec. 1993.

### 14.2 DAs

The following is a summary of the DA's that have been issued to the land and outcomes of the appeals to the NSW Land & Environment Court in regard several of the DA's..

#### DA No. 1988/110

DA No. 1988/110 for the construction of an access road to link Iron Gates land with Evans Head via Wattle St and crossing the SEPP No. 14 wetland:

- Proposed routes along Lot 1 DP 47879 (20m wide parcel of land between Iron Gates land and Wattle St
- DA designated development and EIS required

- DA amended to consider alternative routes
- DA approved by RVC 17 July 1990 with concurrence of the Director as required for an EIS at that time. The land was acquired declared to be a public road under the *Public Roads Act 1902*, 27 Sept. 1991.
- A deviation was proposed to avoid further damage to a midden and trees of cultural significance
- Land needed to be acquired from the Crown in consultation with NSW Aboriginal Lands Council
- RVC approves modification to the DA for the deviation within what would later become Lots 1, 2 & 3 DP 823583 that would be declared to be a public road gazetted 4 June 1993 under the *Crown and Other Roads Act 1990*.

The DA was then the subject of a Hearing at the NSW Land & Environment Court.

*Wilson v Iron Gates Pty Ltd v Richmond River Council* (NSW Land & Environment Court No. 40172 of 1996):

- appeal against the official status of the access road (Iron Gates Dr) as it had to be a gazetted road
- Iron Gates Pty Ltd was restrained from using the road until the necessary applications and approvals issued
- the Orders still apply to the deviated sections of road within Lots 1, 2 & 3 DP 823583 and
- no approvals have been issued by RVC for the sections of road within Lots 1, 2 & 3 DP 823583.

#### DA No. 1988/111

DA No. 1988/111 was for the subdivision of the land to create 610 residential allotments and commercial and tourist development allotments:

- DA approved 20 Oct 1988 and
- Subdivision works commence at the same time as work to construct the access road.

The DA was then the subject of a Hearing at the NSW Land & Environment Court.

*The Richmond Evans Environment Society (TREES) v Iron Gates Development Pty Ltd* (NSW Land & Environment Court No. 40158 of 1991). The Court found that DA No. No. 1988/111 had lapsed. Condition No. 2 of the consent required construction of the access road to commencement of the consent. The Court found that the road had to be fully constructed for the subdivision prior to commencement of the consent.

#### DA No. 1992/149

DA No. 1992/149 was lodged by Iron gates Pty Ltd on 9 Oct 1992 for Stage 1 of potentially a larger development.

- Stage 1 comprised 110 residential lots in the SE section of Lot 276 DP 755624 and Lot 277 DP 755624
- RVC approves DA at its ordinary Meeting 16 March 1993 and resolved that a Fauna Impact Statement (FIS) was not required for Stage 1 and
- DA consent issued 23 March 1993.

The DA was then the subject of a Hearing at the NSW Land & Environment Court.

*Oshlack v Richmond River Council & Iron Gates Developments* (NSW Land & Environment Court No. 40090 of 1993). The case focus was whether or not an Fauna Impact Statement (FIS) was required. Court found that the decision of whether to require an FIS was one for RVC to make and that it could rely on the information supplied by the Proponent at the time. The case was dismissed.

The land was sold and the subdivision continued.

- Engineering plans for the development of Stage 1 in 2 parts 'A' & 'B' approved by RVC 31 March 1995 and
- Works commence to construct Stage 1A in July 1996 as well construction of the access road.

The DA was then the subject of 2 appeals to the NSW Land & Environment Court and a prosecution lodged by the NSW Environment Protection Authority (EPA) relating to a pollution incident from discharge of stormwater into the Evans River.

Oshlack v Iron Gates Pty Ltd & Richmond River Shire Council (NSW Land & Environment Court No. 40152 of 1996) – appeal against the subdivision and breaches of conditions of development consent.

- 6 March 1997 the Court determined that Iron Gates Pty Ltd had carried out earthworks and clearing of vegetation in breach of s. 76(2) of the *Environmental Planning & Assessment Act 1979*, breached certain conditions of consent and caused damage to the habitat of threatened species (Koala) in breach of s. 118D of the *National Parks & Wildlife Act 1974*.
- The Court issued orders restraining:
  - any further development of DA No. 1992/149.
  - from carrying out further works of and incidental to the clearing, formation and construction of an access road on any part of Lots 1, 2 & 3 DP 823583 in so far as any such works are outside the boundaries of Lot 1 DP 47879 without first obtaining approval in accordance with the *Environmental Planning & Assessment Act 1979*.
  - Iron Gates Pty Ltd from using as an access road to and from Portions 276 & 277 any parts of Lots 1, 2 & 3 DP 823583.
- 4 July 1994 the Court ordered that Iron Gates Pty Ltd remediate the land (Lot 276 DP 755624 and Lot 277 DP 755624) in accordance with the agreed remediation plan, that the work commence immediately, be pursued as quickly as reasonably practical and completed within 2 years.

Iron Gates Pty Ltd appealed the decisions but the appeal was dismissed. Accordingly both Judgements stand (advice Hannagan's Solicitors 11 Nov 2014).

Wilson v Iron Gates Pty Ltd & Richmond River Council (NSW Land & Environment Court No. 40172 of 1996) – appeal against the access road.

2 Dec 1996 the Court ordered that:

- Carrying out further works on the access road on Lots 1, 2 & 3 DP 823583 in so far as any such work is outside the boundaries of Lot 1 DP 47879 unless approvals under the *Environmental Planning & Assessment Act 1979* are obtained. The approvals nominated were either an application to modify consent or a new DA.
- That construction of the access road on any part of Lots 1, 2 & 3 DP 823583 in so far as any such construction is outside Lot 1 DP 47879 is unlawful.
- That no subsisting consent has been granted under the Act in respect of any road construction on those parts of Lots 1, 2 & 3 DP 823583 as fall outside Lot 1 DP 47879.
- That carrying out of construction works on any part of Lots 1, 2 & 3 DP 823583 as fall outside Lot 1 DP 47879 is in breach of DA No. 1988/110.

Iron Gates Pty Ltd appealed the decision but withdrew the appeal (advice Hannagan's Solicitors 11 Nov 2014).

In regard the pollution incident, the EPA obtained judgement against Iron Gates Pty Ltd, who during the litigation appointed an administrator to the company. The litigation related to the drains of the subdivision (advice Hannagan's Solicitors 11 Nov 2014).

#### 14.3 Present use

The cleared areas of the land are presently mown / slashed. There is no apparent agricultural use of the land. The land developed under DA No. 1992/149 containing roads and infrastructure appears to be naturally revegetating.

A dwelling and shed exist in the SE corner of Lot 163 DP 831952.

### **15 The DA context & population outcomes**

Evans Head is approx. 7km from the motorway re-alignment, 44km from Lismore and 43km from Ballina. Evans Head comprises some 1,640 urban residential allotments and has a permanent population of approx. 3,100 people. The population may rise to an estimated 5,000 to 6,000 people during peak holiday season.

The land is approx. 1.9km from Evans Head via Iron Gates Dr.

The subdivision proposes 175 residential allotments between 600m<sup>2</sup> & 959m<sup>2</sup>. Assuming only 1 dwelling-house is erected on each of the allotments (as assumed in the bushfire assessment amended 19 Jan. 2019), the future resident population may be approx. 368 people (175 x 2.1 people / dwelling).

This represents potentially a 12% increase in the existing population of Evans Head.

The Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd, for the purposes of calculating demand and loading on water and sewer services, conservatively (but incorrectly) indicates that 85 allotments developed for a dwelling-house and 85 allotments developed for dual occupancy (85 + 85 = 170).

Adopting the density of residential development on the allotments provided in the engineering report, i.e. 50% of the allotments will be developed for 2 dwelling-houses, the future resident population might be approx. 552 people (263 dwellings x 2.1 people / dwelling).

This represents potentially an 18% increase in the existing population of Evans Head.

Adopting the density of residential development on the allotments that 40% of the allotments will be developed for 2 dwelling-houses, the future resident population might be approx. 515 people (245 dwellings x 2.1 people / dwelling).

This represents potentially a 17% increase in the existing population of Evans Head.

### **16 DA issues**

The following are the key important issues that RVC should consider and that the DA needs to more comprehensively address.

#### 16.1 Process

The public exhibition of the DA to-date has not been satisfactory.

The DA needs to be re-notified and re-exhibited by RVC as 1 consolidated comprehensive application consistent with the approved masterplan (if that is to occur).

#### 16.2 Landowners consent

The DA should not be processed any further until the written consent of the owner/s of the Crown road, water and drainage reserves has been obtained and provided to RVC.

It appears a new form (from RVC's website) has been used for the 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA. This form makes references to legislation that is not applicable to the DA due to savings provisions.

A DA Form, from around 2014, should be supplied by RVC to the Proponent to be completed for the amended DA.

#### 16.3 Application documentation

The DA needs to be reviewed and consolidated into 1 comprehensive application consistent with the approved masterplan (if that is to occur).

The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA should provide a statement with written particulars in accordance with cl. 55 of the *Environmental Planning & Assessment Regulation 2000*, sufficient to indicate the nature of the changes to the development as originally lodged.

#### 16.4 Legal matters

The land and access to it has been the subject of 5 court cases including:

1. Oshlack v Richmond River Shire Council & Iron Gates Developments Pty Ltd (NSW Land & Environment Court No. 40090 of 1993)
2. Oshlack v Iron Gates Pty Ltd & Richmond River Shire Council (NSW Land & Environment Court No. 40152 of 1996) – appeal against the subdivision & breaches of conditions of consent
3. Wilson v Iron Gates Pty Ltd & Richmond River Council (NSW Land & Environment Court No. 40172 of 1996) – appeal against the access road
4. EPA v Iron Gates Pty Ltd (NSW Land & Environment Court No. 50083 of 1997) – prosecution of pollution incident relating to discharge of stormwater to the Evans River and
5. Iron Gates Pty Ltd civil damages claim against RVC and others (Supreme Court of Queensland No. S9495 of 1999).

Numerous submissions from the public raised as issues:

- compliance with the outstanding remediation orders (4 July 1997) of the NSW Land & Environment Court in Judgement No. 40152 of 1996 and
- the matter of legal access given the orders of the NSW Land & Environment Court in Judgement No. 40172 of 1996.

RVC advised Planit Consulting P/L on 10 Nov. 2014 in relation to the voluntary surrender of DA No. 1992/149 that it was yet to be satisfied it was possible given the history of the land and Land & Environment Court action and it required the Proponent to demonstrate:

- how much of the development had been constructed and that the works were in accordance with conditions of consent and
- no 3<sup>rd</sup> party of the locality will be adversely impacted upon by the surrender of the consent.

RVC advised it may require surrender of the consent as a condition of the DA.

Both RVC and the Proponent have obtained legal advice in relation to various aspects of the land, DA and Iron Gates Dr. Those advices have comprised:



1. Hannagan's Solicitors to RVC, 11 Nov. 2014 in regard; RVC request 31 Oct 14 asking if Land & Environment Court Orders applying to the land or only to individuals / companies at the time of the Orders, whether or not past legal history a legal impediment to consent being granted (requested a validation statement) and what the legal status is of Iron Gates Dr impinging in the SEPP 14 wetland and further works legal. Hannagan's Solicitors advised; the access road outside of Lot 1 DP 47879 is unlawful and no consent exists for it and a preliminary advice in regard the questions asked by RVC and that the advice of Senior Counsel should be engaged / sought.
2. Mills Oakley to the Proponent, 1 May 2016 in regard; whether or not it was appropriate for the consent authority to require the provision of offsets (as sought by the NSW Office of Environment and heritage in letters dated 1 March 2016 & 22 March 2016)
3. Mills Oakley to the Proponent, 16 Oct. 2016 in regard; seeking approval for the carrying out of works within the road reserve for Iron Gates Dr as part of the existing DA and whether or not there was any relevance, in planning law, to the fact that the construction of the existing road within the road reserve has never been formally accepted by council as an asset.
4. Mills Oakley to the Proponent 23 Oct. 2016 in regard; the trimming of overhanging tree branches over the road reserve in the SEPP No. 14 areas
5. Mills Oakley to the Proponent, 26 Dec. 2016 in regard; RVC's letter of 22 Nov. 2016 and questions it posed including:
  - a. The legal status of those sections of Iron Gates Dr that fall outside Lot 1 DP 47879 given the LEC ruling that they are unlawful
  - b. Will it be necessary to have these unlawful sections of Iron Gates Dr made lawful
  - c. If development consent is needed, will the DA be designated development and will the assessment need to consider the impacts of the proposed roadway as it the existing road works do not exist
  - d. Can the council issue a consent for a subdivision where the lawfulness of the primary access is in question and
  - e. Can the existing consent (DA 110/1988) be relied upon for proposed road works where they fall within Lot 1 DP 47879 (including where they traverse through SEPP No. 14).

The RVC town planner in internal email (18 Nov 14) raises issues that the advice from Hannagan's does not resolve the 3 queries asked by RVC.

In relation to the Mills Oakley advices 16 Oct. 2016 and 23 Oct. 2016, RVC queried whether the advice sufficiently addressed the use of Iron Gates Dr as the primary access to the subdivision given sections of the road were found to be unlawful by the Land & Environment Court in 1996 and that there remains restraining orders over the sections of the road. RVC also raised concern about roadworks in the *SEPP 14* wetland and that in its opinion the works were not permissible under cl. 94(2)(b) of *SEPP-Infrastructure*.

In relation to the Mills Oakley advice 26 Dec. 2016, RVC queried in relation of works in the SEPP 14 wetland and the installation of traffic management devices (works) and the legality of the use of Iron Gates Dr having regard to the gazettal of the road reserve, the use of it as a public road and whether or not development consent is required to use the sections of the road subject to the restraining orders.

The legal advices of Mills Oakley to the Proponent and relied upon for the DA should be consolidated into 1 advice and refer to the finalised DA and supporting specialist assessments.

RVC should obtain its own independent legal advice in order to ensure there is consistency and agreement in regard these historic legal issues to avoid (hopefully) potential for further litigation in regard them.

It is essential to the public interest that these key legal issues be clearly resolved prior to and in the DA documentation to both the satisfaction of the Proponent, RVC and Evans Head community.

#### 16.5 Social impact

There has been no social impact assessment undertaken for the DA. The community consultation undertaken for RVC's Settlement Strategy for Evans Head indicates that;

- lack of public transport in the area
  - the need for youth recreation facilities in the town
  - the cost of rates
  - concern about development planning
  - need for subsidised housing
  - requests to upgrade the sewerage system and
  - wishes to improve water supply
- were reoccurring social issues for the local community.

The settlement strategy states that RVC's Social Plan indicates; isolation, services, housing, health, child protection and education, transport, provision of outreach services and telecommunications are important social issues for Evans Head and population.

The Settlement Strategy identifies the following limitations / constraints at Iron Gates:

- Environmental protection
- SEPP No. 71
- Provision of bushfire asset protection zones
- Airfield runway and safety and
- Pygmy perch habitat.

The Crime Prevention Through Environmental Design (CPTED) assessment needs to be re-considered to address the issue of hiding and entrapment in areas within the subdivision that are to remain heavily vegetated.

Irrespective of what is stated in RVC's DCP controls for social impact assessment the DA is a major development. The additional population has the potential to increase demand for and stretch a range of existing federal, state, local government and non-government / community services and infrastructure (e.g. aged, employment, youth, transport, fire protection, recreation, policing & emergency services) and create demand for new services and infrastructure.

A social impact assessment is required for the DA and should be undertaken in accordance with RVC and industry best practice guidelines and provided with the consolidated comprehensive DA documentation.

#### 16.6 Economic impact

There has been no economic impact assessment undertaken. The DA is of regional significance.

RVC should make an economic impact assessment of the on-going cost of the aspects of the subdivision which are to be dedicated to it and of the capacity of its infrastructure to provide for Evans Head and the demand created by the subdivision on its water and sewer services.

A number of submissions raised issue with the reduction in developer contributions. RVC resolved at its Strategic Finance Committee meeting of 5 Feb. 2013 to reduce its developer

contributions to \$8,000 / ET (equivalent tenement). This issue was again reported to the Ordinary Meeting of RVC on 24 June 2014 in response to Notice of Motion made at the Ordinary Meeting of 17 Dec. 2013.

It is in the public interest to know how that decision impacts on RVC's finances and financing the timely provision of future augmented sewer services in Evans Head and for the subdivision, however that is a matter for RVC.

An economic impact assessment is required for the DA.

#### 16.7 Cultural heritage

The land and locality is culturally very important to local and regional Aboriginal people.

A revised assessment of the impact of the DA on Aboriginal cultural heritage has been prepared by Everick Heritage Consultants Pty Ltd (report Rev. 4 (31/8/15) provided with the 1<sup>st</sup> amendment of the DA. The revised assessment does not inform the reader what has changed in the report from the 1<sup>st</sup> version.

Another revised assessment of the impact of the DA on Aboriginal cultural heritage has been prepared by Everick Heritage Consultants Pty Ltd (report Rev. 5 (7/11/18) provided with the 2<sup>nd</sup> / 2<sup>nd</sup> amendment of the DA. The revised assessment does not inform the reader what has changed in the report from the previous version (report Rev. 4 (31/8/15), other than mention of a change in subdivision layout in the 'statement of heritage impact' – pg 4) and that a AHIP application had been prepared.

The Office of Environment & Heritage (Aboriginal Heritage) on 15 Jan 16 issued its General Terms of Agreement (GTA) under s. 90 of the *National Parks & Wildlife Act 1974* and s. 91A(2) of the *Environmental Planning & Assessment Act 1979*. The GTA requires that an Aboriginal Heritage Impact Permit (AHIP) be obtained prior to any ground disturbance works, monitoring, detection of relics & protocols under the *National Parks & Wildlife Act 1974*, protocols for detection of human remains and cultural education program for personnel & contractors.

The GTA applies to Lot 163 DP 831052, Lot 276 DP 755624 & Lot 277 DP 755624. Figure 9 of the reports by Everick Heritage Consultants Pty Ltd shows the AHIP area partially in the Crown reserve/s.

The Bandjalang Custodians; Mr A Wilson, Mr D Wilson, Mr D Wilson & Ms S Barker has made an objection to the DA as did many of the other submitters for various reasons relating to Aboriginal cultural heritage.

The land description of the GTA needs to be modified to include the part of the AHIP area in the Crown reserve/s and the landowners consent (Crown) be provided.

The reports by Everick Heritage Consultants Pty Ltd identify a higher likelihood for relics to occur on higher slopes and for burials to occur on hilltops. Whilst that part of the site is highly disturbed, given the extent of proposed earthworks and removal of the ridgeline/hill to the north of the midden it would be appropriate that some ground radar investigations be undertaken to investigate for potential burial sites.

The Aboriginal Cultural Heritage Assessment should be revised to demonstrate adequate levels of consultation and that preliminary archaeological investigation has occurred, and provided with the DA.

The GTA needs to be modified to include the part of the AHIP area in the Crown reserve/s and the landowners consent (Crown) provided with the DA.

The stormwater bio-retention area for the SW catchment is in close proximity to the midden site and the potential for impact on Aboriginal cultural heritage needs to be considered in the DA assessment.

The clearing of the Iron Gates Dr road reserve for 20m for fire safety and the potential for impact on Aboriginal cultural heritage needs to be considered in the DA assessment together with evidence of consultation and outcomes of meetings with Bandjalang Aboriginal Prescribed Body Corporate Board of Directors, Jali LALC & conference with the Evans Head Aboriginal cultural heritage management stakeholders provided.

The expert report by Inge Riebe, Anthropologist to the draft masterplan raises substantive issues in regard the assessment of what is acknowledged to be a site with asserted intangible landscape based cultural heritage values.

#### 16.8 European heritage

The report prepared by Everick Heritage Consultants Pty Ltd (report Rev. 4 (31/8/15) recommends the implementation of a monitoring strategy for the Paddon Grave site on the ridgeline immediately west of the Stage 4 of the subdivision.

A draft of the monitoring strategy for the Paddon Grave site should be documented in the DA.

#### 16.9 Soils & groundwater

There has been no detailed geological assessment of the land or detailed assessment of the bulk earthworks proposed to be undertaken, other than an estimate of volumes.

The geotechnical reports, prepared by Geotech Investigations Pty Ltd, provided in the Engineering Services and Civil Infrastructure Report, Rev 5, 15/10/2015, prepared by Hyder Consulting Pty Ltd, is for 10 test locations and in-situ soil permeability testing only.

There has been no detailed groundwater investigations and potential for development impact assessment on groundwater.

The acid sulfate soils investigation review letter report, 9 Oct. 2014, prepared by Hyder Consulting Pty Ltd, relies on site investigations by Coffey in 1995, which are not provided with the letter report.

The Coffey 1995 report is stale and there has been no detailed acid sulfate soils investigations and development impact assessment.

The geology, acid sulfate soils and groundwater conditions of the site generally and ridgeline / hill proposed to be removed needs to be known to properly inform the design of bulk earthworks and should be provided with the DA.

#### 16.10 Ecology – fauna & flora

The land contains threatened fauna and flora species and provides habitat for a range of fauna and flora threatened species.

The environmental significance of the land is reflected in the E2-environmental conservation and E3-environmental management zones within it and the E1-environmental national parks & nature reserves, E2-environmental conservation and E3-environmental management zones on adjoining land and land in the locality.

An assessment of the impact of the DA on terrestrial flora and fauna has been undertaken in the Terrestrial Flora and Fauna Assessment, prepared by Planit Consulting Pty Ltd (Aug. 2014) and provided with the DA. The surveys for the Terrestrial Flora and Fauna Assessment were limited and appear only to be undertaken between 20 & 25 May 2014.

Many of the submissions of objection to the DA raised issues in regard the rigour of the fauna and flora assessment, potential for direct and indirect adverse impacts on the fauna and flora and threatened fauna and flora species and their habitats and for alleged illegal clearing on the land to be developed.

Several of the submissions were prepared by local specialist / expert ecological consultancies and a range of environmental conservation and protection community organisations.

Planit Consulting Pty Ltd provided with the 1<sup>st</sup> amendment of the DA a commentary prepared by Mr B Sargeant who prepared the Terrestrial Flora and Fauna Assessment. The commentary provided a response only to comments by the Office of Environment & Heritage and Dept. of Primary Industries and only to the submission prepared by Mr D Milledge of Landmark Ecological Services Pty Ltd.

Mr Milledge has extensive knowledge of the site and its history, provided a response to the commentary prepared by Mr Sargeant and recommended a Species Impact Statement (SIS) be prepared for the DA.

The commentary by Mr Sargeant states that; *"The proposal involves minor filling, but no excavation works within areas immediately adjacent to the EEC which is not considered to significantly impact the drainage of these areas."*

The DA proposes substantial earthworks on the land and in close proximity to the E2 zone over the central littoral rainforest and it is not readily evident how internal roads and drainage changes will impact on adjoining the endangered ecological communities within the land.

The land and adjoining land is bushfire prone, there has been no assessment of the potential impact on adjoining vegetation. The land is excluded from use of the NSW RFS 10/50 Code, therefore the provision of asset protection zones an inner protection standard to ecologically important vegetation is critically important and should be shown by accurate mapping.

Whether or not the emergency access road from the SW corner of the subdivision to Blue Pools Rd forms part of the DA is still unclear and if required needs to be clearly shown and documented in the DA and subject to the appropriate level of ecological assessment as it traverses land zoned E3-Environmental management.

The riparian buffer requirements of the biting midges assessment needs to be addressed in the fauna and flora assessment for the DA.

The proposed landscaping of the crib wall by planting of vegetation between the concrete cribs suited to the Richmond Birdwing Butterfly needs to be addressed in the fauna and flora assessment for the DA.

It is in the public interest to know the resolution of the alleged illegal land clearing in April / May 2014 of part of the land now to be developed and should be clarified in the DA documentation.

The assessment report, '*Ecological Assessment of Iron Gates Drive Evans Head*', Version RW6 by JWA Pty Ltd, 5 Sept. 2018 was provided with the 2<sup>nd</sup> amendment and separately considers the impact of the up-grading of Iron Gates Dr.

The Terrestrial Flora and Fauna Assessment, prepared by Planit Consulting Pty Ltd (Aug. 2014) is a very limited 'snap-shot', as a consequence of the short survey period which appears to have been undertaken in May following the alleged illegal land clearing in April / May 2014.

The NSW OE&H has indicated that the offset proposal has not been quantified and justified and is poorly considered, recommending further consideration to redesigning to avoid direct and indirect impacts & that an offset package be prepared in accordance with adopted principles.

There is potential for direct and indirect adverse impacts on the fauna and flora of the land and to threatened fauna and flora species and their habitats.

The expert report by Mr Milledge to the draft masterplan raises substantive issues in regard the fauna and flora assessment.

The amendment to the Terrestrial Flora and Fauna Assessment by Planit Consulting Pty Ltd (Aug. 2014) prepared by JWA Pty Ltd, Nov. 2018 appears to only have changed the plan of the proposed subdivision and has not .

I understand that NSW OE&H has been working with the Applicant to calculate the volume of biobanking offset credits need to be retired to offset biodiversity impacts of the proposal.

None of the biobanking documentation has been provided in the amended Terrestrial Flora and Fauna Assessment prepared by JWA Pty Ltd, Nov. 2018, nor is there reference to biobanking offsets in the revised SEE (Oct. 2018).

Parts 7AA and 7A of the *Threatened Species Conservation Act 1995* will not require the development to be assessed in accordance with threatened species protection measures provided by Parts 4 & 5 of the EP&A Act, if biodiversity certification' or a biobanking statement is issued by NSW OE&H. If a 'biobanking statement' is issued by NSW OE&H, the development is taken, to be development that is not likely to significantly affect any threatened species, population or ecological community under this Act, or its habitat.

Whether or not 'biodiversity certification' and 'biobanking statement' is sought or required is not articulated in the DA.

The ecological assessment and submissions should be reviewed by an appropriately qualified and experienced ecologist to consider the implications of Parts 7AA and 7A of the *Threatened Species Conservation Act 1995* and to determine whether or not an SIS and Koala Plan of Management should be prepared for the DA.

Whether or not the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1999* applies to the proposed development needs to be clarified as there is potential for adverse impact on threatened species and their habitats.

Knowing what are and satisfying the relevant standards required by the NSW RFS for the development is a key important issue and needs to be clearly documented in both the fauna and flora impact assessment, bushfire threat assessment and engineering assessment for the DA.

### 16.11 Bushfire

The land and adjoining land is bushfire prone. The primary vehicular and pedestrian access to the subdivision is proposed via Iron Gates Dr only.

The DA is integrated development and the GTA of the NSW Rural Fire Service (RFS) under s.100B *Rural Fires Act 1997* are required prior to determination of the DA.

Many existing residential areas of Evans Head adjoining vegetated lands are provided with a cleared and maintained asset protection zone / fire break of variable widths generally 20m – 30+m. The road to Woodburn from Evans Head has a cleared corridor of approx. 28-30m, including the road pavement. I understand that the Evans Head RFS Brigade is staffed by volunteers.

Four (4) separate bushfire threat assessments have been undertaken for the DA:

1. Bushfire Threat Assessment Report, 14 Aug. 2015, by Bushfire Certifiers Pty Ltd, in regard to asset protection zones, construction standards, water supply, gas and landscaping
2. Iron Gates Suitability Review Public Access Requirements, 12 Aug. 2015, by Bushfire Risk, in regard up-grade requirements for Iron Gates Dr
3. Bushfire Assessment – Additional Information Response, 8 March 2017 by Bushfire Risk, in regard up-grade requirements for Iron Gates Dr and
4. Revised Consolidated Bushfire Report by Bushfire Risk Pty Ltd, 16 Jan. 2019.

The report by Bushfire Certifiers Pty Ltd proposes a 'performance solution' to the provision of asset protection zones (APZ) which are to be managed as inner protection areas (IPA) and provision of an 8m wide fire trail, built to the standards for a perimeter road (including fire hydrants), within the land adjoining the vegetated land to the east of Stage 1.

The Engineering Plans, 26 Nov. 2018, prepared by Arcadis Australian Pacific Pty Ltd (Appendix B) do not show the provision of a water main and hydrants in the 8m wide fire trail within the land adjoining the vegetated land to the east of Stage 1.

The recommended APZs (IPAs) are; 27m to the western boundary, 21m within the subdivision and along the eastern boundary and 11m along the Crown reserves.

The report by Bushfire Certifiers Pty Ltd relies on the provision of an emergency access road from the SE corner of the subdivision to Blue Pools Rd and expressly excludes comment in regard Iron Gates Dr and compliance with access requirements in the planning for bushfire guidelines.

Whether or not the emergency access road from the SW corner of the subdivision to Blue Pools Rd forms part of the DA is unclear and needs to be clearly shown and documented in the DA and that the APZs can be achieved having regard to the extent of earthworks..

Whether or not the excavation along the western boundary and proposed landscaping of the crib wall raises any issue in regard the provision of the IPA needs to be considered in the bushfire threat assessment for the DA.

Within the subdivision the collector road between west and east residential areas in the adjoining littoral rainforest zoned E2 the width of the sealed pavement verge appears reduced.

The Revised Consolidated Bushfire Report by Bushfire Risk Pty Ltd, 16 Jan. 2019 and the 12 Aug. 2015 & 8 March 2017 reports by Bushfire Risk propose a 'performance solution' to the up-grade requirements of the planning for bushfire guidelines for Iron Gates Dr and rely

on the report by Bushfire Certifiers Pty Ltd to determine the required IPA, which is for a different earlier lot layout.

Considerable negotiation has occurred between the NSW RFS and Proponent and consultants. The 2<sup>nd</sup> amendment to the DA seeks to include the upgrade of Iron Gates Dr as part of the DA.

The application status for the provision of an emergency access road from the SW corner of the subdivision to Blue Pools Rd is still unknown.

Given:

- 2 'performance solutions' are proposed, by different bushfire consultants to show alternative solutions to compliance with planning for bushfire guidelines and
  - 1 of those reports relies on an bushfire emergency access road from the SE corner of the subdivision to Blue pools Rd, which may be no longer part of the DA
- it is appropriate that 1 comprehensive and consolidated bushfire assessment be prepared for the DA.

The bushfire threat assessment for Iron Gates Dr suggests a cleared width of 14-15.8m can be achieved in the west zone and 15m in the east zone. The calculated flame length was 11.76m and 16.32m. The minimum separation distances appear to be non-compliant.

The bushfire and fauna and flora assessments should address the requirements and impacts of the collector road between west and east residential areas in the adjoining littoral rainforest zoned E2.

A number of submissions raised concerns about RVC's water supply and its available and future capacity and mains pressure in the event of a bushfire emergency in town and for the proposed subdivision.

The bushfire assessment for the DA should verify that the asset protection zones which are to be managed as inner protection zones can be achieved and provide confirmation that sufficient water supply and pressure is available for all stages of the DA.

The bushfire and fauna and flora assessments for the DA should verify that the proposed fire trail can be managed to be free of obstructions created by falling trees on land immediately to the east.

#### 16.12 Riparian zone & Fishery – Evans River

The land adjoins the Evans River and is in the immediate 'catchment' of adjoining wetland areas and mapped fish habitat.

The Terrestrial Flora and Fauna Assessment, prepared by Planit Consulting Pty Ltd (Aug. 2014) and provided with the DA and 2<sup>nd</sup> / 2<sup>nd</sup> amendment of it makes comment in regard the DA and cl. 6.6, cl. 6.8 and cl. 6.10 of the RVLEP 2012.

There has been no detailed investigation of the riparian zone and fishery habitat of the Evans River adjoining the land in order to make an informed assessment of the relevant considerations of cl. 6.6, cl. 6.8 and cl. 6.10 of the RVLEP 2012 which should be provided in the DA.

There has been no detailed investigation of the potential groundwater impacts of filling on the land and previously excavated drains (required to be filled by The Court) on water quality immediately adjoining the riparian zone and mapped fishery habitat.



RVC's engineering and environmental health departments need to be satisfied that the design and performance of the stormwater management system proposed for the DA achieves the relevant considerations of cl. 6.6, cl. 6.8 and cl. 6.10 of the RVLEP 2012 and its requirements for urban water sensitive design.

### 16.13 Roads & traffic generation

#### *Traffic generation*

There has been no traffic impact assessment undertaken for the DA.

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd, provides a commentary in regard classification of Iron Gates Dr (now generally with a pavement width of 6m) as a rural or rural residential road which should meet standards for traffic volumes of up to 500AADT and that where volumes may exceed 500AADT a reduced standard be considered compliant by RVC.

The Roads & Maritime Services (RMS) guidelines for traffic generating development (TDT 2013/04a, 2013) indicate that low density residential dwellings in regional areas may generate in the order of 7.4 trips per day. Given the size and location of Evans Head and development the number could reasonably be expected to be in the order of 5 – 6 trips per day (say 5.5).

The traffic generating volumes of up to 500AADT represents 91 dwellings. The DA is for 175 residential allotments. The capacity of the existing road, classified as a rural or rural residential road, will be below standard after the construction of the 91<sup>st</sup> dwelling.

The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA sought, in order to achieve planning for bushfire requirements, that Iron Gates Dr (other than those sections which traverse the SEPP No. 14 wetland) be up-graded to provide a 20m wide cleared corridor and 8m wide pavement.

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd refers to a 9m - 11m wide pavement and 7m - 11m wide pavement for the main internal collector road and street. The internal road will in turn connect to Iron Gates Dr which is proposed to have an 8m wide pavement reducing in the SEPP No. 14 wetland area traversed by the road.

Overhanging trees are proposed to be trimmed in the road sections which traverse the SEPP No. 14 wetland to provide clearances. The road pavement in the section will remain 6.6m-7.1m wide and existing bridge remain 6.5m wide and some traffic management provided to slow traffic.

The weight of loads on the bridge is unknown and should be to ensure bushfire tenders can safely cross it and that it has the capacity to provide for the traffic generated by the DA, in particular the impact of transport haulage associated with the bulk earthworks.

The existing condition and capacity of Wattle St to and including the intersection of Woodburn St should be assessed as those roads will be used as the primary access roads into the township.

The DA does not make any traffic impact assessment relating to the bulk earthworks, which are substantive, given the constraints and condition of Iron Gates Dr.

A traffic impact assessment in accordance RMS guidelines is required to clearly:

- establish the classification of the only link road between an existing township and a proposed 175 residential lot subdivision

- identify the existing condition of Wattle St to and including the intersection of Woodburn St, their existing capacities and when and how those roads should be up-graded (if required) to relevant RVC standards
- identify the existing condition of Iron Gates Dr, its existing capacity and when and how that should be up-graded to relevant RVC and regional standards and
- identify the existing condition of Iron Gates Dr, its existing capacity and when and how that should be up-graded to the relevant standards required by the NSW RFS.

#### *Roads*

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd, provides a commentary in regard the general design parameters of the internal road system.

The report does not appear to have considered the design requirements for buses within the development and indicates that footpaths within collector and local roads will not be constructed until the majority of houses are built and occupied.

The report (Rev 7, 1/11/2018) by Arcadis Australian Pacific Pty Ltd also provides a commentary in regard the general design parameters of the external road system (Iron Gates Dr). Refer above.

The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA relates to the up-grade of Iron Gates Dr:

The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA:

- Addendum to Statement of Environmental Effects Accompanying DA 2015/0096, Aug. 2018, prepared by DAC Planning Pty Ltd
- Annexure A - Mills Oakley Advice Letters Dated 16 October 2016 and 23 October 2016
- Annexure B - Aerial Photograph Showing the Alignment of Iron Gates Drive in Relation to the Subject Land and the Village of Evans Head
- Annexure C - Contour Level and Detail Plan (2 Sheets) Showing Iron Gates Drive Road Reserve – Robert A Harries Registered Surveyor, 23 July 2014
- Annexure D - Engineering Drawings (8 Sheets) Rev 02 – ARCADIS, 21 August 2017
- Annexure G - Ecological Assessment of Iron Gates Drive Evans Head, Version RW6 – JWA Pty Ltd, 5 September 2018
- Annexure H - Section 138 Roads Act, 1993 Application for Work on Iron Gates Drive and
- Annexure I - Bushfire Assessment – Additional Information Response – Bushfire Risk, 8 March 2017

all related to the up-grade of Iron Gates Dr.

Those parts of the 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA relating to the up-grade of Iron Gates Dr include:

- Appendix J – Letters of Advice – Mills Oakley, 16 October 2016 and 23 October 2016
- Appendix K – Aerial Photograph Showing Alignment of Iron Gates Drive in relation to Subject Land and Village of Evans Head – Planit Consulting, 7 October 2014
- Appendix L – Contour Level & Detail Survey – Robert A Harries, 23 July 2014
- Appendix M – Engineering Plans, Rev 02 – Arcadis, 21 August 2017
- Appendix O – Ecological Assessment – JWA Pty Ltd, September 2018
- Appendix P – Bushfire Assessment – Additional Information Response – Bushfire Risk, 9 March 2017 and
- Appendix Q – SEPP14 Coastal Wetlands Map – JWA Pty Ltd, 31 October 2016.

In summary Iron Gates Dr:

- has an existing pavement width of 6m and the DA classifies it as a rural or rural residential road

- the DA as lodged did not propose any changes to the road as that would be subject of a separate DA
- the 1<sup>st</sup> amendment of the DA proposed RVC accepting the existing road and pavement width as compliant of its standards
- the 2<sup>nd</sup> amendment of the DA proposes that Iron Gates Dr (other than those sections which traverse the SEPP No. 14 wetland) be up-graded to provide a 20m wide cleared corridor and 8m wide pavement and that overhanging trees be trimmed in the road sections which traverse the SEPP No. 14 wetland to provide clearances. The road pavement in the section will remain 6.6m-7.1m wide and existing bridge remain 6.5m wide and some traffic management provided to slow traffic.

Knowing what are and satisfying the relevant standards required by the NSW RFS for Iron Gates Dr is a key important issue and needs to be clearly documented in both the traffic impact assessment and bushfire threat assessment for the DA.

The landscape plans shows fire trails to be 6m wide with gravel and turf surface + 1m wide shoulders. The engineering, bushfire and fauna and flora assessments for the DA should verify that the proposed fire trails are trafficable in all-weather, do not traverse land subject to inundation, can be constructed to the standards of planning for bushfire protection and managed to be free of obstructions created by falling trees on land immediately to the east.

The weight of loads limit on the bridge in Iron Gates Dr is unknown and should be, to ensure bushfire tenders can safely cross it and that it has the capacity to provide for the traffic generated by the DA, in particular the impact of transport haulage associated with the bulk earthworks.

#### 16.14 Infrastructure - water supply

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd, provides a commentary in regard the general design parameters of the supply of potable water.

Arcadis Australian Pacific Pty Ltd state that the RVC planned water supply for Iron Gates was 100ET or 320EP (at 3.2EP / 1ET).

Arcadis Australian Pacific Pty Ltd then estimate the water demand generated by the DA as 261ET or 835EP and recommend the preparation of a 'water network capacity assessment' to ensure the existing water supply network has capacity to cope with the development.

The DA will exceed the RVC allocation to Iron Gates by some 161ET or 515EP.

A number of submissions raised concerns about water supply and pressure in the event of bushfire.

The supply of water for domestic and fire safety is a key issue for the DA and the preparation of a 'water network capacity assessment' should be undertaken and provided with the DA.

RVC's engineering department need to be satisfied that RVC can provide potable water to the development for both domestic and fire safety standards in order that the DA achieves the relevant considerations of cl. 6.2 of the RVLEP 2012.

#### 16.15 Infrastructure - sewerage

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd, provides a commentary in regard the general design parameters for sewerage.

Arcadis Australian Pacific Pty Ltd state that the RVC assigned sewage load for Iron Gates was 100ET or 320EP (at 3.2EP / 1ET).

Arcadis Australian Pacific Pty Ltd then estimate the assigned sewage load by the DA as 261ET or 835EP.

The DA will exceed the RVC allocation to Iron Gates by some 161ET or 515EP.

A number of submissions raised concerns about the reduction by RVC of the developer contributions for sewer.

The provision of a sewerage network with capacity for the development that can be provided by RVC is a key issue for the DA.

RVC's engineering department need to be satisfied that RVC can provide sewerage services to the development in order that the DA achieves the relevant considerations of cl. 62 of the RVLEP 2012.

#### 16.16 Infrastructure - stormwater drainage & flooding

The DA proposes a rapid disposal method to enable the discharge of floodwater run-off into the river where the water drains with the receding tide. The system proposes filling in the open drain north of Iron Gates Dr on the eastern boundary. The open drain south of Iron Gate Dr within Lot 167 to the river remains open.

The NSW Floodplain Development Manual, April 2005 does not appear to discuss a 'rapid disposal method' to enable the discharge of floodwater run-off.

The system proposes use of bio-retention areas and gross pollutant traps. The bio-retention area servicing NE catchment is within the SE corner of Lot 177, containing the littoral rainforest. The bio-retention area then in turn drains to the open drain south of Iron Gate Dr within Lot 167 to the river.

The majority of the bio-retention area servicing SW catchment is within the land to be dedicated to RVC adjoining and in part in the Crown reserves. The bio-retention area is in close proximity to the midden site.

The Aboriginal Cultural Heritage Assessment should demonstrate that there is no potential for adverse impact on the midden site as a consequence of works to provide the stormwater infrastructure.

The stormwater assessment and investigation of the riparian zone and fishery habitat should consider the potential for impact of the discharge of water on the mapped fishery habitat and wetland areas adjoining the land.

The stormwater assessment should consider the requirements of the biting insect's assessment (Appendix T) that water not pond for periods greater than 48hrs in order to reduce mosquito habitat.

RVC's engineering department need to be satisfied that adequate stormwater services are provided in order that the DA achieves the relevant considerations of cl. 6.2 of the RVLEP 2012.

It is critical that there be no repeat of a pollution incident relating to discharge of stormwater from the land into the Evans River. The DA should clearly demonstrate that the rapid discharge of floodwaters from the site is not likely to potentially cause a pollution incident.

Having regard to the extent of filling and proposed stormwater drainage system a more detailed flood study is required to confirm; flood levels and velocities, fill heights, storm and flood water overland flow paths, evacuation routes and potential for displacement of floodwater onto adjoining land.

Figure 3 of the Revised DA SEE prepared by DAC Planning Pty Ltd (Oct. 2019) depicting flood prone land is not consistent with flood mapping in the Evans River Flood Study – Final Report (Nov 2014) by BMT WBM.

RVC's engineering department need to be satisfied that adequate appropriate measures are made and flood impacts minimised in order that the DA achieves the relevant considerations of cl. 6.5 of the RVLEP 2012.

#### 16.17 Infrastructure - electricity & telecommunications

The Engineering Services and Civil Infrastructure Report, Rev 7, 1/11/2018, prepared by Arcadis Australian Pacific Pty Ltd, provides only a brief commentary in regard 'dial-before-dig' search for electricity and telecommunications infrastructure.

There is no detailed assessment of the capacity of the existing electricity and telecommunications infrastructure to provide for the development and what up-grades / augmentation maybe required of those services. The detail in regard provision of the NBN (availability, timeframe, cabling & nodes) should be described in the DA.

It has not been demonstrated that street lighting can be provided in a manner recommended in the biting insect's assessment (Appendix T).

The supply of electricity and telecommunications infrastructure is a key issue for the DA and an appropriate level of assessment should be undertaken and provided with the DA to ensure those services are available.

#### 16.18 Land use planning – landform & topography

Both the DA SEE and letter report making the 1<sup>st</sup> amendment of the DA, prepared by Planit Consulting Pty Ltd makes comment that; 'designed to respond to the natural topography and existing drainage regime of the land', 'the proposed development preserves natural features' and ' a mix of lot sizes are proposed based on the topography of the land ...'.

The revised DA SEE with the 2<sup>nd</sup> / 2<sup>nd</sup> amendment of the DA, prepared by DAC Planning Pty Ltd makes assessment comment that; 'the proposed subdivision has been designed considering the site attributes and constraints', that 'the proposed subdivision provides for population growth and economic development without putting natural, cultural and heritage values of the coastal environment at risk' and 'the proposed subdivision layout seeks to maintain the natural drainage regime for the land', despite the proposed earthworks and filling.

The substantial excavation and filling within the land clearly suggests the DA will destroy the hill/ridgeline (a natural feature), remove the regrowth and other vegetation within the development footprint and that filling is for the purposes of achieving the flood planning level.

The DA will have a substantial irreversible adverse impact on the landform and topography.

#### 16.19 Land use planning - buffers

The NSW Dept. of Primary Industries has published guidelines for identifying and managing land use conflict issues on the NSW North Coast.

The 'land use conflict resolution assessment' guidelines (LUCRA guidelines), prepared in 2007 by Learmonth, Whitehead & Fletcher at the Centre of Coastal Agricultural Landscapes in partnership with the Northern River Catchment Management Authority are titled; Living and Working in Rural Areas A handbook for managing land use conflict issues on the NSW North Coast.

The LUCRA guidelines:

- identify a range of most common issues and situations that can result in neighbourhood disputes
- recommend buffer separation distances between primary industries and development and sensitive environments and
- a process of land use conflict risk assessment.

The minimum buffer separation distances between environmentally sensitive land and 'residential areas & urban development' recommended in the guidelines are identified below:

Native vegetation / habitat	50m
Ecosystem & wildlife corridors	50m
Estuaries & major waterways	100m
Wetlands	100m
SEPP No. 26 Littoral rainforest	100m

The DA does not achieve compliance with the recommended buffer distances and no information by way of justification to vary the distances or measures to mitigate potential for adverse environmental impact identified.

This is a key important issue and needs to be clearly documented in both the fauna and flora impact assessment and bushfire threat assessment for the DA.

The revised DA SEE indicates the river foreshore area (comprising the residual land to be dedicated to RVC and the Crown reserve/s) will be used for a variety of purposes including; ecological restoration, open space, recreational purposes and for access to the river. The area should also be managed for bushfire protection.

The Statement of Landscape Intent (Appendix E) contains no detail as to how these potentially conflicting uses will occur and there is no surety that the Crown will consent to the use of that land for those purposes.

#### 16.20 Land use planning – staging of development

The subdivision is now proposed in 1 stage. Neither the timing of the development infrastructure to be provided, management of the littoral rainforest (including any stewardship agreements relating to offset credits) nor provision of compensatory revegetation, bushfire asset protection, facilities and services are provided in the DA.

### **17 Issues DA documentation**

#### 17.1 The proposed development on the land

To assist with a full understanding of the DA the site should be pegged to generally show:

- existing boundaries, in particular land to the east, west and adjoining the Evans River to show the location of Crown reserves

- the zone boundaries, including the E2 & E3 zones
- the internal road layout
- Iron Gates Dr showing:
  - the location of the road reserve (part Lot 1 DP 47879), Lots 1, 2 & 3 DP 823583 as fall outside Lot 1 DP 47879
  - the boundary of the SEPP No. 14 wetland
  - the trees to be trimmed in the SEPP No. 14 wetland

## 17.2 The DA as lodged

The following makes brief comments in regard the various reports (identified in *italics*) which previously comprised the DA.

- *Statement of Environmental Effects, Oct 2014, prepared by Planit Consulting Pty Ltd*
  - Review, consolidate amendments in a (1) DA SEE, relevant Sections 16.2, 16.3, 16.4, 16.13, 16.18, 16.19, 16.20, 17.2, 17.4 & 17.5 issues, co-ordinate up-dated specialist reports, masterplan
  - Compile survey showing existing allotments, reserves, contours, zone boundaries & existing infrastructure & dwelling
  - Review site analysis
  - Demonstrate buffers and other recommendations of biting insects assessment can be provided
  - Land description incorrect, DA plans to be up-dated – compiled survey, layout detail & reflect masterplan
- *Appendix D – Terrestrial Flora and Fauna Assessment, Aug. 2014, prepared by Planit Consulting Pty Ltd*
  - Determination if SIS required, review, address amendments, relevant Section 16.10, 16.11, 17.2, 17.3, 17.4 & 17.5 issues, co-ordinate up-dated specialist reports (bushfire, engineering, biting insects & stormwater), masterplan, Iron Gates Dr
  - Draft plan of management for E2 zoned allotments and ownership arrangements in perpetuity
  - Draft plan of management for 'assisted natural regeneration' area
  - Land description incorrect, DA plans to be up-dated
- *Appendix E – Statement of Landscape Intent, Sept. 2014, prepared by Planit Consulting Pty Ltd*
  - Review, address amendments, co-ordinate up-dated specialist reports (bushfire, engineering, flora & fauna & stormwater), relevant Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not addressed, masterplan
  - Provide written statement of landscape intent including; timing, type and location of facilities provided as part of DA
  - Land description incorrect, DA plans to be up-dated
- *Appendix G – Stage 1 Preliminary Contamination Assessment, 28 Aug. 2014, prepared by Hyder Consulting Pty Ltd*
  - Review, section 3.2 makes no sense, section 3.3.1 zoning wrong, dates on historic photos, address amendments, investigation for acid sulfate soils, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix H – Preliminary Radiation Site Assessment, 22 May 2014, prepared by Hyder Consulting Pty Ltd*
  - Review, section 2.3 missing, section 3.2 makes no sense, section 3.3.1 zoning wrong, dates on historic photos, address amendments, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix I – Acid Sulfate Soils review letter report, 9 Oct. 2014, prepared by Hyder Consulting Pty Ltd*

- Review, investigation for acid sulfate soils required given mapped class of land, relevant Section 16.9, 16.10, 17.2, 17.3, 17.4 & 17.5 issues not resolved and extent of earthworks & potential for depression of water table, masterplan
- Land description incorrect, DA plans to be up-dated

### 17.3 The 1<sup>st</sup> amendment to the DA

The following makes brief comments in regard the various reports (identified in *italics*) which previously comprised the 1<sup>st</sup> amendment to the DA.

- *Letter report making amendment of the DA, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd*
- *Attachment B – Letter report response to request for further information (flora & fauna), 23 Oct. 2015, prepared by Mr B Sargeant Planit Consulting Pty Ltd*
  - As above Section 16.10, 16.11, 17.2, 17.3, 17.4 & 17.5 issues not resolved
- *Attachment C – The following reports from the Engineering Services and Civil Infrastructure Report, Rev 5, 15/10/2015, prepared by Hyder Consulting Pty Ltd:*
  - *Assessment of local run-off, 22 Aug. 2014, prepared by BMT WBM Pty Ltd*
  - *Additional flood advice, 2 July 2015, prepared by BMT WBM Pty Ltd*
    - Section 16.16 issues not resolved
    - Review, investigation for potential for displacement of floodwaters onto adjoining land extent of flood, co-ordinate up-dated specialist report (engineering stormwater), masterplan
    - Land description incorrect, DA plans to be up-dated
  - *Results on in-situ permeability testing, 2 June 2015, prepared by Geotech Investigations Pty Ltd – 10 test locations*
    - As above geotechnical investigations Section 16.9 issues not resolved
    - Land description incorrect, DA plans to be up-dated
- *Attachment D – Aboriginal Cultural Heritage Assessment, Rev. 4 (31/8/15), Sept. 2014, prepared by Everick Heritage Consultants Pty Ltd – includes copy of a draft letter, 9 Sept. 2015, to Office of Environment & Heritage in regard consultation with Aboriginal people & organisations*
  - As above Section 16.2, 16.7, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Attachment E – Biting Insect Impact Assessment, 25 March 2015, prepared by Mosquito Consulting Services Pty Ltd*
  - Recommendations, subdivision layout & co-ordinate up-dated specialist reports (engineering stormwater, fauna & flora)
  - Land description incorrect, DA plans to be up-dated
- *Attachment F – Bushfire Threat Assessment Report, 14 Aug. 2015, prepared by Bushfire Certifiers Pty Ltd and report titled 'Iron Gates Suitability Review Public Access Requirements' 12 Aug. 2015, prepared by Bushfire Risk*
  - As above Section 16.11, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Attachment G – Iron Gates Waterfront Layout, undated, prepared by Planit Consulting Pty Ltd*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Attachment H – Demolition plan, undated, prepared by Planit Consulting Pty Ltd*
  - Land description incorrect, DA plans to be up-dated
- *Attachment I – Public submission review table, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd*
  - Noted



- *Attachment J – Copy of emails Planit Consulting Pty Ltd and NSW Office of Water, 27/29 Jan 2015 – riparian off-sets*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues. Part of off-set area in E2 zone which is already protected by zoning
  - Land description incorrect, DA plans to be up-dated
- *Attachment K – Review NSW coastal guidelines, 23 Oct. 2015, prepared by Planit Consulting Pty Ltd*
  - Noted
- *Attachment L – Riparian offset plan, Aug. 2015, prepared by Planit Consulting Pty Ltd*
  - Off-set area in E2 zone which is already protected by zoning, as above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated

*The Engineering Services and Civil Infrastructure Report, Rev 6, 10/05/2016, prepared by Arcadis Australian Pacific Pty Ltd including:*

- *Engineering plans – 47 sheets, Rev 4, 04/04/16*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.9, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Review, address amendments, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Engineering plans fire trail (property access road) – 7 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.10, 16.11, 16.13, 16.2, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Review, address amendments, confirmation of status in DA, masterplan
  - co-ordinate up-dated specialist reports (bushfire, fauna & flora)
  - Land description incorrect, DA plans to be up-dated
- *Engineering plans (access road) – 9 sheets, 13 March 2015, prepared by Hyder Consulting Pty Ltd*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.10, 16.11, 16.13, 16.2, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Review, address amendments, confirmation of status in DA, masterplan
  - co-ordinate up-dated specialist reports (bushfire, fauna & flora)
  - Land description incorrect, DA plans to be up-dated

*The letter report dated 15/05/2016, prepared by Arcadis Australian Pacific Pty Ltd supplies information in regard:*

- *The 6.25m high retaining wall indicating that the visual excess of the structure can be mitigated by planting of vegetation between the concrete cribs suited to the Richmond Birdwing Butterfly*
  - co-ordinate up-dated specialist reports (bushfire, fauna & flora)
- *Shows the how infiltration system will be provided within allotments prior to connection to street drainage and that an easement for stormwater will be provided over each device to enable future access.*
  - co-ordinate up-dated specialist reports (engineering stormwater)

#### 17.4 The 1<sup>st</sup> / 2<sup>nd</sup> amendment to the DA

The following makes brief comments in regard the various reports (identified in *italics*) which potentially comprised the DA in the 1<sup>st</sup> / 2<sup>nd</sup> amendment to it.

- *Addendum to Statement of Environmental Effects Accompanying DA 2015/0096, Aug. 2018, prepared by DAC Planning Pty Ltd*
  - DA amended to include Iron Gates Dr
  - Land description incorrect, DA plans to be up-dated

- As above 16.2, 16.3, 16.4, 16.13, 16.18, 16.19, 16.20, 17.2, 17.4 & 17.5 issues not resolved
- *Annexure A - Mills Oakley Advice Letters Dated 16 October 2016 and 23 October 2016*
  - As above Section 16.4 issues not resolved
- *Annexure B - Aerial Photograph Showing the Alignment of Iron Gates Drive in Relation to the Subject Land and the Village of Evans Head*
  - Noted
- *Annexure C - Contour Level and Detail Plan (2 Sheets) Showing Iron Gates Drive Road Reserve – Robert A Harries Registered Surveyor, 23 July 2014*
  - Noted
- *Annexure D - Engineering Drawings (8 Sheets) Rev 02 – ARCADIS, 21 August 2017*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.9, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Review, address amendments, confirmation of status in DA, masterplan
  - co-ordinate up-dated specialist reports (bushfire, fauna & flora)
  - Land description incorrect, DA plans to be up-dated
- *Annexure E - State Environmental Planning Policy No. 71 Draft Master Plan Number BRJD.100-015, Rev F – Land Partners, 6 April 2018*
  - Noted
- *Annexure F - Proposed Subdivision Plan, Rev G (2 Sheets) and Proposed Subdivision Plan Zone Overlay, Rev I – Land Partners, 6 September 2018*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 17.2, 17.3, 17.4 & 17 issues not resolved
  - co-ordinate up-dated specialist reports
  - Land description incorrect, DA plans to be up-dated
- *Annexure G - Ecological Assessment of Iron Gates Drive Evans Head, Version RW6 – JWA Pty Ltd, 5 September 2018*
  - As above Section 16.10, 16.11, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - co-ordinate up-dated specialist fauna and flora report / potential SIS
  - Land description incorrect, DA plans to be up-dated
- *Annexure H - Section 138 Roads Act, 1993 Application for Work on Iron Gates Drive*
  - Withdrawn
- *Annexure I - Bushfire Assessment – Additional Information Response – Bushfire Risk, 8 March 2017*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.13, 16.14, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - address amendments, confirmation of status in DA, masterplan, co-ordinate up-dated specialist fauna and flora report / potential SIS
  - Land description incorrect, DA plans to be up-dated
- *Annexure J - SEPP14 Coastal Wetlands, Figure 3 – JWA Pty Ltd, 31 October 2016*
  - Noted

#### 17.5 The 2<sup>nd</sup> / 2<sup>nd</sup> amendment to the DA

The following makes brief comments in regard the various reports (identified in *italics*) which currently potentially comprise the DA in the 2<sup>nd</sup> / 2<sup>nd</sup> amendment to it.

- *Revised SEE prepared by DAC Planning Pty Ltd (Oct. 2019). Appendix A – Proposed Subdivision Plans, Rev G, 6 September 2018 & Proposed Subdivision Plans with Zone Overlay, Rev I, 6 September 2018 - LandPartners*
  - DA amended to include Iron Gates Dr
  - Land description incorrect, DA plans to be up-dated
  - As above 16.2, 16.3, 16.4, 16.13, 16.18, 16.19, 16.20, 17.2, 17.4 & 17.5 issues not resolved

- Use of aerial imagery – the DA SEE and all specialist report use different aerial imagery of various dates – all reports should utilise standard imagery and plans unless otherwise required for a specific purpose in the respective report
- *Appendix B – Iron Gates Residential Development Revised Engineering Services and Civil Infrastructure Report – Arcadis Consulting Pty Ltd, 12 November 2018 and Engineering Plans, 26 November 2018*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.9, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Review, address amendments, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix C – Revised Consolidated Bushfire Report – Bushfire Risk Pty Ltd, 16 January 2019*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.13, 16.14, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Appendix D – Terrestrial Flora and Fauna Assessment – Planit Consulting, August 2014 as amended by JWA Pty Ltd, November 2018*
  - Determination if SIS required, review, address amendments, relevant Section 16.10, 16.11, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - co-ordinate up-dated specialist reports (bushfire, engineering, biting insects & stormwater), masterplan, Iron Gates Dr
  - Draft plan of management for E2 zoned allotments and ownership arrangements in perpetuity
  - Draft plan of management for 'assisted natural regeneration' area
  - Land description incorrect, DA plans to be up-dated
- *Appendix E – Statement of Landscape Intent – Planit Consulting, September 2014*
  - Review, address amendments, co-ordinate up-dated specialist reports (bushfire, engineering, flora & fauna & stormwater), relevant Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not resolved, masterplan
  - Provide written statement of landscape intent including; timing, type and location of facilities provided as part of DA
  - Land description incorrect, DA plans to be up-dated
- *Appendix F – Aboriginal Cultural Heritage Assessment – Everick Heritage Consultants, November 2018*
  - As above Section 16.2, 16.7, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Appendix G – Stage 1 Preliminary Contamination Assessment – Hyder Consulting, 28 August 2014*
  - Review, section 3.2 makes no sense, section 3.3.1 zoning wrong, dates on historic photos, address amendments, investigation for acid sulfate soils, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix H – Preliminary Radiation Site Assessment – Hyder Consulting, 22 May 2014*
  - Review, section 2.3 missing, section 3.2 makes no sense, section 3.3.1 zoning wrong, dates on historic photos, address amendments, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix I – Acid Sulfate Soils Review – Hyder Consulting, 9 October 2014*
  - Review, investigation for acid sulfate soils required given mapped class of land, relevant Section 16.9, 16.10, 17.2, 17.3, 17.4 & 17.5 issues not resolved and extent of earthworks & potential for depression of water table, masterplan
  - Land description incorrect, DA plans to be up-dated
- *Appendix J – Letters of Advice – Mills Oakley, 16 October 2016 and 23 October 2016*
  - As above Section 16.4 issues not resolved

- *Appendix K – Aerial Photograph Showing Alignment of Iron Gates Drive in relation to Subject Land and Village of Evans Head – Planit Consulting, 7 October 2014*
  - Noted – background image used dated / stale
- *Appendix L – Contour Level & Detail Survey – Robert A Haries, 23 July 2014*
  - Noted
- *Appendix M – Engineering Plans, Rev 02 – Arcadis, 21 August 2017*
  - As above Section 16.2, 16.3, 16.4, 16.7, 16.10, 16.11, 16.12, 16.13, 16.14, 16.15, 16.16, 16.17, 17.2, 17.3, 17.4 & 17 issues not resolved
  - Review, address amendments, confirmation of status in DA, masterplan
  - co-ordinate up-dated specialist reports (bushfire, fauna & flora)
  - Land description incorrect, DA plans to be up-dated
- *Appendix N – SEPP71 Draft Master Plan, BRJD6396.100.015, Rev F – LandPartners, 6 April 2018*
  - Noted
- *Appendix O – Ecological Assessment – JWA Pty Ltd, September 2018*
  - As above Section 16.10, 16.11, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - co-ordinate up-dated specialist fauna and flora report / potential SIS
  - Land description incorrect, DA plans to be up-dated
- *Appendix P – Bushfire Assessment – Additional Information Response – Bushfire Risk, 9 March 2017*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.13, 16.14, 16.17, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - address amendments, confirmation of status in DA, masterplan, co-ordinate up-dated specialist fauna and flora report / potential SIS
  - Land description incorrect, DA plans to be up-dated
- *Appendix Q – SEPP14 Coastal Wetlands Map – JWA Pty Ltd, 31 October 2016*
  - Noted
- *Appendix R – Public Submissions Review Table Response to Key Matters Raised in Public Submissions – Planit Consulting, 23 October 2015*
  - Noted
- *Appendix S – Review of NSW Coastal Design Guidelines – Planit Consulting, Undated (Annexure K of 23 October 2015 RFI Response)*
  - Noted
- *Appendix T – Biting Insect Impact Assessment – Mosquito Consulting Services Pty Ltd, 24 March 2015 (Annexure E of 23 October 2015 RFI Response)*
  - Recommendations, subdivision layout & co-ordinate up-dated specialist reports (engineering stormwater, fauna & flora)
  - Land description incorrect, DA plans to be up-dated
- *Appendix U – Iron Gates Waterfront Layout – Planit Consulting, Undated (Annexure G of 23 October 2015 RFI Response)*
  - As above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated
- *Appendix V – Demolition Plan – Planit Consulting, Undated (Annexure H of 23 October 2015 RFI Response)*
  - Land description incorrect, DA plans to be up-dated
- *Appendix W – NOW Comments (Annexure J of 23 October 2015 RFI Response) and Riparian Offset Plan, Planit Consulting, (Annexure L of 23 October 2015 RFI Response)*
  - Off-set area in E2 zone which is already protected by zoning, as above Section 16.2, 16.3, 16.4, 16.10, 16.11, 16.12, 17.2, 17.3, 17.4 & 17.5 issues not resolved
  - Land description incorrect, DA plans to be up-dated

In regard the documents missing from the revised Engineering Services and Civil Infrastructure Report – Arcadis Consulting Pty Ltd, 12 November 2018

- *Assessment of local run-off, 22 Aug. 2014, prepared by BMT WBM Pty Ltd*
- *Additional flood advice, 2 July 2015, prepared by BMT WBM Pty Ltd*
  - Section 16.16 issues not resolved
  - Review, investigation for potential for displacement of floodwaters onto adjoining land extent of flood, co-ordinate up-dated specialist report (engineering stormwater), masterplan
  - Land description incorrect, DA plans to be up-dated
- *Results on in-situ permeability testing, 2 June 2015, prepared by Geotech Investigations Pty Ltd – 10 test locations*
  - As above geotechnical investigations Section 16.9 issues not resolved
  - Land description incorrect, DA plans to be up-dated

The documentation currently and potentially comprising / supporting the DA is insufficient, fragmented, and contradictory and makes a complex DA more so.

## **18 Issues statutory planning controls**

### 18.1 *Environmental Protection and Biodiversity Conservation Act 1999*

#### Comment

Fauna & flora / SIS assessment – insufficient information issues and considerations not resolved

### 18.2 *s. 5A Environmental Planning & Assessment Act 1979*

#### Comment

Fauna & flora / SIS assessment – insufficient information issues and considerations not resolved

### 18.3 *State planning policies*

#### *SEPP No. 14 – Coastal Wetlands*

#### Comment

Fauna & flora / SIS assessment – insufficient information issues and considerations not resolved

#### *SEPP No. 44 – Koala Habitat Protection*

#### Comment

Fauna & flora / SIS assessment – insufficient information issues and considerations not resolved

#### *SEPP No. 55 – Remediation of Land*

#### Comment

Preliminary assessment undertaken needs to be up-dated – insufficient information issues and considerations not resolved

#### *SEPP No. 71 – Coastal Protection*

#### Comment

Masterplan not resolved – insufficient information issues and considerations not resolved

#### *SEPP – Infrastructure 2007*

#### Comment

Access and infrastructure not resolved – insufficient information issues and considerations not resolved

*SEPP – Rural Lands 2008*

Comment

Access and infrastructure not resolved – insufficient information issues and considerations not resolved

*SEPP – State and Regional Development 2011*

Comment

DA to be determined by JRPP

18.4 Richmond Valley Local Environmental Plan 2012 (RVLEP 2012)

The following commentary seeks to identify in summary key assessments required for the DA to address the relevant provisions of the RVLEP 2012. The provisions of the RVLEP 2012 have been edited to highlight relevant clauses and those are in *italics*.

*Land use zones - objectives*

*Zone R1 General Residential*

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are generally concentrated in locations accessible to public transport, employment, services and facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

Comment

The DA is not consistent with the 3<sup>rd</sup>, 4<sup>th</sup> & 5<sup>th</sup> objectives.

*Zone E2 Environmental Conservation*

- *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.*

Comment

Sections of the internal road system encroach into the E2 zone adjoining the Evans River.

The DA is not consistent with the objectives of the zone. Whilst ancillary to the subdivision, and roads are a permissible development (with consent) in the E2 zone, it is difficult to opine that the construction and use of an urban road protects, manages and restores areas of high ecological, scientific, cultural or aesthetic values. The implications of the issuing of a 'biobanking statement' needs to be clarified in regard road in the E2 zone.

*Zone E3 Environmental Management*

- *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.*

Comment

Sections of the internal road system encroach into the E3 zone to the west of the SW residential area.

The DA is not consistent with the objectives of the zone. Whilst ancillary to the subdivision, and roads are a permissible development (with consent) in the E3 zone, it is difficult to opine that the construction and use of an urban road protects, manages and restores areas of high ecological, scientific, cultural or aesthetic values and does not have an adverse impact, particularly when it is intended to excavate approx. 6.5m - 7m within parts of the road reserve between Lot 276 DP 755624 and Lot 277 DP 755624. There will be considerable earthworks in the zone for the western and northern perimeter roads of the SW residential area.

The implications of the issuing of a 'biobanking statement' needs to be clarified in regard road in the E3 zone.

#### *Zone W1 Natural Waterways*

- *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.*

#### Comment

The engineering stormwater assessment and detailed investigation of the riparian zone and fishery habitat should demonstrate that the DA will be consistent with the objectives of the zone. It is critical that the management of potential acid sulfate soils, groundwater and the water table, stormwater and flooding be comprehensively assessed.

The DA is not consistent with the objectives of the zone.

#### *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.*

#### Comment

Min. lot sizes; RU1 – 40ha, R1 – 600m<sup>2</sup> & E2, no min. lot size

DA plans to be up-dated to masterplan

*(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

#### Comment

Lot sizes;

- RU1 – residual Lot 178 approx. 47.4ha
- R1 – 600m<sup>2</sup> – 959m<sup>2</sup>
- E2 – Lot 176 (to be retained by Goldcoral Pty Ltd), approx. 2.2ha, Lot 177 (to be retained by Goldcoral Pty Ltd), approx. 4.9ha and foreshore reserves (to be dedicated to RVC), approx. 2,969m<sup>2</sup> & 1,990m<sup>2</sup> (4,965m<sup>2</sup>)

DA plans to be up-dated to masterplan

*(4A) Despite subclause (3):*

*(b) development consent may be granted to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, but only where that lot comprises the entire residue of a subdivision under clause 4.2 or 4.2A.*

#### Comment

Not applicable.

##### *4.1B Minimum lot sizes for dual occupancies*

#### Comment

R1 – attached dual occupancy permissible on 400m<sup>2</sup> – attached & detached dual occupancy permissible on 600m<sup>2</sup>

Potential for attached or detached dual occupancy on all proposed allotments, however this is highly unlikely. Assume potential for 40% dual occupancy on all proposed allotments, though unlikely given bushfire constraints.

#### 4.1C Exceptions to minimum lot size for dual occupancies

##### Comment

Not applicable

#### 4.2 Rural subdivision

(3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

##### Comment

Not applicable

(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.

##### Comment

Not applicable

#### 4.2A Exceptions to minimum lot sizes for certain rural subdivisions

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of dwelling houses or dual occupancies.

##### Comment

Not applicable

#### 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 exist in the coastal zone.

#### 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).

##### Comment

Unknown engineering stormwater drainage & investigation of the riparian zone and fishery habitat – insufficient information issues and considerations not resolved

#### 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.

(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.

##### Comment

Aboriginal cultural heritage assessment & AHIP to be approved by NSW OE&H as the DA is integrated development – insufficient information issues and considerations not resolved

(2) Requirement for consent Development consent is required for any of the following:

(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):



- (i) a heritage item,
- (ii) an Aboriginal object,

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

- (iii) a building, work, relic or tree within a heritage conservation area,
- (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,
- (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,

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

- (d) disturbing or excavating an Aboriginal place of heritage significance,

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

- (e) erecting a building on land:

- (i) on which a heritage item is located or that is within a heritage conservation area, or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

- (f) subdividing land:

- (i) on which a heritage item is located or that is within a heritage conservation area, or
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

- (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:

Comment

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).

Comment

Applies to Paddons grave site and not applicable to Aboriginal cultural heritage.

- (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.

Comment

Applies to Paddons grave site and not applicable to Aboriginal cultural heritage.

(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.

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and consideration not resolved

(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.

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

(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

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – insufficient information issues and considerations not resolved

(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.

Comment

Aboriginal cultural heritage assessment and consultation & AHIP – upon receipt of a comprehensive consolidated DA RVC will have to re-notify the Aboriginal land councils and persons previously notified consulted – insufficient information issues and considerations not resolved

(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:

Comment

Not applicable

(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:

Comment

Not applicable

### 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	Works
1	Any works.
2	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.

(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

Acid sulfate soils assessment preliminary and not in accordance with the Acid Sulfate Soils Manual – insufficient information issues and considerations not resolved

(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

Acid sulfate soils assessment preliminary and not in accordance with the Acid Sulfate Soils Manual – insufficient information issues and considerations not resolved

(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):

(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

Engineering assessment – insufficient information issues and considerations not resolved

*(b) the supply of electricity,*

Comment

Engineering assessment – insufficient information issues and considerations not resolved

*(c) the disposal and management of sewage,*

Comment

Engineering assessment – insufficient information issues and considerations not resolved

*(d) stormwater drainage or on-site conservation,*

Comment

Engineering assessment (stormwater) & flood assessment – insufficient information issues and considerations not resolved

*(e) suitable road access.*

Comment

Legal issues, engineering assessment / traffic impact / bushfire impact / ecological impact – insufficient information issues and considerations not resolved

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

Engineering & planning assessments – insufficient information issues and considerations not resolved

*(2) Development consent is required for earthworks unless:*

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

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

Comment

The earthworks are ancillary to the DA, though are substantial and should be comprehensively assessed as part of it

*(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

Engineering & geotechnical assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering & planning assessments

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

Comment

Engineering & geotechnical assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering & flood assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering & geotechnical assessments – insufficient information issues and considerations not resolved

*(f) the likelihood of disturbing relics,*

Comment

Engineering & geotechnical assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering, acid sulfate soils, groundwater, riparian & fishery investigation / assessment & geotechnical assessments – insufficient information issues and considerations not resolved

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

Comment

Insufficient information issues and considerations not resolved

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

Engineering, stormwater, flooding, acid sulfate soils, groundwater, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*(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

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*(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

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved – no assessment of potential for fill to displace floodwater and change flood character on adjoining land

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

Comment

Engineering & flooding assessments – insufficient information issues and considerations not resolved – flood heights of Iron Gates Dr need to be determined for evacuation purposes. Preliminary investigation of levels show; the 1 in 100 year flood level of Iron Gates Dr is 2.9m(AHD). LiDAR levels show the Iron Gates Dr bridge has a level of approx. 2.1m and Iron Gates Dr approx. 1.7m – 3.2m. The bridge and parts of the road appear to be below the 1 in 100 year flood level.

*(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

Engineering & flooding assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering & flooding assessments – insufficient information issues and considerations not resolved

*(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 3.6m(AHD).

## 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

Engineering, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*(2) This clause applies to land identified as “Biodiversity” on the [Terrestrial Biodiversity Map](#).*

Comment

Clause applies to the land.

*(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

Engineering, bushfire & fauna & flora / SIS assessments – insufficient information issues and considerations not resolved

*(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

Engineering, bushfire & fauna & flora / SIS assessment / Koala Plan of Management – insufficient information issues and considerations not resolved

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

Comment

Fauna & flora / SIS assessment / Koala Plan of Management – insufficient information issues and considerations not resolved

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

Comment

Fauna & flora / SIS assessment / Koala Plan of Management – insufficient information issues and considerations not resolved

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

Comment

Fauna & flora / SIS assessment / Koala Plan of Management – insufficient information issues and considerations not resolved

*(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

Insufficient information considerations not resolved.

*(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

Insufficient information issues and considerations not resolved

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

Comment

Insufficient information issues and considerations not resolved

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

Land not mapped as a landslide risk. As substantial earthworks proposed, including a variable height to 6.5m high retaining structure to be located on part of western boundary as part of a proposed road more detail should be provided in the DA addressing the potential for movement of land.

#### 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

A mapped wetland under SEPP No. 14 occurs in part of the residual allotment. Iron Gates Dr traverses the wetland. The location of the wetland long Iron Gates Dr should be accurately determined. Engineering, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

(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

Engineering, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

#### Comment

Engineering, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

#### Comment

Engineering, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

#### Comment

Riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

#### Comment

Riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

- (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

Engineering, bushfire, fauna & flora / SIS / Koala Plan of Management riparian, & fishery investigation / assessments – insufficient information issues and considerations not resolved

(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

Engineering, bushfire, fauna & flora / SIS / Koala Plan of Management, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*(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

Engineering, planning, bushfire, fauna & flora / SIS / Koala Plan of Management, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering, planning, bushfire, fauna & flora / SIS / Koala Plan of Management, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

6.10 Wetlands

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

Comment

Engineering, planning, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*(2) This clause applies to land identified as “Wetland” on the [Wetlands Map](#).*

Comment

Clause applies to the land.

*(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

Fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

Comment

Fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information considerations not resolved

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

Comment

Engineering, geotechnical, groundwater, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering, planning, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*(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

Engineering, planning, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering, planning, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

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

Comment

Engineering, planning, bushfire, fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

#### 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

RVC have advised for runway #36 the approach Limitation or Operations Surface level is RL86.5m(AHD) stopping immediately to the north of the development but inside the boundary of Lot 277 DP 755624. Surrounding this the Limitation or Operations Surface level is 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. No assessment – insufficient information issues and considerations not resolved

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

Comment

No assessment – insufficient information issues and considerations not resolved

*(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

No assessment – insufficient information issues and considerations not resolved

*(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

No assessment, re-notification required – insufficient information issues and considerations not resolved

*(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

No assessment, re-notification required – insufficient information issues and considerations not resolved

(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.*

#### 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

No assessment - insufficient information issues and considerations not resolved.

(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

Land is approx. 1.7km from runway in a direct line. RVC has advised the 15ANEP contour for runway #36 is well outside the proposed development.

(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

No assessment – insufficient information issues and considerations not resolved

(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

No assessment – insufficient information issues and considerations not resolved

(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

No assessment – insufficient information issues and considerations not resolved

(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.*

## 18.5 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

Land 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; 6m to front boundary & 900mm to side and rear boundaries. Max height of buildings 8.5m and within building height plane.

Bushfire Threat Assessment Report, 14 Aug. 2015, 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 and have to be managed as an IPA generally between 27m & 21m wide in perpetuity.

A further bushfire threat assessment will be required for residential development on all proposed allotments.

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

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

Compliance with planning for bushfire protection and RVC's requirements for future dwellings and dual occupancy development of the allotments will be more than normally complex.

### *Part G-Subdivisions*

#### Comment

Neither the DA nor the 2 amendments to it provide the required detail site analysis plan to identify land constraints / limitations and opportunities.

The road design of the subdivision does not sufficiently account for the proposed modification of landform, potential Koala habitat, acid sulfate soils or bushfire hazard.

The road design of the subdivision does not show that the layout can be navigated by buses nor that the recommendations relating to biting insects can be accommodated.

The subdivision design has not been designed to minimise impacts on the natural environment and retention of significant landscape features.

The DA does not demonstrate that all utilities can be provided to each of the allotments.

There appears to be no co-ordination between the specialist fauna and flora, bushfire and engineering assessments in the preparation of the street tree masterplan.

### *Part H- Environmental Sensitivity and Hazards*

#### Comment

The DA does not demonstrate that it reasonably complies with the requirements and recommendations of Part H relating to:

- flood planning
- bushfire prone land

- acid sulfate soils or
- natural resources in regard to native vegetation, key fish habitat, habitat corridors and wetlands.

*Part I-Other Considerations*

*Part I1 Heritage*

Comment

Refer to Sections 16.6, 16.7 & 17.5. Insufficient information issues and considerations not resolved.

*Part I2 Development in on over or under a public road*

Comment

Refer to Section 16.13. Insufficient information issues and considerations not resolved.

*Part I5 Landscaping guidelines*

Comment

Refer to Sections 16.10 & 17.5. Insufficient information issues and considerations not resolved.

*Part I8 Social impact assessment*

Comment

Refer to Section 16.5. Insufficient information issues and considerations not resolved.

*Part I9 Water sensitive urban design*

Comment

Refer to Sections 16.16 & 17.5. Insufficient information issues and considerations not resolved.

*Part I10 Crime prevention through environment design*

Comment

The Crime Prevention Through Environmental Design (CPTED) assessment for the DA needs to be reviewed and up-dated.

*Part I11 Land use conflict risk assessment*

Comment

Refer to Section 16.19.

*Part I12 Context and site analysis*

Comment

Refer to Section 16.18. The site analysis provided with the DA SEE is insufficient and lacks accurate detail and does not demonstrate that the proposed development is the best possible solution and makes the best contribution to its surroundings.

*Part I15-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.

RVC's copy of the file shows that the public notification and exhibition of the DA has not occurred in a manner that satisfies Part 115.

#### 18.6 s. 91 Environmental Planning & Assessment Act – 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, for the DA this relates to drainage to the Evans River.

The NSW Office of Environment & Heritage has issued an Aboriginal Heritage Impact Permit under s. 90 *National Parks & Wildlife Act 1974*. The land to which the permit applies is not correct.

Neither the NSW Rural Fire Service nor the NSW Office of Water has issued their respective GTA's.

Given the nature and scale of the development in regard s. 201 of the *Fisheries Management Act 1994*, the GTA of NSW Fisheries should also be sought.

#### 18.7 s. 79C DA Evaluation Environmental Planning & Assessment Act

The following provides summary evaluation comments in regard the DA and s. 4.15 (identified in *italics*).

##### *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

Refer to Sections 4, 5, 6, 9, 11, 16 & 17. The DA as amended is inconsistent with the majority of the objectives of the R1 zone and all the objectives of the E2 & E3 zones.

The DA as amended does not supply the required supporting specialist assessment to satisfactorily address, consider and assess it against relevant provisions of the RVCLEP 2012 and relevant State planning policies.

*(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

Unknown.

*(iii) any development control plan, and*

##### Comment

Refer to Section 18.5.

The DA as amended does not supply the required supporting specialist assessment to satisfactorily address, consider and assess it against relevant provisions of the RVCDP 2012.

*(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 agreements have been lodged with the DA. It is unknown whether or not the adoption of the masterplan under SEPP No. 71 is likely to necessitate the Proponent entering into a planning agreement with RVC.

*(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. I have assumed that the NSW Coastal Policy still applies to the land, though I cannot find a document that specifically repeals it, it may not apply. RVC has advised it understands the Coastal Management Act 2016 repealed the Policy, though in 2014 when the DA was lodged cl. 92 of the Environmental Planning and Assessment Regulation 2000 required consideration of it.

The following (in *italics*) identifies and comments on the strategic actions of the Policy that are relevant to control of development in the coastal zone.

*Natural Environment*

*Clause 1.2.5 Threatened species*

Fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved – NSW OE&H advice that surveys show that threatened species exist on the land

*Clause 1.2.7 Threatening processes*

Fauna & flora / SIS, riparian & fishery investigation / assessments – insufficient information issues and considerations not resolved

*Clause 1.3.2 Non-point source of pollution*

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Clause 1.3.7 Water quality*

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Clause 1.3.8 Contaminated stormwater*

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Clauses 1.4.5 & 1.4.7 Assessment of coastline development proposals*

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Natural Processes & climate change*

*Clause 2.1.3 Physical and ecological processes*

Fauna & flora / SIS, riparian & fishery investigation / assessments & engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Clause 2.1.4 Acid sulfate soils*

Engineering, geotechnical, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Clause 2.2.2 Sea level change*

Engineering, stormwater & flooding assessments – insufficient information issues and considerations not resolved

*Aesthetic qualities*

*Clause 3.2.1 North Coast design guidelines*

The proposed development is not consistent with the design location guidelines.

*Clause 3.2.2 North Coast design guidelines*

The proposed development is not consistent with the design location guidelines.

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

The proposed development is physically isolated from the town of Evans Head and is not consistent with the design objective.

*Cultural heritage*

*Clause 4.2.3 Aboriginal heritage*

DA description of development, DA notification, Aboriginal cultural heritage assessment and consultation, AHIP, & investigation of the riparian zone and fishery habitat – insufficient information issues and considerations not resolved

*(v) (Repealed)*

*that apply to the land to which the development application relates,*

Comment

The repealed clause related to Coastal Zone Management Plans (within the meaning of the *Coastal Protection Act 1979* – now repealed). RVC have advised a draft Coastal Zone Management Plan was not endorsed by the Minister within the savings period of the Coastal Management Act 2016, therefore there is no Coastal Zone Management Plan.

*(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

Having regard to the information supplied with the DA in my opinion the development DA is likely to have an adverse impact on the natural environment. I am particularly concerned about potential for adverse direct and indirect impacts on threatened species within and adjoining the land.

The social and economic impacts of the proposed development are unknown.

The financing and provision of future sewerage infrastructure as a consequence of RVC's decision to discount s. 64 sewerage developer contributions is a matter for RVC.

RVC should be aware of on-going costs associated with maintaining infrastructure such as Iron Gates Dr and fire trails in perpetuity to contemporary planning for bushfire protection standards.



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

Comment

Having regard to the information supplied with the DA, in my opinion the site is not suitable for the proposed development.

I am particularly concerned about the provision for bushfire protection and safety having regard the bushfire threat assessments undertaken for the DA to-date, the type of vegetation and its fuel loading within the land, on immediately adjoining land and land in the locality and what asset protection zones are currently provided at the perimeter of Evans Head.

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

Comment

In my opinion the submissions made in objection to the DA raise many relevant substantive issues which should be given determinative weight.

(e) *the public interest.*

Comment

The DA as amended has not addressed the critical public interest issues of the relationship of it to all the Orders of the NSW Land & Environment Court.

18.8 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 DA proposes significant and irreversible damage to the environment of the land and has the potential to have direct and indirect impact on the biodiversity of threatened species and their habitats.

(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 DA does not demonstrate that the environment of the land will be maintained and enhanced for the benefit of future generations.

(c) *conservation of biological diversity and ecological integrity—namely, that conservation of*

*biological diversity and ecological integrity should be a fundamental consideration,*

Comment

The DA proposes significant and irreversible damage to the environment of the land and has the potential to have direct and indirect impact on the biodiversity of threatened species and their habitats.

*(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 decision of RVC in regard discounting of sewer contributions for residential subdivision development in the local government area is a matter for its resolution.

## **19 Conclusion**

DA No. 2015/0095 is a complex proposal. The DA was lodged with RVC in Oct. 2014, now over 4 years ago. The DA has been amended twice (29 Oct. 2015 & 19 Jan. 2019).

The masterplan for the proposed development is required to be approved by the Minister for (Dept) for Planning. A draft masterplan is required to be exhibited by the Minister (Dept) for Planning, which I understand has occurred. When a master plan is adopted, the Minister (Dept) must advertise the adoption of it in a newspaper circulating in the locality.

I understand that the status of the masterplan is still unresolved and it has not been adopted by the Minister.

In my opinion the public notification and exhibition of the DA has not occurred in a manner that fully satisfies RVC's requirements and it should be re-exhibited after receipt by RVC of a comprehensive application consistent with the masterplan, if that is adopted.

The documentation provided for the DA and subsequent amendments has been fragmented and in my opinion insufficient to properly assess it. Refer to my commentary in regard the key important issues (Section 16).

It should be determined also whether or not a Species Impact Statement and Koala Plan of Management should be prepared for the DA and whether or not the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* applies to the proposed development.

A comprehensive consolidated bushfire threat assessment is required and key important issues assessed / addressed in the documentation.

A comprehensive consolidated engineering assessment is required and key important issues assessed / addressed in the documentation.

In my opinion the Proponent should be given the opportunity to withdraw the DA, wait until the masterplan is resolved and re-lodge a comprehensive DA which seeks to address fully all statutory planning and merit considerations or that it be reported to the JRPP with a recommendation to refuse it.

However, in my opinion unless landowner's consents are provided and there is substantial change to the DA it will not be possible to approve in its current form.

I trust the above and attached are of assistance to RVC. I have no objection to RVC supplying copy of this letter to:

- The Proponent
- Submitters
- NSW Dept of Planning
- NSW Fisheries
- NSW National Parks & Wildlife Service
- NSW Office of Water or
- NSW Office of Environment & Heritage.

Please advise RVC's consideration and instruction. Should RVC have any queries please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'MR Scott', with a stylized flourish at the end.

Malcolm Scott MPIA  
Enc

## **Attachment No. 2a**

**Copy of the Assessment Briefing Report (24 August 2021) prepared by the DoPI&E to the NRPP and**

#### BRIEFING DETAILS

<b>BRIEFING DATE / TIME</b>	Wednesday, 18 August 2021, 11:35am and 12:30pm
<b>LOCATION</b>	MS Teams videoconference

#### BRIEFING MATTER

PPS-2014NTH020 – Richmond Valley – DA 2015.096 - 240 Iron Gates Rd Evans Head - Subdivision of land to create 186 lots being: 178 residential lots, 3 public reserves, 2 fire trail lots and 3 residual parcels, associated works, infrastructure and the demolition of existing buildings

#### PANEL MEMBERS

<b>IN ATTENDANCE</b>	Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Robert Hayes
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

#### OTHER ATTENDEES

<b>COUNCIL ASSESSMENT STAFF</b>	Tony McAteer, Angela Jones and Andy Edwards
<b>DEPARTMENT STAFF</b>	Kim Johnston, Sung Pak, Amanda Moylan, Lisa Foley and Jane Gibbs

#### KEY ISSUES DISCUSSED

- Development Application chronology and amendments
- Background to and status of Master Plan
- Clarification of documents submitted in support of the application
- Current Clause 55 request to amend development application and submitted documentation
- Legislative framework around the procedure to amend a development application via cl55 of the *Environmental Planning and Assessment Regulation 2000*
- Difficulties around Planning Portal uploads
- Potential re-exhibition requirements for amended application
- The Panel requested Council provide a written submission outlining their position around the cl55 request
- The Panel requested the preparation of a briefing report to assist them in determining whether to accept the proposed cl55 amendment to the application.

**TENTATIVE DATE FOR CONSIDERATION OF CL55 SCHEDULED FOR MONDAY 6<sup>th</sup> SEPTEMBER 2021**

## PANEL ASSESSMENT BRIEFING REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	2014NTH020 – DA 2015/0096
<b>PROPOSAL</b>	<ul style="list-style-type: none"> <li>Subdivision of land to create 184 lots including: <ul style="list-style-type: none"> <li>175 residential lots,</li> <li>3 residue lots,</li> <li>4 public reserves,</li> <li>1 drainage reserve &amp;</li> <li>1 sewer pump station lot,</li> </ul> </li> <li>Upgrading of Iron Gates Drive, including clearing work in the road reserve,</li> <li>Demolition of existing structures, including a dwelling;</li> <li>Associated subdivision infrastructure works</li> </ul>
<b>ADDRESS</b>	Lot 163 DP 831052 and Lots 276 & 277 in DP 755624 (240 Iron Gates Drive, Evans Head)
<b>APPLICANT</b>	GoldCoral Pty Ltd
<b>OWNER</b>	GoldCoral Pty Ltd
<b>DA LODGEMENT DATE</b>	27 October 2014
<b>APPLICATION TYPE</b>	Development Application (Integrated) (proposed Concept DA)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Coastal Subdivision - Clause 9(b) of Schedule 4A of the EP&A Act (retained as Regionally Significant Development under Clause 8(b) of Schedule 7 to SEPP (State and Regional Development) 2011)
<b>CIV</b>	\$11,395,333.00 (excluding GST)
<b>TOTAL &amp; UNIQUE SUBMISSIONS</b>	565 total submissions in three (3) separate notification periods.
<b>KEY ISSUES</b>	Subdivision design and ecological, bushfire and foreshore issues
<b>DOCUMENTS FOR CONSIDERATION</b>	Proposed amendments to the DA dated 26 July 2021
<b>PREPARED BY</b>	Kim Johnston (Consultant - Regionally Significant Development, DPIE)
<b>DATE OF REPORT</b>	24 August 2021

## Executive Summary

This briefing report has been prepared to provide the Northern Regional Planning Panel ('the Panel') with further information and consideration on whether to accept the proposed amendments to Development Application DA 2015/0096 for a proposed subdivision at 240 Iron Gates Drive, Evans Head.

The power to amend development applications under Clause 55 of the *Environmental Planning and Assessment Regulation 2000* ('the Regulations') rests with the consent authority, in this case the Panel. This was outlined in the Assessment Briefing Report dated 17 August 2021 which was considered by the Panel at the briefing on 18 August 2021.

The Panel is required to consider whether to accept the proposed amendments pursuant to Clause 55. There are a number of questions and matters which will assist the Panel in making this decision.

These questions include:

- Will the amendments resolve the issues with the application?
- Will accepting the amendments have resourcing issues for Council and financial implications?
- How long has the development application been under consideration?
- Has the legislative context changed?
- Has sufficient information been provided as required by the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and Regulations?
- Is the supporting information still relevant?
- Are the changes within the scope of Clause 55?

Having considered these questions, there are a number of factors which have been assessed in further details for the Panel's consideration in section 2.2 of this report.

Consequently, it is considered that the amendments should not be accepted by the Panel for the reasons outlined in this report.

## 1. BACKGROUND

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DA 2015/0096 was lodged with Richmond Valley Council ('the Council') on 27 October 2014 for a residential subdivision comprising 184 lots, associated infrastructure, demolition of existing structures on the site and the upgrading of Iron Gates Drive. The proposal requires a master plan to be adopted pursuant to Clause 18(1)(d) of the now repealed *State Environmental Planning Policy No 71 – Coastal Protection* ('SEPP 71').

A draft master plan was lodged with the Minister on 30 October 2015 following the Minister declining to grant a request to waive the requirement for a master plan pursuant to Clause 18(1)(e) of SEPP 71 on 3 May 2015.

The applicant formally withdrew the draft master plan application on 19 July 2021 and now proposes to amend the current development application pursuant to Clause 55 of the Regulations with a Concept DA. A Concept DA satisfies the requirements for a draft master plan under Clause 18(1)(d) of the now repealed SEPP 71 pursuant to Section 4.23(2) of the EP&A Act.

## 2. AMENDED PLANS

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## 2.1 The Amended Plans

The applicant, Goldcoral Pty Ltd, has lodged with the Council a proposal to submit amended plans which will involve the proposal being for a Concept DA pursuant to Section 4.23 (3) of the EP&A Act and will be carried out in two stages as described below:

### Stage 1

1. Completion of all subdivision work for the Stage 1 and future Stage 2 lots, including but not limited to:
  - Clearing and earthworks.
  - Roadworks and drainage.
  - Sewer and water supply (including service connections to the Stage 1 lots and future Stage 2 lots).
  - Electricity and communications (including connections to the Stage 1 lots and future Stage 2 lots).
2. Embellishment of the proposed public reserves adjacent to the Evans River foreshore.
3. Creation of:
  - 135 residential lots comprising Lots 1 to 135.
  - Creation of 4 public reserve lots comprising Lots 139 to 142.
  - Creation of 1 sewer pump station lot comprising Lot 144.
  - Creation of 1 drainage reserve lot comprising Lot 143.
  - Creation of 3 super lots (comprising Lots 145, 146, 147).
  - Creation of a residue lot (Lot 138).
  - Creation of 2 Rainforest Lots 137 & 136.
4. Upgrading of Iron Gates Drive

### Stage 2

Subdivision of super lots 145, 146 & 147 to create 40 residential lots. No subdivision work is required for Stage 2 as all subdivision infrastructures will be provided with Stage 1.

The amended proposal, if accepted by the Panel, is essentially the same as a former version of the draft master plan and development application, except that the 40 lots in Stage 2 would be subject to a further DA.

## 2.2 Decision whether to Accept the Amendments

Clause 55 of the Regulation sets out the procedure for amending a development application, which states (emphasis added):

- (1) *A development application may be amended or varied by the applicant (but only with **the agreement of the consent authority**) at any time before the application is determined, by lodging the amendment or variation on the NSW planning portal*
- (2) *If an amendment or variation results in a change to the proposed development, the*



*application to amend or vary the development application must include particulars sufficient to indicate the nature of the changed development.*

(3) *If the development application is for—*

*(a) development for which concurrence is required, as referred to in section 4.13 of the Act, or*

*(b) integrated development,*

*the consent authority must immediately forward a copy of the amended or varied application to the concurrence authority or approval body.*

Importantly, this Clause requires the *agreement of the consent authority* for an application to be amended in subclause (1). Pursuant to Section 2.15(a) of the EP&A Act, the Panel is the consent authority for *regionally significant development*. Accordingly, it is the Panel's decision whether or not to accept the amendments for this development application.

While Clause 55 allows amendments or variations to development applications prior to their determination and there is case law on the scope and extent of this statutory power (as demonstrated in Ebsworth and outlined in the earlier briefing note), there are no such strict tests to be applied to the '*agreement of the consent authority*' part of this clause. The Department considers that the proposed amendments are within the scope of Clause 55, however, whether the consent authority should *agree to their lodgement* requires further consideration.

Accordingly, the consent authority must consider the relevant circumstances of the case, with several factors requiring a thorough consideration prior to accepting the proposed amendments.

The factors considered in this assessment include the following:

- Fundamental issues remain unresolved
- Council resourcing concerns
- Duration of the development application
- Legislative changes
- Insufficient information
- Age of Consultants Reports and Supporting Documentation
- Whether the proposed amendments comprise designated development.

These matters are considered below.

(a) *Fundamental issues remain unresolved*

The proposed amendments do not involve any changes to the proposal, provide any new or amended information or resolve any issues which have been raised in relation to the proposal. The proposed amendments are simply changing the section of the EP&A Act under which the application is lodged.

There are several significant and fundamental issues with the proposal which were raised by the Government Architect of NSW ('GANSW') in their design review of the draft master plan in October 2020. The advice and recommendations arising from this design review are provided at **Attachment A** for the Panel's information.

The issues raised included, but not limited to, place and context concerns, issues with the overall subdivision plan including streets/interfaces/access/connections and lot sizes, built form concerns, the lack of integration with the natural environment and green infrastructure and ongoing place management concerns. While this design review related directly to the draft

master plan, as outlined by the applicant, the development application and draft master plan were the same.

Notwithstanding the ample timeframe the applicant has been provided to address those concerns, no fundamental changes to the proposal have been undertaken. The issues of subdivision layout and the lack of lot diversity, bushfire concerns, ecological issues and foreshore matters remain largely unresolved.

Accordingly, it is considered that accepting the amendments is not supported as the proposed amendments do not resolve the fundamental issues with the application (notwithstanding that a full assessment has not been undertaken).

*(b) Council Resourcing Concerns*

A factor to consider in the decision whether to accept the proposed amendments under Clause 55 is the potential for resourcing concerns for Council. During the Panel meeting 18 August 2021, Council was asked whether the proposed amendments would impact on Council's resources. Panels are required to consult with Councils about certain decisions pursuant to Section 2.26 of the EP&A Act. In particular, this Section provides that Panels (emphasis added):

*"....must not exercise a function that will result in the making of a decision that will have, or that might reasonably be expected to have, a **significantly adverse financial impact** on a council until after it has consulted with the council".*

In this case, Council clearly outlined that the acceptance of the amendments would place additional burdens on Council. These burdens included, but were not limited to, staffing resources, further consultation with agencies including organising and responding to referrals, potential increased costs associated with notification as well as the likely need to engage consultants including planners and lawyers to further assist in the assessment of the development application.

Council also importantly highlighted that they will be charged with the added task of assessing the proposal under Clause 18 and 20 of SEPP 71 in relation to the draft master plan matters via Section 4.23(3) of the EP&A Act.

Clearly, Council cannot impose any additional application fees or other charges on the applicant for these amendments, apart from minor fees associated with advertising/notification (if incurred).

All of these matters raised by Council increase the financial burden on Council and other staffing implications for a development application which has been in progress for almost seven years. These matters are outlined by Council in their correspondence to the Panel included at **Attachment B**.

It is considered that this factor raises significant concerns for Council and accordingly, accepting the amendments is not supported.

*(c) Duration of the development application*

The development application was lodged on 27 October 2014, which equates to 2,493 days or almost seven (7) years and has been amended on three (3) occasions to this point. While the development application was not capable of determination given a draft master plan had not been adopted, there were significant merit issues with the draft master plan (and the DA) which prevented that application from being assessed and determined.

It is considered that the applicant has had sufficient time to address the concerns raised with the draft master plan and this development application over the course of the past almost seven years. It is considered that accepting the amendments is not supported on this basis.

(d) *Legislative changes*

There have been numerous legislative changes since the lodgement of the development application. The main changes include the following:

- *State Environmental Planning Policy No 71 – Coastal Management* has been repealed and replaced with *State Environmental Planning Policy (Coastal Management) 2018*;
- *State Environmental Planning Policy No 14 – Coastal Wetlands* has been repealed and generally incorporated into the Coastal Management SEPP;
- *Threatened Species Conservation Act 1995* has been repealed and replaced with the *Biodiversity Conservation Act 2016* including but not limited to, the changes in listings of threatened species, endangered species, key threatening processes, how offsets are calculated and assessed and similar matters
- The *Planning for Bushfire Protection 2006* guidelines, which guided the preparation of the bushfire assessment reports, has been replaced with *Planning for Bushfire Protection 2019*;
- The *Richmond Valley Local Environmental Plan 2012* has been amended in relation to flood planning with the replacement of Clause 6.5 with Clause 5.21 and the subsequent replacement of the *NSW Floodplain Development Manual 2005* with the *Considering Flooding in Land Use Planning Guideline* dated July 2021.

While these legislative amendments do not strictly apply to DA 2015/0096, the technical changes to the assessment of issues such as flood risk, bushfire, coastal management and biodiversity, result in the proposal being considered under guidelines and assessment tools which no longer reflect best practice. It is also unknown as to the certainty with which the proposed offsets can be imposed given the changed legislative regime surrounding biodiversity.

The extent of these legislative changes also demonstrates that the legislative context under which the development application is currently being considered no longer reflects the Government's policy context on many of the issues which arise in this assessment.

The complex issues on this site should be considered and assessed under the most recent guidelines. Having regard to the differing legislative context within which the proposal now sits, it is considered that the proposed amendments should not be accepted.

(e) *Insufficient information*

There are various legislative requirements an amended development application proposing a concept DA must satisfy in order for there to be sufficient information to assess the application. These requirements include the following:

- Clause 55(2) of the Regulation;
- Section 4.22(1) of the EP&A Act; and
- Section 4.23((3) of the EP&A Act.

These requirements are considered in **Table 1**. It is evident that the proposed amendments have not provided sufficient information.

**Table 1: Consideration of Information Requirements**

REQUIREMENT	PROPOSED AMENDMENT	RESOLVED
Clause 55(2) – <i>“If an amendment or variation results in a change to the proposed development, the application to amend or vary the development application must include particulars sufficient to indicate the nature of the changed development”</i>	The proposed amendment to the development application relies on information that has been previously lodged for the proposal. It is considered that this is insufficient and has often relied on summaries of past reports or commentary stating that only certain components of the report are relevant. The presented information with the amendment is insufficient to address this requirement.	<b>No</b>
Section 4.22(1) – <i>“For the purposes of this Act, a concept development application is a development application <b>that sets out concept proposals</b> for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications”.</i>	The proposed amendment outlines that proposed Stage 2 is for concept approval only and that it will require a future development application.	Yes
Section 4.23(3) - <i>Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.</i>	This Section requires that the matters outlined in Clause 20(2) of SEPP 71 are adequately addressed in the DA given the proposed amendments are for a concept DA. This requirement is to satisfy Clause 18(1)(d) of the now repealed SEPP 71. Following a thorough consideration of these matters, it is considered that the proposal provides insufficient information as outlined below in Table 2.	<b>No</b> - refer below

Since the amendments propose to replace the current DA with a Concept DA pursuant to Section 4.22 of the EP&A Act, the requirements of Clause 20(2) of SEPP 71 must be satisfactorily addressed in the application pursuant to Section 4.23(3) of the EP&A Act.

Clause 20(2) of SEPP 71 states:

*A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:*

- (a) design principles drawn from an analysis of the site and its context,*
- (b) desired future locality character,*
- (c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,*
- (d) the scale of any development and its integration with the existing landscape,*
- (e) phasing of development,*
- (f) public access to and along the coastal foreshore,*
- (g) pedestrian, cycle and road access and circulation networks,*
- (h) subdivision pattern,*

- (i) infrastructure provision,
- (j) building envelopes and built form controls,
- (k) heritage conservation,
- (l) remediation of the site,
- (m) provision of public facilities and services,
- (n) provision of open space, its function and landscaping,
- (o) conservation of water quality and use,
- (p) conservation of animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,
- (q) conservation of 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.

The applicant contends in their *Concept Proposal Outline* prepared by DAC Planning Pty Ltd dated July 2021 ('Concept Outline'), which accompanied the proposed amendments, that these matters have been addressed in the draft master plan. As has often been the case, the applicant is relying on previously submitted information, which is largely significantly out of date (considered further below) and contained in multiple annexures and versions of past lodgement documents.

It is considered that the proposed amendments do not satisfactorily address the following matters, which have largely been raised with the applicant previously, particularly through the GANSW design review of the proposal in October 2020:

**Table 2: Consideration of the Matters under Clause 20(2) of SEPP 71**

REQUIREMENT	PROPOSED AMENDMENT	RESOLVED
(a) <i>design principles drawn from an analysis of the site and its context</i>	<p>The proposed subdivision lacks clear design principles which arise following a thorough site analysis. The GANSW assessment clearly articulated this lack of design principles drawn from a site analysis and contextual site study, stating that there were a number of significant issues which remained unresolved and that these issues could be generally attributed to a lack of integrated urban and landscape design.</p> <p>The GANSW further commented that, cumulatively, the draft Master Plan did not demonstrate a response to the special qualities of place, presenting as a generic subdivision.</p> <p>It is considered that the proposed amendments do not adequately address this requirement for a master plan/DCP.</p>	<b>No</b>
(b) <i>desired future locality character</i>	<p>The proposed subdivision lacks an adequate consideration of the likely future built form on the site (refer below), which combined with the absence of design principles for the proposed subdivision arising from a thorough site analysis results in the proposal being</p>	<b>No</b>

	unable to achieve a desired future locality character consistent with this setting.	
(c) <i>the location of any development, considering the natural features of the site, including coastal processes and coastal hazards</i>	<p>The site is flood affected; however, has been the subject of limited consideration, with the exception of a letter report from BMT WBM dated July 2015. This issue has not been adequately addressed through a consolidated response with mapping and recommendations. Flood evacuation as an example is currently proposed to the west of the site via Blue Pools Road which is understood not to be of a satisfactory standard.</p> <p>Similarly, the site is bushfire prone land and it is considered that this issue has not been satisfactorily resolved.</p>	<b>No</b>
(d) <i>the scale of any development and its integration with the existing landscape</i>	As outlined for (a), there is a general lack of an integrated approach to the design of the subdivision with the site conditions (also as outlined in the GANSW design review).	<b>No</b>
(e) <i>phasing of development</i>	This has been adequately addressed.	Yes
(f) <i>public access to and along the coastal foreshore</i>	<p>The Concept Outline states that “<i>Embellishment of the proposed public reserves adjacent to the Evans River Foreshore</i>” is included in the proposed Stage 1 works (last line on page 5), however, it is then stated that “<i>In summary, no embellishment of the Crown Foreshore reserve adjacent to the Evans River is proposed</i>” (top of page 11).</p> <p>It is unclear what, if any works, are proposed in the foreshore reserve and therefore public access to and along the foreshore is unresolved. This is despite the length of time that has elapsed since lodgement of the DA and previous draft master plan. This issue has not been adequately addressed.</p>	<b>No</b>
(g) <i>pedestrian, cycle and road access and circulation networks</i>	<p>The circulation network is not clearly outlined. While the Landscape Plan refers to footpaths and street tree planting and the engineering reports refer to road hierarchies, there is a lack of an overarching hierarchy of structuring elements to enhance the legibility of the precinct.</p> <p>This issue was also highlighted by the GANSW advice and needed to include</p>	<b>No</b>

	vehicle and pedestrian networks, among other matters.	
(h) <i>subdivision pattern</i>	The proposed amendments provide the proposed subdivision pattern, notwithstanding it is unsatisfactory as outlined in the GANSW advice.	Yes
(i) <i>infrastructure provision</i>	Infrastructure provision is outlined in the proposed amendments, relying on previously submitted information.	Yes
(j) <i>building envelopes and built form controls</i>	<p>The proposed building envelopes have been provided (albeit with no documented dimensions particularly with regard to setbacks), however, built form controls have not been adequately addressed.</p> <p>The lack of built form controls was also raised by the GANSW in their design review, stating that limited information was provided on the holistic intent for the built form across the master plan, recommending that the applicant develop Built form design guidelines. This has not been provided.</p> <p>In relation to built form controls, the document prepared by RPS dated 23 November 2020 which purported to address the GANSW advice, stated:</p> <p><i>“The built form guidelines are not required by the State Environmental Planning Policy No 71 process but will be prepared once the approval and conditions are granted”.</i></p> <p>This is simply incorrect given Clause 20(2) of SEPP 71 requires that a draft master plan illustrate and demonstrate proposals for, among other things, <i>built form controls</i>.</p> <p>In any event, the RPS document provides generic controls in relation to built form which have not been developed following an analysis of the site.</p>	<b>No</b>
(k) <i>heritage conservation</i>	This has been demonstrated.	Yes
(l) <i>remediation of the site</i>	This has been demonstrated.	Yes
(m) <i>provision of public facilities and services</i>	This has been demonstrated.	Yes
(n) <i>provision of open space, its function and landscaping</i>	This has not been demonstrated given the proposed use, embellishment,	<b>No</b>

	ownership and management of the coastal foreshore reserve is unknown.	
(o) <i>conservation of water quality and use</i>	This has been demonstrated.	Yes
(p) <i>conservation of animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats</i>	This has been demonstrated (this does not include the merits of this issue).	Yes
(q) <i>conservation of 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</i>	This has been adequately addressed.	Yes

The proposed amendments are considered to fail the test under Section 4.23(3) of the EP&A Act in that there are significant matters (around half) which have not been adequately demonstrated or illustrated pursuant to Clause 20(2) of SEPP 71.

The application is required to include sufficient information for the consent authority to make a thorough assessment of the proposal and in effect is an assessment of both a development application and a draft master plan/DCP. It is considered that the proposed amendments have not achieved this requirement and has failed to provide sufficient information.

The proposed amendments fail to satisfy Sections 4.22(1) and 4.23(3) of the EP&A Act and Clause 55(2) of the Regulations arising from the lack of information as outlined in Tables 1 and 2 above. Accordingly, it is considered that there is insufficient information upon which an assessment of this application can be carried out and therefore the amendments should not be accepted.

*(f) Consultants Reports and Supporting Documentation*

The proposed amendments generally rely on Consultants reports and documentation that were prepared between 2014 and 2019, some of which are now almost more than seven (7) years old. The applicant has relied on previously submitted material without submitting it as a complete revised package, consolidating submitted information or updating the contents of those reports. The applicant has also previously relied on components of older reports and then provided commentary on the relevant sections of those reports. This results in a piecemeal assessment of issues and lacks an integrated review of the complex matters involved in this assessment.

The following reports are still being relied upon which are detailed in **Attachment C**:

- Bushfire Assessment prepared in March 2017 and July 2019;
- Flora and Fauna reports largely prepared in August 2014 with numerous annexures being added over time and most recently in July 2019;
- Engineering report substantially updated in July 2019
- Aboriginal Cultural Heritage report revised in July 2019;
- Contamination Reports in May and August 2014 and acid sulphate soils report dated October 2014 relying on field investigations undertaken in 1995;
- Biting insects report dated July 2019;
- Landscaping master plan dated July 2019; and
- Social and economic impact assessment dated July 2019.



The lack of any updating of these reports results in the proposal being assessed on largely out of date information. The amendments are not supported given this extends the life of these reports which require significant and comprehensive revision.

(g) *Designated development*

The proposal may include works which are considered to be designated development pursuant to then Section 77A(1) of the EP&A Act (unamended) under *State Environmental Planning Policy No 14 – Coastal Wetlands* ('SEPP 14'). Whether the proposal is for designated development in this instance is contained in Clause 7 of SEPP 14 and is in relation to the proposed road works along Iron Gates Drive.

While this SEPP has since been repealed and replaced with the Coastal Management SEPP, SEPP 14 is applicable to the current application as it was lodged prior to its repeal on 3 April 2018.

The proposed works include trimming of vegetation/trees which overhang Iron Gates Drive within the SEPP 14 wetland. The Council accepts the applicant's advice that "*trimming*" does not involve the *destruction or removal in any manner of native plants* growing on the land and/or that the trimming may be classified as 'routine maintenance' under the Infrastructure SEPP. If carried out on behalf of the Council and kept to the minimum extent possible to allow safe use of the road, development consent would not be required.

This issue was discussed at the Panel Briefing and should be considered in any decision concerning whether to accept the amendments as this matter has the potential to significantly change the entirety of the application. The Panel would need to be satisfied that the proposal was not designated development for it to accept the proposed amendments under Clause 55 as it is considered that such a change is not within the scope of Clause 55.

It is concluded that there is currently insufficient information to ascertain whether the proposal involves works which are classified as designated development and therefore this issue remains unresolved.

### **3. Recommendation**

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It is recommended that the Panel does not accept the proposed amendments pursuant to Clause 55 of the Regulation to DA 2015/0096 for the following reasons:

- The proposed amendments do not resolve the fundamental issues with the application (notwithstanding that a full assessment has not been undertaken);
- Acceptance of the amendments would place additional financial burdens on the Council which cannot be recovered;
- The development application has been under consideration for almost seven (7) years and it is considered that the applicant has had sufficient time to address the issues;
- The legislative context under which the development application is currently being considered no longer reflects the Government's policy context on many of the issues which arise in this assessment. The complex issues on this site should be considered and assessed under the most recent guidelines;
- The proposed amendments fail to provide sufficient information to satisfy Sections 4.22(1) and 4.23(3) of the EP&A Act and Clause 55(2) of the Regulations, particularly having regard to Clause 20(2) of SEPP 71;
- The proposed amendments generally rely on Consultants reports and documentation prepared between 2014 and 2019, being more than seven (7) years old and therefore

lacking an integrated and updated review of the complex matters involved in this assessment; and

- There is currently insufficient information to ascertain whether the proposal involves works which are classified as designated development, which if it is the case is outside the scope of Clause 55.

#### **4. Attachments**

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**A:** GANSW Advice

**B:** Council's correspondence dated 24 August 2021

**C:** Summary of Relevant Information lodged for Iron Gates (Table 1)

## Attachment A: GANSW Advice

# GOVERNMENT ARCHITECT NEW SOUTH WALES

19 October 2020

Graeme Ingles  
Goldcoral Pty Ltd  
PO Box 3441  
Australia Fair QLD 4215  
Via email –  
graeme@inglesgroup.com.au

PROJECT: Iron Gates Residential Release, Evans Head  
RE: SDRP SESSION 64 – 07.10.20

Dear Graeme,

Thank you for the opportunity to review the above project. Please find a summary of advice and recommendations arising from the design review session held on 07.10.20.

GANSW acknowledges that a Development Application has been lodged with Richmond Valley Council for the subdivision of Lots 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road reserve between Lots 163 DP 831052 and Lot 276 DP 755724, and Iron Gates Drive, Evans Head to establish a residential community comprising 175 lots, and that the Masterplan is currently being assessed by the Department of Planning, Industry and Environment under the provisions of SEPP 71. It is understood that the Master Plan does not seek approval for built form, and that approval of individual dwellings will take place by individual lot owners under standard local DA approval processes.

The master plan is proposed on a sensitive coastal site of regional significance. The presentation to the Panel lacked detail on a range of matters, however, on the basis of the information provided it is clear that a number of significant issues remain unresolved. These can be generally attributed to a lack of integrated urban and landscape design.

Cumulatively the Master Plan does not appear to deliver appropriate urban design outcomes in its current form. Please note the following recommendations for improving the urban design and amenity of the precinct:

### Place and Context

Generally, the Master Plan does not currently demonstrate a response to the special qualities of place, presenting as a generic subdivision. An opportunity exists to design a precinct that responds to the richness of the site, for example in relationship to:

- its coastal setting
- the ecological significance of its surroundings
- Aboriginal and cultural heritage
- the coastal river setting on the North Coast, which is characterised by climate, ecological and topographic conditions
- topography - drone footage provided as part of the presentation assisted with understanding of the site, however there was a lack of information provided on the existing topography and how this relates to and has informed the design outcome
- Evans Head, with the proposal currently presenting as a gated community

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Good urban design will ensure a response to these unique qualities and enhance the preservation of Indigenous and European cultural heritage, landform and ecological systems. This will create a connection to place and a sense of identity, helping to ensure the future protection of these assets. Recommendations:

1. Provide a Vision Statement that:
  - a. includes site and context analysis, and makes reference to the special qualities of the place,
  - b. identifies design principles informed by the specific qualities of the place, and
  - c. includes a set of design evaluation criteria to ensure the design principles are achieved.
2. Articulate a clear and meaningful approach to Indigenous and European cultural heritage, including:
  - a. an understanding and acknowledgement of Country, including the local stories which could help inform the character of the precinct.
  - b. a narrative about Evans River, and its role. Overland flow and flooding can also form part of the story.
3. Revisit the subdivision pattern to demonstrate that it responds to the underlying topography and specific characteristics of the environment, natural elements, patterns and processes. Clearly identify and justify any significant changes to the topography.
4. Develop the hierarchy of structuring elements to enhance the legibility of the precinct. These should include vehicle and pedestrian networks, lot shapes and sizes and landscape treatment.
5. Provide relevant case studies and an analysis of them to inform and distil the precinct wide approach to issues such as: cultural and historic heritage, environmental protection, climate resilience and social cohesion.

#### Overall Subdivision Plan including

##### Streets/interfaces/access/connections/lot sizes

The overall approach to the street layout is considered to be generic and suburban in nature and appears to have been driven by an engineering approach to vehicle and standard drainage solutions, rather than an approach which seeks to balance these requirements with the needs of people on foot or bicycle.

The single access point for a scheme of this size is concerning, particularly so in the context of bushfire prone land. Whilst it is noted that the fire trail to the east of the site has RFS approval, it is considered a risk as it backs onto rear gardens. APZ requirements should not impinge on backyards.

Implementation of a singular lot size of 600m<sup>2</sup> (minimum allowable) will limit diversity in built form and response. Encouraging dual occupancy on some lots was noted and is supported.

Reconsideration of the street network and the lot sizes to respond to these issues will ensure a well-connected development. This will have the benefit of reducing risk from bushfire hazards,

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encouraging active transport modes such as walking and cycling, reduce reliance on vehicles and contribute to the health and wellbeing of residents. Recommendations:

6. Ensure the access road into the site from Iron Gates Drive can accommodate active transport.
7. Ensure allowance for connections with future public transport networks.
8. Ensure and demonstrate that pedestrian connectivity through the precinct is maximised.
9. Review the lot sizes proposed and integrate a variety of sizes which relate to the street typology and conditions.
10. Review the current fire trail indicated to the east of the site, in consultation with the RFS, to ensure that no rear gardens abut this trail. Consider replacing the trail with a street and adjusting the location of development lots accordingly.

#### Built Form

Limited information was provided on the holistic intent for the built form across the master plan. It was indicated that design guidelines were in development to be provided as part of the contract for sale for individual lots. This is supported. A well-considered approach to a high-quality built form contributes to positive environmental outcomes, and the creation of healthy, safe and liveable communities by contributing to the character of the area, achieving an appropriate density, scale and bulk, and providing optimal safety and amenity.

Recommendations:

11. Demonstrate how aspect and orientation has been considered in the re-design of the subdivision pattern.
12. Develop Built form design guidelines to:
  - a. identify the future desired character of the area in terms of built form, include further analysis of Evans Head and surrounding north coastal housing vernacular models. Current analysis identifies general house builder dwellings but does not as yet reference design elements which characterise north coast dwellings
  - b. manage bulk through articulation and the provision of minimum setbacks
  - c. allow for spatial variety
  - d. maximise internal amenity (i.e. by establishing minimum side setbacks)
  - e. establish the desired future landscape character of the precinct through street and rear setbacks, street trees, deep soil provision, landscape species, rear private open space etc.
  - f. establish a public domain interface that supports opportunities for social interaction for street entry front fences and gates. Limit fencing extents and heights and maximise transparency
  - g. manage vehicle access including: location, form, materiality and visibility from the public domain of driveways and off-street parking,
  - h. embed high quality design, including guidance for façade and rooves (i.e. pitch, detailing), and the use of robust and durable materials and finishes

- i. embed housing diversity i.e. identify duplex sites and where different house types might be allocated to certain locations, for example, along the riverfront, adjacent to rainforest interface and the entry to the site.

#### Integration with the natural environment and Green Infrastructure

The project site and the surrounding area has significant vegetation, riparian corridors and biodiversity. The current master plan compromises the preservation of the natural environment and has limited opportunities to fully celebrate it. Engaging with and protecting the natural environment provides ecosystem benefits and enhances the landscape amenity for residents and visitors. Recommendations:

13. Review the vehicular network to ensure that access roads are provided along all interfaces with existing vegetated areas. This will also assist in removing Asset Protection Zones (APZs) from within private property.
14. Enlarge the Riverfront park to increase and improve the buffer conditions between the Riparian corridor and the adjoining road.
15. Provide information on planned tree canopy coverage for the entire developable master plan both public and private open space.
16. Consider the potential for greater connectivity between protected rainforest zones and provide strategies to mitigate the impact of the east-west access road on habitat. Specifically, review the need for the western vehicular street that currently severs the central rainforest area from the larger rainforest area to the west – consider replacing with a pedestrian only pathway to facilitate connection between these two sensitive areas.
17. Provide details of the stormwater treatment basin, including an assessment of visual impacts from the public domain and how impacts to the adjoining protected rainforest zone will be mitigated.
18. Demonstrate that infrastructure, access networks and lots comply with Flood Planning requirements.
19. Provide details of the proposed sustainability mechanisms. A sustainability strategy, which exceeds baseline standards, is required.
20. Ensure generous landscape provision in the public domain, for example verges to maximise tree canopy.
21. Consider mechanisms to manage feral and domestic animals.

#### Ongoing Place Management

Greater clarity is required on the future management of the public domain of the site, in particular the areas of rainforest, streets and street trees. Responsibility for construction of streets and landscape planting was not clear. The approach to place and preservation management of this site over the long term is required to ensure that ecological preservation continues during the construction phase and once the scheme is complete. Recommendations:

22. An ecological and place management strategy which outlines how natural and built assets within the public domain will be preserved during construction and post completion.

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A further presentation to the SDRP is recommended to allow presentation of an amended scheme to address the issues above. The following material should be provided:

1. Vision Statement
2. Updated subdivision plan and landscape strategy
3. Demonstrated approach to Indigenous and European cultural heritage
4. Large site sections illustrating how development responds to the underlying topography and specific characteristics of the environment including natural elements.
5. Analysis of precedent studies
6. Built form Design Guidelines
7. Information on planned tree canopy coverage for the precinct
8. Details of the stormwater treatment basin
9. Sustainability Strategy
10. Other items as outlined within the GANSW SDRP Precinct Requirements document.
11. Resolution of the items 1-22 noted above.

It is recommended that a design team - comprising an Urban Designer and Landscape Architect who have experience of working on this scale of development and within this setting - is engaged to carry out the review and adjustments to the Master Plan to ensure the right urban design outcome for the site. This team should present the material at any subsequent presentations to the SDRP.

Please contact GANSW Principal Design and Guidance Jane Threlfall ([jane.threlfall@planning.nsw.gov.au](mailto:jane.threlfall@planning.nsw.gov.au)), if you have any queries regarding this advice and to schedule the next meeting.

Sincerely,



Olivia Hyde  
Director Design Excellence, Government Architect NSW

Distribution to SDRP, DPIE and Richmond Valley Council participants:

NSW SDRP Panel members	Roger Jasprizza, Kim Crestani, Tony Caro
GANSW Chair	Olivia Hyde
GANSW Design Advisor	Jane Threlfall
DPIE	Jeremy Gray, Director Northern Craig Diss, Manager Local and Regional Planning Jon Stone, Senior Planning Officer Dimitri Young, Senior Planning Officer, Biodiversity and Conservation

Statutory Authority

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## Attachment B: Council's correspondence dated 24 August 2021



**Richmond  
Valley  
Council**

Council's Reference: DA2015/0096  
Northern Planning Panel Case No: PPS-2014NTH020

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24 August 2021

Mr Paul Mitchell (Chairman)  
Northern Regional Planning Panel

[enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

Dear Paul

### DA2015/0096 Iron Gates Subdivision – re proposed Clause 55 Amendment to Concept DA

I refer to the Northern Regional Planning Panel's (the Panel) briefing session of 18 August 2021 discussion of a proposed amendment/variation request, pursuant to clause 55 of the EP&A Regulation, for Development Application DA2015/0096 to be made a Concept Development Application.

The Panel is understood to be the consent authority for this Regionally Significant Development and therefore responsible for whether the amendment/variation will be accepted.

To assist the Panel, Council contends that:

1. it is reluctant to assume the Ministerial responsibilities for assessment of the SEPP71 master plan heads of consideration which come with this amended/varied development application.
2. acceptance of the amendment/variation will increase required resourcing by Council, and the Integrated Development approval bodies, as the application will require re-notification and re-assessment of another amendment/variation, to an already complex application, with the added responsibility to assume the Department's former role assessing the SEPP71 master plan heads of consideration. All this extra work does not attract additional application fees.
3. the master plan application was withdrawn by the applicant on 19 July 2021, an action taken by the applicant without prior consultation with Council.
4. the master plan application was lodged with the Department on 25 October 2014 and, despite ongoing negotiations with the applicant and various agencies, was undetermined due to several outstanding issues. The prospects of Council continuing these negotiations to achieving a different outcome are unlikely and will exhaust further resources.
5. the clause 55 amended/varied Concept Development Application has not been supported by sufficient information to satisfactorily address all the SEPP71 heads of consideration. Council's expectation is that the entire suite of documentation from the 6.5-year master plan process would be submitted. Yet the Concept DA Report accompanying the amendment/variation request only contains summarised content from the master plan application and is not supported by additional information to address outstanding issues.

Yours sincerely,

Angela Jones  
Director Community Service Delivery

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**Attachment C: Table 3: Reports and Documents lodged for Iron Gates**

TOPIC	TITLE OF REPORT	AUTHOR	DATE	PROVIDED IN (DMP = Draft Master Plan)
Bushfire Management	Bushfire Safety Authority Report	Planit Consulting	September 2014	DA (original)
	Bushfire Threat Assessment Report	Bushfire Certifiers	14 August 2015	DA (original)
	Bushfire Assessment – Additional Information Response Re: Iron Gates Drive Evans Head NSW	Bushfire Risk (Melanie Jackson)	<b>8 March 2017</b>	Annexure 3 - revised DMP (October 2019)
	Revised Consolidated Bushfire Report	Bushfire Risk (Melanie Jackson)	<b>12 July 2019</b>	Annexure 3 - revised DMP (October 2019)
Flora & Fauna	Terrestrial Flora & Fauna Assessment	Planit Consulting P/L	August 2014	Annexure 1 - original DMP (30/10/15)
	Terrestrial Flora & Fauna Assessment as amended July 2019 by JWA Pty Ltd	Planit Consulting P/L & JWA P/L	August 2014 & <b>July 2019</b>	Annexure 12 of revised DMP (October 2019)
	Emails from JWA Pty Ltd and OEH	JWA P/L	4 March 2020	Annexure 1 - Responses to Submissions to DMP (March 2020)
Engineering	Engineering Services & Civil Infrastructure Report	Hyder Consulting P/L	3 October 2014	Annexure 2 - original DMP (30/10/15)
	Engineering Plans – Access Road	Arcadis	21 August 2017	Annexure 4 - revised DMP (October 2019)
	Revised Engineering Services & Civil Infrastructure Report	Arcadis	<b>23 July 2019</b>	Annexure 2 - revised DMP (October 2019)
	Stormwater Management Plan (Iron Gates Drive)	Arcadis	20 March 2020	Annexure 5 - Responses to Submissions to DMP (March 2020)
	Response to NSW State Government Agency Comments	Arcadis	20/03/2020	Annexure 6 - Responses to Submissions to DMP (March 2020)
Aboriginal Cultural Heritage	Aboriginal Cultural Heritage Assessment	Everick Heritage Consultants P/L	31 August 2015	Annexure 3 - original DMP (30/10/15)
	Revised Aboriginal Cultural Heritage Assessment	Everick Heritage Consultants P/L	<b>July 2019</b>	Annexure 9 - revised DMP (October 2019)
	Expert Response to Submissions	Everick Heritage P/L	24 March 2020	Annexure 4 -Responses to Submissions to DMP (March 2020)
Land contamination	Stage 1 Preliminary Contamination Assessment	Hyder Consulting P/L	29 August 2014	Annexure 6 - original DMP (30/10/15)

	Preliminary Radiation Site Assessment	Hyder Consulting P/L	22 May 2014	Annexure 7 - original DMP (30/10/15)
	Acid Sulphate Soils Letter (relying on field investigations from 1995).	Hyder Consulting P/L	9 October 2014	Annexure 7 - original DMP (30/10/15)
Biting Insects	Biting Insect Impact Assessment	Darryl McGinn	24 March 2015	Annexure 4 -original DMP (30/10/15)
	Revised Biting Insect Impact Assessment	Darryl McGinn	<b>10 July 2019</b>	Annexure 12 - revised DMP (October 2019)
Landscaping	Iron Gates Development – Landscape Statement of Intent	Plummer & Smith	<b>17 July 2019</b>	Annexure 6 - revised DMP (October 2019)
Crown Lands	Crown Road Reserves	Crown Lands	March 2019	Annexure 10 - revised DMP (October 2019)
Social & Economic Impact	Social & Economic Impact Assessment	Hill PDA Consulting	<b>July 2019</b>	Annexure 11 - revised DMP (October 2019)
Coastal Design	-	-	Undated	Annexure 11 - revised DMP (October 2019)
	Waterfront Layout	Planit Consulting	Undated	Annexure 13 - revised DMP (October 2019)

# GOVERNMENT ARCHITECT NEW SOUTH WALES

19 October 2020

Graeme Ingles  
Goldcoral Pty Ltd  
PO Box 3441  
Australia Fair QLD 4215  
Via email –  
graeme@inglesgroup.com.au

PROJECT: Iron Gates Residential Release, Evans Head  
RE: SDRP SESSION 64 – 07.10.20

Dear Graeme,

Thank you for the opportunity to review the above project. Please find a summary of advice and recommendations arising from the design review session held on 07.10.20.

GANSW acknowledges that a Development Application has been lodged with Richmond Valley Council for the subdivision of Lots 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road reserve between Lots 163 DP 831052 and Lot 276 DP 755724, and Iron Gates Drive, Evans Head to establish a residential community comprising 175 lots, and that the Masterplan is currently being assessed by the Department of Planning, Industry and Environment under the provisions of SEPP 71. It is understood that the Master Plan does not seek approval for built form, and that approval of individual dwellings will take place by individual lot owners under standard local DA approval processes.

The master plan is proposed on a sensitive coastal site of regional significance. The presentation to the Panel lacked detail on a range of matters, however, on the basis of the information provided it is clear that a number of significant issues remain unresolved. These can be generally attributed to a lack of integrated urban and landscape design.

Cumulatively the Master Plan is does not appear to deliver appropriate urban design outcomes in its current form. Please note the following recommendations for improving the urban design and amenity of the precinct:

## Place and Context

Generally, the Master Plan does not currently demonstrate a response to the special qualities of place, presenting as a generic subdivision. An opportunity exists to design a precinct that responds to the richness of the site, for example in relationship to:

- its coastal setting
- the ecological significance of its surroundings
- Aboriginal and cultural heritage
- the coastal river setting on the North Coast, which is characterised by climate, ecological and topographic conditions
- topography - drone footage provided as part of the presentation assisted with understanding of the site, however there was a lack of information provided on the existing topography and how this relates to and has informed the design outcome
- Evans Head, with the proposal currently presenting as a gated community

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Good urban design will ensure a response to these unique qualities and enhance the preservation of Indigenous and European cultural heritage, landform and ecological systems. This will create a connection to place and a sense of identity, helping to ensure the future protection of these assets. Recommendations:

1. Provide a Vision Statement that:
  - a. includes site and context analysis, and makes reference to the special qualities of the place,
  - b. identifies design principles informed by the specific qualities of the place, and
  - c. includes a set of design evaluation criteria to ensure the design principles are achieved.
2. Articulate a clear and meaningful approach to Indigenous and European cultural heritage, including:
  - a. an understanding and acknowledgement of Country, including the local stories which could help inform the character of the precinct.
  - b. a narrative about Evans River, and its role. Overland flow and flooding can also form part of the story.
3. Revisit the subdivision pattern to demonstrate that it responds to the underlying topography and specific characteristics of the environment, natural elements, patterns and processes. Clearly identify and justify any significant changes to the topography.
4. Develop the hierarchy of structuring elements to enhance the legibility of the precinct. These should include vehicle and pedestrian networks, lot shapes and sizes and landscape treatment.
5. Provide relevant case studies and an analysis of them to inform and distil the precinct wide approach to issues such as: cultural and historic heritage, environmental protection, climate resilience and social cohesion.

#### **Overall Subdivision Plan including Streets/interfaces/access/connections/lot sizes**

The overall approach to the street layout is considered to be generic and suburban in nature and appears to have been driven by an engineering approach to vehicle and standard drainage solutions, rather than an approach which seeks to balance these requirements with the needs of people on foot or bicycle.

The single access point for a scheme of this size is concerning, particularly so in the context of bushfire prone land. Whilst it is noted that the fire trail to the east of the site has RFS approval, it is considered a risk as it backs onto rear gardens. APZ requirements should not impinge on backyards.

Implementation of a singular lot size of 600m<sup>2</sup> (minimum allowable) will limit diversity in built form and response. Encouraging dual occupancy on some lots was noted and is supported.

Reconsideration of the street network and the lot sizes to respond to these issues will ensure a well-connected development. This will have the benefit of reducing risk from bushfire hazards,

encouraging active transport modes such as walking and cycling, reduce reliance on vehicles and contribute to the health and wellbeing of residents. Recommendations:

6. Ensure the access road into the site from Iron Gates Drive can accommodate active transport.
7. Ensure allowance for connections with future public transport networks.
8. Ensure and demonstrate that pedestrian connectivity through the precinct is maximised.
9. Review the lot sizes proposed and integrate a variety of sizes which relate to the street typology and conditions.
10. Review the current fire trail indicated to the east of the site, in consultation with the RFS, to ensure that no rear gardens abut this trail. Consider replacing the trail with a street and adjusting the location of development lots accordingly.

### **Built Form**

Limited information was provided on the holistic intent for the built form across the master plan. It was indicated that design guidelines were in development to be provided as part of the contract for sale for individual lots. This is supported. A well-considered approach to a high-quality built form contributes to positive environmental outcomes, and the creation of healthy, safe and liveable communities by contributing to the character of the area, achieving an appropriate density, scale and bulk, and providing optimal safety and amenity.

Recommendations:

11. Demonstrate how aspect and orientation has been considered in the re-design of the subdivision pattern.
12. Develop Built form design guidelines to:
  - a. identify the future desired character of the area in terms of built form, include further analysis of Evans Head and surrounding north coastal housing vernacular models. Current analysis identifies general house builder dwellings but does not as yet reference design elements which characterise north coast dwellings
  - b. manage bulk through articulation and the provision of minimum setbacks
  - c. allow for spatial variety
  - d. maximise internal amenity (i.e. by establishing minimum side setbacks)
  - e. establish the desired future landscape character of the precinct through street and rear setbacks, street trees, deep soil provision, landscape species, rear private open space etc.
  - f. establish a public domain interface that supports opportunities for social interaction for street entry front fences and gates. Limit fencing extents and heights and maximise transparency
  - g. manage vehicle access including: location, form, materiality and visibility from the public domain of driveways and off-street parking,
  - h. embed high quality design, including guidance for façade and rooves (i.e. pitch, detailing), and the use of robust and durable materials and finishes

- i. embed housing diversity i.e. identify duplex sites and where different house types might be allocated to certain locations, for example, along the riverfront, adjacent to rainforest interface and the entry to the site.

### **Integration with the natural environment and Green Infrastructure**

The project site and the surrounding area has significant vegetation, riparian corridors and biodiversity. The current master plan compromises the preservation of the natural environment and has limited opportunities to fully celebrate it. Engaging with and protecting the natural environment provides ecosystem benefits and enhances the landscape amenity for residents and visitors. Recommendations:

13. Review the vehicular network to ensure that access roads are provided along all interfaces with existing vegetated areas. This will also assist in removing Asset Protection Zones (APZs) from within private property.
14. Enlarge the Riverfront park to increase and improve the buffer conditions between the Riparian corridor and the adjoining road.
15. Provide information on planned tree canopy coverage for the entire developable master plan both public and private open space.
16. Consider the potential for greater connectivity between protected rainforest zones and provide strategies to mitigate the impact of the east-west access road on habitat. Specifically, review the need for the western vehicular street that currently severs the central rainforest area from the larger rainforest area to the west – consider replacing with a pedestrian only pathway to facilitate connection between these two sensitive areas.
17. Provide details of the stormwater treatment basin, including an assessment of visual impacts from the public domain and how impacts to the adjoining protected rainforest zone will be mitigated.
18. Demonstrate that infrastructure, access networks and lots comply with Flood Planning requirements.
19. Provide details of the proposed sustainability mechanisms. A sustainability strategy, which exceeds baseline standards, is required.
20. Ensure generous landscape provision in the public domain, for example verges to maximise tree canopy.
21. Consider mechanisms to manage feral and domestic animals.

### **Ongoing Place Management**

Greater clarity is required on the future management of the public domain of the site, in particular the areas of rainforest, streets and street trees. Responsibility for construction of streets and landscape planting was not clear. The approach to place and preservation management of this site over the long term is required to ensure that ecological preservation continues during the construction phase and once the scheme is complete. Recommendations:

22. An ecological and place management strategy which outlines how natural and built assets within the public domain will be preserved during construction and post completion.

A further presentation to the SDRP is recommended to allow presentation of an amended scheme to address the issues above. The following material should be provided:

1. Vision Statement
2. Updated subdivision plan and landscape strategy
3. Demonstrated approach to Indigenous and European cultural heritage
4. Large site sections illustrating how development responds to the underlying topography and specific characteristics of the environment including natural elements.
5. Analysis of precedent studies
6. Built form Design Guidelines
7. Information on planned tree canopy coverage for the precinct
8. Details of the stormwater treatment basin
9. Sustainability Strategy
10. Other items as outlined within the GANSW SDRP Precinct Requirements document.
11. Resolution of the items 1-22 noted above.

It is recommended that a design team - comprising an Urban Designer and Landscape Architect who have experience of working on this scale of development and within this setting - is engaged to carry out the review and adjustments to the Master Plan to ensure the right urban design outcome for the site. This team should present the material at any subsequent presentations to the SDRP.

Please contact GANSW Principal Design and Guidance Jane Threlfall (jane.threlfall@planning.nsw.gov.au), if you have any queries regarding this advice and to schedule the next meeting.

Sincerely,



Olivia Hyde  
Director Design Excellence, Government Architect NSW

Distribution to SDRP, DPIE and Richmond Valley Council participants:

NSW SDRP Panel members  
GANSW Chair  
GANSW Design Advisor  
DPIE

Roger Jasprizza, Kim Crestani, Tony Caro  
Olivia Hyde  
Jane Threlfall  
Jeremy Gray, Director Northern  
Craig Diss, Manager Local and Regional Planning  
Jon Stone, Senior Planning Officer  
Dimitri Young, Senior Planning Officer, Biodiversity  
and Conservation

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Richmond Valley Council

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**Richmond**  
**Valley**  
**Council**

Council's Reference: DA2015/0096  
Northern Planning Panel Case No: PPS-2014NTH020

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24 August 2021

Mr Paul Mitchell (Chairman)  
**Northern Regional Planning Panel**

[enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

Dear Paul

**DA2015/0096 Iron Gates Subdivision – re proposed Clause 55 Amendment to Concept DA**

I refer to the Northern Regional Planning Panel's (the Panel) briefing session of 18 August 2021 discussion of a proposed amendment/variation request, pursuant to clause 55 of the EP&A Regulation, for Development Application DA2015/0096 to be made a Concept Development Application.

The Panel is understood to be the consent authority for this Regionally Significant Development and therefore responsible for whether the amendment/variation will be accepted.

To assist the Panel, Council contends that:

1. it is reluctant to assume the Ministerial responsibilities for assessment of the SEPP71 master plan heads of consideration which come with this amended/varied development application.
2. acceptance of the amendment/variation will increase required resourcing by Council, and the Integrated Development approval bodies, as the application will require re-notification and re-assessment of another amendment/variation, to an already complex application, with the added responsibility to assume the Department's former role assessing the SEPP71 master plan heads of consideration. All this extra work does not attract additional application fees.
3. the master plan application was withdrawn by the applicant on 19 July 2021, an action taken by the applicant without prior consultation with Council.
4. the master plan application was lodged with the Department on 25 October 2014 and, despite ongoing negotiations with the applicant and various agencies, was undetermined due to several outstanding issues. The prospects of Council continuing these negotiations to achieving a different outcome are unlikely and will exhaust further resources.
5. the clause 55 amended/varied Concept Development Application has not been supported by sufficient information to satisfactorily address all the SEPP71 heads of consideration. Council's expectation is that the entire suite of documentation from the 6.5-year master plan process would be submitted. Yet the Concept DA Report accompanying the amendment/variation request only contains summarised content from the master plan application and is not supported by additional information to address outstanding issues.

Yours sincerely,

Angela Jones  
**Director Community Service Delivery**

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## **Attachment No. 2b**

**Minutes of the NRPP meeting 13 Sept. 2021**

**DECISION ON CLAUSE 55 APPLICATION**  
NORTHERN REGIONAL PLANNING PANEL

<b>DATE OF DECISION</b>	13 September 2021
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Penny Holloway and Stephen Gow
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Robert Hayes declared a conflict of interest as he has raised questions about this development in Council on behalf of interested parties in 2013. Daniel Simpson declared a conflict of interest due a possible public perception that he would benefit financially from an approval, due to his business interests

Papers circulated electronically on 30 August 2021.

**MATTER CONSIDERED**

The panel considered an application by the applicant to amend the following development application:  
PPS-2014NTH020 – Richmond Valley – DA 2015.096 at 240 Iron Gates Rd, Evans Head – subdivision (as described in Schedule 1)


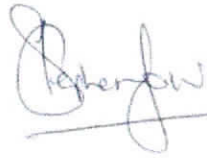

**PANEL CONSIDERATION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

**PANEL DECISION**

The panel decided to accept the amendment of the application under Clause 55 of the *Environmental Planning & Assessment Regulations 2000*.

The decision was unanimous.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	



SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2014NTH020 – Richmond Valley – DA 2015.096
2	PROPOSED DEVELOPMENT	<ul style="list-style-type: none"> <li>Subdivision of land to create 184 lots including: <ul style="list-style-type: none"> <li>175 residential lots,</li> <li>3 residue lots,</li> <li>4 public reserves,</li> <li>1 drainage reserve &amp;</li> <li>1 sewer pump station lot,</li> </ul> </li> <li>Upgrading of Iron Gates Drive, including clearing work in the road reserve,</li> <li>Demolition of existing structures, including a dwelling;</li> <li>Associated subdivision infrastructure works</li> </ul>
3	STREET ADDRESS	Lot 163 DP 831052 and Lots 276 & 277 in DP 755624 (240 Iron Gates Drive, Evans Head)
4	APPLICANT/OWNER	GoldCoral Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Coastal Development - Subdivision
6	RELEVANT MANDATORY CONSIDERATION	<ul style="list-style-type: none"> <li>Clause 55 of the Environmental Planning &amp; Assessment Regulations 2000</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Department briefing report: 17 August 2021</li> <li>Department briefing report: 24 August 2021</li> <li>Correspondence from Mills Oakley: 31 August 2021</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 18 August 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Robert Hayes</li> <li><u>Council assessment staff</u>: Tony McAteer, Angela Jones and Andy Edwards</li> <li><u>Department staff</u>: Kim Johnston, Sung Pak, Amanda Moylan, Lisa Foley and Jane Gibbs</li> </ul> </li> <li>Applicant Briefing: 6 September 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway and Stephen Gow</li> <li><u>Council assessment staff</u>: Tony McAteer, Angela Jones and Andy Edwards</li> <li><u>Department staff</u>: Kim Johnston, Sung Pak, Amanda Moylan, Lisa Foley and Jane Gibbs</li> <li><u>Applicant representatives</u>: Graeme Ingles, Aaron Gadiel and Darryl Anderson</li> </ul> </li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the briefing report</p>
9	RECOMMENDATION	That the Panel not agree to the amendment of the application under Clause 55 of the <i>Environmental Planning and Assessment Regulation 2000</i>

## **Attachment No. 3a**

**Copy of Development Plans Stages 1 and 2**



Lot Table	
Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
7	612 m <sup>2</sup>
8	612 m <sup>2</sup>
9	612 m <sup>2</sup>
10	612 m <sup>2</sup>
11	612 m <sup>2</sup>
12	605 m <sup>2</sup>
13	605 m <sup>2</sup>
14	612 m <sup>2</sup>
15	612 m <sup>2</sup>
16	612 m <sup>2</sup>
17	612 m <sup>2</sup>
18	612 m <sup>2</sup>
19	612 m <sup>2</sup>
20	612 m <sup>2</sup>
21	649 m <sup>2</sup>
22	615 m <sup>2</sup>
23	600 m <sup>2</sup>
24	600 m <sup>2</sup>
25	600 m <sup>2</sup>
26	600 m <sup>2</sup>
27	600 m <sup>2</sup>
28	600 m <sup>2</sup>
29	627 m <sup>2</sup>
30	600 m <sup>2</sup>
31	600 m <sup>2</sup>
32	600 m <sup>2</sup>
33	600 m <sup>2</sup>
34	600 m <sup>2</sup>
35	600 m <sup>2</sup>
36	788 m <sup>2</sup>
37	674 m <sup>2</sup>
38	775 m <sup>2</sup>
39	612 m <sup>2</sup>
40	604 m <sup>2</sup>
41	604 m <sup>2</sup>
42	604 m <sup>2</sup>
43	604 m <sup>2</sup>
44	604 m <sup>2</sup>
45	604 m <sup>2</sup>
46	604 m <sup>2</sup>
47	609 m <sup>2</sup>
48	605 m <sup>2</sup>
49	600 m <sup>2</sup>
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52	600 m <sup>2</sup>
53	600 m <sup>2</sup>
54	600 m <sup>2</sup>
55	600 m <sup>2</sup>
56	600 m <sup>2</sup>
57	623 m <sup>2</sup>
58	623 m <sup>2</sup>
59	633 m <sup>2</sup>
60	632 m <sup>2</sup>
61	618 m <sup>2</sup>
62	604 m <sup>2</sup>
63	604 m <sup>2</sup>
64	605 m <sup>2</sup>
65	606 m <sup>2</sup>
66	606 m <sup>2</sup>
67	607 m <sup>2</sup>
68	607 m <sup>2</sup>
69	608 m <sup>2</sup>
70	609 m <sup>2</sup>

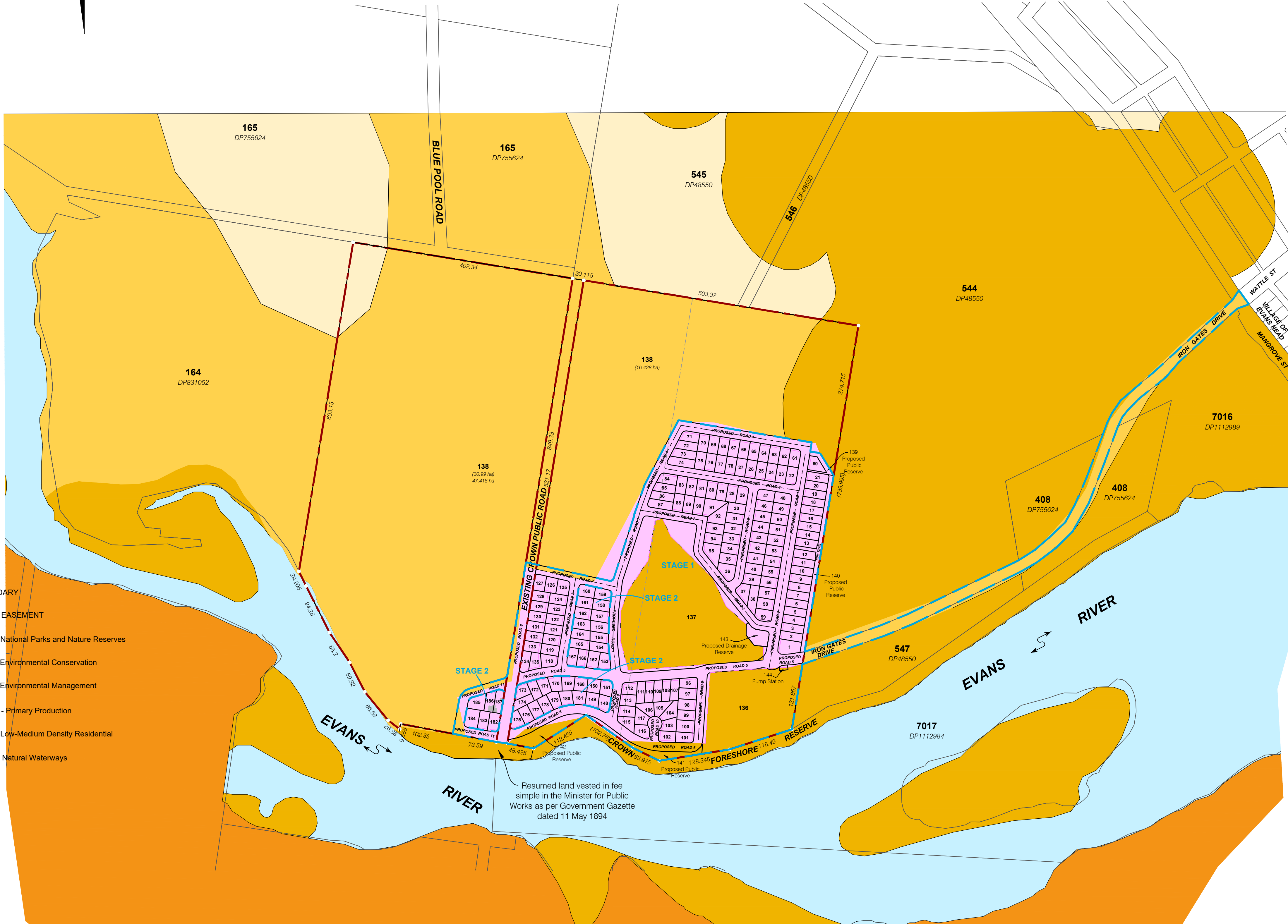
Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
78	600 m <sup>2</sup>
79	600 m <sup>2</sup>
80	601 m <sup>2</sup>
81	601 m <sup>2</sup>
82	601 m <sup>2</sup>
83	601 m <sup>2</sup>
84	608 m <sup>2</sup>
85	614 m <sup>2</sup>
86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
88	602 m <sup>2</sup>
89	602 m <sup>2</sup>
90	602 m <sup>2</sup>
91	859 m <sup>2</sup>
92	856 m <sup>2</sup>
93	603 m <sup>2</sup>
94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
96	616 m <sup>2</sup>
97	663 m <sup>2</sup>
98	657 m <sup>2</sup>
99	602 m <sup>2</sup>
100	723 m <sup>2</sup>
101	605 m <sup>2</sup>
102	609 m <sup>2</sup>
103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
106	604 m <sup>2</sup>
107	602 m <sup>2</sup>
108	602 m <sup>2</sup>
109	602 m <sup>2</sup>
110	602 m <sup>2</sup>
111	601 m <sup>2</sup>
112	600 m <sup>2</sup>
113	600 m <sup>2</sup>
114	600 m <sup>2</sup>
115	608 m <sup>2</sup>
116	601 m <sup>2</sup>
117	602 m <sup>2</sup>
118	644 m <sup>2</sup>
119	601 m <sup>2</sup>
120	601 m <sup>2</sup>
121	601 m <sup>2</sup>
122	601 m <sup>2</sup>
123	601 m <sup>2</sup>
124	601 m <sup>2</sup>
125	600 m <sup>2</sup>
126	601 m <sup>2</sup>
127	602 m <sup>2</sup>
128	602 m <sup>2</sup>
129	602 m <sup>2</sup>
130	602 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	602 m <sup>2</sup>
134	614 m <sup>2</sup>
135	600 m <sup>2</sup>
136	2.188ha
137	4.857ha
138	47.418ha

Lot Table	
Lot	Area
148	600 m <sup>2</sup>
149	601 m <sup>2</sup>
150	600 m <sup>2</sup>
151	600 m <sup>2</sup>
152	647 m <sup>2</sup>
153	619 m <sup>2</sup>
154	603 m <sup>2</sup>
155	600 m <sup>2</sup>
156	646 m <sup>2</sup>
157	661 m <sup>2</sup>
158	626 m <sup>2</sup>
159	600 m <sup>2</sup>
160	639 m <sup>2</sup>
161	602 m <sup>2</sup>
162	602 m <sup>2</sup>
163	600 m <sup>2</sup>
164	618 m <sup>2</sup>
165	623 m <sup>2</sup>
166	604 m <sup>2</sup>
167	602 m <sup>2</sup>
168	600 m <sup>2</sup>
169	600 m <sup>2</sup>
170	600 m <sup>2</sup>
171	600 m <sup>2</sup>
172	600 m <sup>2</sup>
173	605 m <sup>2</sup>
174	600 m <sup>2</sup>
175	600 m <sup>2</sup>
176	601 m <sup>2</sup>
177	600 m <sup>2</sup>
178	600 m <sup>2</sup>
179	601 m <sup>2</sup>
180	601 m <sup>2</sup>
181	600 m <sup>2</sup>
182	665 m <sup>2</sup>
183	629 m <sup>2</sup>
184	834 m <sup>2</sup>
185	765 m <sup>2</sup>
186	603 m <sup>2</sup>
187	627 m <sup>2</sup>

LEGEND:

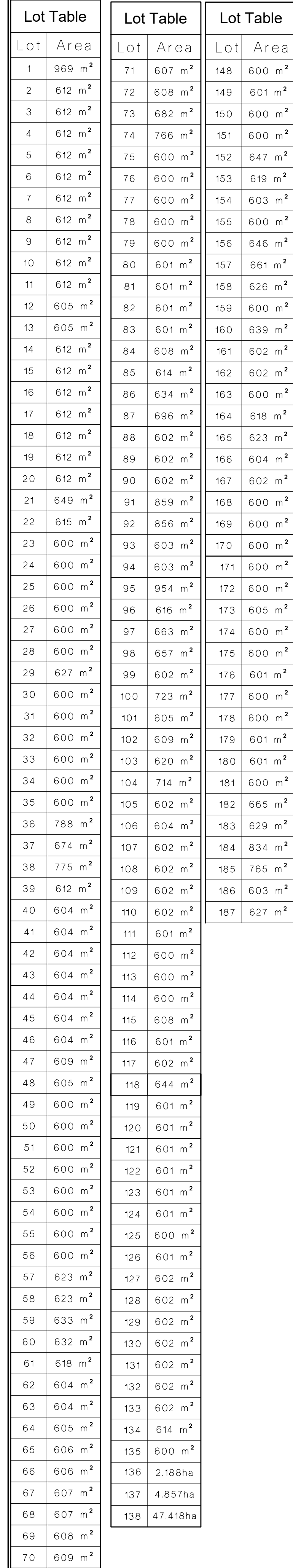
- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways

# CONCEPT PROPOSALS FOR SUBDIVISION, CLEARING, EARTHWORKS, ROADWORKS, DRAINAGE, UPGRADING OF IRON GATES DRIVE, INFRASTRUCTURE AND EMBELLISHMENT OF PROPOSED PUBLIC RESERVES - DA 2015/0096- STAGE 1 & 2 IRON GATES - EVANS HEAD

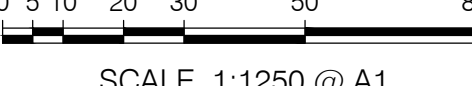






Lot Table	Lot Table		Lot Table		
	Lot	Area	Lot	Area	Lot
1	969 m <sup>2</sup>	71	607 m <sup>2</sup>	148	600 m <sup>2</sup>
2	612 m <sup>2</sup>	72	608 m <sup>2</sup>	149	601 m <sup>2</sup>
3	612 m <sup>2</sup>	73	682 m <sup>2</sup>	150	600 m <sup>2</sup>
4	612 m <sup>2</sup>	74	766 m <sup>2</sup>	151	600 m <sup>2</sup>
5	612 m <sup>2</sup>	75	600 m <sup>2</sup>	152	647 m <sup>2</sup>
6	612 m <sup>2</sup>	76	600 m <sup>2</sup>	153	619 m <sup>2</sup>
7	612 m <sup>2</sup>	77	600 m <sup>2</sup>	154	603 m <sup>2</sup>
8	612 m <sup>2</sup>	78	600 m <sup>2</sup>	155	600 m <sup>2</sup>
9	612 m <sup>2</sup>	79	600 m <sup>2</sup>	156	646 m <sup>2</sup>
10	612 m <sup>2</sup>	80	601 m <sup>2</sup>	157	661 m <sup>2</sup>
11	612 m <sup>2</sup>	81	601 m <sup>2</sup>	158	626 m <sup>2</sup>
12	605 m <sup>2</sup>	82	601 m <sup>2</sup>	159	600 m <sup>2</sup>
13	605 m <sup>2</sup>	83	601 m <sup>2</sup>	160	639 m <sup>2</sup>
14	612 m <sup>2</sup>	84	608 m <sup>2</sup>	161	602 m <sup>2</sup>
15	612 m <sup>2</sup>	85	614 m <sup>2</sup>	162	602 m <sup>2</sup>
16	612 m <sup>2</sup>	86	634 m <sup>2</sup>	163	600 m <sup>2</sup>
17	612 m <sup>2</sup>	87	696 m <sup>2</sup>	164	618 m <sup>2</sup>
18	612 m <sup>2</sup>	88	602 m <sup>2</sup>	165	623 m <sup>2</sup>
19	612 m <sup>2</sup>	89	602 m <sup>2</sup>	166	604 m <sup>2</sup>
20	612 m <sup>2</sup>	90	602 m <sup>2</sup>	167	602 m <sup>2</sup>
21	649 m <sup>2</sup>	91	859 m <sup>2</sup>	168	600 m <sup>2</sup>
22	615 m <sup>2</sup>	92	856 m <sup>2</sup>	169	600 m <sup>2</sup>
23	600 m <sup>2</sup>	93	603 m <sup>2</sup>	170	600 m <sup>2</sup>
24	600 m <sup>2</sup>	94	603 m <sup>2</sup>	171	600 m <sup>2</sup>
25	600 m <sup>2</sup>	95	954 m <sup>2</sup>	172	600 m <sup>2</sup>
26	600 m <sup>2</sup>	96	616 m <sup>2</sup>	173	605 m <sup>2</sup>
27	600 m <sup>2</sup>	97	663 m <sup>2</sup>	174	600 m <sup>2</sup>
28	600 m <sup>2</sup>	98	657 m <sup>2</sup>	175	600 m <sup>2</sup>
29	627 m <sup>2</sup>	99	602 m <sup>2</sup>	176	601 m <sup>2</sup>
30	600 m <sup>2</sup>	100	723 m <sup>2</sup>	177	600 m <sup>2</sup>
31	600 m <sup>2</sup>	101	605 m <sup>2</sup>	178	600 m <sup>2</sup>
32	600 m <sup>2</sup>	102	609 m <sup>2</sup>	179	601 m <sup>2</sup>
33	600 m <sup>2</sup>	103	620 m <sup>2</sup>	180	601 m <sup>2</sup>
34	600 m <sup>2</sup>	104	714 m <sup>2</sup>	181	600 m <sup>2</sup>
35	600 m <sup>2</sup>	105	602 m <sup>2</sup>	182	665 m <sup>2</sup>
36	788 m <sup>2</sup>	106	604 m <sup>2</sup>	183	629 m <sup>2</sup>
37	674 m <sup>2</sup>	107	602 m <sup>2</sup>	184	834 m <sup>2</sup>
38	775 m <sup>2</sup>	108	602 m <sup>2</sup>	185	765 m <sup>2</sup>
39	612 m <sup>2</sup>	109	602 m <sup>2</sup>	186	603 m <sup>2</sup>
40	604 m <sup>2</sup>	110	602 m <sup>2</sup>	187	627 m <sup>2</sup>
41	604 m <sup>2</sup>	111	601 m <sup>2</sup>		
42	604 m <sup>2</sup>	112	600 m <sup>2</sup>		
43	604 m <sup>2</sup>	113	600 m <sup>2</sup>		
44	604 m <sup>2</sup>	114	600 m <sup>2</sup>		
45	604 m <sup>2</sup>	115	608 m <sup>2</sup>		
46	604 m <sup>2</sup>	116	601 m <sup>2</sup>		
47	609 m <sup>2</sup>	117	602 m <sup>2</sup>		
48	605 m <sup>2</sup>	118	644 m <sup>2</sup>		
49	600 m <sup>2</sup>	119	601 m <sup>2</sup>		
50	600 m <sup>2</sup>	120	601 m <sup>2</sup>		
51	600 m <sup>2</sup>	121	601 m <sup>2</sup>		
52	600 m <sup>2</sup>	122	601 m <sup>2</sup>		
53	600 m <sup>2</sup>	123	601 m <sup>2</sup>		
54	600 m <sup>2</sup>	124	601 m <sup>2</sup>		
55	600 m <sup>2</sup>	125	600 m <sup>2</sup>		
56	600 m <sup>2</sup>	126	601 m <sup>2</sup>		
57	623 m <sup>2</sup>	127	602 m <sup>2</sup>		
58	623 m <sup>2</sup>	128	602 m <sup>2</sup>		
59	633 m <sup>2</sup>	129	602 m <sup>2</sup>		
60	632 m <sup>2</sup>	130	602 m <sup>2</sup>		
61	618 m <sup>2</sup>	131	602 m		



NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

<h1 style="margin: 0;">GOLDCORAL PTY LTD</h1>															
PROJECT															
<p style="text-align: center;">PROPOSED SUBDIVISION OF              LOTS 276 &amp; 277 ON DP755624,              LOT 163 ON DP831052, CROWN PUBLIC              ROAD RESERVE (BETWEEN LOT 163              DP831052 AND LOT 276 DP755624) AND              CROWN FORESHORE RESERVE              (ADJACENT TO EVANS RIVER)</p>															
LOCAL AUTHORITY															
RICHMOND VALLEY															
NOTES															
<p>(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation.              LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (i) or (iii) hereof.</p> <p>(ii) The dimensions, areas, number of lots, size and location of improvements &amp; flood information (if shown) are approximate only and may vary.</p> <p>(iii) This plan may not be copied unless these notes are included.</p>															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; padding: 5px;">LOTS</th> <th style="width: 50%; padding: 5px;">TOTAL AREA</th> </tr> <tr> <td style="padding: 5px;">Residential Lots (175)</td> <td style="text-align: right; padding: 5px;">16.883ha</td> </tr> <tr> <td style="padding: 5px;">Residue Lots (3)</td> <td style="text-align: right; padding: 5px;">54.463ha</td> </tr> <tr> <td style="padding: 5px;">Public Reserves (4)</td> <td style="text-align: right; padding: 5px;">0.8379ha</td> </tr> <tr> <td style="padding: 5px;">Drainage Reserve (1)</td> <td style="text-align: right; padding: 5px;">0.1124ha</td> </tr> <tr> <td style="padding: 5px;">Pump station lot (1)</td> <td style="text-align: right; padding: 5px;">0.0127ha</td> </tr> <tr> <td style="padding: 5px;">TOTAL</td> <td style="text-align: right; padding: 5px;">72.309ha</td> </tr> </table>		LOTS	TOTAL AREA	Residential Lots (175)	16.883ha	Residue Lots (3)	54.463ha	Public Reserves (4)	0.8379ha	Drainage Reserve (1)	0.1124ha	Pump station lot (1)	0.0127ha	TOTAL	72.309ha
LOTS	TOTAL AREA														
Residential Lots (175)	16.883ha														
Residue Lots (3)	54.463ha														
Public Reserves (4)	0.8379ha														
Drainage Reserve (1)	0.1124ha														
Pump station lot (1)	0.0127ha														
TOTAL	72.309ha														
ADDITIONAL NOTES															
SCALE BAR															
 <p style="margin: 5px 0;">SCALE 1:1250 @ A1</p>															
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  <p><b>LandPartners</b> built environment consultants</p> </div> <div style="text-align: right; font-size: small;"> <p>p: (07) 3842 1000                      f: (07) 3842 1001                      e: <a href="mailto:info@landpartners.com.au">info@landpartners.com.au</a>                      w: <a href="http://www.landpartners.com.au">www.landpartners.com.au</a></p> </div> </div> <div style="margin-top: 20px; text-align: center;">  <p style="font-size: x-small;">BSI ISO 9001 Quality Management</p> </div>															
LEVEL DATUM															
AHD															
LEVEL ORIGIN															
-															
CONTOUR INTERVAL															
-															
COMPUTER FILE															
BRJD6396-100-33-21															
DRAWN															
CGW	DATE														
19/07/2021															
CHECKED															
MEA	DATE														
19/07/2021															
APPROVED															
CGW	DATE														
19/07/2021															
PLAN NUMBER															
SHEET 2 OF 2 BRJD6396.100-55															
REV 1															



Lot Table	
Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
7	612 m <sup>2</sup>
8	612 m <sup>2</sup>
9	612 m <sup>2</sup>
10	612 m <sup>2</sup>
11	612 m <sup>2</sup>
12	605 m <sup>2</sup>
13	605 m <sup>2</sup>
14	612 m <sup>2</sup>
15	612 m <sup>2</sup>
16	612 m <sup>2</sup>
17	612 m <sup>2</sup>
18	612 m <sup>2</sup>
19	612 m <sup>2</sup>
20	612 m <sup>2</sup>
21	649 m <sup>2</sup>
22	615 m <sup>2</sup>
23	600 m <sup>2</sup>
24	600 m <sup>2</sup>
25	600 m <sup>2</sup>
26	600 m <sup>2</sup>
27	600 m <sup>2</sup>
28	600 m <sup>2</sup>
29	627 m <sup>2</sup>
30	600 m <sup>2</sup>
31	600 m <sup>2</sup>
32	600 m <sup>2</sup>
33	600 m <sup>2</sup>
34	600 m <sup>2</sup>
35	600 m <sup>2</sup>
36	788 m <sup>2</sup>
37	674 m <sup>2</sup>
38	775 m <sup>2</sup>
39	612 m <sup>2</sup>
40	604 m <sup>2</sup>
41	604 m <sup>2</sup>
42	604 m <sup>2</sup>
43	604 m <sup>2</sup>
44	604 m <sup>2</sup>
45	604 m <sup>2</sup>
46	604 m <sup>2</sup>
47	609 m <sup>2</sup>
48	605 m <sup>2</sup>
49	600 m <sup>2</sup>
50	600 m <sup>2</sup>
51	600 m <sup>2</sup>
52	600 m <sup>2</sup>
53	600 m <sup>2</sup>
54	600 m <sup>2</sup>
55	600 m <sup>2</sup>
56	600 m <sup>2</sup>
57	623 m <sup>2</sup>
58	623 m <sup>2</sup>
59	633 m <sup>2</sup>
60	632 m <sup>2</sup>
61	618 m <sup>2</sup>
62	604 m <sup>2</sup>
63	604 m <sup>2</sup>
64	605 m <sup>2</sup>
65	606 m <sup>2</sup>
66	606 m <sup>2</sup>
67	607 m <sup>2</sup>
68	607 m <sup>2</sup>
69	608 m <sup>2</sup>
70	609 m <sup>2</sup>

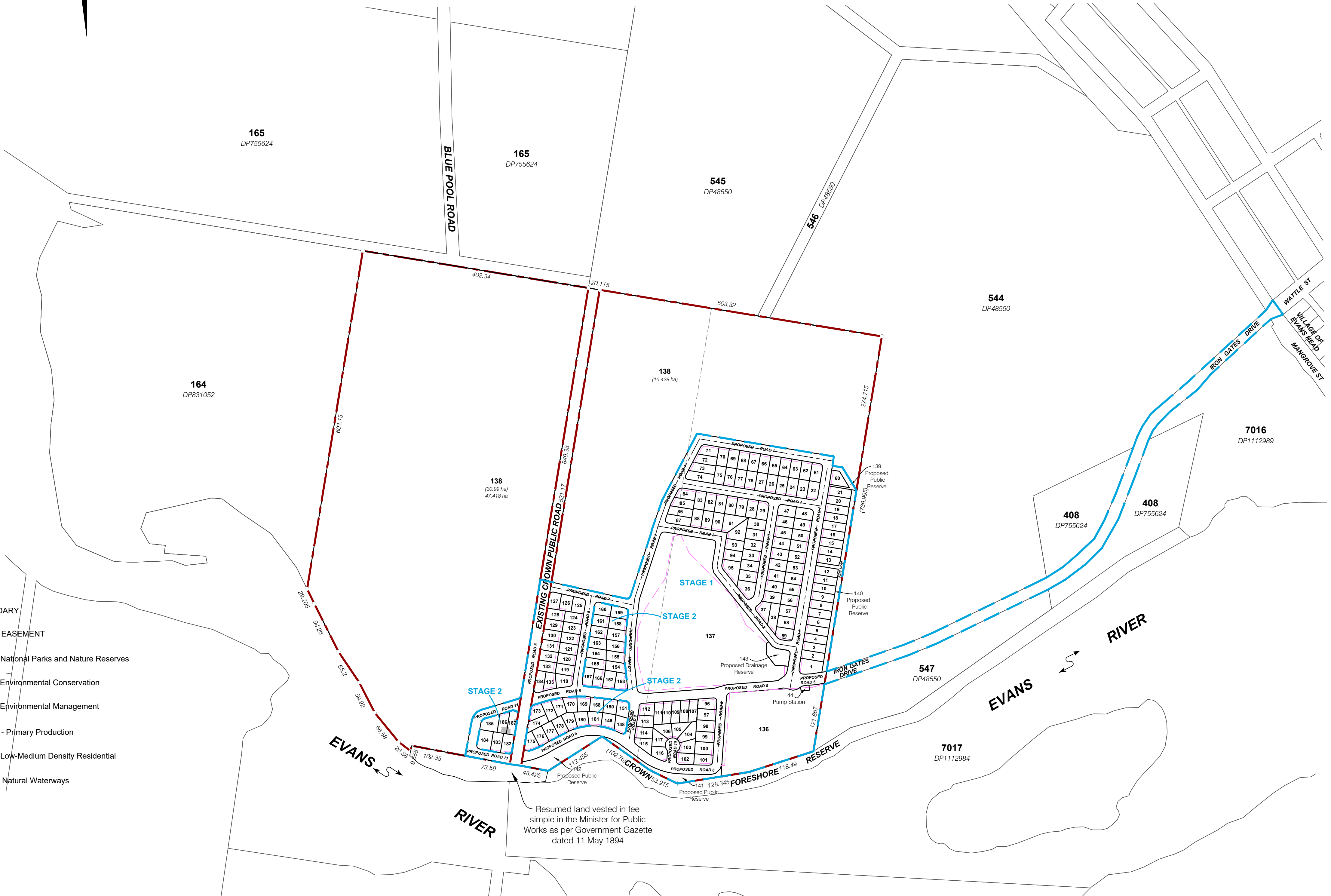
Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
78	600 m <sup>2</sup>
79	600 m <sup>2</sup>
80	601 m <sup>2</sup>
81	601 m <sup>2</sup>
82	601 m <sup>2</sup>
83	601 m <sup>2</sup>
84	608 m <sup>2</sup>
85	614 m <sup>2</sup>
86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
88	602 m <sup>2</sup>
89	602 m <sup>2</sup>
90	602 m <sup>2</sup>
91	859 m <sup>2</sup>
92	856 m <sup>2</sup>
93	603 m <sup>2</sup>
94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
96	616 m <sup>2</sup>
97	663 m <sup>2</sup>
98	657 m <sup>2</sup>
99	602 m <sup>2</sup>
100	723 m <sup>2</sup>
101	605 m <sup>2</sup>
102	609 m <sup>2</sup>
103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
106	604 m <sup>2</sup>
107	602 m <sup>2</sup>
108	602 m <sup>2</sup>
109	602 m <sup>2</sup>
110	602 m <sup>2</sup>
111	601 m <sup>2</sup>
112	600 m <sup>2</sup>
113	600 m <sup>2</sup>
114	600 m <sup>2</sup>
115	608 m <sup>2</sup>
116	601 m <sup>2</sup>
117	602 m <sup>2</sup>
118	644 m <sup>2</sup>
119	601 m <sup>2</sup>
120	601 m <sup>2</sup>
121	601 m <sup>2</sup>
122	601 m <sup>2</sup>
123	601 m <sup>2</sup>
124	601 m <sup>2</sup>
125	600 m <sup>2</sup>
126	601 m <sup>2</sup>
127	602 m <sup>2</sup>
128	602 m <sup>2</sup>
129	602 m <sup>2</sup>
130	602 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	602 m <sup>2</sup>
134	614 m <sup>2</sup>
135	600 m <sup>2</sup>
136	2.188ha
137	4.857ha
138	47.418ha

Lot Table	
Lot	Area
148	600 m <sup>2</sup>
149	601 m <sup>2</sup>
150	600 m <sup>2</sup>
151	600 m <sup>2</sup>
152	647 m <sup>2</sup>
153	619 m <sup>2</sup>
154	603 m <sup>2</sup>
155	600 m <sup>2</sup>
156	646 m <sup>2</sup>
157	661 m <sup>2</sup>
158	626 m <sup>2</sup>
159	600 m <sup>2</sup>
160	639 m <sup>2</sup>
161	602 m <sup>2</sup>
162	602 m <sup>2</sup>
163	600 m <sup>2</sup>
164	618 m <sup>2</sup>
165	623 m <sup>2</sup>
166	604 m <sup>2</sup>
167	602 m <sup>2</sup>
168	600 m <sup>2</sup>
169	600 m <sup>2</sup>
170	600 m <sup>2</sup>
171	600 m <sup>2</sup>
172	600 m <sup>2</sup>
173	605 m <sup>2</sup>
174	600 m <sup>2</sup>
175	600 m <sup>2</sup>
176	601 m <sup>2</sup>
177	600 m <sup>2</sup>
178	600 m <sup>2</sup>
179	601 m <sup>2</sup>
180	601 m <sup>2</sup>
181	600 m <sup>2</sup>
182	665 m <sup>2</sup>
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184	834 m <sup>2</sup>
185	765 m <sup>2</sup>
186	603 m <sup>2</sup>
187	627 m <sup>2</sup>

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
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# CONCEPT PROPOSALS FOR SUBDIVISION, CLEARING, EARTHWORKS, ROADWORKS, DRAINAGE, UPGRADING OF IRON GATES DRIVE, INFRASTRUCTURE AND EMBELLISHMENT OF PROPOSED PUBLIC RESERVES - DA 2015/0096- STAGE 1 & 2 IRON GATES - EVANS HEAD



CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation. LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.

(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

LOTS	TOTAL AREA
Residential Lots (175)	16.883ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

LANDPARTNERS  
built environment consultants

Brisbane Office  
Level 1 - CDOPI  
15 Little Crab Street,  
Milton Qld 4064  
PO Box 1399  
Milton Qld 4064

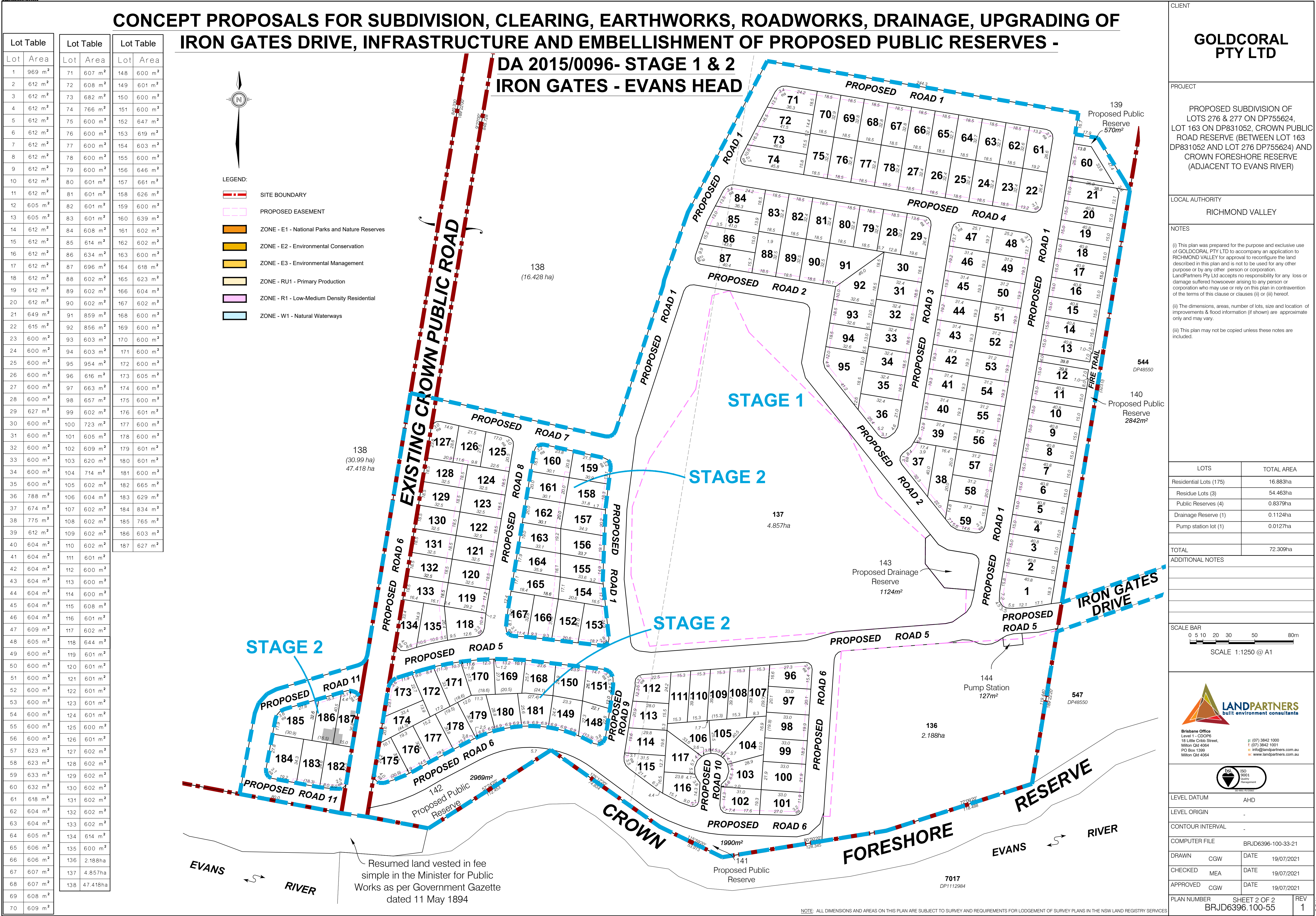
p: (07) 3842 1000  
f: (07) 3842 1001  
info@landpartners.com.au  
www.landpartners.com.au

ISO 9001  
Quality Management  
System

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021
PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-55	REV	1

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES







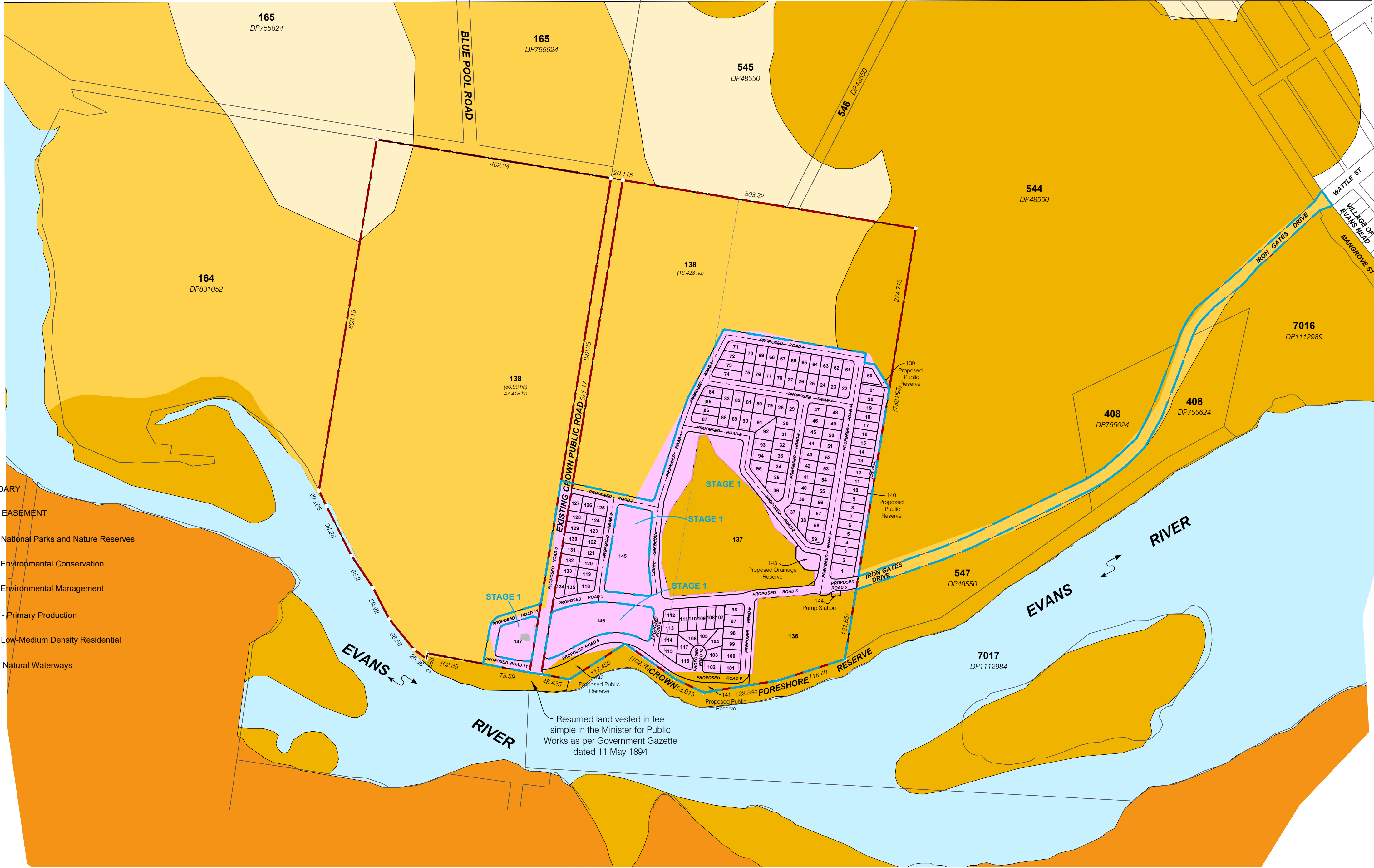
Lot Table	
Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
7	612 m <sup>2</sup>
8	612 m <sup>2</sup>
9	612 m <sup>2</sup>
10	612 m <sup>2</sup>
11	612 m <sup>2</sup>
12	605 m <sup>2</sup>
13	605 m <sup>2</sup>
14	612 m <sup>2</sup>
15	612 m <sup>2</sup>
16	612 m <sup>2</sup>
17	612 m <sup>2</sup>
18	612 m <sup>2</sup>
19	612 m <sup>2</sup>
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21	649 m <sup>2</sup>
22	615 m <sup>2</sup>
23	600 m <sup>2</sup>
24	600 m <sup>2</sup>
25	600 m <sup>2</sup>
26	600 m <sup>2</sup>
27	600 m <sup>2</sup>
28	600 m <sup>2</sup>
29	627 m <sup>2</sup>
30	600 m <sup>2</sup>
31	600 m <sup>2</sup>
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Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
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87	696 m <sup>2</sup>
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Lot	Area
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134	614 m <sup>2</sup>
135	600 m <sup>2</sup>
136	2.188ha
137	4.857ha
138	47.418ha
145	9883 m <sup>2</sup>
146	1.081ha
147	4124 m <sup>2</sup>

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways





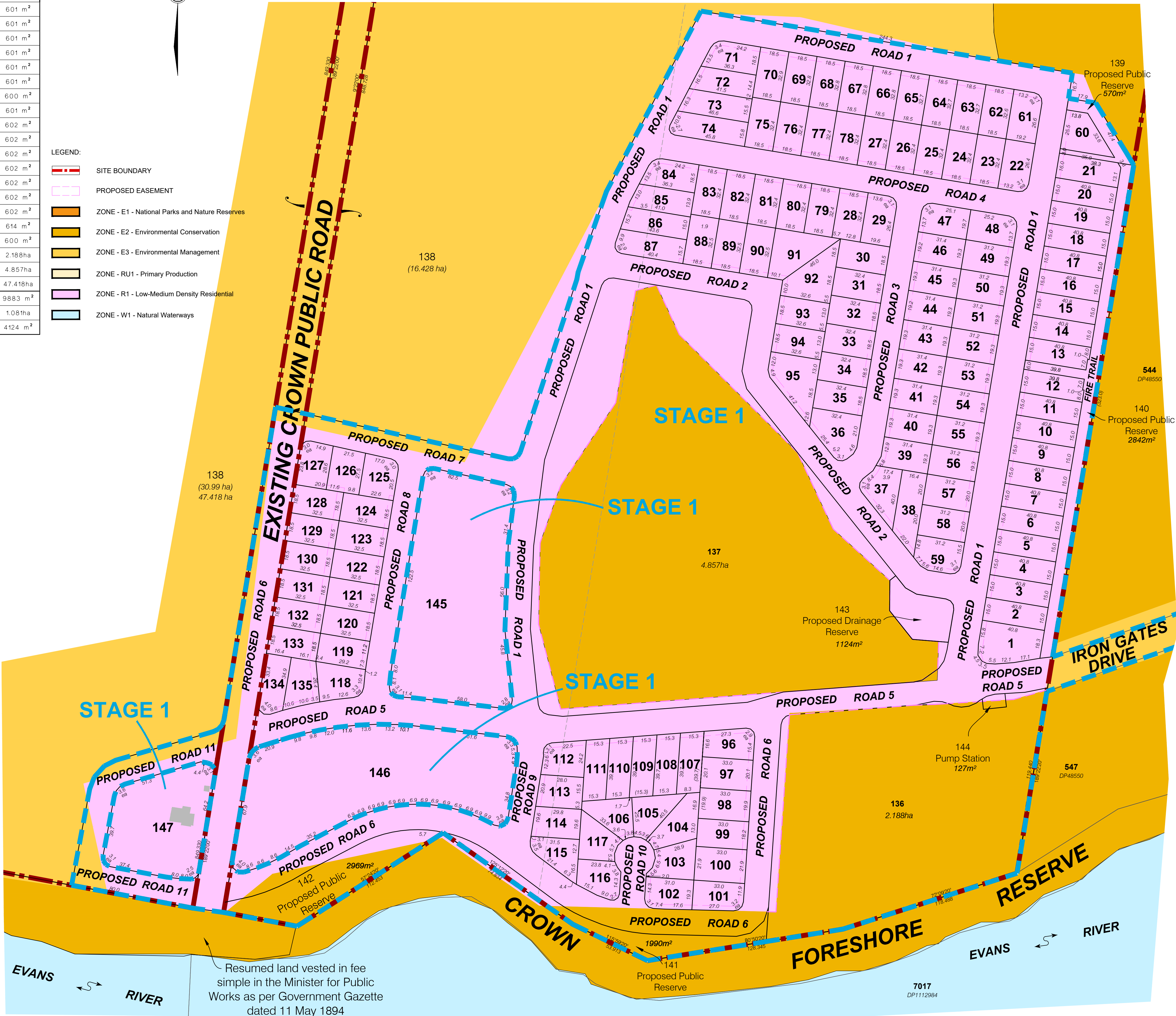
Lot Table	
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Lot Table	
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118	644 m <sup>2</sup>
119	601 m <sup>2</sup>
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121	601 m <sup>2</sup>
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138	47.418ha
145	9883 m <sup>2</sup>
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LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways



Resumed land vested in fee simple in the Minister for Public Works as per Government Gazette dated 11 May 1894

# PLAN OF PROPOSED SUBDIVISION - DA 2015/0096- STAGE 1

## IRON GATES - EVANS HEAD

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation. LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.

(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

LOTS	TOTAL AREA
Residential Lots (135)	14.4013ha
Super Lots (3)	2.4817ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

LANDPARTNERS  
built environment consultants

Brisbane Office  
Level 1 - CDOPE  
15 Little Crab Street,  
Milton Qld 4064  
PO Box 1399  
Milton Qld 4064

p: (07) 3842 1000  
f: (07) 3842 1001  
info@landpartners.com.au  
www.landpartners.com.au

ISO 9001  
Management

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021

PLAN NUMBER	SHEET 2 OF 2	REV
BRJD6396.100-014	T	

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES





Lot Table	
Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
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LEGEND:

 SITE BOUNDARY

 PROPOSED EASEMENT



CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

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Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1



Brisbane Office

Level 1 - CDDP6

15 Little Crab Street,

Milton Qld 4064

PO Box 1399


Milton Qld 4064

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f: (07) 3842 1001

e: info@landpartners.com.au

w: www.landpartners.com.au



ISO 9001

Quality Management

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021
PLAN NUMBER	SHEET 1 OF 2	REV	Q
BRJD6396.100-015			

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

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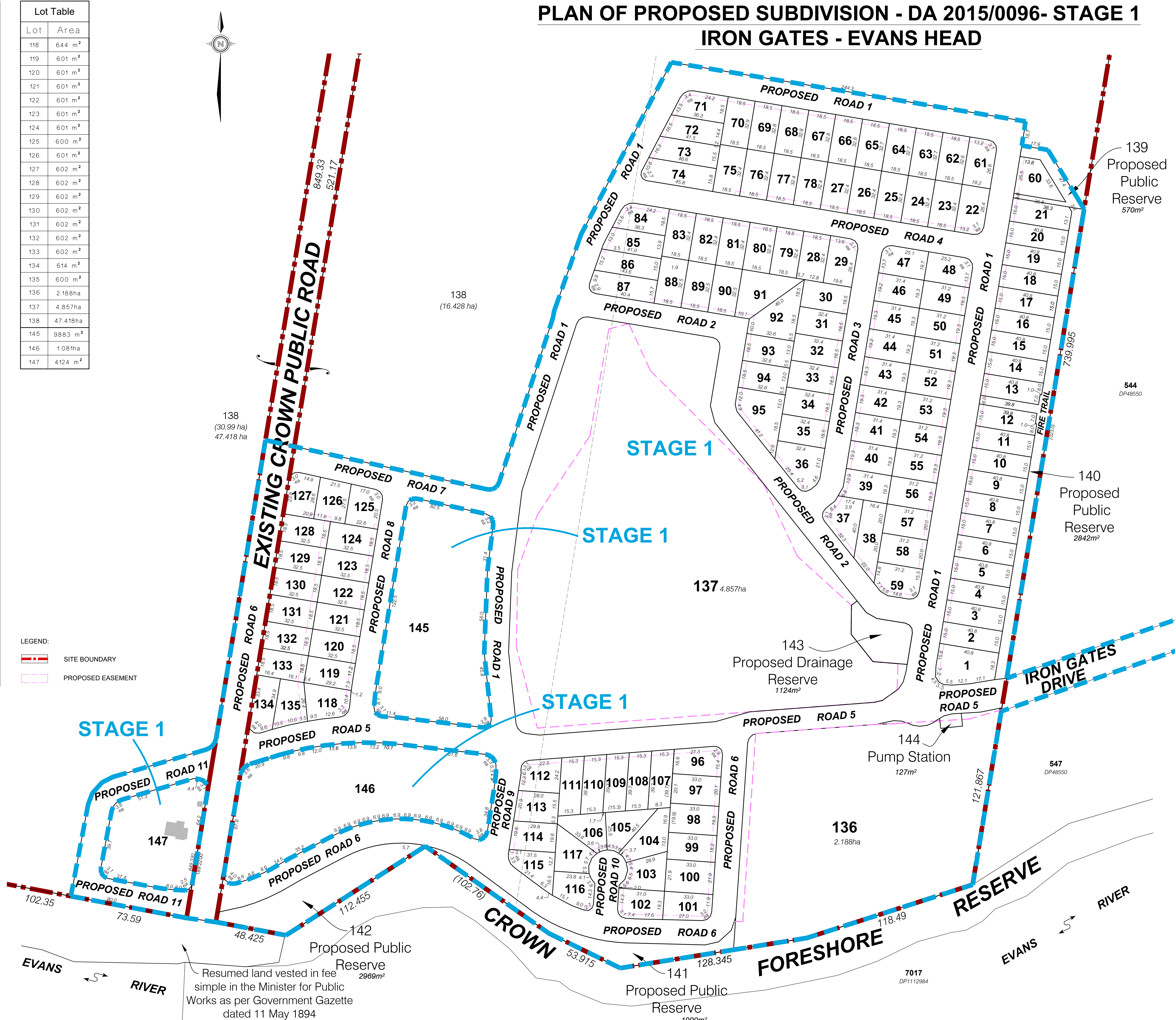


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89	602 m <sup>2</sup>
90	602 m <sup>2</sup>
91	859 m <sup>2</sup>
92	856 m <sup>2</sup>
93	603 m <sup>2</sup>
94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
96	616 m <sup>2</sup>
97	663 m <sup>2</sup>
98	657 m <sup>2</sup>
99	602 m <sup>2</sup>
100	723 m <sup>2</sup>
101	605 m <sup>2</sup>
102	609 m <sup>2</sup>
103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
106	604 m <sup>2</sup>
107	602 m <sup>2</sup>
108	602 m <sup>2</sup>
109	602 m <sup>2</sup>
110	602 m <sup>2</sup>
111	601 m <sup>2</sup>
112	600 m <sup>2</sup>
113	600 m <sup>2</sup>
114	600 m <sup>2</sup>
115	608 m <sup>2</sup>
116	601 m <sup>2</sup>
117	602 m <sup>2</sup>

Lot Table	
Lot	Area
118	644 m <sup>2</sup>
119	601 m <sup>2</sup>
120	601 m <sup>2</sup>
121	601 m <sup>2</sup>
122	601 m <sup>2</sup>
123	601 m <sup>2</sup>
124	601 m <sup>2</sup>
125	600 m <sup>2</sup>
126	601 m <sup>2</sup>
127	602 m <sup>2</sup>
128	602 m <sup>2</sup>
129	602 m <sup>2</sup>
130	602 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	602 m <sup>2</sup>
134	614 m <sup>2</sup>
135	600 m <sup>2</sup>
136	2.188ha
137	4.857ha
138	47.418ha
145	9883 m <sup>2</sup>
146	1.081ha
147	4.124 m <sup>2</sup>

LEGEND:  
--- SITE BOUNDARY  
--- PROPOSED EASEMENT



## PLAN OF PROPOSED SUBDIVISION - DA 2015/0096- STAGE 1 IRON GATES - EVANS HEAD

GOLDCORAL  
PTY LTD

PROJECT  
PROPOSED SUBDIVISION OF  
LOTS 276 & 277 ON DP755624,  
LOT 163 ON DP831052, CROWN PUBLIC  
ROAD RESERVE (BETWEEN LOT 163  
DP831052 AND LOT 276 DP755624) AND  
CROWN FORESHORE RESERVE  
(ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY  
RICHMOND VALLEY

NOTES  
(i) This plan was prepared for the purpose and exclusive use  
of GOLDCORAL PTY LTD to accompany an application to  
RICHMOND VALLEY for approval to reconfigure the land  
described in this plan and is not to be used for any other  
purpose or by any other person or corporation.  
LandPartners Pty Ltd accepts no responsibility for any loss or  
damage suffered howsoever arising to any person or  
corporation who may use or rely on this plan in contravention  
of the terms of this clause or clauses (ii) or (iii) hereof.  
(ii) The dimensions, areas, number of lots, size and location of  
improvements & flood information (if shown) are approximate  
only and may vary.  
(iii) This plan may not be copied unless these notes are  
included.

LOTS	TOTAL AREA
Residential Lots (135)	14.4013ha
Super Lots (3)	2.4817ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR  
0 5 10 20 30 50 80m  
SCALE 1:1250 @ A1

**LANDPARTNERS**  
built environment consultants  
Brisbane Office  
Level 1 - CDOPE  
15 Little Creek Street,  
Milton Qld 4064  
PO Box 1399  
Milton Qld 4064  
p: (07) 3842 1000  
f: (07) 3842 1001  
info@landpartners.com.au  
www.landpartners.com.au

LEVEL DATUM AHD  
LEVEL ORIGIN -  
CONTOUR INTERVAL -  
COMPUTER FILE BRJD6396-100-33-21  
DRAWN CGW DATE 19/07/2021  
CHECKED MEA DATE 19/07/2021  
APPROVED CGW DATE 19/07/2021  
PLAN NUMBER SHEET 2 OF 2  
BRJD6396.100-015 REV Q

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

## **Attachment No. 3b**

**Copy of Development Plans Stages 1 and 2**



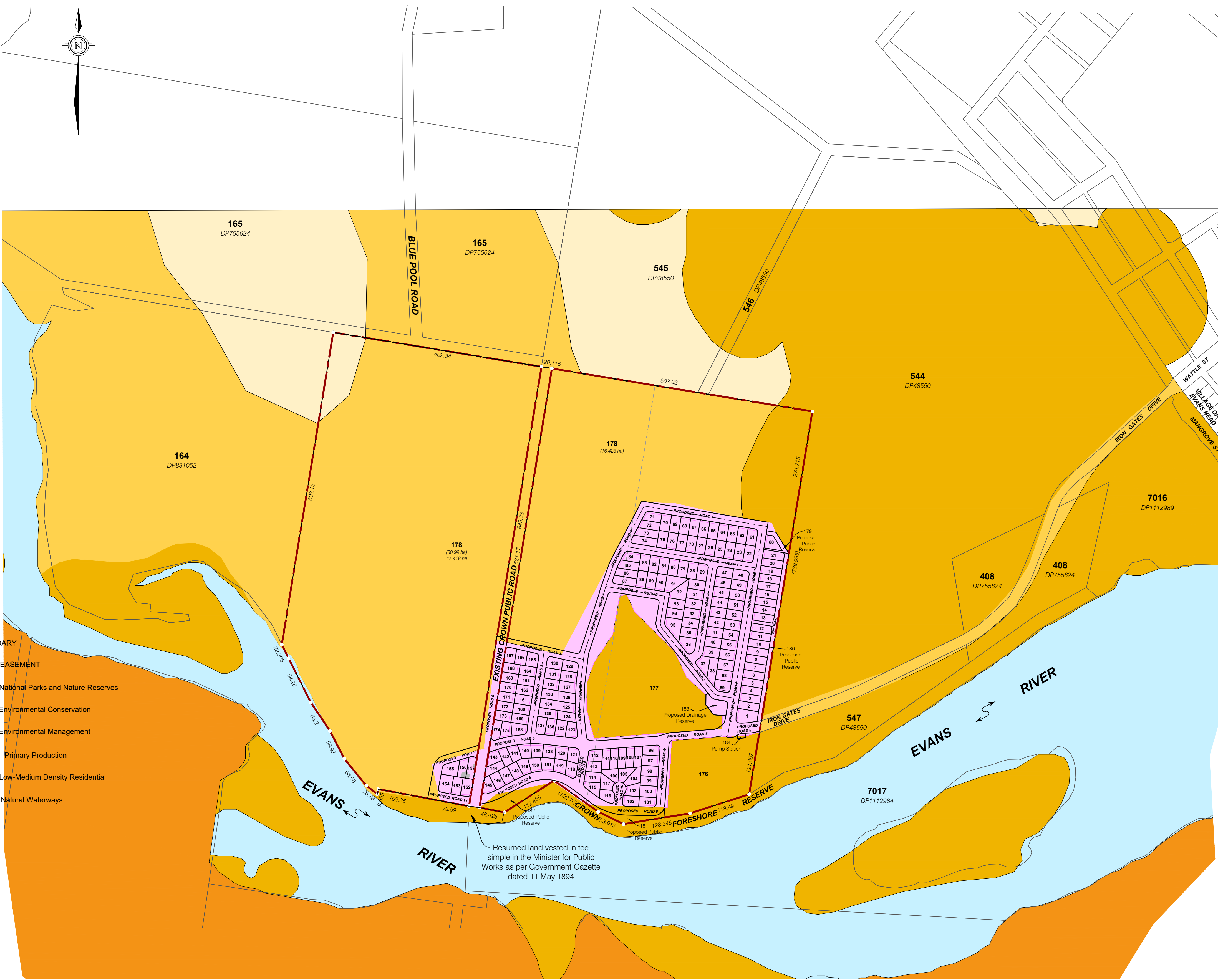
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Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
7	612 m <sup>2</sup>
8	612 m <sup>2</sup>
9	612 m <sup>2</sup>
10	612 m <sup>2</sup>
11	612 m <sup>2</sup>
12	605 m <sup>2</sup>
13	605 m <sup>2</sup>
14	612 m <sup>2</sup>
15	612 m <sup>2</sup>
16	612 m <sup>2</sup>
17	612 m <sup>2</sup>
18	612 m <sup>2</sup>
19	612 m <sup>2</sup>
20	612 m <sup>2</sup>
21	649 m <sup>2</sup>
22	615 m <sup>2</sup>
23	600 m <sup>2</sup>
24	600 m <sup>2</sup>
25	600 m <sup>2</sup>
26	600 m <sup>2</sup>
27	600 m <sup>2</sup>
28	600 m <sup>2</sup>
29	627 m <sup>2</sup>
30	600 m <sup>2</sup>
31	600 m <sup>2</sup>
32	600 m <sup>2</sup>
33	600 m <sup>2</sup>
34	600 m <sup>2</sup>
35	600 m <sup>2</sup>
36	788 m <sup>2</sup>
37	674 m <sup>2</sup>
38	775 m <sup>2</sup>
39	612 m <sup>2</sup>
40	604 m <sup>2</sup>
41	604 m <sup>2</sup>
42	604 m <sup>2</sup>
43	604 m <sup>2</sup>
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47	609 m <sup>2</sup>
48	605 m <sup>2</sup>
49	600 m <sup>2</sup>
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56	600 m <sup>2</sup>
57	623 m <sup>2</sup>
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60	632 m <sup>2</sup>
61	618 m <sup>2</sup>
62	604 m <sup>2</sup>
63	604 m <sup>2</sup>
64	605 m <sup>2</sup>
65	606 m <sup>2</sup>
66	606 m <sup>2</sup>
67	607 m <sup>2</sup>
68	607 m <sup>2</sup>
69	608 m <sup>2</sup>
70	609 m <sup>2</sup>

Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
78	600 m <sup>2</sup>
79	600 m <sup>2</sup>
80	601 m <sup>2</sup>
81	601 m <sup>2</sup>
82	601 m <sup>2</sup>
83	601 m <sup>2</sup>
84	608 m <sup>2</sup>
85	614 m <sup>2</sup>
86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
88	602 m <sup>2</sup>
89	602 m <sup>2</sup>
90	602 m <sup>2</sup>
91	859 m <sup>2</sup>
92	856 m <sup>2</sup>
93	603 m <sup>2</sup>
94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
96	616 m <sup>2</sup>
97	663 m <sup>2</sup>
98	657 m <sup>2</sup>
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100	723 m <sup>2</sup>
101	605 m <sup>2</sup>
102	609 m <sup>2</sup>
103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
106	604 m <sup>2</sup>
107	602 m <sup>2</sup>
108	602 m <sup>2</sup>
109	602 m <sup>2</sup>
110	602 m <sup>2</sup>
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114	600 m <sup>2</sup>
115	608 m <sup>2</sup>
116	601 m <sup>2</sup>
117	602 m <sup>2</sup>
118	600 m <sup>2</sup>
119	601 m <sup>2</sup>
120	600 m <sup>2</sup>
121	600 m <sup>2</sup>
122	647 m <sup>2</sup>
123	619 m <sup>2</sup>
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125	600 m <sup>2</sup>
126	646 m <sup>2</sup>
127	661 m <sup>2</sup>
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129	600 m <sup>2</sup>
130	639 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	600 m <sup>2</sup>
134	618 m <sup>2</sup>
135	623 m <sup>2</sup>
136	604 m <sup>2</sup>
137	602 m <sup>2</sup>
138	600 m <sup>2</sup>
139	600 m <sup>2</sup>
140	600 m <sup>2</sup>

Lot Table	
Lot	Area
141	600 m <sup>2</sup>
142	600 m <sup>2</sup>
143	605 m <sup>2</sup>
144	600 m <sup>2</sup>
145	600 m <sup>2</sup>
146	601 m <sup>2</sup>
147	600 m <sup>2</sup>
148	600 m <sup>2</sup>
149	601 m <sup>2</sup>
150	601 m <sup>2</sup>
151	600 m <sup>2</sup>
152	665 m <sup>2</sup>
153	629 m <sup>2</sup>
154	834 m <sup>2</sup>
155	765 m <sup>2</sup>
156	603 m <sup>2</sup>
157	627 m <sup>2</sup>
158	644 m <sup>2</sup>
159	601 m <sup>2</sup>
160	601 m <sup>2</sup>
161	601 m <sup>2</sup>
162	601 m <sup>2</sup>
163	601 m <sup>2</sup>
164	601 m <sup>2</sup>
165	600 m <sup>2</sup>
166	601 m <sup>2</sup>
167	602 m <sup>2</sup>
168	602 m <sup>2</sup>
169	602 m <sup>2</sup>
170	602 m <sup>2</sup>
171	602 m <sup>2</sup>
172	602 m <sup>2</sup>
173	602 m <sup>2</sup>
174	614 m <sup>2</sup>
175	600 m <sup>2</sup>
176	2.188ha
177	4.857ha
178	47.418ha

LEGEND:









- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways

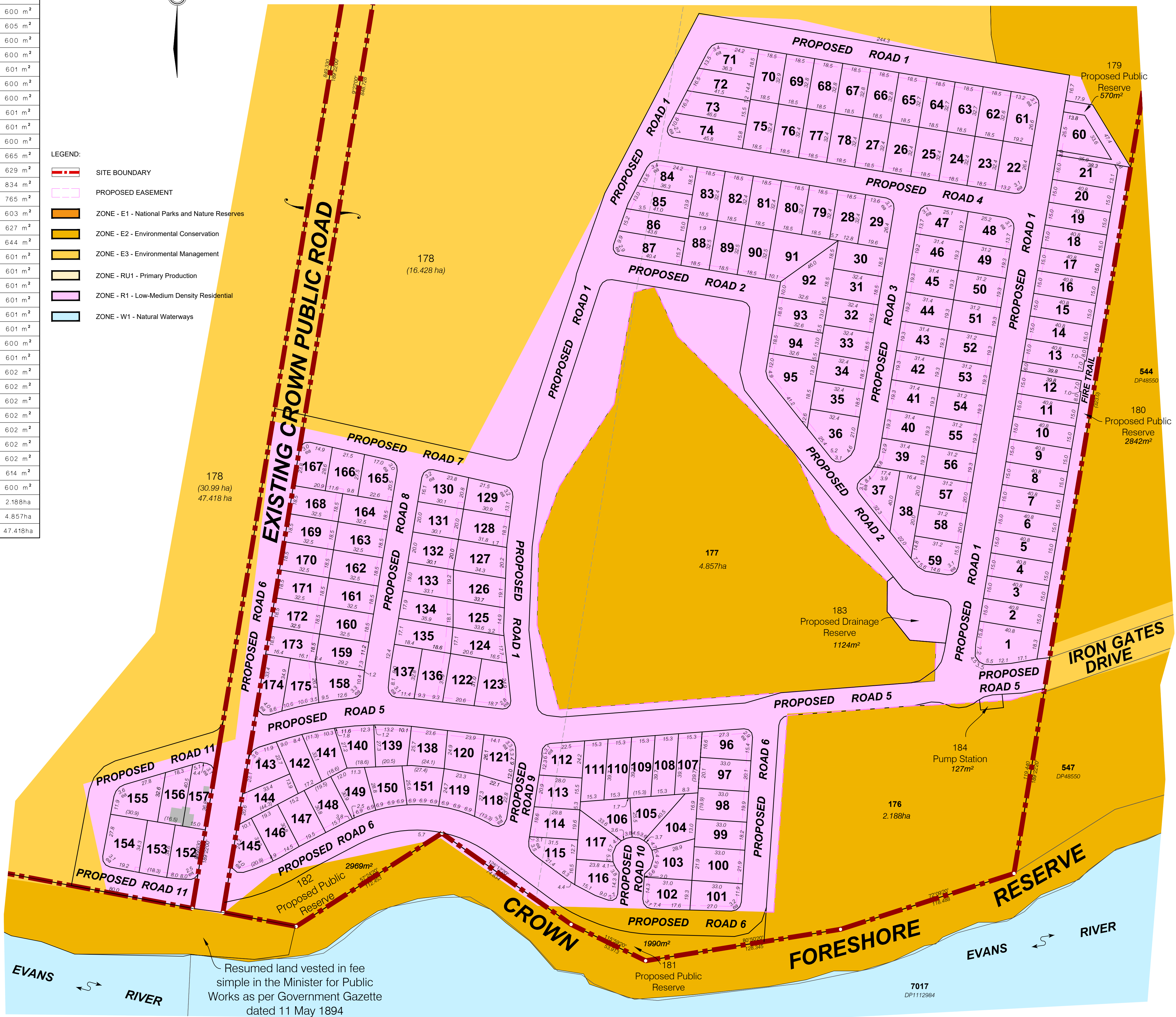
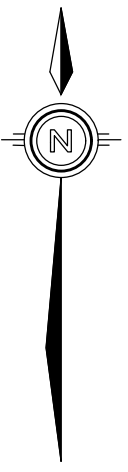




Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
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80	601 m <sup>2</sup>
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83	601 m <sup>2</sup>
84	608 m <sup>2</sup>
85	614 m <sup>2</sup>
86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
88	602 m <sup>2</sup>
89	602 m <sup>2</sup>
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103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
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115	608 m <sup>2</sup>
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117	602 m <sup>2</sup>
118	600 m <sup>2</sup>
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121	600 m <sup>2</sup>
122	647 m <sup>2</sup>
123	619 m <sup>2</sup>
124	603 m <sup>2</sup>
125	600 m <sup>2</sup>
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128	626 m <sup>2</sup>
129	600 m <sup>2</sup>
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134	618 m <sup>2</sup>
135	623 m <sup>2</sup>
136	604 m <sup>2</sup>
137	602 m <sup>2</sup>
138	600 m <sup>2</sup>
139	600 m <sup>2</sup>
140	600 m <sup>2</sup>

LEGEND:

	SITE BOUNDARY
	PROPOSED EASEMENT
	ZONE - E1 - National Parks and Nature Reserves
	ZONE - E2 - Environmental Conservation
	ZONE - E3 - Environmental Management
	ZONE - RU1 - Primary Production
	ZONE - R1 - Low-Medium Density Residential
	ZONE - W1 - Natural Waterways



<h1 style="margin: 0;">GOLDCORAL PTY LTD</h1>		
PROJECT		
PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)		
LOCAL AUTHORITY		
RICHMOND VALLEY		
NOTES		
<p>(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation.</p> <p>LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.</p> <p>(ii) The dimensions, areas, number of lots, size and location of improvements &amp; flood information (if shown) are approximate only and may vary.</p> <p>(iii) This plan may not be copied unless these notes are included.</p>		
LOTS	TOTAL AREA	
Residential Lots (175)	16.883ha	
Residue Lots (3)	54.463ha	
Public Reserves (4)	0.8379ha	
Drainage Reserve (1)	0.1124ha	
Pump station lot (1)	0.0127ha	
<b>TOTAL</b>	<b>72.309ha</b>	
ADDITIONAL NOTES		
SCALE BAR		
<p style="margin-top: 5px;">SCALE 1:1250 @ A1</p>		
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: left;"> <p><b>Brisbane Office</b> Level 1 - CDOPHS 18 Little Cribb Street, Milton Qld 4064 PO Box 1389 Milton Qld 4064</p> </div> <div style="text-align: right;"> <p>p: (07) 3842 1000 f: (07) 3842 1001 e: info@landpartners.com.au w: www.landpartners.com.au</p> </div> </div>		
LEVEL DATUM		
AHD		
LEVEL ORIGIN		
-		
CONTOUR INTERVAL		
-		
COMPUTER FILE		
BRJD6396-100-33-17		
DRAWN	CGW	DATE
		23/03/2020
CHECKED	CMJ	DATE
		23/03/2020
APPROVED	CGW	DATE
		23/03/2020
PLAN NUMBER		REV P
SHEET 2 OF 2 <b>BRJD6396.100-014</b>		





Lot Table	
Lot	Area
1	969 m <sup>2</sup>
2	612 m <sup>2</sup>
3	612 m <sup>2</sup>
4	612 m <sup>2</sup>
5	612 m <sup>2</sup>
6	612 m <sup>2</sup>
7	612 m <sup>2</sup>
8	612 m <sup>2</sup>
9	612 m <sup>2</sup>
10	612 m <sup>2</sup>
11	612 m <sup>2</sup>
12	605 m <sup>2</sup>
13	605 m <sup>2</sup>
14	612 m <sup>2</sup>
15	612 m <sup>2</sup>
16	612 m <sup>2</sup>
17	612 m <sup>2</sup>
18	612 m <sup>2</sup>
19	612 m <sup>2</sup>
20	612 m <sup>2</sup>
21	649 m <sup>2</sup>
22	615 m <sup>2</sup>
23	600 m <sup>2</sup>
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25	600 m <sup>2</sup>
26	600 m <sup>2</sup>
27	600 m <sup>2</sup>
28	600 m <sup>2</sup>
29	627 m <sup>2</sup>
30	600 m <sup>2</sup>
31	600 m <sup>2</sup>
32	600 m <sup>2</sup>
33	600 m <sup>2</sup>
34	600 m <sup>2</sup>
35	600 m <sup>2</sup>
36	788 m <sup>2</sup>
37	674 m <sup>2</sup>
38	775 m <sup>2</sup>
39	612 m <sup>2</sup>
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65	606 m <sup>2</sup>
66	606 m <sup>2</sup>
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68	607 m <sup>2</sup>
69	608 m <sup>2</sup>
70	609 m <sup>2</sup>

Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
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84	608 m <sup>2</sup>
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86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
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94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
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125	600 m <sup>2</sup>
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130	639 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	600 m <sup>2</sup>
134	618 m <sup>2</sup>
135	623 m <sup>2</sup>
136	604 m <sup>2</sup>
137	602 m <sup>2</sup>
138	600 m <sup>2</sup>
139	600 m <sup>2</sup>
140	600 m <sup>2</sup>

Lot Table	
Lot	Area
141	600 m <sup>2</sup>
142	600 m <sup>2</sup>
143	605 m <sup>2</sup>
144	600 m <sup>2</sup>
145	600 m <sup>2</sup>
146	601 m <sup>2</sup>
147	600 m <sup>2</sup>
148	600 m <sup>2</sup>
149	601 m <sup>2</sup>
150	601 m <sup>2</sup>
151	600 m <sup>2</sup>
152	665 m <sup>2</sup>
153	629 m <sup>2</sup>
154	834 m <sup>2</sup>
155	765 m <sup>2</sup>
156	603 m <sup>2</sup>
157	627 m <sup>2</sup>
158	644 m <sup>2</sup>
159	601 m <sup>2</sup>
160	601 m <sup>2</sup>
161	601 m <sup>2</sup>
162	601 m <sup>2</sup>
163	601 m <sup>2</sup>
164	601 m <sup>2</sup>
165	600 m <sup>2</sup>
166	601 m <sup>2</sup>
167	602 m <sup>2</sup>
168	602 m <sup>2</sup>
169	602 m <sup>2</sup>
170	602 m <sup>2</sup>
171	602 m <sup>2</sup>
172	602 m <sup>2</sup>
173	602 m <sup>2</sup>
174	614 m <sup>2</sup>
175	600 m <sup>2</sup>
176	2.188ha
177	4.857ha
178	47.418ha

LEGEND:

 SITE BOUNDARY

 PROPOSED EASEMENT



CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.


LOTS	TOTAL AREA
Residential Lots (175)	16.883ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m


SCALE 1:4000 @ A1



Brisbane Office

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www.landpartners.com.au



LEVEL DATUM

AHD

LEVEL ORIGIN

-

CONTOUR INTERVAL

-

COMPUTER FILE

BRJD6396-100-33-17

DRAWN

CGW

DATE

23/03/2020

CHECKED

CMJ

DATE

23/03/2020

APPROVED

CGW

DATE

23/03/2020

PLAN NUMBER

SHEET 1 OF 2

BRJD6396.100-015

REV

N

CGW



NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

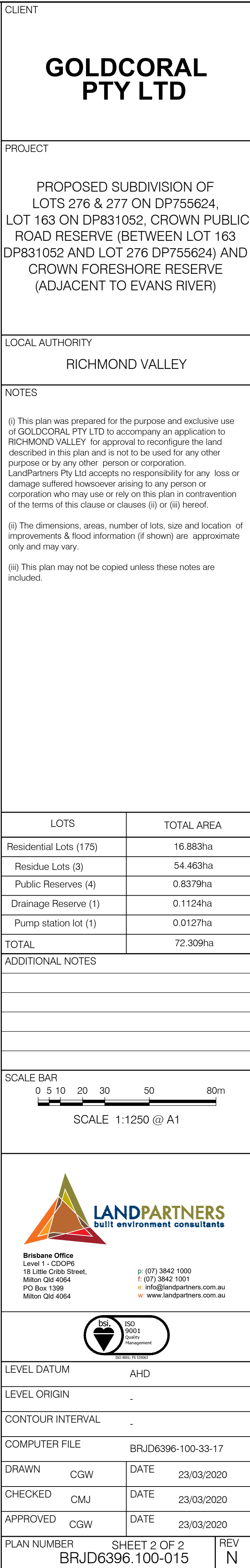
©LANDPARTNERS 2020



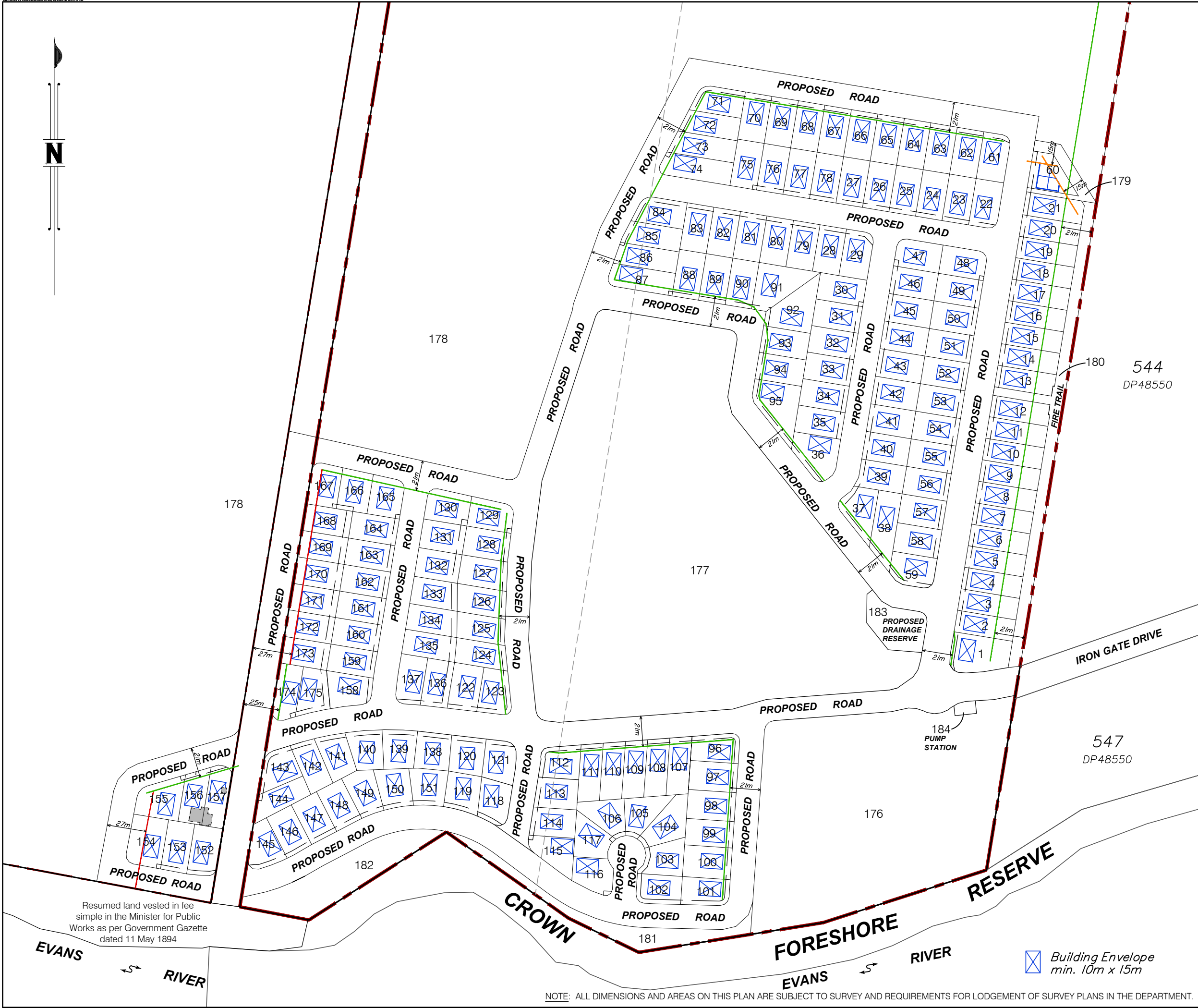
Lot Table	
Lot	Area
71	607 m <sup>2</sup>
72	608 m <sup>2</sup>
73	682 m <sup>2</sup>
74	766 m <sup>2</sup>
75	600 m <sup>2</sup>
76	600 m <sup>2</sup>
77	600 m <sup>2</sup>
78	600 m <sup>2</sup>
79	600 m <sup>2</sup>
80	601 m <sup>2</sup>
81	601 m <sup>2</sup>
82	601 m <sup>2</sup>
83	601 m <sup>2</sup>
84	608 m <sup>2</sup>
85	614 m <sup>2</sup>
86	634 m <sup>2</sup>
87	696 m <sup>2</sup>
88	602 m <sup>2</sup>
89	602 m <sup>2</sup>
90	602 m <sup>2</sup>
91	859 m <sup>2</sup>
92	856 m <sup>2</sup>
93	603 m <sup>2</sup>
94	603 m <sup>2</sup>
95	954 m <sup>2</sup>
96	616 m <sup>2</sup>
97	663 m <sup>2</sup>
98	657 m <sup>2</sup>
99	602 m <sup>2</sup>
100	723 m <sup>2</sup>
101	605 m <sup>2</sup>
102	609 m <sup>2</sup>
103	620 m <sup>2</sup>
104	714 m <sup>2</sup>
105	602 m <sup>2</sup>
106	604 m <sup>2</sup>
107	602 m <sup>2</sup>
108	602 m <sup>2</sup>
109	602 m <sup>2</sup>
110	602 m <sup>2</sup>
111	601 m <sup>2</sup>
112	600 m <sup>2</sup>
113	600 m <sup>2</sup>
114	600 m <sup>2</sup>
115	608 m <sup>2</sup>
116	601 m <sup>2</sup>
117	602 m <sup>2</sup>
118	600 m <sup>2</sup>
119	601 m <sup>2</sup>
120	600 m <sup>2</sup>
121	600 m <sup>2</sup>
122	647 m <sup>2</sup>
123	619 m <sup>2</sup>
124	603 m <sup>2</sup>
125	600 m <sup>2</sup>
126	646 m <sup>2</sup>
127	661 m <sup>2</sup>
128	626 m <sup>2</sup>
129	600 m <sup>2</sup>
130	639 m <sup>2</sup>
131	602 m <sup>2</sup>
132	602 m <sup>2</sup>
133	600 m <sup>2</sup>
134	618 m <sup>2</sup>
135	623 m <sup>2</sup>
136	604 m <sup>2</sup>
137	602 m <sup>2</sup>
138	600 m <sup>2</sup>
139	600 m <sup>2</sup>
140	600 m <sup>2</sup>

LEGEND:

	SITE BOUNDARY
	PROPOSED EASEMENT







CLIENT

GOLDCORAL PTY LTD

PROJECT

BUSHFIRE SETBACK PLAN OVER PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

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STAGE	No. OF LOTS	NEW ROAD	AREA OF PARK	TOTAL AREA
-	-	-	-	-
TOTAL				

SCALE BAR

50m

0

50

100m

SCALE 1:2500 @ A3

Brisbane Office

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ISO 9001: FS 535863

LEVEL DATUM	NA		
LEVEL ORIGIN	NA		
CONTOUR INTERVAL	NA		
DRAWN	CGW	DATE	23/03/2020
CHECKED	MEA	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020
UDN	SHEET 1 OF 1		
BRJD6396-100-45-2			

CGW

Resumed land vested in fee simple in the Minister for Public Works as per Government Gazette dated 11 May 1894

**Attachment No. 3c**  
**Copy of Landscape Plans**





**GOLDCORAL  
PTY LTD**

PROPOSED SUBDIVISION OF  
LOTS 276 & 277 ON DP755624,  
LOT 163 ON DP831052, CROWN PUBLIC  
ROAD RESERVE (BETWEEN LOT 163  
DP831052 AND LOT 276 DP755624) AND  
CROWN FORESHORE RESERVE  
(ADJACENT TO EVANS RIVER)

RICHMOND VALLEY

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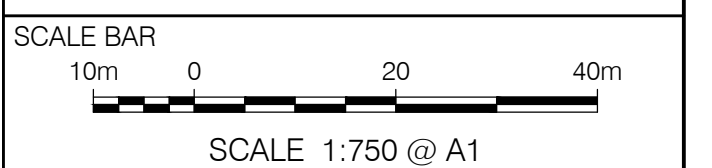
(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

Aerial Photography sourced from  
Nearmap 17-03-2020.  
Date of photography - 03/07/2012

LOTS	TOTAL AREA
Residential Lots (175)	16.884ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8366ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
<b>TOTAL</b>	<b>72.309ha</b>

#### ADDITIONAL NOTES



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Milton Qld 4064

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(07) 3842 1001  
info@landpartners.com.au  
www.landpartners.com.au



LEVEL DATUM		AHD
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LEVEL ORIGIN

CONTOUR INTERVAL

COMPUTER FILE	BRJD6396-100-50-2
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DRAWN	CGW	DATE	19/03/2020
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CHECKED	MFA	DATE	19/03/2020
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APPROVED	CGW	DATE	19/03/2020
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PLAN NUMBER	SHEET 1 OF 4	REV
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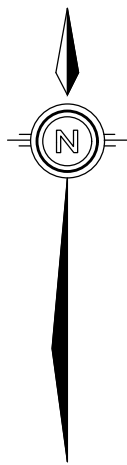
BRJD6396-100-50	2
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CGW	
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NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

ANDPARTNERS 2020





CLIENT

**GOLDCORAL  
PTY LTD**

PROJECT

PROPOSED SUBDIVISION OF  
LOTS 276 & 277 ON DP755624,  
LOT 163 ON DP831052, CROWN PUBLIC  
ROAD RESERVE (BETWEEN LOT 163  
DP831052 AND LOT 276 DP755624) AND  
CROWN FORESHORE RESERVE  
(ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

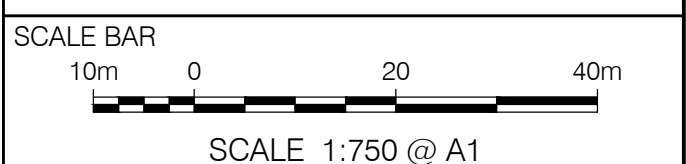
(i) This plan was prepared for the purpose and exclusive use of THE INGLES GROUP to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation. LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising from any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.

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ADDITIONAL NOTES	



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w: www.landpartners.com.au



LEVEL DATUM

AHD

LEVEL ORIGIN

CONTOUR INTERVAL

COMPUTER FILE

BRJD6396-100-50-2

DRAWN

CGW

DATE

19/03/2020

CHECKED

MEA

DATE

19/03/2020

APPROVED

CGW

DATE

19/03/2020

PLAN NUMBER

SHEET 2 OF 4

REV

BRJD6396-100-50

2

**LEGEND**

	DISTURBED COMMUNITIES- OPEN Paddock/CLEARED LAND
	DISTURBED COMMUNITIES- ACACIA REGROWTH
	EUCALYPT FOREST- CORYMBIA INTERMEDIA, E. PLANCHONIANA, E. TERETICORNIS, E. SIGNATA & OTHER EUCALYPTS
	EUCALYPT FOREST- E. TERETICORNIS
	LITTORAL RAINFOREST

Source: Figure 4, Terrestrial Flora and  
Fauna Assessment, JWA July 2019.

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES





**GOLDCORAL  
PTY LTD**

PROPOSED SUBDIVISION OF  
LOTS 276 & 277 ON DP755624,  
LOT 163 ON DP831052, CROWN PUBLIC  
ROAD RESERVE (BETWEEN LOT 163  
DP831052 AND LOT 276 DP755624) AND  
CROWN FORESHORE RESERVE  
(ADJACENT TO EVANS RIVER)

RICHMOND VALLEY

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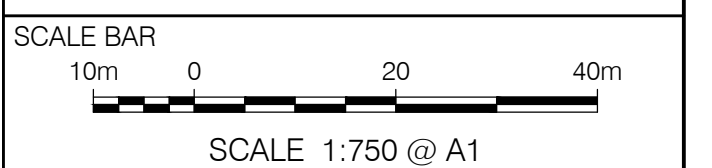
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Aerial Photography sourced from  
Nearmap 17-03-2020.  
Date of photography - 03/07/2012

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Pump station lot (1)	0.0127ha
<b>TOTAL</b>	<b>72.309ha</b>

ADDITIONAL NOTES
------------------



**Brisbane Office**  
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JD6396-100-50-2

19/03/2020

19/03/2020

19/03/2020

PLAN NUMBER	SHEET 3 OF 4	REV
BRJD6396-100-50		2

W

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

ANDPARTNERS 2020





## LEGEND

## SHELL MIDDEN AREA

## AMENITIES BUILDING

### SHELTER AND PICNIC AREA

## PLAYGROUND

## BOARDWALK ACROSS SWALE

2.0m PATH

### TURFED BIO SWALE

### LEGEND



**DISTURBED COMMUNITIES-  
OPEN PADDOCK/CLEARED LAND**

 **DISTURBED COMMUNITIES-  
ACACIA REGROWTH**

**EUCALYPT FOREST-**  
**CORYMBIA INTERMEDIA, E.PLANCHONIANA,**  
**E.TERETICORNIS, E.SIGNATA & OTHER EUCALYPTS**



**EUCALYPT FOREST-  
E.TERICORNIS**

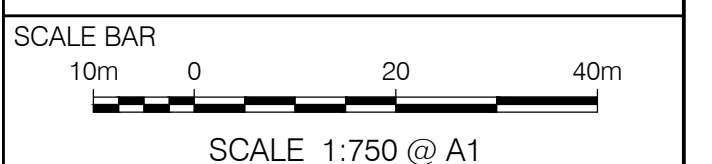
 LITTORAL RAINFOREST

Source: Figure 4, Terrestrial Flora and Fauna Assessment, JWA July 2019.

Aerial Photography sourced from  
Nearmap 17-03-2020.  
Date of photography - 03/07/2012

LOTS	TOTAL AREA
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Pump station lot (1)	0.0127ha
<b>TOTAL</b>	<b>72.309ha</b>

ADDITIONAL NOTES
------------------



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ISO 9001: PS 533663	
LEVEL DATUM	AHD

LEVEL ORIGIN	
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CONTOUR INTERVAL
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COMPUTER FILE	BB:ID6396-100-50-2
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DRAWN	CGW	DATE	19/03/2020
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CHECKED	MEF	DATE	19/03/2020
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APPROVED	CGW	DATE	10/03/2020
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PLAN NUMBER	SHEET 4 OF 4	REV	
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BRJD6396-100-50	2
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NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

AND PARTNERS 2020



**Attachment No. 4**  
**Copy of Survey Plans**



LEGEND

5.0

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EXISTING SURFACE CONTOURS

---

---

EXISTING STORMWATER RETICULATION

---

S

EXISTING SEWERAGE RETICULATION

---

RM

EXISTING SEWER RISING MAIN

---

W

EXISTING WATER RETICULATION  
(INDICATIVE LAI: OUT)

---

oh

EXISTING OVERHEAD ELECTRICAL

---

F

EXISTING FENCE

---

---

EXISTING KERB INVERT

MIDDEN LOCATION

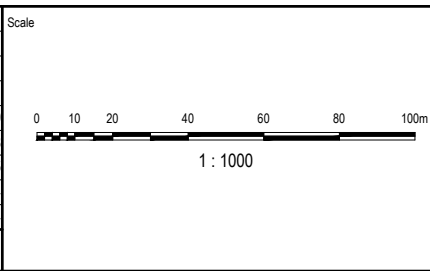
EXISTING TREE

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SITE BOUNDARY

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04	ISSUE FOR RFI RESPONSE	AC		26.11.18	
03	RE-ISSUE FOR DEVELOPMENT APPROVAL		BD	13.07.15	
02	ISSUE FOR DEVELOPMENT APPROVAL		BD	03.10.14	
01	ORIGINAL ISSUE		BD	18.06.14	
Issue	Description	By	Ckd	RPEQ	Date



Surveyor

ROBERT A HARRIES  
SURVEYOR

Architect

Filename C:\05-AA007094-gcd-00-E:\istingFeaturesSurveyPlan.dwg

Client

GOLDCORAL PTY LTD

Status

FOR APPROVAL  
CONSTRUCTION SUBJECT TO APPROVAL

Approved

R.P.E.Q No :

Original Issue Signatures

Drawn  
A. CARDENO

Designed  
A. MAGONDACAN

Project Manager  
L. PRIZEMAN

Original Size  
A1

Height Datum  
AHD

Grid  
GRID

Copyright reserved

Project

RESIDENTIAL DEVELOPMENT  
LOT 277 IRON GATES ROAD  
EVANS HEAD

Title

EXISTING FEATURES  
SURVEY PLAN  
SHEET 1 OF 2

ARCADIS

Arcadis Australia Pacific Pty Limited  
Level 5, 120 Edward Street  
Brisbane QLD 4000  
ABN 76 104 485 289  
Tel No: +61 7 3337 0000  
Fax No: +61 7 3337 0055  
www.arcadis.com

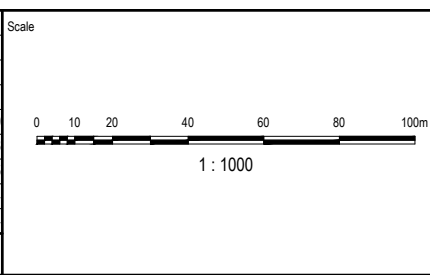
Drawing No.  
C105

Project No.  
AA007094

Issue  
05



05	ISSUE FOR RFI RESPONSE	RR			18.07.19
04	ISSUE FOR RFI RESPONSE	AC			26.11.18
03	RE-ISSUE FOR DEVELOPMENT APPROVAL			BD	13.07.15
02	ISSUE FOR DEVELOPMENT APPROVAL			BD	03.10.14
01	ORIGINAL ISSUE			BD	18.06.14
Issue	Description	By	Ckd	RPEQ	Date



Surveyor	ROBERT A HARRIES SURVEYOR
Architect	
Filename	C105-AA007094-gcd-00-E:\istingFeaturesSurveyPlan.dwg

Client	GOLDCORAL PTY LTD
--------	-------------------

Status	FOR APPROVAL CONSTRUCTION SUBJECT TO APPROVAL
Approved	R.P.E.Q No :
Scales	1 : 1000
Original Size	A1
Height Datum	AHD
Grid	GRID
Original Issue Signatures	Drawn A. CARDENO Designed A. MAGONDACAN Project Manager L. PRIZEMAN
©	Copyright reserved

Project	RESIDENTIAL DEVELOPMENT LOT 277 IRON GATES ROAD EVANS HEAD
Title	EXISTING FEATURES SURVEY PLAN SHEET 2 OF 2

**ARCADIS**

Arcadis Australia Pacific Pty Limited  
Level 5, 120 Edward Street  
Brisbane QLD 4000  
ABN 76 104 485 289

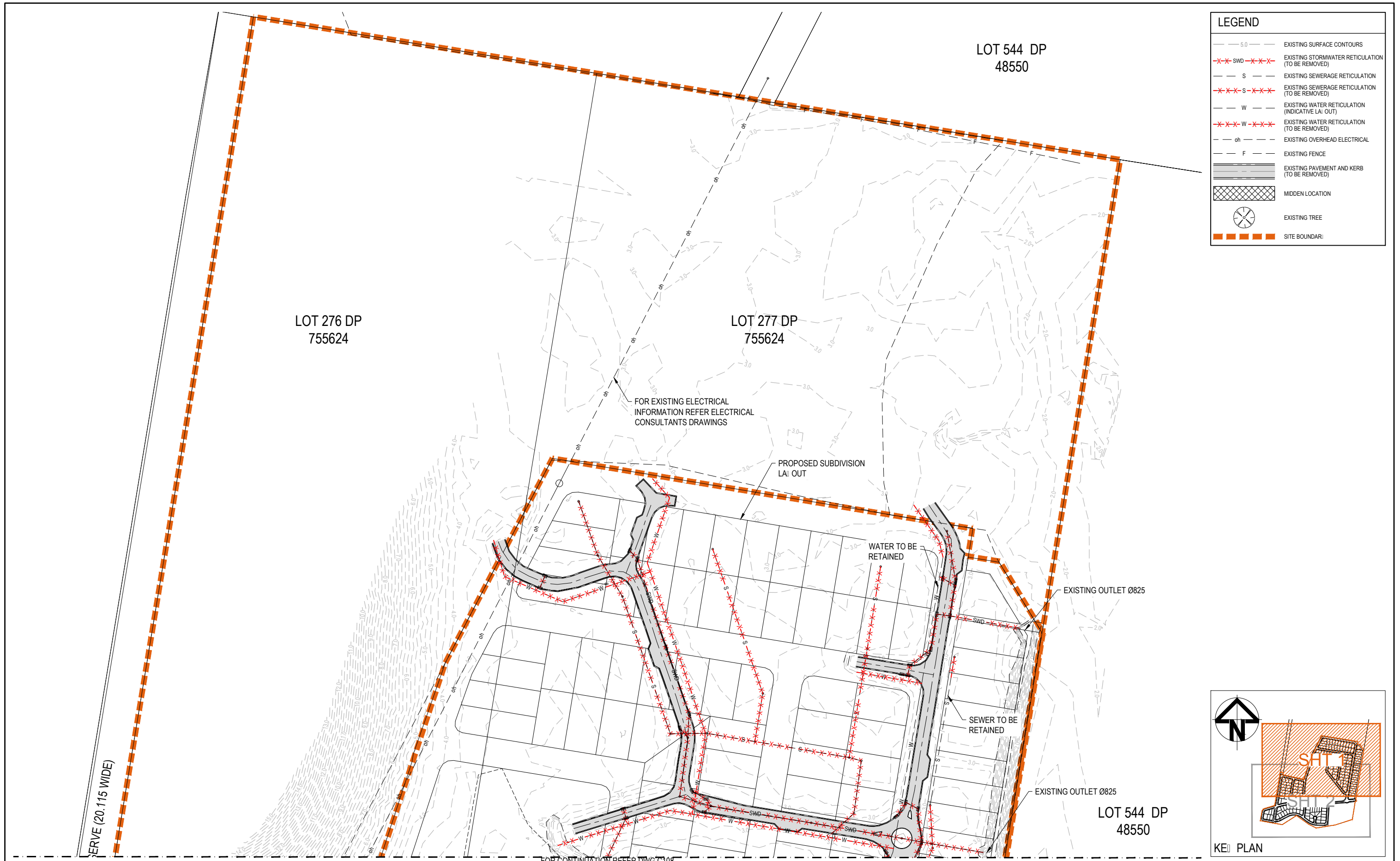
Tel No: +61 7 3337 0000  
Fax No: +61 7 3337 0055  
www.arcadis.com

Drawing No. C106 — AA007094 — 05

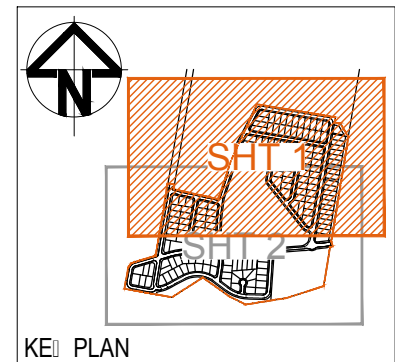
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Issue 05

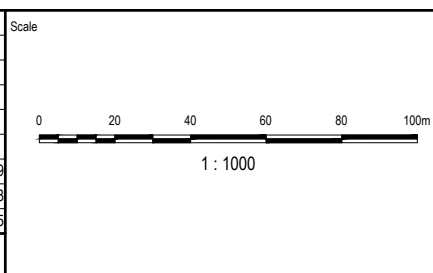




LEGEND	
5.0	EXISTING SURFACE CONTOURS
--- SWD ---	EXISTING STORMWATER RETICULATION (TO BE REMOVED)
--- S ---	EXISTING SEWERAGE RETICULATION (TO BE REMOVED)
--- W ---	EXISTING WATER RETICULATION (INDICATIVE LAI OUT)
--- oh ---	EXISTING OVERHEAD ELECTRICAL (TO BE REMOVED)
--- F ---	EXISTING FENCE (TO BE REMOVED)
---	EXISTING PAVEMENT AND KERB (TO BE REMOVED)
	MIDDEN LOCATION
	EXISTING TREE
	SITE BOUNDARY



Issue	Description	By	Ckd	RPEQ	Date
03	ISSUE FOR RFI RESPONSE	RR			18.07.19
02	ISSUE FOR RFI RESPONSE	AC			26.11.18
01	ISSUE FOR DEVELOPMENT APPROVAL	BD			13.07.15



Surveyor	ROBERT A HARRIES SURVEYOR
Architect	
Filename	C107-AA007094-gcd-00-DemolitionLayoutPlan.dwg

Client	GOLDCORAL PTY LTD
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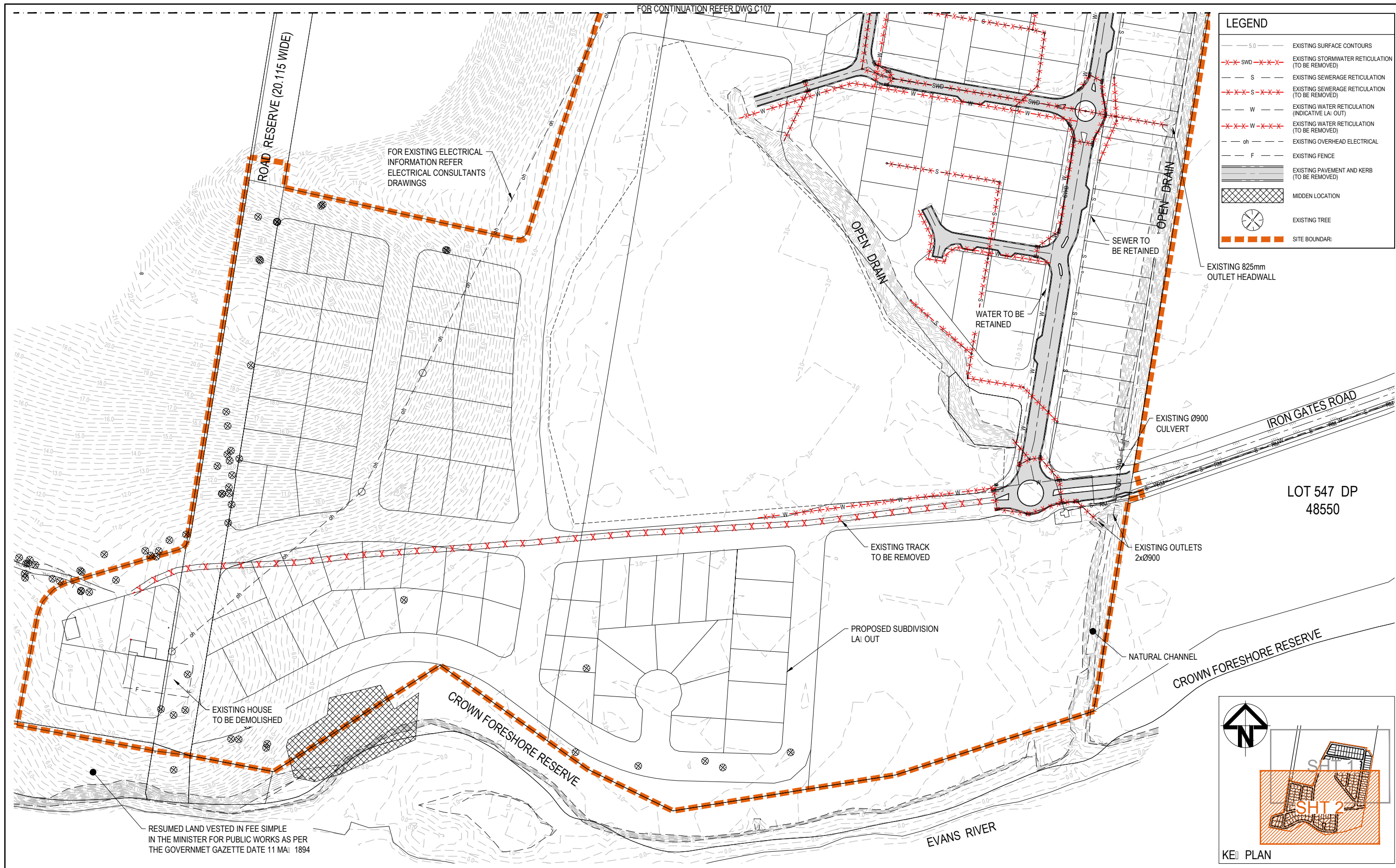
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Approved	R.P.E.Q No :
Scales	1 : 1000
Original Size	A1
Height Datum	AHD
Grid	GRID
Original Issue Signatures	Drawn A. CARDENO Designed A. MAGONDACAN Project Manager L. PRIZEMAN
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Project	RESIDENTIAL DEVELOPMENT LOT 277 IRON GATES ROAD EVANS HEAD
Title	DEMOLITION LAI OUT PLAN SHEET 1 OF 2

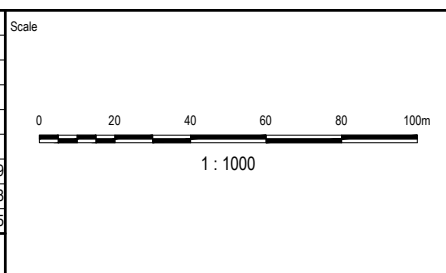
Arcadis Australia Pacific Pty Limited  
Level 5, 120 Edward Street  
Brisbane QLD 4000  
ABN 76 104 485 289  
Tel No: +61 7 3337 0000  
Fax No: +61 7 3337 0055  
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Drawing No. C107  
Project No. AA007094  
Issue 03





03	ISSUE FOR RFI RESPONSE	RR			18.07.15
02	ISSUE FOR RFI RESPONSE	AC			26.11.18
01	ISSUE FOR DEVELOPMENT APPROVAL			BD	13.07.15
Issue	Description	By	Ckd	RPEQ	Date



Surveyor	ROBERT A HARRIES SURVEYOR
Architect	
Filename	C107-AA007094-gcd-00-DemolitionLayoutPlan.dwg

Client	GOLDCORAL PTY LTD
--------	-------------------

Status	FOR APPROVAL CONSTRUCTION SUBJECT TO APPROVAL
Approved	R.P.E.Q No :
Scales	1 : 1000
Original Size	A1
Height Datum	AHD
Grid	GRID
Drawn	A. CARDENO
Designed	A. MAGONDACAN
Project Manager	L. PRIZEMAN
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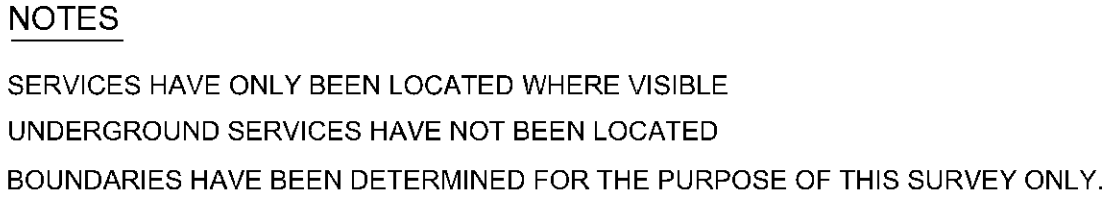
Project	RESIDENTIAL DEVELOPMENT LOT 277 IRON GATES ROAD EVANS HEAD
Title	DEMOLITION LAI OUT PLAN SHEET 2 OF 2

**ARCADIS**

Arcadis Australia Pacific Pty Limited  
Level 5, 120 Edward Street  
Brisbane QLD 4000  
ABN 76 104 485 289

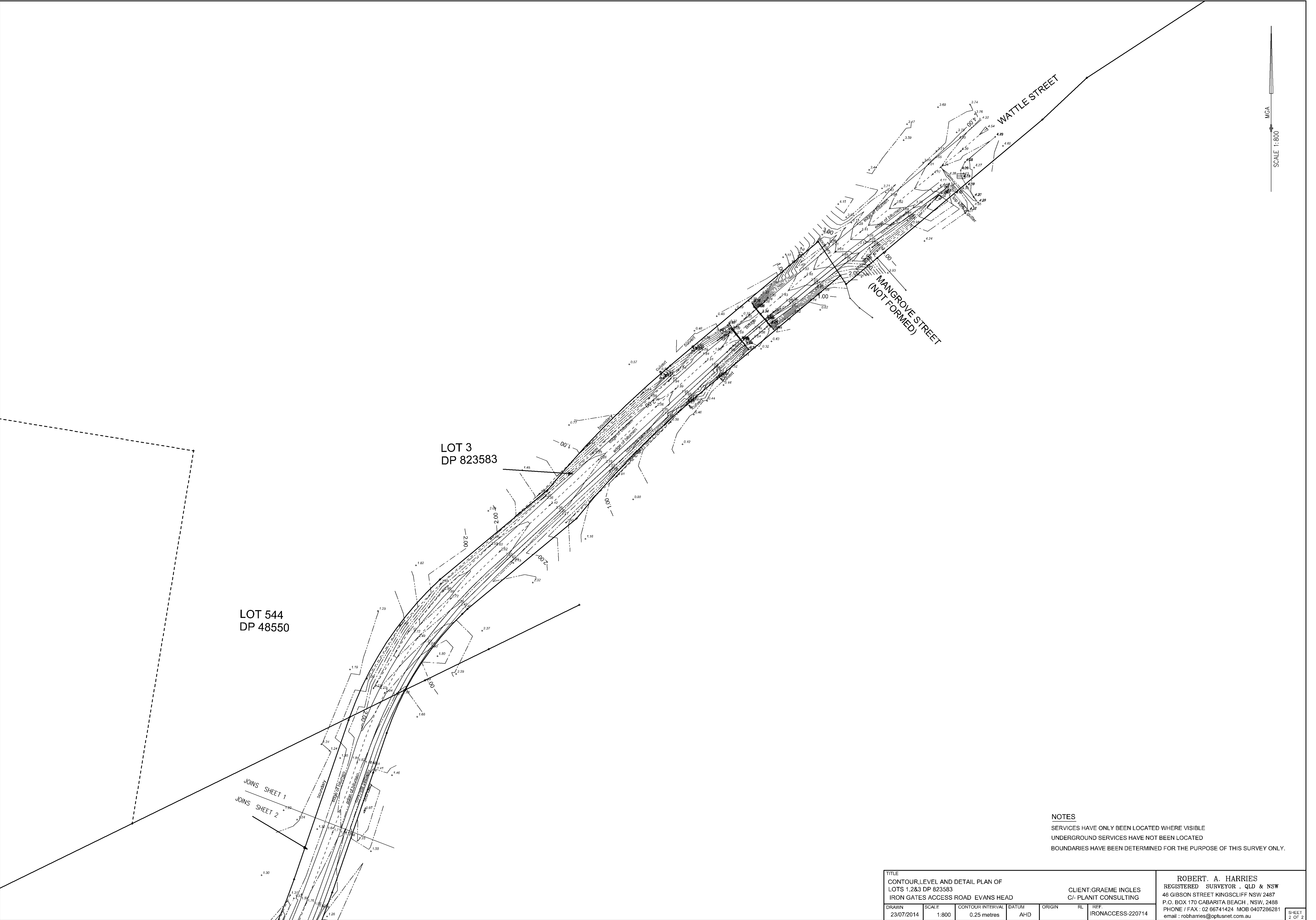
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Fax No: +61 7 3337 0055  
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Project No. AA007094  
Issue 03



TITLE CONTOUR LEVEL AND DETAIL PLAN OF LOTS 1,2&3 DP 823583 IRON GATES ACCESS ROAD EVANS HEAD						CLIENT: GRAEME INGLES C/- PLANTIT CONSULTING		ROBERT. A. HARRIES REGISTERED SURVEYOR, QLD & NSW 46 GIBSON STREET KINGSCLIFF NSW 2487 P.O. BOX 170 CABARITA BEACH, NSW, 2488 PHONE / FAX : 02 86741424 MOB 0407286281 email : robharies@optusnet.com.au	
DRAWN	SCALE	CONTOUR INTERVAL	DATUM	ORIGIN	RL	REF.			SHEET 1 OF 2
23/07/2014	1:800	0.25 metres	AHD			IRONACCESS-220714			





LOT 544  
DP 48550

LOT 3  
DP 823583

**NOTES**  
SERVICES HAVE ONLY BEEN LOCATED WHERE VISIBLE  
UNDERGROUND SERVICES HAVE NOT BEEN LOCATED  
BOUNDARIES HAVE BEEN DETERMINED FOR THE PURPOSE OF THIS SURVEY ONLY.

TITLE CONTOUR, LEVEL AND DETAIL PLAN OF LOTS 1, 2&3 DP 823583 IRON GATES ACCESS ROAD EVANS HEAD							CLIENT: GRAEME INGLES C/- PLANIT CONSULTING			ROBERT. A. HARRIES REGISTERED SURVEYOR, QLD & NSW 46 GIBSON STREET KINGSCLIFF NSW 2487 P.O. BOX 170 CABARITA BEACH, NSW, 2488 PHONE / FAX : 02 66741424 MOB 0407286281 email : robharies@optusnet.com.au	
DRAWN 23/07/2014	SCALE 1:800	CONTOUR INTERVAL 0.25 metres	DATUM AHD	ORIGIN	RL REF. IRONACCESS-220714	SHEET 2 OF 2					

## **Attachment No. 5a**

**Maps showing location of Photographs**





LEGEND	
	EXISTING SURFACE CONTOURS
	EXISTING EDGE OF BITUMEN
	PROPOSED 9m WIDE ROAD FORMATION

#### NOTES

1. ALL SIGNS ARE TO BE PREPARED IN ACCORDANCE WITH THE CURRENT 'MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES' (M.U.T.C.D.).
2. FINAL SIGN LOCATIONS TO BE DETERMINED ON SITE BY SUPERINTENDENT.
3. ALL TRAFFIC SIGNS TO BE SIZE 'B' UNLESS NOTED OTHERWISE.
4. ALL SIGN MATERIAL TO BE CLASS 1.
5. FOR PAVEMENT WIDENING TRANSITION LINEMARKING REFER TO M.U.T.C.D. - PART 2, FIGURE 4.17.
6. GUIDE POST TO BE INSTALLED 1.2m FROM EDGE OF PAVEMENT & 0.5m FROM FOOTPATH IN ACCORDANCE WITH AS1742.2.

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LOT 1  
DP 823583

ENDS OF EXISTING GAUDDRAILS ON  
BRIDGE TO BE REPLACED WITH RMS  
BUFFERED END ASSEMBLY. REFER TO  
RMS STD DWG R0730-04 FOR DETAILS.

60m NARROW BRIDGE APPROACH. FOR  
TRANSITION LINEMARKING REFER TO  
MUTCD - PART 2, FIGURE 4.10

LOT 3  
DP 823583

LOT 544  
DP 48550

TRANSITION LENGTH.  
REFER SLOW POINT DETAIL

Portion 408  
CONTINUATION LINE  
REFER TO SHEET K219

60m NARROW BRIDGE APPROACH. FOR  
TRANSITION LINEMARKING REFER TO  
MUTCD - PART 2, FIGURE 4.10

W5-33  
SLOW  
POINT

4 No RED UNI-DIRECTIONAL  
RRPMs @ EQUAL SPACING

20  
km/h  
W8-2

UNBROKEN SEPARATION LINE  
WITH YELLOW BI-DIRECTIONAL  
RRPMs & 6m SPACING

UNBROKEN SEPARATION LINE  
WITH YELLOW BI-DIRECTIONAL  
RRPMs & 6m SPACING

4 No RED UNI-DIRECTIONAL  
RRPMs @ EQUAL SPACING

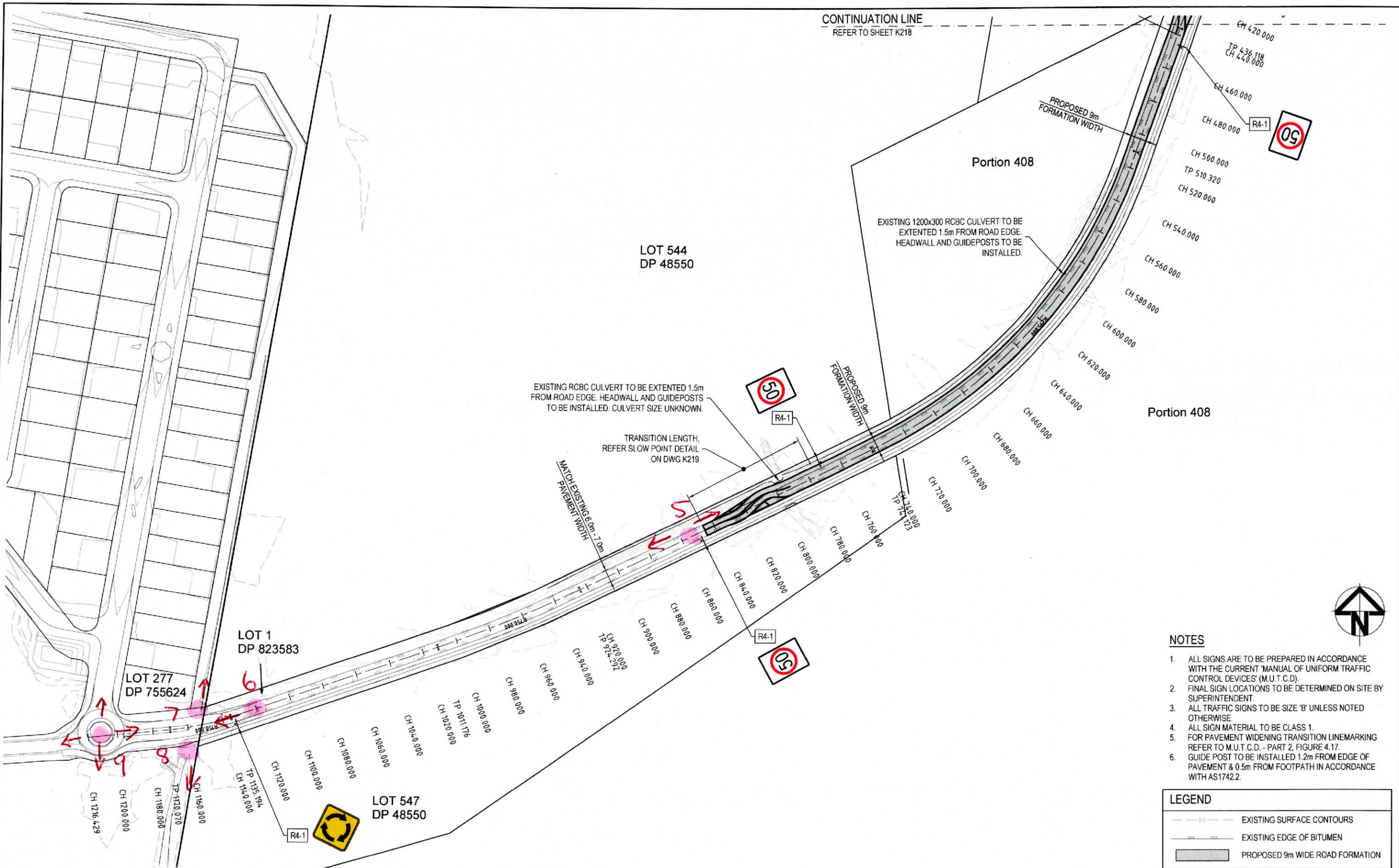
W5-33  
SLOW  
POINT

20  
km/h  
W8-2

TYPICAL SLOW POINT DETAIL  
SCALE 1 : 200

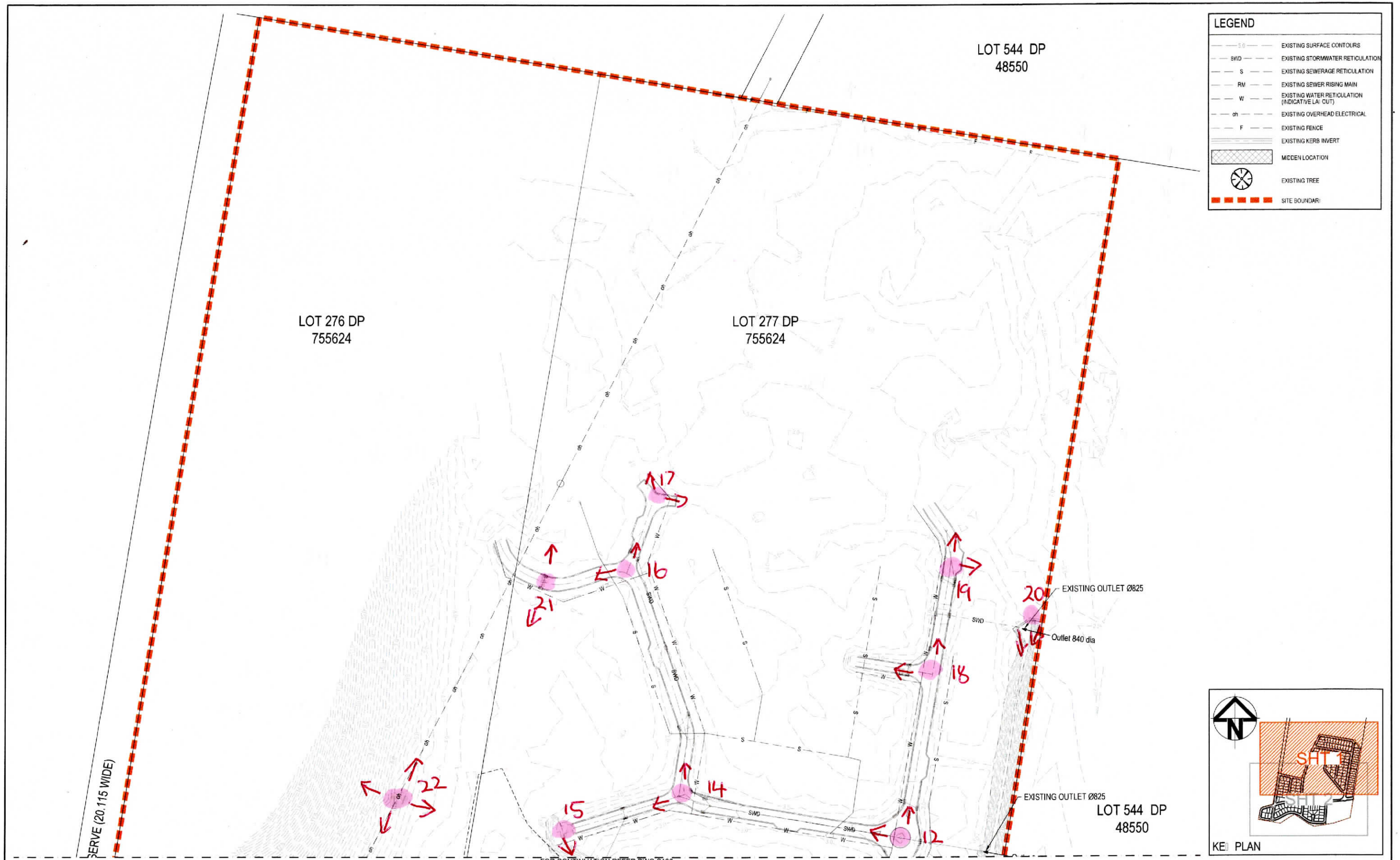
<div>Scale</div> <div>0 10 20 40 60 80 100m</div> <div>1 : 1000</div>	<div>Surveyor</div> <div>ROBERT A HARRIES SURVEYOR</div>	<div>Client</div> <div>GOLDCORAL PTY LTD</div>	<div>Status</div> <div>PRELIMINARY NOT TO BE USED FOR CONSTRUCTION</div>	<div>Project</div> <div>LOT 277 IRON GATES ROAD EVANS HEAD ACCESS ROAD</div>	<div></div> <div>Arcadis Australia Pacific Pty Limited P O Box 1653 Southport QLD 4215 ABN 76 104 485 289 Tel No: +61 7 5532 3933 Fax No: +61 7 5591 4778 www.arcadis.com</div>
<div>Issue</div> <div>02 ROADWORKS AMENDED, SLOW POINTS ADDED</div> <div>01 ORIGINAL ISSUE</div> <div>By Cld RREQ Date</div> <div>21.08.17</div> <div>26.05.17</div>	<div>Architect</div> <div></div>	<div>Original Size</div> <div>A1</div>	<div>Original Issue Signatures</div> <div>Drawn N. FAHEY</div> <div>Designed G. DICK</div> <div>Project Manager G. DICK</div>	<div>Title</div> <div>ACCESS ROAD SIGNAGE &amp; LINEMARKING LAYOUT PLAN SHEET 1 OF 2</div>	<div>Drawing No</div> <div>K218</div>
<div>Filename</div> <div>K218-AA007094-GCD-00-IRON GATES ACCESS ROAD SIGNAGE.dwg</div>	<div>Grid</div> <div>© Copyright reserved</div>	<div>Project No</div> <div>AA007094</div>	<div>Issue</div> <div>02</div>	<div>21/Aug/2017 5:56 PM</div>	<div>1/1</div>



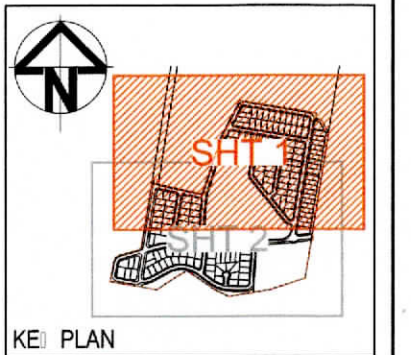


<b>02</b> ROADWORKS AMENDED, SLOW POINTS ADDED <b>01</b> ORIGINAL ISSUE				<b>02</b> 21.08.17 <b>01</b> 26.05.17			
Issue	Description	By	Ckd	REQD	Date		
Scale 0 10 20 40 60 80 100m 1 : 1000				Surveyor <b>ROBERT A HARRIES SURVEYOR</b>			
				Client <b>GOLDCORAL PTY LTD</b>			
				Status <b>PRELIMINARY</b> NOT TO BE USED FOR CONSTRUCTION			
				Approved R.P.E.Q. No:			
				Scales 1:1000			
				Original Issue Signatures Drawn N. FAHEY Designed G. DICK Project Manager G. DICK			
				Original Size A1			
				Height AHD			
				Grid © Copyright reserved			
				Project <b>LOT 277 IRON GATES ROAD EVANS HEAD ACCESS ROAD</b>			
				Title <b>ACCESS ROAD SIGNAGE &amp; LINEMARKING LAYOUT PLAN SHEET 2 OF 2</b>			
				<b>ARCADIS</b> Arcadis Australia Pacific Pty Limited P.O. Box, 1653 Southport QLD 4215 ABN 76 104 485 289 Tel No: +61 7 5532 3933 Fax No: +61 7 5591 4778 www.arcadis.com			
				Drawing No. <b>K219</b>			
				Project No. <b>AA007094</b>			
				Issue <b>02</b>			



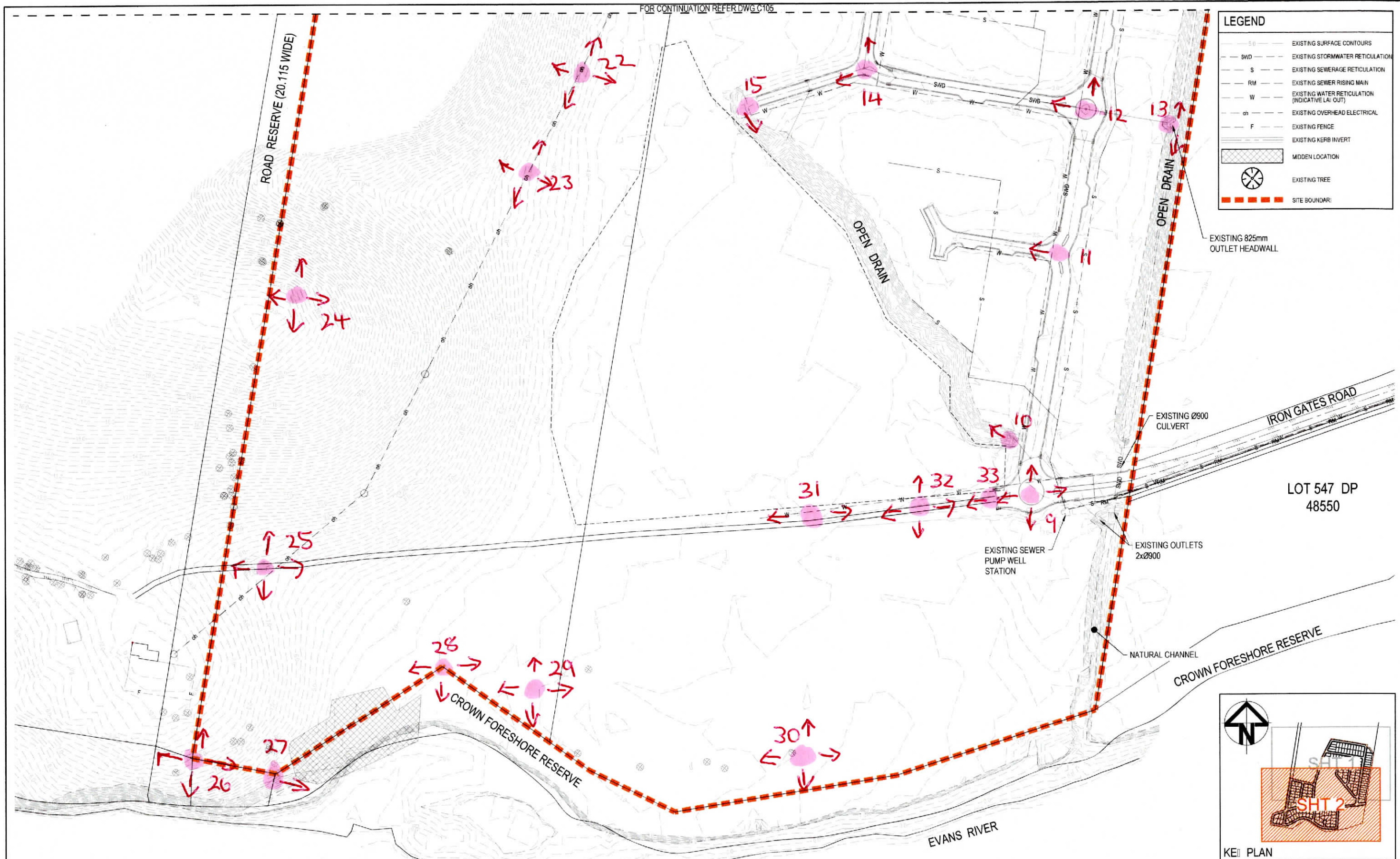


LEGEND	
---	EXISTING SURFACE CONTOURS
SWD	EXISTING STORMWATER RETICULATION
S	EXISTING SEWERAGE RETICULATION
RM	EXISTING SEWER RISING MAIN
W	EXISTING WATER RETICULATION (INDICATIVE LAY OUT)
oh	EXISTING OVERHEAD ELECTRICAL
F	EXISTING FENCE
---	EXISTING KERB INVERT
[Hatched Box]	MIDDEN LOCATION
[Tree Symbol]	EXISTING TREE
[Dashed Red Line]	SITE BOUNDARY

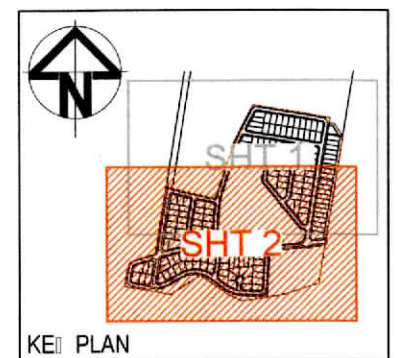


						FOR CONTINUATION REFER DWG C106																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
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LEGEND	
---	EXISTING SURFACE CONTOURS
---	EXISTING STORMWATER RETICULATION
---	EXISTING SEWERAGE RETICULATION
---	EXISTING SEWER RISING MAIN
---	EXISTING WATER RETICULATION (INDICATIVE LAI OUT)
---	EXISTING OVERHEAD ELECTRICAL
---	EXISTING FENCE
---	EXISTING KERB INVERT
---	MIDDEN LOCATION
---	EXISTING TREE
---	SITE BOUNDARY



Issue	Description	By	Chk	Rev	Date
05	ISSUE FOR RFI RESPONSE	RR			18.07.19
04	ISSUE FOR RFI RESPONSE	AC			26.11.18
03	RE-ISSUE FOR DEVELOPMENT APPROVAL	BD			13.07.15
02	ISSUE FOR DEVELOPMENT APPROVAL	BD			03.10.14
01	ORIGINAL ISSUE	BD			18.06.14

Scale	0 10 20 40 60 80 100m
	1 : 1000

Surveyor	ROBERT A HARRIES SURVEYOR
Architect	
Filename	C105-AA007094-gcd-00-ElistingFeaturesSurveyPlan.dwg

Client	GOLDCORAL PTY LTD
--------	-------------------

Status	FOR APPROVAL CONSTRUCTION SUBJECT TO APPROVAL
Approved	R.P.E.Q. No:
Scales	1 : 1000
Original Size	A1
Height	AHD
Grid	GRID

Project	RESIDENTIAL DEVELOPMENT LOT 277 IRON GATES ROAD EVANS HEAD
Title	EXISTING FEATURES SURVEY PLAN SHEET 2 OF 2

Arcadis Australia Pacific Pty Limited Level 5, 120 Edward Street Brisbane QLD 4000 ABN 76 104 485 289 Tel No: +61 7 3337 0000 Fax No: +61 7 3337 0055 www.arcadis.com	
Drawing No:	C106
Project No:	AA007094
Issue	05



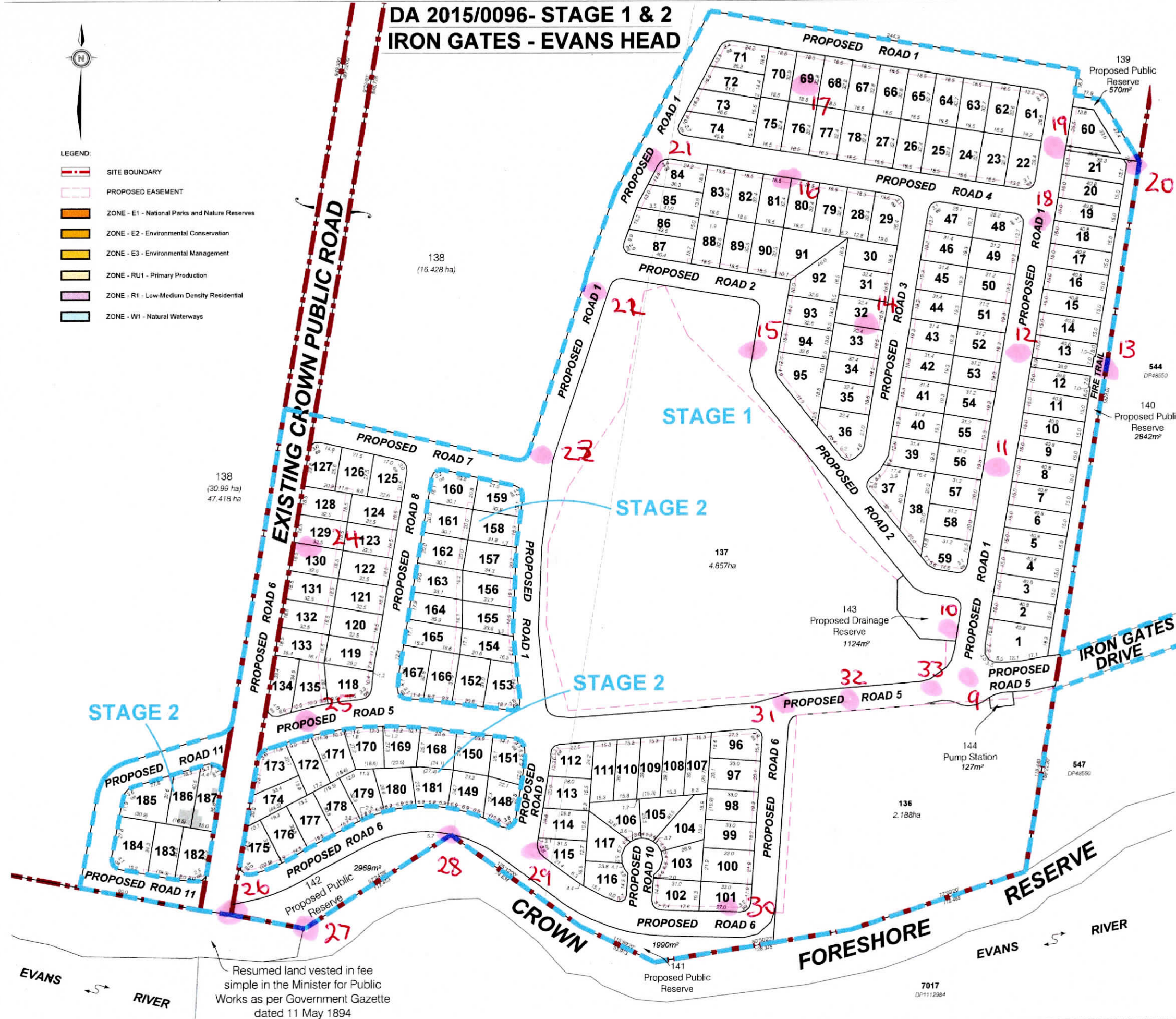
# CONCEPT PROPOSALS FOR SUBDIVISION, CLEARING, EARTHWORKS, ROADWORKS, DRAINAGE, UPGRADING OF IRON GATES DRIVE, INFRASTRUCTURE AND EMBELLISHMENT OF PROPOSED PUBLIC RESERVES -

## DA 2015/0096- STAGE 1 & 2 IRON GATES - EVANS HEAD

Lot Table		Lot Table		Lot Table	
Lot	Area	Lot	Area	Lot	Area
1	969 m <sup>2</sup>	71	807 m <sup>2</sup>	148	600 m <sup>2</sup>
2	612 m <sup>2</sup>	72	608 m <sup>2</sup>	149	601 m <sup>2</sup>
3	612 m <sup>2</sup>	73	682 m <sup>2</sup>	150	600 m <sup>2</sup>
4	612 m <sup>2</sup>	74	766 m <sup>2</sup>	151	600 m <sup>2</sup>
5	612 m <sup>2</sup>	75	600 m <sup>2</sup>	152	647 m <sup>2</sup>
6	612 m <sup>2</sup>	76	600 m <sup>2</sup>	153	619 m <sup>2</sup>
7	612 m <sup>2</sup>	77	600 m <sup>2</sup>	154	603 m <sup>2</sup>
8	612 m <sup>2</sup>	78	600 m <sup>2</sup>	155	600 m <sup>2</sup>
9	612 m <sup>2</sup>	79	600 m <sup>2</sup>	156	646 m <sup>2</sup>
10	612 m <sup>2</sup>	80	601 m <sup>2</sup>	157	661 m <sup>2</sup>
11	612 m <sup>2</sup>	81	601 m <sup>2</sup>	158	626 m <sup>2</sup>
12	605 m <sup>2</sup>	82	601 m <sup>2</sup>	159	600 m <sup>2</sup>
13	605 m <sup>2</sup>	83	601 m <sup>2</sup>	160	639 m <sup>2</sup>
14	612 m <sup>2</sup>	84	608 m <sup>2</sup>	161	602 m <sup>2</sup>
15	612 m <sup>2</sup>	85	614 m <sup>2</sup>	162	602 m <sup>2</sup>
16	612 m <sup>2</sup>	86	634 m <sup>2</sup>	163	600 m <sup>2</sup>
17	612 m <sup>2</sup>	87	696 m <sup>2</sup>	164	616 m <sup>2</sup>
18	612 m <sup>2</sup>	88	602 m <sup>2</sup>	165	623 m <sup>2</sup>
19	612 m <sup>2</sup>	89	602 m <sup>2</sup>	166	604 m <sup>2</sup>
20	612 m <sup>2</sup>	90	602 m <sup>2</sup>	167	602 m <sup>2</sup>
21	649 m <sup>2</sup>	91	859 m <sup>2</sup>	168	600 m <sup>2</sup>
22	615 m <sup>2</sup>	92	856 m <sup>2</sup>	169	600 m <sup>2</sup>
23	600 m <sup>2</sup>	93	603 m <sup>2</sup>	170	600 m <sup>2</sup>
24	600 m <sup>2</sup>	94	603 m <sup>2</sup>	171	600 m <sup>2</sup>
25	600 m <sup>2</sup>	95	954 m <sup>2</sup>	172	600 m <sup>2</sup>
26	600 m <sup>2</sup>	96	616 m <sup>2</sup>	173	605 m <sup>2</sup>
27	600 m <sup>2</sup>	97	663 m <sup>2</sup>	174	600 m <sup>2</sup>
28	600 m <sup>2</sup>	98	657 m <sup>2</sup>	175	600 m <sup>2</sup>
29	627 m <sup>2</sup>	99	602 m <sup>2</sup>	176	601 m <sup>2</sup>
30	600 m <sup>2</sup>	100	723 m <sup>2</sup>	177	600 m <sup>2</sup>
31	600 m <sup>2</sup>	101	605 m <sup>2</sup>	178	600 m <sup>2</sup>
32	600 m <sup>2</sup>	102	609 m <sup>2</sup>	179	601 m <sup>2</sup>
33	600 m <sup>2</sup>	103	620 m <sup>2</sup>	180	601 m <sup>2</sup>
34	600 m <sup>2</sup>	104	714 m <sup>2</sup>	181	600 m <sup>2</sup>
35	600 m <sup>2</sup>	105	602 m <sup>2</sup>	182	665 m <sup>2</sup>
36	786 m <sup>2</sup>	106	604 m <sup>2</sup>	183	629 m <sup>2</sup>
37	674 m <sup>2</sup>	107	602 m <sup>2</sup>	184	834 m <sup>2</sup>
38	775 m <sup>2</sup>	108	602 m <sup>2</sup>	185	765 m <sup>2</sup>
39	612 m <sup>2</sup>	109	602 m <sup>2</sup>	186	603 m <sup>2</sup>
40	604 m <sup>2</sup>	110	602 m <sup>2</sup>	187	627 m <sup>2</sup>
41	604 m <sup>2</sup>	111	601 m <sup>2</sup>		
42	604 m <sup>2</sup>	112	600 m <sup>2</sup>		
43	604 m <sup>2</sup>	113	600 m <sup>2</sup>		
44	604 m <sup>2</sup>	114	600 m <sup>2</sup>		
45	604 m <sup>2</sup>	115	608 m <sup>2</sup>		
46	604 m <sup>2</sup>	116	601 m <sup>2</sup>		
47	608 m <sup>2</sup>	117	602 m <sup>2</sup>		
48	605 m <sup>2</sup>	118	644 m <sup>2</sup>		
49	600 m <sup>2</sup>	119	601 m <sup>2</sup>		
50	600 m <sup>2</sup>	120	601 m <sup>2</sup>		
51	600 m <sup>2</sup>	121	601 m <sup>2</sup>		
52	600 m <sup>2</sup>	122	601 m <sup>2</sup>		
53	600 m <sup>2</sup>	123	601 m <sup>2</sup>		
54	600 m <sup>2</sup>	124	601 m <sup>2</sup>		
55	600 m <sup>2</sup>	125	600 m <sup>2</sup>		
56	600 m <sup>2</sup>	126	601 m <sup>2</sup>		
57	623 m <sup>2</sup>	127	602 m <sup>2</sup>		
58	623 m <sup>2</sup>	128	602 m <sup>2</sup>		
59	633 m <sup>2</sup>	129	602 m <sup>2</sup>		
60	632 m <sup>2</sup>	130	602 m <sup>2</sup>		
61	618 m <sup>2</sup>	131	602 m <sup>2</sup>		
62	604 m <sup>2</sup>	132	602 m <sup>2</sup>		
63	604 m <sup>2</sup>	133	602 m <sup>2</sup>		
64	605 m <sup>2</sup>	134	614 m <sup>2</sup>		
65	606 m <sup>2</sup>	135	600 m <sup>2</sup>		
66	606 m <sup>2</sup>	136	2.188ha		
67	607 m <sup>2</sup>	137	4.857ha		
68	607 m <sup>2</sup>	138	47.418ha		
69	608 m <sup>2</sup>				
70	609 m <sup>2</sup>				

### LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways



Resumed land vested in fee simple in the Minister for Public Works as per Government Gazette dated 11 May 1894

**GOLDCORAL PTY LTD**

### PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

### LOCAL AUTHORITY

RICHMOND VALLEY

### NOTES

- This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation. LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (i) or (ii) hereof.
- The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.
- This plan may not be copied unless these notes are included.

LOTS	TOTAL AREA
Residential Lots (175)	16.883ha
Residue Lots (3)	54.403ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
<b>TOTAL</b>	<b>72.306ha</b>

### ADDITIONAL NOTES

SCALE BAR  
0 10 20 30 40 50 60m  
SCALE 1:1250 @ A1



Brilliance Office  
Level 1 - CDOP  
18 Little Chain Street  
Melbourne VIC 3004  
PO Box 1369  
Melbourne VIC 3004  
P: (07) 3467 1000  
F: (07) 3467 1001  
E: info@landpartners.com.au  
W: www.landpartners.com.au



LEVEL DATUM	AMHD
LEVEL ORIGIN	-
CONTOUR INTERVAL	-
COMPUTER FILE	BRJD6396-100-33-21
DRAWN	CGW
CHECKED	MFA
APPROVED	CGW
DATE	19/07/2021
DATE	19/07/2021
DATE	19/07/2021
PLAN NUMBER	BRJD6396.100-55
SHEET 2 OF 2	REV 1

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES



**Attachment No. 5b**  
**Copy of Photographs**

## Iron Gates – photographs of Iron Gates Dr and subject land

Photographs taken at approx. locations shown on the maps.



Location 1 Photograph 1 – view west Bridge over wetland – Iron Gates Dr



Location 1 Photograph 2 – view east towards town– Iron Gates Dr





Location 2 Photograph 3 – view east to Bridge approx. Chainage 260 – Iron Gates Dr



Location 2 Photograph 4 – view west from Bridge approx. Chainage 260 – Iron Gates Dr



Location 3 Photograph 5 – view west approx. Chainage 360 – Iron Gates Dr





Location 4 Photograph 6 – view east approx. Chainage 460 – Iron Gates Dr



Location 5 Photograph 7 – view west approx. Chainage 840 – Iron Gates Dr



Location 6 Photograph 8 – view west – Iron Gates Dr entrance to land





Location 7 Photograph 9 – view north existing drain north of entrance / eastern boundary



Location 8 Photograph 10 – view south existing drain south of entrance / eastern boundary



Location 9 Photograph 11 – view west at first existing roundabout





Location 9 Photograph 12 – view south at first existing roundabout / near sewer pump station



Location 9 Photograph 13 – view east at first existing roundabout



Location 9 Photograph 14 – view north at existing entrance round-about / collector road





Location 10 Photograph 15 – view northwest existing drain at proposed retention basin



Location 11 Photograph 16 – view west existing internal feeder road off collector road



Location 12 Photograph 17 – view west existing internal collector road





Location 12 Photograph 18 – view north internal collector road



Location 13 Photograph 19 – view south at existing drain to be filled for fire trail



Location 13 Photograph 20 – view north at existing drain to be filled for fire trail





Location 14 Photograph 21 – view north at existing round-about internal collector road



Location 14 Photograph 22 – view southwest internal feeder / collector road



Location 15 Photograph 23 – view southeast existing drain to Location 11





Location 16 Photograph 24 – view north internal feeder / collector road



Location 16 Photograph 25 – view nor-nor-west internal feeder road



Location 17 Photograph 26? – view east internal feeder road





Location 17 Photograph 27 – view northwest internal feeder road



Location 18 Photograph 28 – view west internal collector road



Location 18 Photograph 29 – view north internal collector road





Location 19 Photograph 30 – view north internal collector road



Location 19 Photograph 31 – view west towards existing drain at Location 20



Location 20 Photograph 32 – view south at head of existing drain eastern boundary





Location 20 Photograph 33 – view south at head of existing drain eastern boundary



Location 21 Photograph 34 – view north



Location 21 Photograph 35 – view south





Location 22 Photograph 36 – view east to littoral rainforest



Location 22 Photograph 37 – view south



Location 22 Photograph 38 – view north





Location 22 Photograph 39 – view west



Location 23 Photograph 40 – view east – littoral rainforest



Location 23 Photograph 41 – view north





Location 23 Photograph 42 – view west



Location 23 Photograph 43 – view south



Location 24 Photograph 44 – view north





Location 24 Photograph 45 – view east



Location 24 Photograph 46 – view south



Location 24 Photograph 47 – view west





Location 25 Photograph 48 – view east



Location 25 Photograph 49 – view south



Location 25 Photograph 50 – view west





Location 25 Photograph 51 – view north



Location 26 Photograph 52 – view north



Location 26 Photograph 53 – view west





Location 26 Photograph 54 – view south Evans River



Location 26 Photograph 55 – view east



Location 27 Photograph 56 – view east





Location 28 Photograph 57 – view west



Location 28 Photograph 58 – view south – Evans River riparian vegetation



Location 28 Photograph 59 – view east





Location 29 Photograph 60 – view east



Location 29 Photograph 61 – view north



Location 29 Photograph 62 – view west





Location 29 Photograph 63 – view east



Location 30 Photograph 64 – view north



Location 30 Photograph 65 – view west





Location 30 Photograph 66 – view east



Location 31 Photograph 67 – view west



Location 31 Photograph 68 – view east





Location 32 Photograph 69 – view east



Location 32 Photograph 70 – view west



Location 32 Photograph 71 – view north – littoral rainforest





Location 32 Photograph 72 – view south – littoral rainforest



Location 33 Photograph 73 – view west – littoral rainforest



Location 34 Photograph 74 – view north – existing drain





Location 34 Photograph 75 – view west – Evans River riparian vegetation



## Evans Head Asset Protection Zones



Photograph 76 – north of Wattle St



Photograph 77 – north of Wattle St



Photograph 78 – west of Rosolen Lane



Photograph 79 – south of Bundjalung Rd



Photograph 80 – west of Carrabeen St



Photograph 81 – west of Evans Head cemetery





Photograph 82 – west of Evans Head cemetery

**Evans Head 10 Nov. 2019**



Photograph 83 – Evans Head 10 Nov 2019 – Myall Creek bushfire smoke

## Iron Gates Dr and drain – flood Feb. / March 2022



Photograph 84 – Iron Gates Dr – bridge

Source Evans Head Memorial Aerodrome Committee Inc submission (21 March 2022)



Photograph 85 – Drain – location unknown

Source Evans Head Memorial Aerodrome Committee Inc submission (21 March 2022)





Photograph 86 – Iron Gates Dr – bridge – date unknown – caption states ‘day 2 after flooding at low tide’  
Source Tim Smith submission (3 March 2022)



Photograph 87 – Iron Gates Dr – bridge – date unknown – caption states ‘day 2 after flooding at high tide’  
Source Tim Smith submission (3 March 2022)

## **Attachment No. 6**

**Summary of the issues raised in submissions from the public**



## Summary of submissions from the public

The total number of **objections** to the DA and Concept DA were:

- 656 public submissions
- 947 petition signatories and
- 23 'postcards'.

The total number of public submissions in **support** of the DA and Concept DA was 249.

The following identifies key issues and provides a general summary of concerns.

Key issues	Summary of concerns
Aboriginal cultural heritage	<ul style="list-style-type: none"> <li>• Lack of consultation – general</li> <li>• Lack of consultation – women – only 1 women / consultants male</li> <li>• Birthplace of Bundjalung nation</li> <li>• Sacred site</li> <li>• Sacred artifacts</li> <li>• Sacred trees</li> <li>• Massacre site</li> <li>• Burial ground</li> <li>• Impact on Gummigadah (National Park) – noise &amp; visual</li> <li>• Impact on cultural landscape</li> <li>• Independent review required</li> <li>• Regional considerations</li> <li>• Lack of consideration of intangible values</li> <li>• Childrens education &amp; health &amp; connection to country</li> <li>• Lack of respect of culture and environment</li> <li>• Correct people not consulted</li> </ul>
Impact on river	<ul style="list-style-type: none"> <li>• Lack of riparian buffers</li> <li>• Impact on fishery – accelerate decline in yabbies &amp; fish</li> <li>• Impact on fishery – impact on fish breeding</li> <li>• Over fishing</li> <li>• Potential for pollution (fertiliser, pesticides etc)</li> <li>• Run-off during construction</li> <li>• River a fragile sensitive environment / system</li> <li>• River bank erosion &amp; damage</li> <li>• Impact on sea grasses</li> <li>• Impact on natural beauty</li> <li>• Impact on water table</li> <li>• Unauthorised development on / near riverbank</li> <li>• Impact on mangroves and wetlands</li> <li>• Lack of on-site stormwater detention</li> <li>• Increased boat and jet ski noise</li> <li>• Groundwater run-off – pollution</li> <li>• Increase in algae</li> <li>• Loss of water quality – faecal and pollution run-off</li> </ul>

Impact on town	<ul style="list-style-type: none"> <li>• Impact on unique town (Jewel in Crown)</li> <li>• Loss of village amenity and laid back lifestyle</li> <li>• Crowding particularly at holiday time</li> <li>• Lack of open space in development</li> <li>• Does not enhance character of town</li> <li>• Social issues and impact – no consultation with local services</li> <li>• Not consistent with Regional Plan 2036</li> <li>• Excessive and over development</li> <li>• Current lack of employment opportunities</li> <li>• Negative impact on tourism</li> <li>• Division with community – negative impacts</li> <li>• Local community not supportive</li> <li>• Impact on sewerage system</li> <li>• Increased traffic</li> <li>• Lack of consultation with local services</li> <li>• Rate increases</li> </ul>
Environment / plants / animals / endangered species	<ul style="list-style-type: none"> <li>• Loss of fauna</li> <li>• Land part of important wildlife corridor – Bundjalung &amp; Broadwater National Parks</li> <li>• Impact on threatened plants and animals</li> <li>• Edge effect on littoral rainforest</li> <li>• Isolate littoral rainforest / ECC</li> <li>• Incompatible with conservation zoning of land</li> <li>• Alteration to natural drainage systems</li> <li>• No on-site stormwater detention</li> <li>• Age of assessment / extent of field work inadequate</li> <li>• Extent of vegetation removal</li> <li>• There are more appropriate locations</li> <li>• 7 part test limited</li> <li>• Impact of cats on native animals</li> <li>• Loss of water quality</li> <li>• Impact of artificial street and other lights</li> <li>• Encroaching on habitat – potential viral transmission</li> </ul>
Court orders / developer	<ul style="list-style-type: none"> <li>• Past development damage &amp; tree removal / land clearing</li> <li>• Orders of court</li> <li>• Legality of Iron Gates Dr</li> <li>• No remediation</li> <li>• Lack of trust</li> <li>• Lack of respect for court and local people</li> <li>• Integrity</li> </ul>
Bushfire	<ul style="list-style-type: none"> <li>• Land located in forest</li> <li>• Emergency evacuation</li> <li>• Lack of alternative access</li> <li>• Street trees brushbox unsuitable</li> <li>• 2019 bushfire – evacuation</li> <li>• Building envelopes do not account for dual occupancy</li> <li>• Asset protection zones insufficient / incorrect – 100m</li> <li>• Precautionary principle should be applied</li> <li>• Pinch points &amp; bottlenecks along Iron Gates Dr &amp; internal road</li> <li>• No recognition of climate change</li> <li>• Council on-going cost of maintaining asset protection zones</li> </ul>



Bushfire	<ul style="list-style-type: none"> <li>• Potential for further vegetation clearance and backburning</li> <li>• Lack of local fire &amp; emergency services in village</li> <li>• Assessment does not account properly for future population</li> <li>• Design of roads as protection zones</li> </ul>
Visual / small village amenity	<ul style="list-style-type: none"> <li>• Evans Head is a small village with natural attributes (loss)</li> <li>• Peaceful village / serenity</li> <li>• Significant excavation in development</li> <li>• Retaining walls in development</li> </ul>
Lack of infrastructure	<ul style="list-style-type: none"> <li>• Limited availability of doctors and allied medical</li> <li>• Capacity of sewerage system limited esp holidays</li> <li>• Impact on services</li> <li>• School at capacity</li> <li>• Impact on services holiday time</li> <li>• Impact on parking in commercial area of town</li> <li>• No hospital ambulance services</li> <li>• Impact on limited policing</li> <li>• Costs to council to date</li> <li>• Ongoing costs to council – foreshore areas / bushfire</li> <li>• No public transport</li> <li>• Lack on parking in street design</li> </ul>
Traffic	<ul style="list-style-type: none"> <li>• Impact on roads / increased traffic</li> <li>• Impact on Wattle St – major thoroughfare</li> <li>• Increased danger to school and churches</li> <li>• Road too narrow near wetland areas</li> <li>• One access road only</li> <li>• Iron Gates Dr will not achieve min. requirements</li> <li>• Impact on wildlife / speed limits</li> <li>• No public transport</li> </ul>
Flood and groundwater	<ul style="list-style-type: none"> <li>• Road through wetland flood prone</li> <li>• Stormwater proposal inadequate</li> <li>• No consideration of tidal surge</li> <li>• No consideration of sea level rise</li> <li>• No groundwater assessment – impact &amp; acid sulfate soils</li> <li>• Climate change significant rain events</li> </ul>
Koala	<ul style="list-style-type: none"> <li>• Independent review needed – insufficient survey</li> <li>• Existing corridor – land and Iron Gates Dr</li> <li>• SAT analysis limited</li> <li>• Loss of koala food trees</li> <li>• Increased risk of Koala kill</li> <li>• Mitigation measures insufficient</li> <li>• Site part of Evans Head-Doonbah-Riley Hill-Broadwater population – only surviving population</li> <li>• Biobanking does not replace lost trees</li> <li>• Previous tree removal</li> </ul>
Cats and dogs	<ul style="list-style-type: none"> <li>• Impact on local fauna</li> <li>• Prohibit</li> </ul>

Climate change	<ul style="list-style-type: none"> <li>• Not sufficiently considered</li> <li>• Increased flood events</li> <li>• Increased bushfire events</li> <li>• Sea level rise</li> <li>• Need to minimise vulnerability not increased</li> <li>• Increased cost of insurance in flood and bushfire areas</li> <li>• Economic cost of resilience</li> <li>• Land clearing</li> </ul>
Acid sulfate soils	<ul style="list-style-type: none"> <li>• No actual acid sulfate assessment to guidelines</li> <li>• Potential impact of filling on groundwater not considered</li> <li>• 1995 investigation of drain does not meet contemporary standards</li> <li>• No erosion and soil management plan</li> </ul>
Biting insects	<ul style="list-style-type: none"> <li>• Occurrence of biting insects</li> <li>• Assessment undertaken at time of year when insects are less</li> </ul>
Evans Head airport	<ul style="list-style-type: none"> <li>• Noise</li> <li>• Defence use of airport</li> <li>• Proximity to weapons range</li> <li>• Under flight path</li> <li>• Interference with RAAF planes</li> </ul>
Health	<ul style="list-style-type: none"> <li>• Overcrowding – particularly at Easter</li> <li>• Social isolation / lack of public transport</li> <li>• Social impact loss of amenity</li> <li>• Asthma / dust during construction</li> </ul>
Limited / inadequate information	<ul style="list-style-type: none"> <li>• Lack of consultation cultural heritage assessment</li> <li>• Poor quality of cultural heritage assessment</li> <li>• No proper acid sulfate assessment</li> <li>• Fauna and flora assessment dated &amp; flawed no consideration of cats and dogs</li> <li>• Wrong information re. transport data</li> <li>• Lack of public consultation</li> <li>• Bushfire assessment inadequate</li> </ul>
Subdivision	<ul style="list-style-type: none"> <li>• Poor design / layout</li> <li>• Lack of open space</li> <li>• Extent of earthworks</li> <li>• Lack of setback to vegetation and river</li> <li>• Large scale</li> <li>• Satellite town</li> <li>• Construction run-off</li> <li>• Not ecological sustainable development</li> </ul>
Affordable housing	<ul style="list-style-type: none"> <li>• Impact on local housing market – cost of land and too build will exclude locals</li> </ul>
Legal, public interest & Master Plan	<ul style="list-style-type: none"> <li>• Legality of DA</li> <li>• DA flawed</li> <li>• Not in the public interest</li> <li>• DA should be re-advertised</li> <li>• Master Plan should be resolved before DA is exhibited</li> </ul>
Contributions	<ul style="list-style-type: none"> <li>• Council resolution to reduce sewer contribution rates</li> </ul>
Town plans & policy	<ul style="list-style-type: none"> <li>• Inconsistent with Local Strategic Planning Statement and Regional Plan</li> </ul>
Contamination	<ul style="list-style-type: none"> <li>• Former sand mine / potential for contamination</li> </ul>



**Exhibition #1 of DA as lodged – exhibition 3 Nov. 2014 to 8 Dec. 2014.**

Number of public submissions in objection: 53

Number of public submissions in support: 1

No. = number of times issue of concern was expressed. Detailed summary of submissions below.

<b>Summary of reasons for objection</b>	<b>No.</b>
Aboriginal cultural heritage	11
Impact on river	13
Impact on town	9
Environment / plants / animals / endangered species	36
Court orders / developer	42
Bushfire	11
Visual / small village amenity	8
Lack of and impact on infrastructure	18
Traffic	10
Flood and groundwater	12
Koala	10
Cats and dogs	5
Climate change / sustainability	7
Acid sulfate soils	8
Biting insects	2
Evans Head airport	1
Health	1
Limited / inadequate information	38
Subdivision	3
Affordable housing	5
Legal, public interest & Master Plan	7
Contributions	4
Contamination	2
Social / community impact	-

<b>Summary of reasons for support</b>	<b>No.</b>
Benefit to town	1
More development needed to improve services	1
Increase in housing supply to address shortage	1
Out of town protestors	1

**2 Exhibition #2 amendments to DA & additional information – exhibition 4 Nov. 2015 to 7 Dec. 2015**

Number of public submissions in objection: 25

Number of public submissions in support: 6

Exhibition #2 followed Council receiving additional information. Detailed summary of submissions below.

No. = number of times issue of concern was expressed.

<b>Summary of reasons for objection</b>	<b>No.</b>
Aboriginal cultural heritage	2
Impact on river	3

Impact on town	3
Environment / plants / animals / endangered species	9
Court orders / developer	7
Bushfire	4
Visual / small village amenity	1
Lack of and impact on infrastructure	7
Traffic	5
Flood and groundwater	2
Koala	1
Cats and dogs	1
Climate change / sustainability	1
Acid sulfate soils	1
Biting insects	1
Aircraft noise	3
Health	1
Limited / inadequate information	6
Subdivision	-
Affordable housing	-
Legal, public interest & Master Plan	-
Contributions	-
Contamination	-
Social / community impact	-

<b>Summary of reasons for support</b>	<b>No.</b>
Increase in school population	1
Improvement in services	2
Support of local business	4
Creation of employment	4
Increase in housing supply to address shortage	5
Improve sustainability of town	1

### **3 Exhibition #3 of DA as amended – period of exhibition 3 Oct. 2019 to 18 Nov. 2019**

Number of public submissions in objection: 348 + petition of 235

Number of public submissions in support: 183

Exhibition #3 followed Council receiving the up-dated and consolidated DA (July 2019).

No. = number of times issue of concern was expressed.

<b>Summary of reasons for objection</b>	<b>No.</b>
Aboriginal cultural heritage	196
Impact on river	187
Impact on town	110
Environment / plants / animals / endangered species	235
Court orders / developer	148
Bushfire	89
Visual / small village amenity	83
Lack of and impact on infrastructure	164
Traffic & roads	88
Flood and groundwater	28
Koala	39
Cats and dogs	35



Climate change / sustainability	22
Acid sulfate soils	8
Biting insects	9
Evans Head airport	3
Health	5
Limited / inadequate information	19
Subdivision design	2
Affordable housing	5
Legal, public interest & Master Plan	-
Contributions	-
Contamination	-
Social / community impact	-

<b>Summary of reasons for support</b>	<b>No.</b>
Economic benefits and sustainability to business sector and town	171
Businesses struggling	4
Create employment during construction	2
After construction improve businesses and increase job opportunities	157
Increase population to maintain essential services – police, ambulance, fire emergency & medical professions, sport facilities and school	15
Lack of land for residential development / housing supply	169
People who are objecting – minority, recently moved to town & environmentalists	1
Area to developed is not pristine land	1
Freehold land	-
Sewerage treatment works up-graded to cater for subdivision	-
Positive move approve / get on with it	1
Holiday letting many homes empty / need resident locals	2
Bring in new and young families	4
Diversifies and supports tourism	1
Supports decentralisation from city	-
Flow on to other towns	-
Agree subject to compliance with environmental and cultural concerns	1
Supports housing affordability	2
Revenue from additional rates	2
Culturally significant sites protected	2
Available town infrastructure	2
Amenity not spoilt	1
Traffic not an issue	1

A 'form' letter template was lodged by 157 submitters that template identified the following benefits:

- Economic benefits and sustainability to business sector
- After construction improve businesses and increase job opportunities and
- 'Lack of land for residential development.

**4 Exhibition #4 of DA amended to Concept DA – period of exhibition**  
**24 Sept. 2021 to 24 Oct. 2021.**

Number of public submissions in objection: 191 + petition of 712 + 'postcards of 23

Number of public submissions in support: 50

Exhibition #4 followed amendment of the DA to a Concept DA.

No. = number of times issue of concern was expressed.

<b>Summary of reasons for objection</b>	<b>No.</b>
Aboriginal cultural heritage	135
Impact on river	101
Impact on town	25
Environment / plants / animals / endangered species	112
Court orders / developer	75
Bushfire	67
Visual / small village amenity	64
Lack of and impact on infrastructure	75
Traffic & roads	44
Flood and groundwater	44
Koala	60
Cats and dogs	20
Climate change / sustainability	14
Acid sulfate soils	5
Biting insects	6
Evans Head airport	5
Health	-
Limited / inadequate information	19
Subdivision design	16
Affordable housing	9
Legal, public interest & Master Plan	-
Contributions	-
Contamination	-
Social / community impact	-

<b>Summary of reasons for support</b>	<b>No.</b>
Economic benefits and sustainability to business sector and town	36
Businesses struggling	2
Create employment during construction	7
After construction improve businesses and increase job opportunities	24
Increase population to maintain essential services – police, ambulance, fire emergency & medical professions, sport facilities and school	7
Lack of land for residential development / housing supply	31
People who are objecting – minority, recently moved to town & environmentalists	1
Area to developed is not pristine land	1
Freehold land	2
Sewerage treatment works up-graded to cater for subdivision	1
Positive move approve / get on with it	6
Holiday letting many homes empty / need resident locals	2



Bring in new and young families	8
Diversifies and supports tourism	1
Supports decentralisation from city	1
Flow on to other towns	1
Agree subject to compliance with environmental and cultural concerns	-
Supports housing affordability	-
Revenue from additional rates	-
Culturally significant sites protected	-
Available town infrastructure	-
Amenity not spoilt	-
Traffic not an issue	-

A 'form' letter template was lodged by 24 submitters that template identified the following benefits:

- Economic benefits and sustainability to business sector
- After construction improve businesses and increase job opportunities and
- 'Lack of land for residential development.

#### **4 Exhibition #5 Concept DA – period of exhibition**

**18 Feb. 2022 to 19 March 2022.**

Number of public submissions in objection: 16

Number of public submissions in support: 3 + 6 (received outside 19 March 2022)

Exhibition #5 was undertaken to rectify a clerical mistake in the public notices. The notices referred to Natural Resources Assess Regulator (NRAR) as the 'integrated authority' when it should have been the NSW Office of Water.

No. = number of times issue of concern was expressed.

<b>Summary of reasons for objection</b>	<b>No.</b>
Aboriginal cultural heritage	6
Impact on river	6
Impact on town	3
Environment / plants / animals / endangered species	10
Court orders / developer	4
Bushfire	6
Visual / small village amenity	3
Lack of and impact on infrastructure	4
Traffic & roads	4
Flood and groundwater	10
Koala	7
Cats and dogs	-
Climate change / sustainability	4
Acid sulfate soils	-
Biting insects	1
Evans Head airport	3
Health	-
Limited / inadequate information	2
Subdivision design	-
Affordable housing	-
Legal, public interest & Master Plan	5
Contributions	2

Contamination	1
Social / community impact	2

<b>Summary of reasons for support</b>	<b>No.</b>
Economic benefits and sustainability to business sector and town	7
Businesses struggling	-
Create employment during construction	7
After construction improve businesses and increase job opportunities	-
Increase population to maintain essential services – police, ambulance, fire emergency & medical professions, sport facilities and school	-
Lack of land for residential development / housing supply	7
People who are objecting – minority, recently moved to town & environmentalists	-
Area to developed is not pristine land	1
Freehold land	-
Sewerage treatment works up-graded to cater for subdivision	-
Positive move approve / get on with it	-
Holiday letting many homes empty / need resident locals	-
Bring in new and young families	-
Diversifies and supports tourism	-
Supports decentralisation from city	-
Flow on to other towns	-
Agree subject to compliance with environmental and cultural concerns	-
Supports housing affordability	1
Revenue from additional rates	-
Culturally significant sites protected	-
Available town infrastructure	-
Amenity not spoilt	-
Traffic not an issue	-

## **Summary of Submissions Exhibitions #1 and #2**

### **Exhibition #1 of DA as lodged – 3 Nov. 2014 to 8 Dec. 2014.**

The following summary of submissions to Exhibition #1 was prepared at time of preparation of the 2 Feb. 2019 review report.

### **Objection**

18 Nov 14 – (Dorland & Davis)

- use of Blue Pool Rd as secondary access
- increased traffic
- dust
- construction vehicle access
- impact on services
- bushfire secondary access & gates
- requirements listed



5 Dec 14 – (Tosomeen)

- RVC financial risk remediation work not undertaken as ordered by L&EC
- RVC request a release from L&EC, issues unresolved

5 Dec 14 – (den Exter)

- remediation work not undertaken as ordered by L&EC
- clearing of site in May 2014 & Sept 2014 disrespect for native vegetation laws
- community opposition negative environmental & social impacts

5 Dec 14 – (Grissell)

- concerns about lawful actions of developer

6 Dec 14 – (Meagher)

- too close to the river
- inadequate setbacks
- impact on habitat of native species

6 Dec 14 – (Rees)

- environmental assessment severely limited survey some days in May only
- no assessment of impact on Evans River – drains & fish
- remediation work

undated – (Coward)

- land close to sea level & subject to flooding
- acid sulfate soils – challenges that there will be no works >1m below ground level
- water quality / sediment impacts on estuary – high rainfall area
- 20m retained vegetation along river narrow should be no less than 100m

7 Dec 14 – (Young)

- objects to environmental destruction

7 Dec 14 – (Malecki)

- remediation work not undertaken
- Iron Gates Rd subject to court orders which prevents its use
- financial risk to RVC
- impact of climate change sea level rise & storm surge no assessment
- site flood & fire prone
- site contains radiation from sand mining
- no species impact assessment (endangered flora & fauna)
- SEPP 14 wetlands
- impact on local Koala

7 Dec 14 – (Brookman)

- village not set up to sustain additional population, lacks infrastructure & public transport
- illegal clearing May 2014 & Sept 2014
- outstanding court orders to remediate
- queries legality of application

7 Dec 14 – (Vass)

- iron gates koala 'hotspot' & has important Aboriginal heritage values
- littoral rainforest is an EEC – approx. 60% of proposed rainforest reserves are contained no connectivity within the subdivision – 75% of rainforest reserves having a boundary
- impact on Koala (people & cars)

- previous illegal land clearing
- remediation work not undertaken

#### 7 Dec 14 – (Johnston)

- outstanding court orders to remediate
- queries legality of application
- illegal land clearing
- land should be left untouched

#### 7 Dec 14 – (McDonald)

- SEPP 71 waiver inappropriate
- flora & fauna assessment & illegal land clearing not representative of real loss
- too close to river mosquitos & values of river
- 20m retained vegetation to river excessively narrow & not suitable for larger watercourses, habitat corridors adjoining national park & site of Aboriginal significance, walking tracks in area for residential amenity as opposed to biodiversity or riparian buffer
- natural area in subdivision isolated and has no link to surrounding bush
- Aboriginal cultural heritage, Bungalong people, wedding tree & midden at Gummigarrah

#### 7 Dec 14 – (Friends of the Koala)

- State Policies 14, 26 & local zoning that applies to the land and environmental protection – approx. 60% of proposed littoral rainforest reserves are contained no connectivity within the subdivision – 75% of rainforest reserves having a boundary
- fragmentation of ECC
- impact from domestic pets, design ensures entrapment of fauna in central littoral rainforest reserve species directed to a funnel onto roads
- record of koala & other threatened species
- compensatory habitat connection with riparian zone
- removal of health
- effect of 10/50 rule, fire trail 6m wide – bushfire assessment has not addressed 10/50 rule
- speed restrictions in E zones if approved
- issue with SEE section 3.5

#### 7 Dec 14 – (Roberts)

- remediation work not undertaken
- Iron Gates Rd subject to court orders which prevents its use
- impact of climate change sea level rise & storm surge no assessment
- site flood & fire prone
- site contains radiation from sand mining
- no species impact assessment (endangered flora & fauna)
- SEPP 14 wetlands
- acid sulfate soils
- impact on local Koala
- impact on council services

#### 7 Dec 14 – (Kearney)

- ecological important species
- importance of corridor
- illegal clearing of site May & Sept 2014
- no remediation work
- that land was previously cleared does not mean little environmental impact



7 Dec 14 – (Siffleet)

- outstanding matters
- illegal clearing again

7 Dec 14 – (Langbein)

- frustration
- illegal clearing again
- waiver of SEPP 71 masterplan
- fauna and flora corridors – conflict with roads
- use of riparian zone
- outstanding court matters
- no remediation work undertaken
- impact on services (water sewer, waste, public transport) in village
- irreversible change to eco system
- social impact on village & character – Gold Coast style not wanted

8 Dec 14 – (Bibby)

- riparian buffer insufficient
- waiver of SEPP 71 masterplan
- flora & fauna assessment flawed
- Aboriginal cultural heritage issues not give weight
- no connection for bushland

7 Dec 14 – (Bandjalang Custodians – Wilson, Wilson Wilson & Barker)

- highly insulted by DA have attempted to convey this to the consultants
- imposes a residential area over Gumigurrah site (winter camp) & crossing point on river
- massacre site
- white people domination of traditions
- disagree with the buffer will conserve cultural values
- buffer should ensure no elements of subdivision should be visible
- dogs & cats should be banned

8 Dec 14 – (Little)

- lack of consultation with local Aboriginal custodians
- huge cultural importance
- riparian buffer width insufficient
- exposure to legal costs, remediation & illegal clearing
- infrastructure cost on council (water & sewer)

8 Dec 14 – (Newton)

- strong views of opposition
- court orders & remediation work not undertaken
- insult to council and constituents
- impact on Koala
- range of threatened species to be removed
- Aboriginal heritage
- loss of coastal wetlands, Fogwells Creek now a drain
- acid sulfate water into river
- impact on littoral rainforest – 20m buffer
- flood information & assessment
- on-going council maintenance cost
- previous petition of 1,000+ signatures

8 Dec 14 – (Evans Head Memorial Aerodrome committee Inc)

- court orders
- matters need to be resolved inappropriate to put DA on exhibition
- potential for further litigation and cost to ratepayers
- DA incomplete,
- Aboriginal cultural heritage assessment incomplete
- DA not available on councils website
- 30 day exhibition too short
- June report to council reducing developer contributions from \$32,000 to \$8,000 / ET – economic impact

24 Nov 14 – (Saunders)

- DA, confusion number of lots sought 178 v 182, bushfire assessment refers to DA as low density, Aboriginal cultural heritage assessment incomplete, flora & fauna field surveys only undertaken in May 2014, illegal clearing in stage 4 area, court orders & remediation work, potential cost to ratepayers
- Engineering, land flood prone has photos, filling and impact on lower reaches of river, bio-retention effectiveness in flood, acid sulfate, climate change – sewage, capacity of Evans Head plan to receive given recent connections (Broadwater, Riverside Village & parts of Woodburn), increase discharge into national park
- Fire safety, fire risk of riparian buffer not considered, provision of APZ's within lots 600-650m<sup>2</sup>, ability of lots to provide for average Aust. House size (227m<sup>2</sup>), result 2 storey dwellings – maintenance of bushfire vacant lots and bush areas as houses are erected, maintenance of fire trails all weather land also flood prone, cost to council / ratepayer – 6m fire break not adequate and consistent with other areas of Evans Head (10 – 30m), future impact on vegetation to widen fire trails – access to area by fire tenders not addressed – no mention of required infrastructure – capacity of local volunteer brigade, available town water pressure
- Environmental, species impact statement should be prepared for endangered species – impact on SEPP 14 wetland, location of lots, drains & fire trails east side of land, provision of APZ's – objection to methodology stated as reasonably consistent – impact of removal of 1600m<sup>2</sup> trees & 2000m<sup>2</sup> open dry heath, 1.8ha open dry heath & eucalypts – assessment refers to degraded bush and previously cleared areas, ignores regrowth & corridors between national parks – approx. 159 swamp orchids on environmental retention areas, that number rare in region, threatened species under Cmwth legislation, key threatening process is illegal collection – safe guards to this potentially happening – domestic cats & dogs impact on fauna – Koala, regular occurrence, compensatory planting not a preferred food tree & not suitable as a street tree
- Cultural, Aboriginal cultural heritage assessment, defers to Bandjalang Custodians
- Waiver of SEPP 71 – masterplan required, history, court action, fines, illegal clearing, site flood prone, bushfire, prone, capacity of sewage plant, endangered species, Iron Gates Rd
- Other, population will be remote – home owners will have elevated risk of bushfire – parts of land flood prone – no services no provision for shops or other community facilities – impact on Evans River – visual impact from Bungalung NP – potential for illegal ramps onto river – global warming and sea level rise

8 Dec 14 – (Moran)

- capacity of sewage treatment works, potential for impact on Saltwater Lagoon & Pygmy perch
- illegal clearing & destruction of Aboriginal heritage,
- court case remediation



- future cost of ratepayers on-going maintenance
- impact of weeds on high conservation bushland
- potential for construction impacts on high conservation bushland

#### 7 Dec 14 – (Adams)

- court orders & remediation work not undertaken
- DA documentation does not mention the 21 conditions set by the Court
- validity of DA
- previous fines, high risk DA, council should be take the risk again
- fauna & flora assessment invalid, undertaken in Aug 2014 after clearing of vegetation in April/May 2014
- vegetation clearing & fauna & flora assessment
- DA pre-emptive

#### 7 Dec 14 – (Smith)

- social & economic impacts
- impact on town water pressure (recent house fire & insufficient water pressure)
- ratepayers subsidising water & sewer for development
- impact on community atmosphere
- increased traffic & change to retail structure of town
- real estate interest

#### 4 Nov 14 – (Reid)

- does not meet legislation, 3 areas of significance and subject of state wide environmental planning policies SEPP 14, SEPP 26 & SEPP 44 impacted on
- approx. 65% of proposed rainforest is contained with no external connectivity, >75% of rainforest having boundary with subdivision
- ecologically endangered community all threatened & component species protected, efficient use of limited resources than single species approach
- fragmentation of EEC
- impact from domestic pets, design ensures entrapment of fauna in central littoral rainforest reserve species directed to a funnel onto roads
- record of koala & other threatened species
- compensatory habitat connection with riparian zone
- removal of health
- effect of 10/50 rule, fire trail 6m wide, bushfire assessment has not addressed 10/50 rule
- speed restrictions in E zones if approved
- issue with SEE section 3.5

#### 8 Dec 14 – (Scollay)

- court rehabilitation orders outstanding and no work done
- outstanding legal issues need to be resolved
- orders have a significant bearing on engineering & infrastructure

#### 8 Dec 14 – (North Coast Environment Council NCEC)

- NCEC peak regional conservation organization
- fundamentally opposed
- rejected in its entirety, reasons
- sad history of abuse of process & ongoing destruction of environmental & cultural values, vindicated by courts
- court rehabilitation orders outstanding and no work done
- land is an important wildlife corridor between Bundajung & Broadwater NP's, significant impact

- very important koala habitat, decline of populations in / near urban development – endangered ecological communities, wetlands and littoral rainforest, severely comprised, impact of bushfire protection & 10/50 rule
- acid sulfate soil & impact on Evans River (relatively healthy state, clean upper catchment)
- flooding & sea level rise

#### 8 Dec 14 – (English)

- court orders & remediation work not undertaken
- illegal clearing May & Sept 2014
- liquidating Iron Gate P/L reappearing as Goldcoral P/L

#### Social reasons

- flood impacts & filling
- bushfire, little mitigation other than hydrants on town water, use of cul-de-sacs, Iron Gates Rd only road in and out, undesirable & expert assessment required
- application to waiver masterplan inappropriate,
- none or little community consultation
- population increase by 30% need for social impact assessment
- Aboriginal cultural assessment, lacking, song lines from Salty Lagoon to Mt Mooyem, wedding tree across river, study dated Sept yet consultation not requested until Oct
- number of lots in appropriate to site

#### Environmental reasons

- fauna & flora assessment, lacking, numerous spelling errors, incorrect common names, pg 98 refers to Fishermans Co-op as the proponent, should be undertaken by a 3<sup>rd</sup> party
- failure to identify which Swamp orchid is present in large numbers & known threats not identified
- requires Species Impact Statement (SIS)
- tiger snake identified when none known to occur in region
- doubts skill of survey team – report recognises 40% of koala mortality result of domestic animals, suggests as neighbouring rural properties have domestic animals it would be unreasonable to impose a no cat or dog covenant – unacceptable
- report recognises majority of koala mortality by roads & cars proposed 20km/hr speed limit, proposal seeks 60km/hr
- report suggests mitigation measures same for koala & squirrel gliders, entirely inappropriate different species
- assertion that coastal emu does not exist in proximity to site simply incorrect,
- need for SIS – fragmentation of EEC
- over emphasis on short term construction impacts & not long term impacts and people living in subdivision

#### Economic reasons

- ratepayers will be subsidising development
- s64 developer contributions discounted up to 75% whilst at the same time imposing a 39% rate increase over 5 years
- 3 reserve lots & 2 fire trails to be managed by RVC, standards for fire trails
- regeneration works mentioned but not who is going to do it
- Significantly detract from environmental & recreation qualities of Evans River

#### 8 Dec 14 – (NSW National Parks Assoc - Denison)

- court orders & remediation work not undertaken
- illegal clearing
- significant encroachment into EEC, littoral rainforest
- land important corridor linking Bundajung & Broadwater NP's & riparian corridor
- important koala habitat, result in decline of population



- acid sulfate soils, seepage in river & potential for fish kill

#### 8 Dec 14 – (Howe)

- postdoctoral researcher
- numerous highly disputable assessments & inaccurate conclusions,
- DA incomplete & should be rejected
- flora & fauna assessment severely flawed, mis-identification of species & ignores local populations of threatened species & several threatened ecological communities
- Aboriginal cultural heritage assessment incomplete, consultation process extremely dubious
- legal issues, court orders & remediation work not undertaken
- illegal clearing

#### 8 Dec 14 – (Oshlack + Landmark Ecological Services P/L)

##### Oshlack

- DA should be refused
- site unsuitable for the type and scale of development
- habitat for threatened species including koala protected under state & cmwlth law – unacceptable impacts & SIS should be prepared
- development not in public interest legal issues, court orders & remediation work not undertaken, recent clearing

##### Flora & fauna assessment

- deficiencies, confusions & omissions
- engaged Landmark Ecological Services to review (see below)
- proposed development likely to have significant effect on a number of threatened species SIS is required
- Iron Gates P/L found to be in breach of laws designed to protect threatened species & their habitat & of its previous development consent
- previous development similar to proposed development

##### Clearing of native vegetation

- large areas recently cleared
- OE&H advised no approval under legislation it administers, subject to on-going investigation
- recent clearing likely to have removed and damaged habitat of a number of threatened species & damaged an EEC
- approval not in the public interest, would condone rather than deter breach in law

##### Failure to remediate site

- Iron Gates P/L & proceedings and findings of the L&EC in 1996 & 1997 in regard compliance with the EP&A Act, DA No. 149/92 & National Parks & Wildlife Act, issuing orders to restrain further development & remediate the site in accordance with a remediation plan
- NSW Court of Appeal, appeal dismissed, April 2014 Iron Gates P/L voluntary administration & Sept 2014 deregistered
- disregard for law & the environment
- potential for breach again of the National Parks & Wildlife Act
- SIS required

#### Attachment A Report Landmark Ecological Services P/L

- engaged to undertake independent expert review of SEE & F&F assessment
- scope of work; presence of threatened species & habitats, likely impacts on threatened species & habitats & likelihood of any harm to threatened species & habitats resulting from lack of remediation

- previous experience with site, 19 & 20 Sept 1996 & 19 March 1998 – associated with L&EC cases
  - Visited site 28 Nov 2004, report complies with experts witness code established by L&EC
  - Threatened species on site, previous investigations 2 threatened micro-bats & koala scats under red mahogany in littoral rainforest, these + 5 additional threatened species identified in F&F assessment, however no reference to the fauna investigations conducted in site prior to & at time of L&EC
  - overlooked occurrence of recorded species
  - inadequate literature review “recorded” species as opposed to “possible” species
  - core habitat in & within 5km of site, additional threatened species
  - poor knowledge of local habitat & ecological requirements of species
  - 14 threatened species known & another 5 likely or highly likely, confirmation of species of orchid required
- Adequacy of F&F assessment
- failed to use appropriate survey methods to detect all threatened species
  - koala scat searches, no mention of scats previously records
  - use of camera traps, inappropriate locations, no locations shown on map, insufficient time, no qualitative data provided on results of methods used prevents evaluation of adequacy, referencing poor & not to standard scientific practice
  - poor recording of mammals
  - Likely damage to threatened species
  - substantial impacts to threatened species if development proceeds
  - extent of vegetation removal & type of community / habitat to threatened species
  - impact on littoral rainforest
  - SIS maybe required
  - Harm to threatened species & habitats resulting from lack of remediation, lack of remediation together with additional land clearing likely to have removed & damaged habitat of threatened species

#### *OTHER ATTACHMENTS MISSING*

8 Dec 14 – (Dupuy)

- court orders & remediation work not undertaken
- illegal clearing
- parties at Court agreed ecological constraints reduced development potential
- similarity with previous development
- road into site subject to order of Court that prohibits access
- impact on SEPP wetland not sufficiently addressed
- high subsidy for sewerage
- DA withheld from public exhibition for some time
- Aboriginal cultural heritage report not complete
- public exhibition too short

8 Dec 14 – (Redwood)

- followed history for 30 years
- court orders & remediation work not undertaken
- govt must be seen to upholding the law
- illegal clearing May & Sept 2014
- site has environmental and indigenous significance & legal issues outstanding & illegal clearing



8 Dec 14 – (Clarence Environment Centre)

- history of Iron Gates, abuse of process & ongoing destruction
- court orders & remediation work not undertaken, bankruptcy & same developer
- threatened species important corridor linking Bundajung & Broadwater NP's, riparian corridor links to the Bungawalbyn Wetland Catchment, negative impact
- important koala habitat, impact & decline in population eg Tweed ECC's, littoral rainforest & coastal wetlands adjoin the site, collateral impact of clearing, erosion & pollution contribute to loss of vegetation
- acid sulfate soils disturbance by drainage & infrastructure
- Evans river in good condition, water quality should not be compromised
- flood prone land, considerable fill, sea level rise
- equivalent to quarry site, no impact assessment
- projected sea level rise, cost burden future generations

8 Dec 14 – (Evans Head Memorial Aerodrome Committee Inc)

- Iron Gates development is directly in the flight path of the main runway of the Evans Head Memorial Aerodrome some 1,700m away
- create land use conflict, problem aircraft noise
- no consideration of issue in DA - create land use conflict with use of the Evans Head Air Weapons Range (AWR) approx. 2km away from development, AWR in active use, Evans Head Memorial Aerodrome closest emergency landing field for AWR
- impact on wetland & land subject to flooding
- outstanding L&EC issues, cost to ratepayers >\$1M, remediation orders, resolution before DA is lodged
- sand flies former owner used to spray cows with DDT
- DA not complete, Aboriginal cultural assessment missing information, issue of importance to local Aboriginal people not resolved, impact on visual amenity of Iron Gates
- satellite development, public transport, impact on Evans Heads sewerage treatment plant & use of Salty Lagoon
- impact on biology, refer to Landmark report
- destroy visual amenity of river & add to the existing impacts (Tuckombil Canal, agriculture) on the system
- no assessment of economic impact on residents & ratepayers & cost of infrastructure
- RVC financial situation & added cost burden
- Evans Head does not have demonstrated need for the type of housing of the implied value, need or low cost housing

8 Dec 14 – (Grame)

- development surrounded in controversy including local indigenous people
- genuine community concern of impact on environmentally and culturally significant land
- court orders, history of ownership, court cost to community but remediation work not undertaken
- Aboriginal cultural importance, massacre site, loss of scar trees & middens
- illegal clearing of mangroves along river
- mistakes of past happening again

11 Dec 14 – (Ashley) – lands subject to DA  
Exhibition of DA

- subterfuge lack of transparency, owners consent, disclosure of interests from submitters none from applicant / owner, previous owner & directors, legality of using Iron Gates Dr (subject to court orders), mistakes in DA advertising notice, court order for remediation not fulfilled, DA lodged by owner of company that was meant to undertake remediation

owner of company lodging DA, Cllr membership of JRPP should be excluded, RVC (former) senior staff relationship with developer, reduction in s 64 sewer contributions saves developer over \$4.3M yet ratepayers subject to special rate variation 39% over 5 years, DA premature (resolution of L&EC orders, legality of Iron Gate Dr, SEPP 71 waiver, illegal clearing, commencement of marketing campaign), process should start again, disclosure of meetings between developer & RVC, attitude of GM RVC meeting 24 June 2014 – public enquire required

#### DA issues

- spelling errors in SEE poor & fundamental mistakes

#### Environmental

- sensitive coastal environment vulnerable to impacts – flood prone, fire prone, acid sulfate soils & radiation – site unsuitable – stormwater impacts not properly assessed, erosion & sediment control during construction, subsequent water quality impacts (mangroves, fish stock, riverine & marine environments), pressure on riverbank & foreshore & mangroves, impact on koala known to inhabit site, endangered flora & fauna, SEPP 14 wetland, F&F assessment flawed due to level of clearing, DA fails to consider impact on environment

#### Economic

- probity checks on owner company, ability to start & complete project, no economic benefit quantified (on creation of short term jobs), negative economic impacts RVC water supply, sewage capacity, roads, traffic flows & amenities, financial burden & massive s 64 discount, impact on Cypress St (narrow) near school, dedication of land in subdivision to RVC

#### Social

- impact on character & fabric of Evans Head, out-of-town developer & engagement with local community, relatively small allotments, future ghetto isolated from Evans Head, fails to take into account likely social impacts, failure to address climate change (public interest), does not fulfil objective of Act to provide affordable housing (land prices, building costs & insurances for land flood & fire prone)
- Inappropriate development inappropriate location

11 Dec 14 – (Evans Head Residents for Sustainable Development Inc) –

#### RVC processes

- no disclosure of political donations by owner company, outstanding court orders, no remediation, heavy discount of sewer contributions, court action involving Iron Gates P/L cost ratepayers >\$1M, illegal land clearing

#### DA preparation

- hasty cut & paste – bushfire risk not a low density subdivision, low to medium density subdivision (more people are intended to be accommodated) – more detailed assessment required – indigenous consultation, advertising 9 Oct 2014 closing date 24 Oct 2014, Aboriginal cultural heritage assessment report finalised 7 Oct 2014 – F&F assessment – undertaken at time of alleged illegal clearing – based on modified landscape conclusions questionable

#### DA content

- engineering issues – land flood prone – filling required, levels above flood, flood impacts & stormwater treatment – capacity of Evans Head Sewerage Treatment Plant, up-grade cost to future generations & STP drains to Broadwater NP – bushfire safety, vegetation in crown reserve on riverbank not considered, relatively small lot size means provision of APZ's within lots, access to site for fire fighting services, capacity of local volunteer town fire & RFS brigades, is there sufficient water pressure available, up-grade of water supply who pays –
- F&F Assessment & issues – maintenance of habitat during construction, SIS needed, SEPP 14 wetland & intrusion of bushfire APZ's, national park corridor between Broadwater & Bundjalung NP's, further clearing & impact on fauna, analysis flawed modified landscape, 20m buffer excessively narrow



- cultural issues – assessment incomplete consultation with Bandjalang Native title Corp, previous disturbance of sites, visual impact from Gumma Garra / Gummigarrah, traditional river crossing point for Bundjalung people – waiver of SEPP 71 masterplan – masterplan vital sensitive coastal location
- social issues – satellite village outside a very small rural town with limited resources – policing & public transport, threat to essential character & atmosphere, Iron Gates cut off from town in flood, insurance in flood prone areas, risk of bushfire & fire insurance, likelihood of illegal boat ramps on river, no provision for services eg shops
- Climate change – no assessment of sea level rise, storm surge & flooding
- Public interest – cost of maintenance of access & roadways & bridges & capacity of Evans Head STP & cost of up-grade

#### 7 Dec 14 – (Whittaker L)

- cost to ratepayers roads, Evans Head STP, dedicated reserves, reduction in s 64 sewage contributions,
- likely future legal costs relating to DA & possible damages claims
- care with 'companies of straw' going into receivership

#### 7 Dec 14 – (Riley-Drinkwater)

- F&F assessment issues
- DA maintains existing roadways
- previous failed DA absence of meandering roads of restricted width seen as a negative insufficient protection to fauna
- continues therefore must be rejected
- maintenance of habitat during construction
- control of domestic dogs & cats (how is RVC going to police that), dogs & cats should be banned from subdivision

#### 7 Dec 14 – (Drinkwater)

- public interest
- economic impact not properly assessed

#### 7 Dec 14 – (Robinson E)

- F&F Assessment
- clearing of land May 2014,
- F&F assessment undertaken after land clearing
- landscape modified
- legality of clearing should be accounted for

#### 7 Dec 14 – (Robinson G)

- social issues
- no consideration of global warming & sea level rise
- site flood prone
- no DA for access road to site
- DA incomplete
- increased traffic Cherry, Cashmore & Cypress Sts

#### 7 Dec 14 – (Robinson J)

- social issues
- no consideration of access road to site
- DA serious issue
- increased traffic Cypress St past school

7 Dec 14 – (Gunnell)

- 30 year resident
- DA generated division & fighting in town, will do again
- alternative site that do not impact on pristine river, acid sulfate soils & fish kills,
- lots too small,
- koalas,
- historic sites & littoral rainforest,
- Aboriginal culture significance,
- adverse impact on wetlands
- Evans Head, clean water, beaches & small town ambience

7 Dec 14 – (Evans)

- no grounds to support waiver of masterplan
- previous complex history
- previous development failed, protracted court action, outstanding remediation orders & fines, recent illegal clearing
- DA should demonstrate that there is no impact to the environment
- isolated & fragmented satellite village outside small rural town
- not in accordance with NSW coastal development strategy

7 Dec 14 – (Rossett)

- Evans Head small coastal town
- impact on services - not in accordance with NSW coastal development strategy
- resources are limited to deal with flood & fire
- sea level change
- burden on ratepayers to maintain essential infrastructure (roads, water & sewer)
- no public transport, isolated from general community activities & facilities
- no evidence provided to support positive economic outcomes
- ratepayers are not bankers
- business study required

7 Dec 14 – (Kearney)

- F&F Assessment,
- SIS required for endangered species within the site,
- SEPP 14 wetland
- impact of APZ's,
- incursions into Crown land unacceptable,
- methodology of report faulty references not similar or applicable to site,
- faulty reasons & unsupported conclusions,
- independent assessment required,
- importance of regrowth for species survival
- corridor between NP's – dogs & cats should be banned
- logic of assessment faulty, land to be cleared has already been disturbed does not mean that there will be little impact
- lack of detail, faulty & deficient, inaccurate assumptions & wrongful conclusions

7 Dec 14 – (Inhall Services Pty Ltd - Drinkwater)

- ratepayers are subsidising development as RVC has reduced s 64 sewer contribution
- no assessment of additional costs of sewer or upgrade of Evans Head STP
- no allowance for remediation cost or future likely costs of exposure to flooding from sea level rise
- developer will disappear no longer be held to account



- DA inequitable, unfair & unconscionable as it does not adequately address economic risks & exposure for ratepayers
- developer should bear full financial risk & cost from outset not subsidised by ratepayers

7 Dec 14 – (Whittaker K)

- inadequate preparation of DA
- number of assertions or conclusions premature, inaccurate incomplete, prejudicial &/or ill informed
- relevant facts not taken into account
- failure in attention to detail SEE 178 residential lots Appendix B 182 residential lots
- consultation with local Aboriginal people flawed

### **Support**

11 Dec 14 – (Owen)

- beneficial to whole community, more development needed in national park restricted town – school, swimming pool, churches & volunteer groups, severe housing shortage
- protestors not from Evans Head bullying outsiders

### **Exhibition #2 amendments to DA & additional information – exhibition 4 Nov. 2015 to 7 Dec. 2015**

The following summary of submissions to Exhibition #2 was prepared at time of preparation of the 2 Feb. 2019 review report.

### **Objections**

15 Nov 15 – (Bell)

- spoil aesthetic amenity of coastal river which is free of human impact
- increased run-off & pollutants households & pets
- increased number of people cars pets lights & noise disturb & threaten wildlife
- community has already decided to reject development (previous court case)
- developer has scant regard for regulations (changing company name)

18 Nov 15 – (Saunders)

- bad idea years ago still a bad idea
- intensive residential development near a sleepy seaside village
- developer illegally proceeded with works with no regard for environment
- impacts on pristine waterway
- detrimental effect on wildlife
- need to keep river clean for tourism & natural environment
- applicant scant regard for RVC or community

23 Nov 15 – (Dorland & Davis)

- use of Blue Pool Rd for emergency access – gates locked would require all persons on would require a key
- concern about arrangement no working & potential for additional traffic
- seeks 398m (frontage 98m + 150m either side) of road adjoining land be sealed
- relocation of power infrastructure if up-grade required currently 7-8m from house
- lack of capacity for telecommunications (copper internet)

#### 4 Dec 15 – (English)

- reviewed re-exhibited documents
- more lacking than originals in some instances (flora & fauna assessment)
- exhibition period over festive season
- DA should be withdrawn in absence of an approved masterplan
- masterplan must be approved prior to exhibition

#### 4 Dec 15 – (Oshlack)

- DA void, road has no development approval & to obtain consent would make DA designated
- nothings has changed in regard impact on endangered species & habitats
- cannot rely on an illegality to obtain legitimate approval
- use of existing illegal infrastructure
- legal cost, RVC GIPA process – legally flawed & subject to challenge

#### 8 Dec 15 – (Oshlack)

- issues raised by Landmark not addressed & only cosmetic changes made
- cultural assessment proposal for interpretative park patronizing & disrespectful, affront & insult to traditional owners
- DA void as it is not accompanied by the required documents
- RVC's own lawyers have said road has no approval & to obtain consent would require an EIS (designated development) – nothing has changed – cannot rely on illegality to obtain legitimate approval – use of declared illegal infrastructure
- developer setting RVC & ratepayers up for legal & administrative expenses
- RVC's Mr Walker talking up virtues of development on radio – it will never go ahead as it is legally flawed
- requests the JRPP hold a hearing

Supplies copy of submission made 8 Dec 2014 – see above

#### 4 Dec 15 – (Evans Head Residents for Sustainable Development Inc)

- copy of email to Minister for Planning in regard DA & masterplan – requests Minister intervene & instruct RVC to withdraw DA
- masterplan fails to meet requirements of cl 8 of SEPP 71 – futile & poorly considered to require public comment on a vastly incomplete document

#### 7 Dec 15 – (Friends of the Koala Inc)

- refers to previous submission, nothing in documentation that would convince the organisation to change position

#### Un-dated – (Evans head Memorial Aerodrome Committee Inc)

- DA advertised again without an approved masterplan
- RVC advertised DA in 2014 applicant did not have an approved masterplan & sought to had it waived – advertising premature
- DA advertised with a draft masterplan & no indication that it will be approved, rejected or modified – current draft masterplan many outstanding issues; legal status of Iron Gates Rd, the rehabilitation orders
- RVC has sought legal advice no evidence that advice has been taken; RVC proceeded to advertise DA – leading to a legal 'tournament' - draft masterplan biased – DA has to be consistent with master plan if approved
- DA should be withdrawn until masterplan resolved
- RVC wasting time & mismanaging process



- development site in direct flight path of runway 18/36 – potential for land use conflict (noise) – noise issue not properly addressed – proximity to weapons range & Dept Defence has expressed objection – development inappropriate

1 Dec 15 – (Saunders) – up-date of previous submission 24 Nov 14 to include concerns about up-dated DA – issues

- alleged illegal land clearing in 2014 not resolved
- draft masterplan should be with the Dept of Planning for approval before DA is considered, not part of DA process
- concern in regard history & that DA should be treated independent of Court orders (cites letter to RVC 23/10/2015 point 'f')
- previous proponent Iron Gates Pty Ltd owned by same person as current proponent (GA Ingles)
- flood additional fill to be imported issue still not resolved 100 year flood levels outdated (sea level rise & global warming)
- sewerage issues major stumbling block – insufficient capacity at STP, 100ET (320EP) allocated demand 835EP – additional burden on ratepayers especially as RVC agreed to reduce s64 contributions
- bushfire – report cannot be considered complete as it does not report on access road – 8m APZ to be managed by RVC, cost – public need to see bushfire management plan – future residents & impact on adjoining habitat (10/50 rule) – assessment suggests development does not comply – availability of water supply & pressure to site & potential impact of that on rest of Evans Head
- ecological – SIS still required as swamp orchid issue not resolved – proposed domestic pet policy unenforceable – bushfire & weed management in vegetation areas still not addressed
- Aboriginal cultural assessment – shows lack of awareness of political situations within local Indigenous communities, local Bandjalang people opposed to DA – impact on cultural heritage of alleged illegal clearing
- masterplan – relieved it is not to be waived, confused process, DA should be withdrawn until masterplan resolved
- biting insects – management of development to avoid not resolved – development and use of foreshore, on-going cost, impact on natural visual amenity
- no buses limited taxi in Evans Head, isolated
- emergency access to Blue Pool Rd – cost
- original objection remains the same – large development impact on rates, threatened species, Aboriginal heritage

7 Dec 15 –in confidence (?)

- submission 8 Dec 2014 stands
- RVC DA pre-emptive & premature, should not have been advertised and re-advertised because LEC Orders, legality of Iron Gates Dr, masterplan should have been determined, outcome of alleged illegal clearing unknown & continued marketing of allotments
- RVC membership of JRRP & conflict of interest
- RVC administrative errors in advertising, applicant name, consent authority, reportable donations & gifts
- suitability of the site, flood, bushfire, biting insects, acid sulfate soils, radiation previous sand mining, sensitive coastal location,
- no social impact assessment & provision of affordable housing
- public interest & climate change not taken into account
- reduction in sewer levy & ratepayer burden, capacity of sewerage system
- vegetation removal along Iron Gates Dr

- outstanding, ownership of foreshore land, AHIP, bushfire plan of management
- 4 Dec 15 – (Robinson E)
- environmental, clearing undertaken in May 2014, fauna and flora assessment undertaken after clearing relies upon a modified landscape
  - DA should be re-advertised
- 4 Dec 15 – (Robinson G)
- public interest, inadequate consideration of global warming, flood prone area, potential burden on RVC & ratepayers
  - impact of traffic on existing roads in town, use of Iron Gates Dr
  - DA should be re-advertised
- 4 Dec 15 – (Evans)
- SEPP 71, procedural confusion, masterplan changes necessitate re-advertising, DA cannot be considered until masterplan approved
  - social issues, isolated / fragment from town, not addressed
  - DA should be re-advertised
- 4 Dec 15 – (Riley-Drinkwater)
- environmental, use of existing roads, impact on fauna and flora during construction & monitoring, policing and no cats and dogs policy impact on RVC
  - DA should be re-advertised following determination of masterplan
- 4 Dec 15 – (Kearney)
- environmental, no SIS impact on threatened species & habitat, impact on wetland, potential for vegetation removal in crown land to east, financial burden to State, APZs should be within land, fauna and flora assessment reliance on Qld standards for survey methodology, assessment ignores the importance of regrowth vegetation to species survival, negative impact of cats & dogs, assessment should be rejected
  - DA should be re-advertised
- 4 Dec 15 – (Robinson J)
- public interest, impact of traffic on existing roads in town, Cypress St & school, Iron Gates Dr & Wattle St
  - DA should be re-advertised
- 4 Dec 15 – (Whittaker L)
- cost to ratepayers, upkeep & maintenance of infrastructure, green spaces to be dedicated to RVC, up-grade of sewerage treatment works & reduction in levies, potential future legal costs, company receivership concerns
  - DA should be re-advertised
- 4 Dec 15 – (Whittaker K)
- DA preparation and rigour issues, application for bushfire safety authority, masterplan needs to be approved
  - DA should be re-advertised
- 4 Dec 15 – (Inhall Services P/L - Drinkwater)
- economic impact not examined in DA, reduction in sewer levy, cost of upgrade of existing infrastructure, cost of impact on roads, provision & upkeep of open space & amenities, sea level changes & flooding, company receivership concerns
  - DA unfair impact on ratepayers



- DA should be re-advertised following determination of masterplan

#### 4 Dec 15 – (Drinkwater)

- public interest & economic impact, quantifying assumption of benefits of growth & impact on existing businesses in town
- DA should be re-advertised following determination of masterplan

#### 7 Dec 15 – (Evans Head Residents for Sustainable Development Inc)

- DA preparation and rigour issues
- RVC administrative errors in advertising, applicant name
- legal issues, Iron Gates Dr, LEC Orders, company receivership concerns & ongoing stewardship of land
- the submission includes a detailed response to the additional information response to issues lodged with the amended application

#### 26 Feb 16 – (Dorland & Davis)

- previous issues
- increased demand for telecommunications increase in power infrastructure
- generation of excessive dust
- additional information does not address concerns
- seeks frontage & 150m either side of road adjoining land be sealed - use of access from Blue Pool Rd even though substantial gate
- power currently not available
- telecommunications not reliable – sufficient utilities should be provided

#### 22 Feb 16 – (Bruce)

- town sewerage system overloaded, Cassia St
- maintenance of roads

#### 8 March 16 – (Tomkinson)

- avoid high biodiversity impact
- spread residential development in shire, not concentrate
- develop other areas recently sewerer Riverside Woodburn, Rileys Hill, Broadwater

### **Support**

#### 12 Nov 15 – (Owen)

- increase in school student population, improved viability of swimming pool, support to ailing business people, support of local trades
- shortage of homes to rent in Evans Head, housing for elderly in community, local services that will have extras patronage, require dwellings for permanent occupation impact of holiday rentals
- lived in Evans Head since 1983

#### 20 Nov 15 – (Saul)

- limited supply of residential land

#### 9 Feb 2016 – (Mason)

- more opportunity for families to live in area,
- shortage of homes,
- shortage of rental properties
- employ local people
- vital for towns sustainability

10 Feb 2016 – (??) – in support wishes to be anonymous

24 Feb 2016 – (Hoole)

- benefit to community, increase number of dwellings
- hopefully result in more employment & increased services

24 Feb 2016 – (Dicinoski)

- declares interest part owner in local real company
- economic & employment benefits local trades, increased population benefit to local sporting & community organisations (surf club), affordable housing for young families unmet demand
- many residents would like to see it proceed



## **Attachment No. 7a**

**Copy of advice from State agencies Exhibit 4**



**Australian Government**  
**Department of Defence**  
Estate and Infrastructure Group

Charles Mangion  
Director Land Planning and Regulation  
Estate Planning Branch  
Brindabella Business Park (BP26-1-A053)  
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ID-EP-DLP&R/OUT/2019/BS6811076

**Mr Andy Edwards**  
Manager, Development and Environment  
Richmond Valley Council  
Locked Bag 10  
Casino NSW 2470

Dear Mr Edwards

**RE: DEVELOPEMNT REFERRAL DA2015/0096 SUBDIVISION OF LAND TO  
CREATE 184 LOTS AT 240 IRON GATES DRIVE, EVANS HEAD NSW**

The Department of Defence (Defence) would like to thank Richmond Valley Council for providing Defence an opportunity to comment on the above development application. Defence understands that the applicant is seeking to subdivide the site to create 184 new lots; and undertake associated works and infrastructure at 140 Iron Gates Road Evans Head (subject site).

Defence previously wrote to Council in correspondence dated 19 January 2015 (see attached) and provided comments on an earlier version of the development application. The concerns raised in this correspondence are still largely relevant.

The proposed site is located in close proximity to Evans Head Air Weapons Range (Evans Head AWR) which is part of the Bundjalung National Park on the far north NSW coast. Evans Head AWR is the primary air weapons training range for 82 Wing Super Hornets, based at RAAF Base Amberley. The range is also used infrequently by F/A-18 Hornets and Hawk Lead-In-Fighters from RAAF Base Williamtown.

An Evans Head Environmental Impact Statement for the introduction of the Super Hornet was undertaken by Defence in 2011. The EIS indicates that the range of noise levels in the vicinity of the subject site, generated by the Super Hornet will be in the range of 70-93 dB(A). This level compares with the noise levels generated by busy road traffic and construction work.

While Defence is conscious of the noise generated by its activities and makes efforts to minimise community exposure to noise and vibration, Defence cannot readily modify its activities due to the establishment or intensification of a noise-sensitive development in proximity to air weapons ranges and low flying training areas. With RAAF aircraft operations increasing in scale and intensity over time, residents located in close proximity to Evans Head AWR are likely to be exposed to greater amounts of aircraft noise. Should the proposed application be approved, Defence will not be responsible for any future liabilities in relation to military aircraft noise.

Furthermore, Defence considers that Council would need to be satisfied that the proposed residential development of the subject site, and building design can comply with relevant aircraft noise reduction standards consistent with Australian Standard 2021:2015 "Acoustics – Aircraft Noise Intrusion – Building Siting and Construction" (AS 2021), in terms of the specified indoor noise level. Incorporating noise attenuating features into residential accommodation will not



totally remove the impact that aircraft noise has on the visitors' overall amenity, particularly their ability to enjoy the outdoor environment.

Notwithstanding the above advice, if Council determines that the proposal warrants approval, Defence recommends a condition of consent to ensure that all buildings are designed and constructed to be compliant with indoor design sound levels for determination of aircraft noise reduction as outlined in AS2021-2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

Defence requests that a property notation be placed on any S10.7 certificate that may be issued by Council for the property advising that the property is subject to high levels of aircraft noise generated by activities at Evans Head AWR.

Glare from reflective surfaces can affect the visibility of pilots during daylight hours. Defence requests that any future residential developments are to be comprised of non-reflective building materials. If any reflective surfaces from possible future residential developments cause a glare problem for pilots Defence may request these surfaces be suitably modified to extinguish the glare.

Defence publishes information about the use of Evans Head AWR on the Defence website at URL: <http://www.defence.gov.au/AircraftNoise/EvansHead/Default.asp>

Should you wish to discuss the content of this advice further, my point of contact is Mr Tim Hogan at [land.planning@defence.gov.au](mailto:land.planning@defence.gov.au) or telephone (02) 6266 8193.

Yours sincerely

**Charles.Mangion**

Digitally signed by Charles.Mangion  
Date: 2019.11.19 12:48:23 +11'00'

**Charles Mangion**

Director Land Planning & Regulation

19 November 2019

Attachment:

1. Defence Response to Iron Gates Development Proposal dated 19 January 2015

## Tony McAteer

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**From:** Jessica Ind  
**Sent:** Thursday, 7 October 2021 8:40 AM  
**To:** Tony McAteer; Andy Edwards  
**Cc:** Georgia Campbell  
**Subject:** FW: Courtesy Referral - Amended Application - Iron Gates - 240 Iron Gates Drive, Evans Head - DA2015/0096

FYI – I will register

**From:** Paul Garnett <[paul.garnett@dpi.nsw.gov.au](mailto:paul.garnett@dpi.nsw.gov.au)>  
**Sent:** Thursday, 7 October 2021 8:04 AM  
**To:** Jessica Ind <[Jessica.Ind@richmondvalley.nsw.gov.au](mailto:Jessica.Ind@richmondvalley.nsw.gov.au)>  
**Cc:** Selina Stillman <[selina.stillman@dpi.nsw.gov.au](mailto:selina.stillman@dpi.nsw.gov.au)>; council <[council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)>  
**Subject:** RE: Courtesy Referral - Amended Application - Iron Gates - 240 Iron Gates Drive, Evans Head - DA2015/0096

Hello Jessica,

Thank you for the referral of development application 2015/0096 for the Iron Gates subdivision at 240 Iron Gates Drive, Evans Head, and the phone call to discuss the proposal.

I note your advice that the application has also been referred to DPI Fisheries.

DPI Agriculture has reviewed the application documentation.

I note the development proposes:

**Stage 1 –**

- Subdivision of land to create 147 lots - including 135 residential lots and 3 Super Lots
- Embellishment of the proposed public reserves adjacent to the Evans River
- Upgrading of Iron Gates Drive, including vegetation clearing work
- Subdivision works for Stages 1 and 2 including, clearing and earthworks, roadworks and drainage, sewer and water supply and electricity and communications

**Stage 2 – Subject to a further Development Application**

- Subdivision of the Super Lots to create 40 residential lots.

I note the land is zoned part R1 General Residential, part E2 Environmental Conservation and part E3 Environmental Management and while heavily vegetated it contains some existing roads and urban infrastructure. The land is not mapped as regionally significant farmland nor biophysical strategic agricultural land.

DPI Agriculture does not expect that the proposed development will have any significant adverse impact on agricultural land, industries or resources. Consequently DPI Agriculture has no comments or requirements in relation to this development application.

Yours sincerely

**Paul Garnett**

Acting Manager Agricultural Land Use Planning

Department of Primary Industries

16 Experiment Farm Road, TRENAYR, 2460

PMB 2 GRAFTON 2460 |

M: 0429 864 501 | E: [paul.garnett@dpi.nsw.gov.au](mailto:paul.garnett@dpi.nsw.gov.au)



**From:** Jessica Ind <[Jessica.Ind@richmondvalley.nsw.gov.au](mailto:Jessica.Ind@richmondvalley.nsw.gov.au)>

**Sent:** Friday, 17 September 2021 1:19 PM

**To:** Jessica Ind <[jessica.ind@richmondvalley.nsw.gov.au](mailto:jessica.ind@richmondvalley.nsw.gov.au)>

**Subject:** Courtesy Referral - Amended Application - Iron Gates - 240 Iron Gates Drive, Evans Head - DA2015/0096

**Development Referral – DA No. 2015/0096 Iron Gates Subdivision, 240 Iron Gates Drive, Evans Head – Amended/Varied Application under clause 55 – Concept Development Application**

I write to you as a relevant public authority/organisation with a potential interest in the determination of Development Application DA No. 2015/0096. Pursuant to clause 77(1)(b)(i) of the *Environmental Planning and Assessment Regulation 2000* notice is given that, on 13 September 2021, the Northern Regional Planning Panel accepted an amendment/variation to Integrated Development Application DA No. 2015/0096 Iron Gates Subdivision to make it a Concept Development Application.

Following are details of the application:

**Concept/Integrated Development Application No. – DA No. 2015/0096**

**Applicant's Name –** Goldcoral Pty Ltd

**Description of the Land –** "Iron Gates" 240 Iron Gates Drive, Evans Head, comprising:

- Lots 276 & 277 DP755624 and Lot 163 DP831052,
- Crown land located between Lots 163 & 276, and along the southern Evans River foreshore of Lots 276 & 277, and
- Iron Gates Drive.

**Description of Concept Development Application–**

Stage 1 –

- Subdivision of land to create 147 lots - including 135 residential lots (Lots 1 to 135), 4 public reserves (Lots 139 to 142), 1 sewer pump station lot (Lot 144), 1 drainage reserve lot (Lot 143), 3 Super Lots (Lots 145 to 147), 1 residue lot (Lot 138) and 2 rainforest lots (Lots 136 & 137)
- Embellishment of the proposed public reserves adjacent to the Evans River
- Upgrading of Iron Gates Drive, including vegetation clearing work
- Subdivision works for Stages 1 and 2 including, but not limited to: clearing and earthworks, roadworks and drainage, sewer and water supply (including service connections to Stage 1 lots and Stage 2 lots) and electricity and communications (including service connections to Stage 1 lots and Stage 2 lots)

Stage 2 – Subject to a further Development Application

- Subdivision of the Super Lots (Lots 145 to 147) to create 40 residential lots (Lots 148 to 187) (no subdivision work is required for Stage 2 as all subdivision infrastructure will be provided within Stage 1).

**Consent Authority –** Northern Regional Planning Panel

**Integrated Development –** The proposed development is Integrated Development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* requiring the approvals from the following relevant approval bodies:

- Aboriginal Heritage Impact Permit (AHIP) under Section 90 of the *National Parks and Wildlife Act 1974*—NSW Heritage within the Department of Premier and Cabinet

- Controlled Activity Approval and Aquifer Interference Approval under Section 91 of the *Water Management Act 2000*—Department of Planning, Industry and Environment – Natural Resources Access Regulator (NRAR)
- Bush Fire Safety Authority under Section 100B of the *Rural Fires Act 1993*—NSW Rural Fire Service

**Exhibition Period** – the application is Nominated Integrated Development and will be on exhibition from **24 September 2021 to 24 October 2021**, both dates inclusive.

**Where to inspect the Application** – The Development Application and supporting documents may be inspected on Council's website at <https://richmondvalley.nsw.gov.au/council/on-exhibition/>

**Submissions** - Any person may make a written submission to the Consent Authority during the exhibition period by sending it to Richmond Valley Council by:

- post to—Locked Bag 10 CASINO NSW 2470
- email to— [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)
- hand delivery—at either of Council's Customer Service Centres in Casino and Evans Head
- online submission—by completing an on-line submission form via Council's website.

Submissions received will be considered as part of the assessment of the development application. If a submission is made by way of objection, the grounds of objection must be specified in the submission. All submissions will be treated as public documents.

Should you have any further enquiries in this matter, please contact our Development Assessment Group on 6660 0300.

**Please note.**

1. All submissions received from previous exhibitions of Development Application DA No. 2015/0096 will be considered as part of the assessment of the application, however, it should be noted the application has been amended/varied.
2. The proposed Master Plan for this development has been withdrawn by the Applicant and replaced with this Concept Development Application per Section 4.23 of the *Environmental Planning and Assessment Act 1979*. Section 4.23 provides that a Concept Development Application may satisfy any requirement to prepare a Master Plan (aka a Development Control Plan) but the Concept Development Application is to contain the information required to be included in the Master Plan (DCP).

Yours faithfully



Andy Edwards  
**Manager Development and Certification**

Per

**Jessica Ind**

Planning and Development Support

Richmond Valley Council | Locked Bag 10, CASINO NSW 2470

T: 02 6660 0284

E: [jessica.ind@richmondvalley.nsw.gov.au](mailto:jessica.ind@richmondvalley.nsw.gov.au) | <http://richmondvalley.nsw.gov.au>





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Our ref: DOC32/937389

Mr Vaughan Madonald  
General Manager  
Richmond Valley Council  
council@richmondvalley.nsw.gov.au  
Contact email: tony.mcateer@richmondvalley.nsw.gov.au

Letter uploaded to the Concurrence and Referral (CNR) portal

Dear Mr Macdonald

**GENERAL TERMS OF APPROVAL  
INTEGRATED DEVELOPMENT APPLICATION  
NATIONAL PARKS AND WILDLIFE ACT 1974**

**Address:** 240 Iron Gates Drive, Evans Head  
**Proposal:** Concept development application for staged residential subdivision  
**IDA application no:** DA 2015/0096, CNR-28459, A-33246, received 17 September 2021

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This letter contains our general terms of approval for those known Aboriginal sites which would require an Aboriginal Heritage Impact Permit pursuant to s.90 of the *National Parks and Wildlife Act 1974*.

We have reviewed the Aboriginal Cultural Heritage Assessment Report, dated 1 July 2019, prepared by Everick Heritage Consultants Pty Ltd and the public submissions received during the recent exhibition period. The report has identified that Aboriginal objects IG01 AHIMS ID 13-01-0204 will be impacted by the proposal.

Please note the General Terms of Approval we are issuing only relate to harm arising from the movement of certain Aboriginal objects and community collection in the midden area along the foreshore of the Evans River as described in the supporting documentation. Consistent with previous correspondence we have received and responded to on this matter, approval has not been sought for any harm to Aboriginal objects from the proposed subdivision and road upgrading works. Therefore, our General Terms of Approval do not authorise any harm to Aboriginal objects arising from those works.

It is important to note that Development Approval is not a requirement for an Aboriginal Heritage Impact Permit for the remediation of the disturbed midden.

Considering the above, and in accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

**APPROVED DEVELOPMENT**

1. Development must be in accordance with:
  - a. The supporting documentation provided on the CNR Planning Portal to inform any approved development decision.





Please note that any modification of the above development that will result in impacts to any other Aboriginal cultural heritage must be referred to us to determine whether changes to these general terms of approval are required.

**EXCEPT AS AMENDED** by the following general terms of approval:

2. A s.90 [Aboriginal Heritage Impact Permit \(AHIP\)](#) for the proposed works must be sought and granted prior to the commencement of works.
3. The AHIP application must be accompanied by appropriate documentation and mapping as outlined in [Applying for an Aboriginal Heritage Impact Permit: Guide for applicants](#) (2011).
4. Consultation with the Aboriginal community undertaken as part of the AHIP application must be in accordance with the [Aboriginal cultural heritage consultation requirements for proponents 2010](#) (2010).
5. The AHIP application must be completed with reference to the requirements of the [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW](#) (2011).
6. The AHIP application must include complete records satisfying the requirements of the [Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales](#) (2010).
7. Long term management of Aboriginal objects must be considered as part of the AHIP application.
8. An Aboriginal Cultural Heritage Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the representatives of the Registered Aboriginal Parties.

If you have any questions regarding these general terms of approval, please contact **Customer Strategies**, Heritage NSW, on [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au) or 9873 8500 .

Yours sincerely



**DR SAM HIGGS**  
**Senior Team Leader - Northern**  
**Aboriginal Cultural Heritage Regulation**  
**Heritage NSW**  
**Department of Premier and Cabinet**  
1 November 2021





**Natural Resources  
Access Regulator**

Contact: Natural Resources Access Regulator

Phone: 1800 633 362

Email: [nrar.enquiries@nrar.nsw.gov.au](mailto:nrar.enquiries@nrar.nsw.gov.au)

Our ref: IDAS-2021-10212

Your ref: DA2025/0096

17 January 2022

The General Manager  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470

Attention: Georgia Campbell

Uploaded to the ePlanning Portal

Dear Sir/Madam

**Re: IDAS-2021-10212 - Controlled Activity Approval Not Required**

**Dev Ref: DA2025/0096**

**Description: Land Subdivision**

**Location: 240 IRON GATES DRIVE EVANS HEAD 2473**

The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required for the proposed works and no further assessment by this agency is necessary.

Controlled Activity Not Required

The proposed works are not located on waterfront land as defined by the WM Act - The proposed works are greater than 40m from top of bank of the watercourse.

If you have any questions regarding this correspondence, please use NRAR Assist to obtain further information or make an enquiry:

<https://www.dpie.nsw.gov.au/nrar/nrar-assist>

Yours Sincerely

**Alison Collaros**  
**Manager Licensing & Approvals**  
**Water Regulatory Operations**  
**Natural Resources Access Regulator**



**Senior Constable Edina Kotek**

Crime Prevention Officer

Richmond Police District

5 Zadoc Street, Lismore NSW 2480

E: [kote1edi@police.nsw.gov.au](mailto:kote1edi@police.nsw.gov.au) P: 02 6626 0569 E: 65569



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**From:** Deborah Holly <[holl1deb@police.nsw.gov.au](mailto:holl1deb@police.nsw.gov.au)> **On Behalf Of** #RICHADMIN  
**Sent:** Friday, 8 October 2021 4:27 PM  
**To:** Edina Kotek <[kote1edi@police.nsw.gov.au](mailto:kote1edi@police.nsw.gov.au)>  
**Subject:** For Information - D/2021/1200008 [SEC=OFFICIAL, ACCESS=Legal-Privilege]

Senior Constable Edina KOTEK  
CPO – Richmond PD

---

The attached correspondence has been added to the original application in RMS and is forwarded for information/attention as required.

Deb Holly  
**General Administrative Support Officer**  
Richmond Police District  
NSW Police Force, 5 Zadoc Street, Lismore. NSW 2480  
**External Phone No** - 02 66260799 | **Internal Phone No** - 65799  
**External Email** - [richadmin@police.nsw.gov.au](mailto:richadmin@police.nsw.gov.au) | **Internal Email** - #RICHADMIN

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**NSW Police Force**

## **Development Application Review**

WEBCOPS Event No: N/A

RMS number: D/2021/1200008

DA Reference No: 2015/0096

Council: Richmond Valley – C/- Georgia Campbell

Developer/Applicant: Goldcoral Pty Ltd

Private Certifier: - N/A

Property address:

LOT 276 & 277 DP755624 and LOT 163 DP831052, 240 Iron Gates Drive, Evans Head.

Proposed development/use of space:

Concept/integrated Development Application for two staged development proposal for a residential subdivision.

### **1. Introduction**

In line with section 4.15 of the New South Wales Planning & Assessment Act 1979 and the New South Wales Planning Guidelines, the below report has been conducted on Development Application 2015/0096.

### **2.1 Current environment**

The subject site is located along Iron Gates Drive, Evans Head, to the west of Evans Head town centre, and includes frontage to the Evans River to the south. It is surrounded by native forest to the North, East and West. The site has undergone subdivision works and bushfire maintenance which has resulted in a number of large, cleared areas and informal roadways and trails. The proposed development footprint is contained largely within the cleared areas of the site.

The subject site falls within both flood and bushfire prone land.

**Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

**T** 02 6626 0599 **F** 02 6626 0511 **W** [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

**TRIPLE ZERO (000)**

Emergency only

**POLICE ASSISTANCE LINE (131 444)**

For non emergencies

**CRIME STOPPERS (1800 333 000)**

Report crime anonymously



**NSW Police Force**



## **2.2 Proposed development**

The Concept DA and will be carried out in two stages as described below;

### **STAGE 1 –**

1. Completion of all subdivision work for the Stage 1 and future Stage 2 lots, including but not limited to:
  - Clearing and earthworks.
  - Roadworks and drainage.
  - Sewer and water supply
  - Electricity and communications
2. Embellishment of the proposed public reserves adjacent to the Evans River foreshore.
3. Creation of:
  - 135 residential lots.
  - Creation of 4 public reserves
  - Creation of 1 sewer pump station
  - Creation of 1 drainage reserve
  - Creation of 3 super lots
  - Creation of a residue lot
  - Creation of 2 Rainforest lots
4. Upgrading of Iron Gates Drive.

### **Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

**T** 02 6626 0599 **F** 02 6626 0511 **W** [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

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NSW Police Force

## STAGE 2-

Subdivision of super lots to create 40 residential lots. No subdivision work is required for Stage 2 as all subdivision infrastructure will be provided in stage 1.

### **3. Crime risks and identified issues**

The crime risks identified in the local area include the potential for property crime (including vandalism and property theft).

**3.1.** Current/trending crimes that impact the local area that should be considered within the design and building process: As this is a new development, there are no current/trending crimes impacting this area.

**3.2.** Crimes that the current proposed development application will introduce or facilitate within this space: As with any residential development, there is always the potential for property crime. The risk of property crime can be mitigated by the implementation of CPTED principles within the design of the space/properties.

**3.3.** Developments can introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space: NIL issues identified at this time.

### **4. Recommendations**

Due to the nature of this development, we understand that the proposal does not involve the construction of any buildings and therefore the specific outcomes are not known. We also understand that this review refers to a Concept proposal that may change in the future. As with all new developments, Police recommend the following considerations in relation to CPTED principles:

1. Surveillance – Consideration of lighting along roadways, pathways and throughout recreation areas. Ensure private fencing does not obstruct sightlines between residential lots and recreation or environmental areas. Reduce the likelihood of concealment areas, by planting low lying shrubs along pathways and other areas used by pedestrians.
2. Access control and Territorial Reinforcement – The subdivision will be bound by residential perimeter fencing and an Acoustic Barrier (along Dunoon Road). There is only one proposed vehicular access road from Dunoon Road, with Legible internal roadways and pathways. Consider associated way finding signage to direct traffic and define use of space.

**Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

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Report crime anonymously



**NSW Police Force**

## Disclaimer

The New South Wales Police Force has a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this assessment, any person who does so acknowledges that:

3. It is not possible to make all areas evaluated by the NSWPF entirely safe for members of the community or the security of their property.
4. It is based upon the information provided to the NSWPF at the time the assessment was made.
5. This assessment is a confidential document and is for use of the consent authority unless otherwise agreed.
6. The contents of this assessment are not to be copied or circulated otherwise than for the purposes of the consent authority, unless otherwise agreed.

The NSW Police Force hopes that by using the recommendations contained in this assessment, criminal activity will be reduced and the safety of members of the community and the security of their property will increase. However, it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its recommendations are followed.

Should you have any questions in relation to the evaluation contact Senior Constable Edina Kotek, Crime Prevention Officer, Richmond PD, Phone 02 6626 0569.

Yours sincerely,

A/Superintendent W. McKenna  
Commander – Richmond Police District  
8.10.2021

### Richmond Police District

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

**TRIPLE ZERO (000)**

Emergency only

**POLICE ASSISTANCE LINE (131 444)**

For non emergencies

**CRIME STOPPERS (1800 333 000)**

Report crime anonymously





## NSW RURAL FIRE SERVICE

Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470

Your reference: (CNR-28459) DA2015/0096  
Our reference: DA-2014-03456-CL55-2

**ATTENTION:** Georgia Campbell

Date: Tuesday 9 November 2021

Dear Sir/Madam,

### Integrated Development Application

s100B - Subdivision - Torrens Title Subdivision

240 Iron Gates Drive EVANS HEAD NSW 2473, 164//DP831052, 163//DP831052, 276//DP755624, 277//DP755624

I refer to your correspondence dated 17/09/2021 seeking general terms of approval for the above Integrated Development Application.

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

### Asset Protection Zones

***The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:***

1. At the issue of a subdivision certificate, all proposed road reserves, Iron Gates Drive road reserve (with the exception of SEPP17 wetland mapped areas), all Lots excluding 136, 137, 138, 141, 142 and 143 must be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;

1

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

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

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

2. At the issue of subdivision certificate, section 88B easements under the 'Conveyancing Act 1919' is to be created. The easements are to burden Lots within the 15, 21, 25 and 27 metre markings identified on the plan titled 'Bushfire Setback Plan Over Proposed Subdivision of Lots 276 & 277 on DP755627, Lot 163 on DP831052, Crown Public Road Reserve (Between Lot 163 DP831052 and Lot 276 on DP755624) and Crown Foreshore Reserve (Adjacent to Evans River)', drawing number BRJD6396-100-45-2, dated 23 March 2020. The easement is to restrict the user from the construction of any habitable building within these areas. The easement is to ensure the lot accommodates the required asset protection zones (APZs) required for the future dwelling located on the lot.

#### **Access – Public Roads**

***The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:***

3. Public road access shall comply with the following requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006':

- Iron Gates Drive (and proposed road 5) from the intersection of Cherry Street to the intersection of Road 1 is to provide appropriate fog line-markings, guideposts and centreline cats-eyes to council requirements.
- Road(s) shall be two wheel drive, all weather roads.
- Urban perimeter roads are two way, with a carriageway 8 metres minimum kerb to kerb.
- The perimeter road is linked to the internal road system at an interval of no greater than 500 metres.
- Traffic management devices are constructed to facilitate unobstructed access by emergency services vehicles.
- Public roads have a cross fall not exceeding 3 degrees.
- All roads should be through roads. Dead end roads are not recommended, but if unavoidable, dead end roads are not more than 200 metres in length, incorporate a 12 metre outer radius turning circle, are clearly signposted as dead end and direct traffic away from the hazard.
- Non-perimeter road widths comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'.
- Curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres.
- The minimum distance between inner and outer curves is 6 metres.
- Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient.
- There is a minimum vertical clearance to a height of 4 metres above the road at all times.
- The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
- Public roads greater than 6.5 metres wide locate hydrants outside of parking reserves to ensure accessibility to reticulated water supply for fire suppression.
- Public roads between 6.5 metres and 8 metres wide are 'No Parking' on one side with services (hydrants) located on this side to ensure accessibility to reticulated water for fire suppression.
- Public roads directly interfacing the bush fire hazard provide roll top kerbing to the hazard side of the road.

#### **Access – Fire Trails**

***The intent of measures is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:***

4. Fire trails shall comply with the following requirements of section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006':



- A minimum carriageway width of 4 metres is provided with an additional 1 metre wide strip on each side of the trail (clear of bushes and long grass).
- The trail has a maximum grade of 15 degrees if sealed and not more than 10 degrees if unsealed.
- A minimum vertical clearance of 4 metres is provided to any overhanging obstructions, including tree branches.
- The crossfall of the trail is not more than 10 degrees.
- The trail has the capacity for passing by
  - reversing bays using the access to properties to reverse fire tankers, which are 6 metres wide and 8 metres deep to any gates, with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and/or
  - a passing bay every 200 metres, 20 metres long by 3 metres wide, making a minimum trafficable width of 7 metres at the passing bay.
- The fire trail is accessible to fire fighters and maintained in a serviceable condition by the owner of the land.
- Appropriate drainage and erosion controls are provided.
- The fire trail system is connected to the property access road and/or to the through road system at frequent intervals of 200 metres or less.
- Fire trails do not traverse a wetlands or other land potentially subject to periodic inundation (other than a flood or storm surge).
- Gates for fire trails are provided and locked with a key/lock system authorised by the local RFS.
- Fire trail design does not adversely impact on natural hydrological flows.
- Fire trail design acts as an effective barrier to the spread of weeds and nutrients.
- Fire trail construction does not expose acid-sulphate soils.

#### **Water and Utility Services**

***The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:***

5. Water, electricity and gas must comply with the following:
  - Fire hydrant design, spacing, sizing and pressures must comply with AS2419.1. Fire hydrants must not be located within any road carriageway.
  - Ring main systems must be used for urban subdivisions with perimeter roads.
  - All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
  - Electrical transmission lines should be located underground where possible.
  - Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
  - Gas must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

#### **General Advice – Consent Authority to Note**

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

- The plan titled 'Bushfire Setback Plan Over Proposed Subdivision of Lots 276 & 277 on DP755627, Lot 163 on DP831052, Crown Public Road Reserve (Between Lot 163 DP831052 and Lot 276 on DP755624) and Crown Foreshore Reserve (Adjacent to Evans River)', drawing number BRJD6396-100-45-2, dated 23 March 2020.
- The plan titled 'Plan of Proposed Subdivision - DA 2015/0096 - Stage 1 Iron Gates - Evans Head', drawing number BRJD6396.100-015, revision Q, dated 19 July 2021.
- The plan titled 'Concept Proposals for Subdivision, Clearing, Earthworks, Roadworks, Drainage, Upgrading of Iron Gates Drive, Infrastructure and Embellishment of Proposed Public Reserves - DA 2015/0096 - Stage 1 & 2 Iron Gates - Evans Head', drawing number BRJD6396.100-55, revision 1 dated 19 July 2021.

- The plan titled 'Access Road Signage & Linemarking Layout Plan sheet 1 of 2 prepared by Arcadis Australia Pacific, reference K218-AA007094-02.
- The plan titled 'Access Road Signage & Linemarking Layout Plan sheet 2 of 2 prepared by Arcadis Australia Pacific, reference K218-AA007094-02.
- The revised consolidated bush fire assessment prepared by Bushfire Risk, ref 1810DAC-b, version 3 dated 12 July 2019.
- Bush fire assessment – Additional Information Response Re: Iron Gates Drive, Evans Head NSW prepared by Melanie Jackson of Bushfire Risk Pty Ltd, version 1 dated 8 March 2017.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 07/08/2020.

For any queries regarding this correspondence, please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
**Supervisor Development Assessment & Plan  
Built & Natural Environment**





**NSW RURAL FIRE SERVICE**

# **BUSH FIRE SAFETY AUTHORITY**

Subdivision – Torrens Title Subdivision

240 Iron Gates Drive EVANS HEAD NSW 2473, 164//DP831052, 163//DP831052, 276//DP755624,  
277//DP755624

RFS Reference: DA-2014-03456-CL55-2

Your Reference: (CNR-28459) DA2015/0096

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

This authority supersedes the previous Bush Fire Safety Authority DA-2014-03456-CL55-1 issued on 07/08/2020 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Alan Bawden**

**Supervisor Development Assessment & Plan  
Built & Natural Environment**

Tuesday 9 November 2021







Transport  
for NSW

Referrals

13 October 2021

File No: NTH15/00084/04

Your Ref: DA2015/0096 – CNR-28459

The General Manager  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470

Attention: Tony McAteer

Dear Sir / Madam,

**RE: Development Application Modification – Iron Gates Staged Subdivision  
Lots 163-164 DP 831052 & Lots 276-277 DP 755624 - 240 Iron Gates Drive Evans Head**

I refer to Council's referral from the NSW Concurrence and Referrals Portal of 21 September 2021 requesting comment from Transport for NSW (TfNSW) in relation to the abovementioned development application modification.

#### **Roles and Responsibilities**

Our key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with *Future Transport Strategy 2056*.

Woodburn Street forms part of the Woodburn-Evans Head Road (MR153) a classified (regional) road and Irons Gate Drive is a public (local) road. Richmond Valley Council is the Roads Authority for all public roads in the subject area pursuant to Section 7 of the *Roads Act 1993*.

Council is responsible for setting standards, determining priorities and carrying out works on Local and Regional roads. TfNSW concurrence is required prior to Council's approval of works on the classified (Regional) roads in accordance Section 138(2) of the *Roads Act*.

In accordance with Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*, TfNSW is given the opportunity to review and provide comment on traffic generating development of a size or capacity listed under Schedule 3.

#### **Transport for NSW Response**

TfNSW understands the modification seeks to Stage the approved development over two (2) stages. Our prior correspondence of 1 March 2016 and 18 October 2019 recommended the development be informed by a comprehensive Traffic Impact Assessment (TIA).

TfNSW has reviewed the referred information and provides the following comment to assist the Consent Authority in making a determination;

---

**Transport for NSW**

76 Victoria Street, Grafton, NSW 2460 | PO Box 576, Grafton NSW 2460

W [transport.nsw.gov.au](http://transport.nsw.gov.au)

1. TfNSW notes that the *Engineering Services and Civil Infrastructure Report, Appendix I – Traffic Report* prepared by TTM Consultants and dated 17 July 2019 has not been updated to specifically address the proposed staging of the development. TfNSW understands that supporting road and transport will be delivered under proposed initial stage.
2. A functional layout plan identified in drawing no. 19GCT0119-01 of the Traffic Report demonstrates a proposed upgrade of the Woodburn and Wattle Streets intersection. Prior to the approval of road works, TfNSW recommends that the layout plan should be further developed to incorporate suitable pedestrian facilities on Woodburn Street.  
  
TfNSW recommends the intersection plan be updated to incorporate additional facilities in Woodburn Street to improve pedestrian safety at the intersection.
3. The final development will generate an increase in demand for active transport users travelling along Iron Gate Drive between the development site and Evans Head. Council should consider the scope and timing of infrastructure needed to connect the development to the existing active transport infrastructure and public transport services.
4. Any proposed regulatory signs and/or devices are required to be endorsed by the Local Traffic Committee prior to Council approval. Please refer to *A guide to the delegation to councils for the regulation of traffic*.

TfNSW highlights that in determining the application under the *Environmental Planning and Assessment Act 1979*, it is the Consent Authority's responsibility to consider the environmental impacts of any roadworks which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of project approval.

If you have any further enquiries regarding the above comments please do not hesitate to contact Leisa Sedger, Development Services Case Officer or the undersigned on (02) 6640 1362 or via email at: [development.northern@transport.nsw.gov.au](mailto:development.northern@transport.nsw.gov.au)

Yours faithfully,



Matt Adams  
Team Leader, Development Services  
Community and Place | Region North  
Regional & Outer Metropolitan  
Transport for NSW

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**Transport for NSW**

76 Victoria Street, Grafton, NSW 2460 | PO Box 576, Grafton NSW 2460  
W [transport.nsw.gov.au](http://transport.nsw.gov.au)





## Department of Primary Industries

Our Ref: IDA21/127

18 November 2021

Ms Jessica Ind  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470  
Via Planning Portal CNR-28459

Dear Ms Ind

**Re: DA2015/0096 Iron Gates Development - Subdivision of land to create 147 lots, embellishment of public reserve adjacent Evans River, upgrading of Iron Gates Drive and subdivision works**

Thank you for your referral via the Planning Portal on 17 September 2021 seeking DPI Fisheries' comments on the amended plans for the development application for the Iron Gates Residential Development, Evans Head.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is 'no net loss' of key fish habitats (KFH) upon which they depend. To achieve this, the Coastal Systems Unit assesses activities under Part 4 and Part 5 of the *Environmental Planning and Assessment Act 1979* in accordance with the objectives of the *Fisheries Management Act 1994* (FM Act), the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the FM Act, and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)* (DPI Fisheries P&G) ([http://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0005/634694/Policy-and-guidelines-for-fish-habitat.pdf](http://www.dpi.nsw.gov.au/data/assets/pdf_file/0005/634694/Policy-and-guidelines-for-fish-habitat.pdf)).

The proposal includes the subdivision of Lot 63 DP 831052 and Lots 276 and 277 DP 755624 into 135 residential lots, 4 public reserves, 1 sewer pump station lot, 1 drainage reserve, 3 super lots, 1 residue lot and 2 rainforest lots; upgrading of Iron Gates Drive; subdivision works; and embellishment to the public reserve adjacent to the Evans River. The proposal is of particular interest to DPI Fisheries due to its proximity to KFH including the Evans River and Coastal Wetlands (previously SEPP 14 wetlands), and to known and expected habitat of the threatened fish species Oxleyan Pygmy Perch (OPP) ([www.dpi.nsw.gov.au/fishing/threatened-species/threatened-species-distributions-in-nsw](http://www.dpi.nsw.gov.au/fishing/threatened-species/threatened-species-distributions-in-nsw)).

DPI Fisheries' assessment of the proposal involved review of the revised documentation located within the *Planning Portal*. On the basis of this assessment, DPI Fisheries notes that the proposed development will not directly impact on key fish habitat, including areas of the Evans River below highest astronomical tide or Coastal Wetlands, and that consequently, no permits under the FM Act will be required. However, given the close proximity of components of the development to key fish habitat, particularly works associated with the embellishment of the public reserve adjacent to Evans River and the upgrade works to Iron Gates Road which are adjacent to Coastal Wetlands, DPI Fisheries provides the following comments.

### Key Fish Habitat

DPI Fisheries notes development activities will be located within close proximity to KFH. To ensure that KFH will not be impacted as a result of the development, environmental impact mitigation and management plans (i.e. sediment and erosion control plan, stormwater management plan, construction management plan etc.) should be prepared, approved and implemented when and where necessary.

With regard to the proposed foreshore embellishment works, foreshore access points should be minimised in number and located in suitable locations such as at existing informal access points or other areas that are devoid of marine vegetation. All other areas that do not provide foreshore access should be retained as foreshore buffer zones and include/retain sufficient riparian vegetation.

### Buffers to Key Fish Habitat

The protection and rehabilitation of the vegetated riparian corridor between the Evans River and the development footprint is important for maintaining the shape, stability and ecological functions of the river. DPI Fisheries recommends that developments, including embellishment of foreshore areas, incorporate foreshore buffer zones of 50-100m width adjacent to TYPE 1 marine vegetation and at least 50 m width adjacent to TYPE 2 marine vegetation. Where a buffer zone of at least 50m is physically unachievable due to land availability constraints, the available buffer width must be maximised to achieve protection of TYPE 1 and 2 marine vegetation (i.e. from edge effects, changes to water quality, flood protection and to allow for climate change adaptation). The buffer zone should not be used for other asset protection purposes (e.g. as a bushfire or mosquito buffer). It should be noted that foreshore buffer zones are measured from the outer edge of tidal areas (e.g. highest astronomical tide level - generally 1.0m AHD).

DPI Fisheries recommends that the design of riparian buffer zones incorporates the maintenance of lateral connectivity between aquatic and riparian habitat. The installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone that interrupt lateral connectivity should be avoided.

### Threatened Species:

Areas representing known or potential habitat for the threatened fish species Oxleyan Pygmy Perch (OPP) may be indirectly impacted by the proposed development. DPI Fisheries encourages the proponent to consider whether any development works would involve indirect impacts to OPP habitat, and if so, ensure that such works include best management practice environmental impact mitigation measures, such as sediment and erosion control measures, to ensure that any foreseeable indirect impacts are avoided.

It should be noted that any development works that are likely to have an impact on threatened species listed under the FM Act, either directly or indirectly, must be preceded by an assessment of significance. Further information on threatened species impact assessments under the FM Act can be found here: [www.dpi.nsw.gov.au/fishing/species-protection/legislation-and-approvals/impact-assessment](http://www.dpi.nsw.gov.au/fishing/species-protection/legislation-and-approvals/impact-assessment).





## Department of Primary Industries

If you have any queries, please contact me on 02 6626 1375 or [jonathan.yantsch@dpi.nsw.gov.au](mailto:jonathan.yantsch@dpi.nsw.gov.au).

Yours sincerely

Jonathan Yantsch  
**Senior Fisheries Manager, Coastal Systems (North Coast)**  
Authorised delegate of the Minister for Primary Industries

## **Attachment No. 7b**

**Copy of advice from State agencies Exhibit 5**





**Australian Government**  
**Department of Defence**

Charles Mangion  
Director Land Planning and Regulation  
Brindabella Business Park (BP26-1-A052)  
PO Box 7925  
Department of Defence  
CANBERRA BC ACT 2610  
☎: (02) 5109 5177  
✉: [charles.mangion@defence.gov.au](mailto:charles.mangion@defence.gov.au)

ID-EP-DLP&R/OUT/2022/BS28861654

The General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Dear Sir/Madam

**RE: DEVELOPEMNT REFERRAL DA2015/0096 AMENDMENTS - SUBDIVISION OF  
LAND TO CREATE 184 LOTS AT 240 IRON GATES DRIVE, EVANS HEAD NSW**

Thank you for referring to the abovementioned amendment proposal to the Department of Defence (Defence) for comment. Defence understands that the application is an amendment seeking to subdivide the site to create 184 new lots; and undertake associated works and infrastructure at 140 Iron Gates Road Evans Head (subject site). Defence previously wrote to Council in correspondence dated 19 November 2019 (see attached) and provided comments on an earlier version of the development application. Please be advised that the concerns raised in this correspondence are still applicable to the proposed amendment and reflect the Defence position in relation to the proposed amendment.

Should you wish to discuss the content of this advice further, my point of contact is Matt Williams at [land.planning@defence.gov.au](mailto:land.planning@defence.gov.au)

Yours sincerely,

**Charles.Mangion**

Digitally signed by  
Charles.Mangion  
Date: 2022.03.22 15:07:05 +11'00'

**Charles Mangion**  
Director Land Planning & Regulation

22 March 2022

Attachment:

1. Defence Response to Iron Gates Development Proposal dated 19 November 2019



OUT22/1966

Andy Edwards  
Manager Development and Certification  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470  
c/ NSW Planning Portal

Dear Mr Edwards

**Development Referral – DA No. 2015/0096 Iron Gates Subdivision, 240 Iron Gates Drive, Evans Head – Re-notification of Concept/Integrated Development Application**

Thank you for your correspondence dated 17 February 2022 providing the opportunity to make comment on Development Application 2015/0096 - Iron Gates Subdivision. It is understood that the referral relates to a re-notification of the Concept/Integrated development application due to an omission in the previous exhibition notice.

The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend.

It is understood that no further amendments have been made to the development application since it was referred to our Department in September 2021. We therefore have no further comments to add to our previous response dated 7 October 2021.

Should you wish to discuss this matter further, please contact me on 0412 424397.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Selina Stillman'.

**Selina Stillman**  
**Agricultural Land Use Planning Officer**





**Natural Resources  
Access Regulator**

Contact: Natural Resources Access Regulator  
Phone: 1800 633 362  
Email: [nrar.enquiries@nrar.nsw.gov.au](mailto:nrar.enquiries@nrar.nsw.gov.au)

Our ref: IDAS-2022-10084  
Your ref: DA2015/0096

23 February 2022

The General Manager  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470

Attention: Tony McAteer

Uploaded to the ePlanning Portal

Dear Sir/Madam

**Re: IDAS-2022-10084 - Controlled Activity Approval Not Required**  
**Dev Ref: DA2015/0096**  
**Description: Land Subdivision**  
**Location: Lot 163,164//DP 831052, Lot 276,277//DP 755624, 240 Iron**  
**Gates Drive EVANS HEAD 2473**

The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required for the proposed works and no further assessment by this agency is necessary.

Controlled Activity Not Required

The proposed works are not located on waterfront land as defined by the WM Act - The proposed works are greater than 40m from top of bank of the watercourse.

If you have any questions regarding this correspondence, please use NRAR Assist to obtain further information or make an enquiry:

<https://www.dpie.nsw.gov.au/nrar/nrar-assist>

Yours Sincerely

*Kieran Ball*

**For**  
**Jeremy Morice**  
**Manager Licensing & Approvals**  
**Water Regulatory Operations**  
**Natural Resources Access Regulator**

NSW Government  
Department of Planning and Infrastructure  
Locked Mail Bag 5022, Parramatta NSW 2150  
Phone: (02) 9595 6000  
Email: [nrrar.enquiries@nrrar.nsw.gov.au](mailto:nrar.enquiries@nrrar.nsw.gov.au)

11/11/2021

Mr. [Name]  
[Address]  
[City]  
[State]  
[Postcode]

Dear Mr. [Name],

Thank you for your letter of [Date].

Yours faithfully,

Mr. [Name]  
[Address]  
[City]  
[State]  
[Postcode]

The NSW Government is pleased to announce that the [Project Name] has been approved for funding. This funding will support the [Project Description] and will be used to [Project Details]. The funding will be provided in [Number] instalments of [Amount] over a period of [Duration].

Yours faithfully,

The NSW Government is pleased to announce that the [Project Name] has been approved for funding. This funding will support the [Project Description] and will be used to [Project Details]. The funding will be provided in [Number] instalments of [Amount] over a period of [Duration].

If you have any questions regarding this announcement, please call [Phone Number] or email [Email Address].

Yours faithfully,

Yours faithfully,

Yours faithfully,

Yours faithfully,

Yours faithfully,

Yours faithfully,

Yours faithfully,

Yours faithfully,



Contact Simone Tonkin  
Phone 0427 138 188  
Email [simone.tonkin@waternsw.com.au](mailto:simone.tonkin@waternsw.com.au)

Our file CNR35578  
Your ref DA2015/0096

General Manager  
Richmond Valley Council  
[tony.mcateer@richmondvalley.nsw.gov.au](mailto:tony.mcateer@richmondvalley.nsw.gov.au)

Attn: Georgina Campbell

6 April 2022

Dear Sir/Madam,

**Re: Request for Further Information of Proposed Development Application  
2015/0096 - 40 IRON GATES DRIVE EVANS HEAD 2473**  
**Lot/Section number/Plan :** 163 DP831052, 277 DP755624, 164 DP831052,  
276 DP755624

Stage 1 –

- Subdivision of land to create 147 lots - including 135 residential lots (Lots 1 to 135), 4 public reserves (Lots 139 to 142), 1 sewer pump station lot (Lot 144), 1 drainage reserve lot (Lot 143), 3 Super Lots (Lots 145 to 147), 1 residue lot (Lot 138) and 2 rainforest lots (Lots 136 & 137)
- Embellishment of the proposed public reserves adjacent to the Evans River
- Upgrading of Iron Gates Drive, including vegetation clearing work
- Subdivision works for Stages 1 and 2 including, but not limited

Reference is made to CNR-35578.

WaterNSW has reviewed the information provided with the development application related to water supply works and potential Flood Works.

WaterNSW requests that the consent authority stop-the-clock for this development and arrange for the applicant, Graeme Ingles of Ingles group, to provide the following information to enable assessment of the application:

In relation to Construction Dewatering:

1. Geotechnical Report
2. Volume of water to be extracted during construction
3. Duration of the water take for dewatering
4. Method of measuring the water take and recording
5. Provide documents updated with the above information

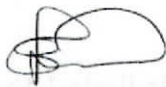
In relation to Flooding:

1. A current Flood Study
2. Design and Construction Plans of the Subdivision (this would include the access roads and lots). This would need to include on the design and construction plans, AHD with the height above natural surface level and a known AHD height for the 1:100 Flood height.

*Note in relation to flooding once the information requested has been supplied. WaterNSW will refer your application to our internal flood modelers for consideration.*

Please arrange to provide this information within 28 days from the date of this document.

Yours sincerely



**Simone Tonkin**  
**Water Regulation Specialist**  
**Water Regulatory Operations**  
**WaterNSW**







**NSW Police Force**

## **Development Application Review**

WEBCOPS Event No: N/A

RMS number: D/2021/1200008

DA Reference No: 2015/0096

Council: Richmond Valley – C/- Georgia Campbell

Developer/Applicant: Goldcoral Pty Ltd

Private Certifier: - N/A

Property address:

LOT 276 & 277 DP755624 and LOT 163 DP831052, 240 Iron Gates Drive, Evans Head.

Proposed development/use of space:

Concept/integrated Development Application for two staged development proposal for a residential subdivision.

### **1. Introduction**

In line with section 4.15 of the New South Wales Planning & Assessment Act 1979 and the New South Wales Planning Guidelines, the below report has been conducted on Development Application 2015/0096.

### **2.1 Current environment**

The subject site is located along Iron Gates Drive, Evans Head, to the west of Evans Head town centre, and includes frontage to the Evans River to the south. It is surrounded by native forest to the North, East and West. The site has undergone subdivision works and bushfire maintenance which has resulted in a number of large, cleared areas and informal roadways and trails. The proposed development footprint is contained largely within the cleared areas of the site.

The subject site falls within both flood and bushfire prone land.

**Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

**TRIPLE ZERO (000)**

Emergency only

**POLICE ASSISTANCE LINE (131 444)**

For non emergencies

**CRIME STOPPERS (1800 333 000)**

Report crime anonymously





NSW Police Force



## **2.2 Proposed development**

The Concept DA and will be carried out in two stages as described below;

### **STAGE 1 –**

1. Completion of all subdivision work for the Stage 1 and future Stage 2 lots, including but not limited to:
  - Clearing and earthworks.
  - Roadworks and drainage.
  - Sewer and water supply
  - Electricity and communications
2. Embellishment of the proposed public reserves adjacent to the Evans River foreshore.
3. Creation of:
  - 135 residential lots.
  - Creation of 4 public reserves
  - Creation of 1 sewer pump station
  - Creation of 1 drainage reserve
  - Creation of 3 super lots
  - Creation of a residue lot
  - Creation of 2 Rainforest lots
4. Upgrading of Iron Gates Drive.

### **Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

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Report crime anonymously



**NSW Police Force**

## STAGE 2-

Subdivision of super lots to create 40 residential lots. No subdivision work is required for Stage 2 as all subdivision infrastructure will be provided in stage 1.

### **3. Crime risks and identified issues**

The crime risks identified in the local area include the potential for property crime (including vandalism and property theft).

**3.1.** Current/trending crimes that impact the local area that should be considered within the design and building process: As this is a new development, there are no current/trending crimes impacting this area.

**3.2.** Crimes that the current proposed development application will introduce or facilitate within this space: As with any residential development, there is always the potential for property crime. The risk of property crime can be mitigated by the implementation of CPTED principles within the design of the space/properties.

**3.3.** Developments can introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space: NIL issues identified at this time.

### **4. Recommendations**

Due to the nature of this development, we understand that the proposal does not involve the construction of any buildings and therefore the specific outcomes are not known. We also understand that this review refers to a Concept proposal that may change in the future. As with all new developments, Police recommend the following considerations in relation to CPTED principles:

1. Surveillance – Consideration of lighting along roadways, pathways and throughout recreation areas. Ensure private fencing does not obstruct sightlines between residential lots and recreation or environmental areas. Reduce the likelihood of concealment areas, by planting low lying shrubs along pathways and other areas used by pedestrians.
2. Access control and Territorial Reinforcement – Ensure Legible internal roadways and pathways. Consider associated way finding signage to direct traffic and define use of space. \*\*Amended recommendation.

**Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

**TRIPLE ZERO (000)**

Emergency only

**POLICE ASSISTANCE LINE (131 444)**

For non emergencies

**CRIME STOPPERS (1800 333 000)**

Report crime anonymously





**NSW Police Force**

## Disclaimer

The New South Wales Police Force has a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this assessment, any person who does so acknowledges that:

3. It is not possible to make all areas evaluated by the NSWPF entirely safe for members of the community or the security of their property.
4. It is based upon the information provided to the NSWPF at the time the assessment was made.
5. This assessment is a confidential document and is for use of the consent authority unless otherwise agreed.
6. The contents of this assessment are not to be copied or circulated otherwise than for the purposes of the consent authority, unless otherwise agreed.

The NSW Police Force hopes that by using the recommendations contained in this assessment, criminal activity will be reduced and the safety of members of the community and the security of their property will increase. However, it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its recommendations are followed.

Should you have any questions in relation to the evaluation contact Senior Constable Edina Kotek, Crime Prevention Officer, Richmond PD, Phone 02 6626 0569.

Yours sincerely,

Senior Constable Edina Kotek  
Crime Prevention Officer  
Richmond Police District  
21.4.2022

**Richmond Police District**

5 Zadoc Street, Lismore NSW 2480

T 02 6626 0599 F 02 6626 0511 W [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

**TRIPLE ZERO (000)**

Emergency only

**POLICE ASSISTANCE LINE (131 444)**

For non emergencies

**CRIME STOPPERS (1800 333 000)**

Report crime anonymously

**Tony McAteer**

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**From:** NSW Planning <planning.apps@planning.nsw.gov.au>  
**Sent:** Monday, 21 February 2022 11:32 AM  
**To:** Tony McAteer  
**Cc:** graeme@inglesgroup.com.au  
**Subject:** Update: NSW Government concurrence and referral request  
CNR-35578(RICHMOND VALLEY COUNCIL)

**Categories:** Added to ECM

# Online Concurrence and Referral Service

[planningportal.nsw.gov.au](http://planningportal.nsw.gov.au)

A request for NSW Government advice on a proposed development at 240 IRON GATES DRIVE EVANS HEAD 2473, reference number CNR-35578, has been returned to Council.

The relevant agency, Heritage NSW - Department of Premier and Cabinet, has provided the reason for the decision as: This referral has not been accepted. The letter provided "Iron Gates - Integrated Referral Notice - NSW Heritage - 17-02-2022\_CNR-35578" advises that the proposal is being re-notified and that there has been no further amendment to the application since it was last referred to Heritage NSW in Sept / Oct 2021. Therefore, no Heritage NSW comment is required on this occasion. Colleen Klingberg, Heritage NSW, 9873 8500, HERITAGEMailbox@environment.nsw.gov.au.

Please log into the [NSW Planning Portal](http://planningportal.nsw.gov.au) to review the agency's response and any supporting information which may have been provided. You should contact the relevant agency directly about the refund of any fees.

This email has been automatically sent through the NSW Planning Portal. Please do not reply to this message.

For more information or assistance, please visit the [NSW Planning Portal](http://planningportal.nsw.gov.au) and view our [Frequently Asked Questions](#) or [Quick Reference Guides](#). Alternatively, you can call our help line on 1300 305 695.







## Department of Primary Industries

Our Ref: IDA21/127 (V1)

28 March 2022

Mr Andy Edwards  
Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470  
*Via Planning Portal CNR-35578*

Dear Mr Edwards

**Re: DA2015/0096 Iron Gates Development - Subdivision of land to create 147 lots, embellishment of public reserve adjacent Evans River, upgrading of Iron Gates Drive and subdivision works**

Thank you for your referral via the Planning Portal on 17 February 2022 seeking DPI Fisheries' comments on the subject development application for the Iron Gates Residential Development, Evans Head.

It is understood that the development application was re-notified due to an omission within the previous exhibition notice and that there have been no further amendments to the application since it was previously referred to DPI Fisheries in September 2021.

Given no further amendments have been made, the advice provided by DPI Fisheries in our letter dated 18 November 2021 (ref: IDA21/127) is still relevant.

If you have any queries, please contact me on 02 6626 1375 or [jonathan.yantsch@dpi.nsw.gov.au](mailto:jonathan.yantsch@dpi.nsw.gov.au).

Yours sincerely

Jonathan Yantsch  
**Senior Fisheries Manager, Coastal Systems (North Coast)**  
Authorised delegate of the Minister for Primary Industries





## NSW RURAL FIRE SERVICE

Richmond Valley Council  
Locked Bag 10  
CASINO NSW 2470

Your reference: (CNR-35578) DA2015/0096  
Our reference: DA-2014-03456-CL55-3

**ATTENTION:** Tony McAteer

Date: Thursday 16 June 2022

Dear Sir/Madam,

### Integrated Development Application

s100B – Subdivision – Torrens Title Subdivision

240 IRON GATES DRIVE EVANS HEAD NSW 2473, 163//DP831052, 276//DP755624, 277//DP755624

I refer to your correspondence dated 17/02/2022 seeking general terms of approval for the above Integrated Development Application.

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

### Asset Protection Zones

***The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:***

1. At the issue of a subdivision certificate, all proposed road reserves, Iron Gates Drive road reserve (with the exception of SEPP17 wetland mapped areas), all Lots excluding 136, 137, 138, 141, 142 and 143 must be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

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

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

- Lower limbs of trees removed up to a height of 2 metres above the ground.

2. At the issue of subdivision certificate, section 88B easements under the 'Conveyancing Act 1919' is to be created. The easements are to burden Lots within the 15, 21, 25 and 27 metre markings identified on the plan titled 'Bushfire Setback Plan Over Proposed Subdivision of Lots 276 & 277 on DP755627, Lot 163 on DP831052, Crown Public Road Reserve (Between Lot 163 DP831052 and Lot 276 on DP755624) and Crown Foreshore Reserve (Adjacent to Evans River)', drawing number BRJD6396-100-45-2, dated 23 March 2020. The easement is to restrict the user from the construction of any habitable building within these areas. The easement is to ensure the lot accommodates the required asset protection zones (APZs) required for the future dwelling located on the lot.

#### **Access – Public Roads**

***The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:***

3. Public road access shall comply with the following requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006':

- Iron Gates Drive (and proposed road 5) from the intersection of Cherry Street to the intersection of Road 1 is to provide appropriate fog line-markings, guideposts and centreline cats-eyes to council requirements.
- Road(s) shall be two wheel drive, all weather roads.
- Urban perimeter roads are two way, with a carriageway 8 metres minimum kerb to kerb.
- The perimeter road is linked to the internal road system at an interval of no greater than 500 metres.
- Traffic management devices are constructed to facilitate unobstructed access by emergency services vehicles.
- Public roads have a cross fall not exceeding 3 degrees.
- All roads should be through roads. Dead end roads are not recommended, but if unavoidable, dead end roads are not more than 200 metres in length, incorporate a 12 metre outer radius turning circle, are clearly signposted as dead end and direct traffic away from the hazard.
- Non-perimeter road widths comply with Table 4.1 in 'Planning for Bush Fire Protection 2006'.
- Curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres.
- The minimum distance between inner and outer curves is 6 metres.
- Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient.
- There is a minimum vertical clearance to a height of 4 metres above the road at all times.
- The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
- Public roads greater than 6.5 metres wide locate hydrants outside of parking reserves to ensure accessibility to reticulated water supply for fire suppression.
- Public roads between 6.5 metres and 8 metres wide are 'No Parking' on one side with services (hydrants) located on this side to ensure accessibility to reticulated water for fire suppression.
- Public roads directly interfacing the bush fire hazard provide roll top kerbing to the hazard side of the road.

#### **Access – Fire Trails**

***The intent of measures is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:***

4. Fire trails shall comply with the following requirements of section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006':

- A minimum carriageway width of 4 metres is provided with an additional 1 metre wide strip on each side of the trail (clear of bushes and long grass).



- The trail has a maximum grade of 15 degrees if sealed and not more than 10 degrees if unsealed.
- A minimum vertical clearance of 4 metres is provided to any overhanging obstructions, including tree branches.
- The crossfall of the trail is not more than 10 degrees.
- The trail has the capacity for passing by
  - reversing bays using the access to properties to reverse fire tankers, which are 6 metres wide and 8 metres deep to any gates, with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and/or
  - a passing bay every 200 metres, 20 metres long by 3 metres wide, making a minimum trafficable width of 7 metres at the passing bay.
- The fire trail is accessible to fire fighters and maintained in a serviceable condition by the owner of the land.
- Appropriate drainage and erosion controls are provided.
- The fire trail system is connected to the property access road and/or to the through road system at frequent intervals of 200 metres or less.
- Fire trails do not traverse a wetlands or other land potentially subject to periodic inundation (other than a flood or storm surge).
- Gates for fire trails are provided and locked with a key/lock system authorised by the local RFS.
- Fire trail design does not adversely impact on natural hydrological flows.
- Fire trail design acts as an effective barrier to the spread of weeds and nutrients.
- Fire trail construction does not expose acid-sulphate soils.

### **Water and Utility Services**

***The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:***

5. Water, electricity and gas must comply with the following:
  - Fire hydrant design, spacing, sizing and pressures must comply with AS2419.1. Fire hydrants must not be located within any road carriageway.
  - Ring main systems must be used for urban subdivisions with perimeter roads.
  - All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
  - Electrical transmission lines should be located underground where possible.
  - Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in ISSC3 Guideline for Managing Vegetation Near Power Lines.
  - Gas must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

### **General Advice - Consent Authority to Note**

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

- The plan titled 'Bushfire Setback Plan Over Proposed Subdivision of Lots 276 & 277 on DP755627, Lot 163 on DP831052, Crown Public Road Reserve (Between Lot 163 DP831052 and Lot 276 on DP755624) and Crown Foreshore Reserve (Adjacent to Evans River)', drawing number BRJD6396-100-45-2, dated 23 March 2020.
- The plan titled 'Plan of Proposed Subdivision - DA 2015/0096 - Stage 1 Iron Gates - Evans Head', drawing number BRJD6396.100-015, revision Q, dated 19 July 2021.
- The plan titled 'Concept Proposals for Subdivision, Clearing, Earthworks, Roadworks, Drainage, Upgrading of Iron Gates Drive, Infrastructure and Embellishment of Proposed Public Reserves - DA 2015/0096 - Stage 1 & 2 Iron Gates - Evans Head', drawing number BRJD6396.100-55, revision 1 dated 19 July 2021.
- The plan titled 'Access Road Signage & Linemarking Layout Plan sheet 1 of 2 prepared by Arcadis Australia Pacific, reference K218-AA007094-02.

- The plan titled 'Access Road Signage & Linemarking Layout Plan sheet 2 of 2 prepared by Arcadis Australia Pacific, reference K219-AA007094-02.
- The revised consolidated bush fire assessment prepared by Bushfire Risk, ref 1810DAC-b, version 3 dated 12 July 2019.
- Bush fire assessment – Additional Information Response Re: Iron Gates Drive, Evans Head NSW prepared by Melanie Jackson of Bushfire Risk Pty Ltd, version 1 dated 8 March 2017.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 09/11/2021.

For any queries regarding this correspondence, please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
**Supervisor Development Assessment & Plan  
Built & Natural Environment**





NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision

240 IRON GATES DRIVE EVANS HEAD NSW 2473, 163//DP831052, 276//DP755624, 277//DP755624

RFS Reference: DA-2014-03456-CL55-3

Your Reference: (CNR-35578) DA2015/0096

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

This authority supersedes the previous Bush Fire Safety Authority DA-2014-03456-CL55-2 issued on 09/11/2021 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Alan Bawden**

**Supervisor Development Assessment & Plan  
Built & Natural Environment**

Thursday 16 June 2022

**Attachment No. 8**  
**Copy of legal advice**



1 May 2016

**Mills Oakley**  
ABN: 51 493 069 734

Your ref:  
Our ref: AXGS/3194015

All correspondence to:  
PO Box H316  
AUSTRALIA SQUARE NSW 1215

Goldcoral Pty Ltd  
PO Box 3441  
AUSTRALIA FAIR QLD 4215

**Partner**  
Aaron Gadiel +61 2 8035 7858  
Email: agadiel@millsOakley.com.au

**By email:** graeme@inglesgroup.com.au

**Attention:** Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head**

You have asked us to provide legal advice in relation to the above development application (**the development application**).

You have asked us whether it is appropriate for the consent authority to require the provision of offsets (as sought by the Office of Environment and Heritage (**OEH**) in the letters dated 1 March 2016 and 22 March 2016).

**Summary advice**

In our opinion:

- There is no generally applicable 'improve or maintain' test under the *Environmental Planning and Assessment Act 1979*.
- In the present case, there is no relevant planning control that requires the maintenance or improvement of biodiversity values on the R1 land.
- For you to be expected to provide an offset (for the acacia regrowth vegetation or the heath vegetation community within the R1 zone) it would need to be demonstrated that the proposed clearing of this vegetation was, in itself, unacceptable.
- There is no reasonable basis for a conclusion that the proposed clearing of the vegetation within the R1 zone should be considered unacceptable. This clearing is an activity that was contemplated and anticipated by the (relatively recent) planning controls.
- Any claim for offsetting would have to be based on damage to areas of biodiversity value that are located outside of the R1 land. The OEH's generalised claims are not specific or robust enough to justify a requirement for offsetting in relation to loss of vegetation in the E2 and E3 land.
- An offset condition of the kind desired by the OEH will fail all three legal tests that govern the validity of conditions. Such a condition:
  - will not be sufficiently related to the development;
  - will not have been imposed for a proper purpose; and
  - would be disproportionate to the consequences of the development (in terms of the consequences that could be lawfully taken into account).

- We do not consider that it is appropriate or lawful for the consent authority to require the offsets sought by the OEH in the letters dated 1 March 2016 and 22 March 2016.

## Background

We understand and assume the relevant facts to be as follows:

- You are the developer of land located on Iron Gates Drive, Evans Head. The land is legally described as Lot 163 DP 831052, Lot 276 DP 755624 and Lot 277 DP 755624 (**the site**).
- The site is located approximately 1.5 kilometres from the existing Evans Head township. It is adjacent to the Evans River.
- The site has been earmarked to accommodate the growth of the Evans Head population for a considerable period of time.
- The site includes cleared areas and informal roadways and trails.
- The development application has been lodged with the Richmond Valley Council (**the Council**).
- The development application is for:
  - subdivision of the land to create 176 residential allotments; and
  - subdivision works, including the construction of roads, earthworks, drainage work, the construction of utility services, landscaping, revegetation and rehabilitation.
- The proposed development footprint is largely contained within land that has been zoned 'R1 General Residential' (**R1**). The development footprint was determined on the basis of detailed flora and fauna ecological assessment, which confirmed that the footprint area was suitable for urban development and additional clearing.
- The information set out in following material is factually accurate:
  - the correspondence from Planit Consulting to the Council on 23 October 2015 (including attachments);
  - the *Statement of Environmental Effects* prepared by Planit Consulting, October 2014; and
  - the *Terrestrial Flora and Fauna Assessment: Iron Gates Development, Evans Head*, prepared by Planit Consulting Pty Ltd, August 2014.
- The development control plan is irrelevant (we have not considered this document).

Please tell us if any of the above facts are not correct, as it may change our advice.

## Detailed advice

### 1. Improvement or maintenance of biodiversity values

- 1.1 There are two letters setting out OEH's position.
- 1.2 The first is from the Council — with a section detailing the OEH's 'comments'. This letter is dated 1 March 2016 (**the first letter**).
- 1.3 The second letter is from the OEH itself and further expands on its position. This letter is dated 22 March 2016 (**the second letter**).
- 1.4 The first letter explains that the basis for the OEH's position is its requirement that the applicant ... prepare an offset package, in accordance with OEH offsetting principles to ensure that the development **improve or maintains biodiversity values** (bold added).
- 1.5 The OEH does not cite any statutory controls in support of this position.



- 1.6 In NSW some land is subject to a statutory regime that requires biodiversity values to be improved or maintained. When subject to such a requirement, development that would have an adverse impact on particular biodiversity values would need to show some offsetting improvement to meet the 'improve or maintain' test.
- 1.7 For example, section 14(3) of the *Native Vegetation Act 2003* (**the NV Act**) prevents the granting of certain development consents for broad scale clearing unless the clearing concerned will improve or maintain environmental outcomes. However, the NV Act does not apply to land that is zoned R1 (section 5; schedule, clause 14). It also does not apply to any clearing in E2 and E3 zoned land where:
- (a) the development is for dwelling houses, secondary dwellings, semi-detached dwellings or dual occupancies;
  - (b) development consent is required under the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**); and
  - (c) the clearing does not exceed the minimum extent necessary for carrying out the activity.
- (sections 11(2) and 22 of the NV Act and clause 49 of the *Native Vegetation Regulation 2013*).
- 1.8 There is no generally applicable 'improve or maintain' test under the EP&A Act. However, on some lands, for some types of development, the statutory planning controls may require or favour the improvement or maintenance of biodiversity values.
- 1.9 For example, clause 6.3 of the *Ku-ring-gai Local Environmental Plan (Local Centres) 2012* regulates the grant of development consent on certain lands that have been mapped as being of biodiversity significance. It precludes the grant of development consent unless the consent authority is satisfied that the development
- is designed, and will be sited and managed, to avoid any potentially adverse environmental impact or, if a potentially adverse environmental impact cannot be avoided ... **measures have been considered to achieve no net loss of significant vegetation or habitat** (bold added).

There is no planning control of this kind in the present circumstances.

## 2. The planning controls

- 2.1 The land clearing is predominantly, if not entirely, within the R1 zone under the *Richmond Valley Local Environmental Plan 2012* (**the LEP**). The zone objectives are as follows:
- To provide for the housing needs of the community.
  - To provide for a variety of housing types and densities.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To ensure that housing densities are generally concentrated in locations accessible to public transport, employment, services and facilities.
  - To minimise conflict between land uses within the zone and land uses within adjoining zones.

None of these zone objectives require the protection or enhancement of the natural environment. This is unsurprising — as land clearing is normally expected in any significant residential development.

3.5 These matters are detailed below:

- (a) *Sanctuary Investments Pty Ltd & Ors v Baulkham Hills Shire Council* [2006] NSWLEC 733. This was a merit hearing in relation to a development application for the subdivision and the construction of five detached dwellings. The proposal was likely to **significantly** affect threatened species, populations or ecological communities, or their habitats. The relevant land was described in the planning controls as a 'protected' residential zone (at [14]). An objective of the zone was

to provide for the preservation of the vegetative, landscape, drainage, scenic and environmental qualities of the land within the zone ...

The permissibility of the proposed development also depended on it satisfying the following statutory requirement (at [18]):

the protection of all environmentally significant or sensitive areas

The OEH principles were applied.

- (b) *Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited* [2013] NSWLEC 48. This matter was a merit hearing concerning a project approval for a mining development. The land concerned was within a rural zone (at [50]). Amongst the zone objectives was this one:

to promote the protection and preservation of natural ecological systems and processes ...

It was found (at [146]) that the project would be likely to have **significant impacts** on endangered ecological communities and key habitats of fauna species. The OEH principles were then applied by the Court to inform its decision.

- (c) *Hunter Environment Lobby Inc v Minister for Planning* [2011] NSWLEC 221. This matter was a merit hearing in relation to a project approval for a mine. The majority of the site was zoned 'general rural'. The proposal impacted on an endangered ecological community. An objective of the zone was:

to protect, conserve and enhance the natural and scenic resources of the Shire ...

The OEH principles were applied.

- (d) *Newcastle & Hunter Valley Speleological Society Inc v Upper Hunter Shire Council and Stoneco Pty Limited (No 2)* [2010] NSWLEC 104. This matter was a merit hearing in relation to a development consent for a limestone quarry. The site was in a rural zone. There were to be impacts on the White Box endangered ecological community

An objective of the zone was

to protect, conserve and enhance the natural and scenic resources of the Shire ...

The OEH principles were applied.

3.6 In our opinion, the present situation is completely unlike any of the above cases where the OEH principles have been applied. There are two crucial differences. These differences relate to:

- (a) the lack of any requirement to maintain the natural environment of the R1 land (see section 2 of this advice above); and
- (b) the nature of the impacts (see section 4 of this advice below).



#### 4. The nature of the impacts.

- 4.1 In *Bulga Milbrodale Progress Association* the Chief Judge of the Land and Environment Court explained how the OEH Principles are to be applied:

The strategies for managing the adverse impacts of a project on biological diversity are, in order of priority of action, avoidance, mitigation and offsets. **Avoidance and mitigation measures should be the primary strategies for managing the potential adverse impacts of a project.** Avoidance and mitigation measures directly reduce the scale and intensity of the potential impacts of a project. **Offsets are then used to address the impacts that remain after avoidance and mitigation measures have been put in place.**

... The first strategy is to endeavour to avoid the potential impacts of a project. Avoidance of impacts may be achieved through planning and assessment of the project including suitable site selection and project design. **An example would be modifying the project to avoid an area of biodiversity value, such as an endangered ecological community or habitats of threatened species or populations.**

... If after implementing all reasonable avoidance measures, there are remaining impacts, the next strategy is to undertake **mitigation** of the **remaining impacts**. Examples are implementing measures to prevent or reduce offsite impacts **on areas of biodiversity value**, such as edge effects, weed invasion, altered fire frequency or altered hydrological regimes.

... **If** after all reasonable avoidance and mitigation measures have been implemented, there are still **residual** impacts, offsets can then be considered. Offsets do not reduce the likely impacts of a project, but rather compensate for the **residual** impacts.

An offsets package can involve direct offsets or other compensatory measures. Direct offsets are actions which provide a measurable conservation gain for the affected components of biological diversity, such as **endangered species, populations or ecological communities**. Conservation gain is the benefit that a direct offset delivers to the affected component, which maintains or increases its viability or reduces any threats of damage, destruction or extinction. ... (bold added).

- 4.2 As we outlined in our review of the cases above, all of the previous Court matters where offsetting (under the OEH principles) was required involved impacts on listed threatened species or ecological communities.
- 4.3 In the present case, your ecologist has found that there is no significant effect on threatened species, populations or ecological communities, or their habitats. The OEH has not challenged this conclusion. There is no dispute that a species impact statement — and the concurrence of the chief executive officer of the OEH — is not required.
- 4.4 Your project has already been designed to avoid and mitigate its impacts. The development footprint has been limited so that its is largely within the R1 zone (even though dwelling houses are permitted in the E3 zone). This has avoided impacts on areas of biodiversity value.
- 4.5 We cannot see any reasonable basis why the proposed clearing of the vegetation within the R1 zone should be considered unacceptable. Nothing in the material we have seen (including the first letter and the second letter setting out the OEH position) provides evidence to support such an argument. The clearing of the vegetation is not, in our view, a 'residual impact' of the kind referred to by the Chief Judge above. In any event, this clearing is an activity that was contemplated and anticipated by the (relatively recent) planning controls (see section 2 of the advice above).
- 4.6 In our view, any claim for offsetting would have to be based on damage to areas of biodiversity value that are located outside of the R1 land. This would require quantification of the actual areas of vegetation loss (outside of the R1 area) due to edge effects, weed invasion, altered fire frequency or altered hydrological regimes. There is no evidence that there is any such loss (of any consequence). We consider the OEH's generalised claims are not specific or robust enough to justify a requirement for offsetting in relation to loss of vegetation in the E2 and E3 land.

## 5. Power to impose conditions

- 5.1 It is important to understand that the power for a consent authority to impose conditions on a development consent is limited. The extent of this power was considered by the Court of Appeal in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 [9]-[15]. A summary of the key aspects of this decision and how they are relevant to the facts of this matter is set out below.
- 5.2 The EP&A Act empowers the consent authority to impose a condition if it relates to various nominated general matters. Those matters include:
  - (a) the likely impacts of the development on both the natural and built environments and social and economic impacts in the locality; and
  - (b) the relevant provisions of the local environmental plan and state environmental planning policies.
- 5.3 However, this is not the end of the matter. There are three separate tests that may mean that a condition imposed on a development consent may be invalid. Failure to satisfy any **one** of these tests will mean that a condition is unlawful. In this case, we think an offset condition of the kind desired by the OEH will fail all three tests.
- 5.4 **Firstly**, there is the legal issue of 'relationship'. Whether a proposed condition sufficiently 'relates' to a matter nominated in the statute will initially depend on the evaluative judgment of the consent authority. **However**, there may be a legal question as to how distant, remote or indirect the relationship may be. A condition must be reasonably capable of being regarded as related to the purpose of the statutory functions. That purpose must be ascertained from a consideration of the **applicable legislation and town planning instruments** rather than from 'some preconceived general notion'.
- 5.5 There may be a sufficient relationship if a consent condition requires some action to be taken in relation to land in the immediate vicinity of a development's footprint. In such a situation, the relationship is one of geographic proximity.
- 5.6 However, a condition that requires an offset to be created in some distant location lacks such geographic proximity. If it is to be valid, in our view, it would need to be justified by some provision of the statutory planning controls. We have summarised the relevant controls in section 2 of the advice and no such relationship is apparent. (The OEH principles are not part of those planning controls. They only become relevant if/when there is a need, **under the planning controls**, to determine whether a development will improve or maintain biodiversity values.)
- 5.7 **Secondly**, there is the issue of 'improper purpose'. A condition may be imposed to ensure that the matters raised for consideration by the planning controls are dealt with appropriately. The planning controls do not, in our view, ask the consent authority to consider whether the development of the R1 land improves or maintains biodiversity values. To the extent that a condition is imposed for that purpose, we consider the purpose to be improper, and therefore unlawful.
- 5.8 **Thirdly**, is the issue of 'proportionality'. The imposition of a condition may be regarded as manifestly unreasonable (and therefore unlawful) if the severity of the burden placed on the proponent is disproportionate to the consequences attributable to the proposed development. Where the adverse consequences are inconsequential, a condition that imposes a large burden cannot be legally justified.
- 5.9 In our view, the 'consequences' that must be used to apply this third test are the consequences that the planning controls are seeking to avoid or minimise. The clearing of the vegetation within the R1 land is not such a consequence. Accordingly, we consider that an off-site offset condition could only be justified by the effects on the vegetation in the E2 and E3 zones. We believe that any condition whose offset



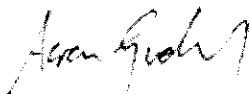
calculations were based on the clearing of land within the R1 zone would be manifestly unreasonable and therefore unlawful.

**6. Conclusion**

- 6.1 We do not consider that it is appropriate or lawful for the consent authority to require the offsets sought by the OEH in the letters dated 1 March 2016 and 22 March 2016.

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely



**Aaron Gadiel**  
**Partner**

Accredited Specialist - Local Government and Planning

16 October 2016

**Mills Oakley**  
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Our ref: AXGS/3194015

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**By email:** [graeme@inglesgroup.com.au](mailto:graeme@inglesgroup.com.au)

**Attention:** Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head**

You have asked me provide advice in answer to two questions:

- **Question 1:** Can you seek approval for the carrying out works within the road reserve for Iron Gates Drive as part of the existing development application?
- **Question 2:** Is there any relevance, in planning law, to the fact that the construction of the existing road within the road reserve has never been formally 'accepted' by the Council as an asset?

**Summary advice**

In our opinion:

- You can seek approval for the carrying out works within the road reserve as part of the existing development application.
- However, you will also need approval under section 138 of the *Roads Act 1993*. This means that you should also lodge a concurrent 'section 138', and ask the Council to determine both applications together. If the Council does this, no separate 'Part 5 assessment' is required.
- The road is part of, or is attached to, Council's land, and Council therefore owns the road.
- There is no relevance, in planning law, to the fact that the construction of the existing road within the road reserve has never been formally 'accepted' by Council as an asset.

**Background**

We understand and assume the relevant facts to be as follows:

- You are the developer of land located on Iron Gates Drive, Evans Head. The land is legally described as Lot 163 DP 831052, Lot 276 DP 755624 and Lot 277 DP 755624 (**the site**).
- The site is located approximately 1.5 kilometres from the existing Evans Head township. It is adjacent to the Evans River.
- Development application DA2015/0096 (**the development application**) has been lodged with the Richmond Valley Council (**the Council**).
- The development application is for:
  - subdivision of the land to create 176 residential allotments; and



- subdivision works, including the construction of roads, earthworks, drainage work, the construction of utility services, landscaping, revegetation and rehabilitation.
- The site is bush fire prone land.
- The development application has been lodged as an 'integrated development' due (at least in part) to obtain general terms of approval from the Rural Fire Service (as a bushfire safety authority will be required under section 100B of the *Rural Fires Act 1997*).
- None of the land within the road reserve for Iron Gates Drive (**the road reserve**) has been mapped under the *State Environmental Planning Policy No 26—Littoral Rainforests*.
- You have provided us with various maps that have been given to you by the Council. You have accepted these maps as being accurate (in the sense that they represent the correct maps). These maps show that parts of the road reserve are mapped under (and trigger the provisions of) the *State Environmental Planning Policy No 14—Coastal Wetlands (SEPP 14)*.
- In order to implement a bushfire safety authority, you will need to upgrade Iron Gates Drive (being the road that connects your site to the existing urban area of Evans Head). There is no other road access proposed for your site.
- This work will involve (along the whole stretch of the road, other than the mapped SEPP 14 areas):
  - clearing the full road width (20 metres) of vegetation/trees (generally native plants);
  - widening the existing 6 to 6.5 metre pavement (ie the carriageway for vehicles) to 8 metres;
  - installing traffic management devices, such as reflective road markers and (in some locations) signage.

This work is called the **external roadworks** in this advice.

- The road reserve is entirely contained within the 'E3 Environmental Management' zone (**E3 zone**) under the *Richmond Valley Local Environmental Plan 2012 (the LEP)*.
- On 30 August 2016 an officer of the Council emailed you and informed you that:

Richmond Valley Council is the roads authority for the road, however, all construction within the road has never been formally accepted by Council as an asset.

Please tell us if any of the above facts are not correct, as it may change our advice.

#### Detailed advice

1. **Can you seek approval for the carrying out works within the road reserve as part of the existing development application?**
  - 1.1 A development consent may authorise both principal works on freehold land and roadworks on a public road reserve necessary for the use of the principal land (*Boral Resources (NSW) Pty Ltd v Wingecarribee Shire Council* [2003] NSWLEC 39 [60]).
  - 1.2 Clause 49(1)(b) of the *Environmental Planning and Assessment Regulation 2000* requires that a development application can only be made with the consent in writing of the owner of the subject land.
  - 1.3 The owner of a public road is taken to be the roads authority (section 145 of the *Roads Act 1993*). In this case, the roads authority is the Council.
  - 1.4 The Court of Appeal has said that a development application could be made without any advance consent from the Council, as landowner. If the Council, as consent authority, approves the development application it also necessarily consents to the application (under the planning law) as owner of the land (*Sydney City Council v Claude Neon Ltd* (1989) 15 NSWLR 724, 731, per Hope JA).

- 1.5 It also does not matter whether the development consent is granted by the Council itself or the Northern Region Joint Regional Planning Panel. This is because the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**) says that when exercising this function the panel is taken to be the Council (section 23G(5A)).
- 1.6 In order for the works to be carried out, it will also be necessary for you to secure the consent of the Council under section 138 of the *Roads Act 1993*. However, you can seek this consent concurrently with your development application (see for example: *The Northern Eruv v Ku-ring-gai Council* [2012] NSWLEC 1058; cf *Australian Leisure and Hospitality Group Pty Ltd v Manly Council (No 4)* [2009] NSWLEC 226 [9]-[10]).
- 1.7 If you obtain authorisation for the roadworks via a consent to your development application, when the Council separately consents under section 138 of the *Roads Act 1993*, it will **not** be required to carry out a Part 5 assessment (section 110(1)(g) and section 111(1) of the EP&A Act).
- 1.8 In short, we believe that you can seek approval for the carrying out works within the road reserve as part of the existing development application. However, you will also need approval under section 138 of the *Roads Act 1993*. This means that you should also lodge a concurrent 'section 138' application, and ask the Council to determine both applications together. If the Council does this, no separate 'Part 5 assessment' is required.

**2. Is there any relevance, in planning law, to the fact that the construction of the existing road within the road reserve has never been formally 'accepted' by Council as an asset?**

- 2.1 The owner of a public road reserve is taken to be the roads authority (section 145 of the *Roads Act 1993*).
- 2.2 This means that any physical alterations that are made to the surface of the road reserve are alterations that are made to the Council's property.
- 2.3 Similarly, anything attached to land to further the use to which the land may be put is a fixture. A fixture of this kind becomes part of the land at the time of being attached: *Reid v Smith* (1905) 3 CLR 656, 680-681.
- 2.4 Either way, the existing road constructed within the public road reserve is the Council's property. The road is part of, or is attached to, Council's land, and Council therefore owns the road.
- 2.5 In our opinion, there is no relevance, in planning law, to the fact that the construction of the existing road within the road reserve has never been formally 'accepted' by Council as an asset.

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely




**Aaron Gadiel**  
**Partner**

Accredited Specialist - Local Government and Planning



23 October 2016

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**Attention:** Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head**

You have asked me provide advice in answer to this question: Is it in order to trim the overhang over the road reserve in the SEPP 14 areas?

*State Environmental Planning Policy No 14—Coastal Wetlands (SEPP 14)* requires a development application to be lodged, etc when you propose to 'clear' mapped SEPP 14 land.

However, clause 7(4) defines 'clearing' to be:

the destruction or removal in any manner of native plants growing on the land.

If your trimming does not involve the destruction or removal of any native plants, we do not consider that SEPP 14 will be triggered.

Furthermore, reinforcing our view above, we consider that such trimming would be 'routine maintenance works' under clause 94(2)(b) of the *State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP)*. This means that, if:

- it is carried out by or on behalf of the Council; and
- the extent of the activity (and any associated adverse impacts) is kept to the minimum possible to allow safe use of the road,

development consent will not be required.

If it can be established that the pruning would not otherwise require development consent or a permit under the local LEP (consult your town planner on this) then the activity may be (if carried out for or on behalf of the Council) be exempt development under clause 97(1)(f) of the Infrastructure SEPP. This would definitively remove the need for a review of environmental factors if the requirements of clause 20 of the Infrastructure SEPP are adhered to.

Of course, you do not own the road reserve. This means that the only lawful way that you could prune the trees overhanging the road reserve is if you were doing it with the consent of Council.

Ordinarily, the terms of that consent would, in our view, have the effect that you were carrying out the work **on behalf of** the Council. This is because there needs to be some element of control, supervision or direction on the part of the public authority in order for the work to qualify as being carried out on its behalf (*Citizens Airport Environment Association Inc v Maritime Services Board* (1993) 30 NSWLR 207, 240-241). Typically we expect that a consent will give the Council that degree of control, etc. This control — combined with the fact that the work is taking place on Council's land and will benefit the Council as

the roads authority — is normally sufficient. Legally, it does not matter that the work may also benefit you, or be in your interest.

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely



**Aaron Gadiel**  
**Partner**

Accredited Specialist - Local Government and Planning



26 December 2016

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By email: graeme@inglesgroup.com.au

Attention: Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head — issue raised by the OEH**

You have asked us provide a very brief dot point advice in answer to an issue raised by the Office of Environment and Heritage (OEH) in its letter dated 2 December 2016. The OEH said the following:

The OEH has also sought a copy of the restoration order for the property, including the map of that area. This was requested in our first letter dated 17 December 2014. This issue was also raised at the meeting of 21 March 2016 where the ecological consultant indicated that they would provide information about the pre-cleared (1990's) (sic) condition of the vegetation on site and which areas were subject to the restoration order issued by the NSW Land and Environment Court. This information was again requested in OEH's letter dated 22 March 2016 and is still outstanding.

In our opinion:

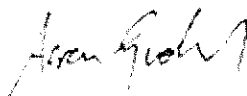
- The remediation order was made against an entity that no longer exists (Iron Gates Pty Ltd). The remediation order does not 'run with the land'. No person or entity is presently obliged to carry the remediation order out.
- There is no prospect of the remediation order being re-made against another party in a fresh application to the Court. Civil enforcement orders can only be made against a person who is actually carrying out development in breach of the *Environmental Planning and Assessment Act 1979* (*Hillpalm Pty Ltd v Heaven's Door Pty Ltd* [2004] HCA 59 at [47]-[49]; *North Sydney Council v Moline (No 2)* [2008] NSWLEC 169 at [21]-[24]). As the person who was in breach of the development consent no longer exists, no new orders may be made against the current landowner merely because it has since assumed ownership of the land.
- It is open to a consent authority to approve a development application for a proposal that is dependent upon works carried out unlawfully in the past: *Hooper v Lucas* (1990) 71 LGERA 27; *Rancast Pty Ltd v Leichhardt Council* (1995) 89 LGERA 139, 143-144; *Dennis Foster Insurance Brokers Pty Ltd v Sydney City Council* [1999] NSWLEC 53 at [26]-[27]; *Silverwater Estate Pty Ltd v Auburn Council* [2001] NSWLEC 60 at [74]; and *Mirzikian v Mosman Municipal Council* [2004] NSWLEC 288 at [21].
- The issue is not whether the works were originally carried out unlawfully, but whether allowing their continued existence (and use by the development if that is what is proposed) is an acceptable environmental impact **in the context of the current planning controls**.
- The circumstances have, in any event, significantly changed since the remediation order was made. In particular:
  - A new local environmental plan has been adopted. This plan expressly re-affirms the planning intent that the site should be developed for residential purposes. The planning controls are more

tailored than the previous controls, with a reduced area of land available for residential development (implying a careful consideration of the site's existing constraints).

- The remediation orders were given in circumstances where there was 'no approved development which can be carried out on the site' (Unreported, Land and Environment, Pearlman J, 4 July 1997, Proceedings 40152 of 1996, at page 4). There was apparently no development application or modification application pending at the time. This is the context for the Court's opinion that allowing the work to remain in place would result in 'ongoing environmental harm'. If the Court were to consider the issue afresh (which it cannot for reasons outlined above) it would look at:
  - o the merits of the matter in the context of the new planning controls;
  - o whether the pending development application achieved the objectives of the planning controls; and
  - o whether it was be wasteful to require the removal of illegally constructed works, only for them to be re-instated in some similar form (in order to achieve the desired planning goals for the land).

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely



**Aaron Gadiel**  
**Partner**

Accredited Specialist - Local Government and Planning



5 March 2019

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**By email:** graeme@inglesgroup.com.au

**Attention:** Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head — query raised by the Council**

You have asked me provide advice in response to the following statement by Richmond Valley Council (**the Council**) in an email from Tony McAteer to your town planner on 6 December 2018:

I believe ...[Mills Oakley's] legal ... [advice of 26 December 2016] on the access road is flawed as it relies [on] the fact that the road was Gazetted after the Lawrence Wilson case. However, the road was Gazetted on 4 June 1993 which was [a] long time before the Lawrence Wilson orders were handed down by the Court on 5 December 1996.

Our legal advice on 26 December 2016 was not flawed. However, it was drafted without knowledge of the actual date on which the deviated area was gazetted as a public road. The Council has now supplied that date. We have confirmed — through our own enquiries — that the date is accurate.

This additional factual knowledge does not change any of the material conclusions of our advice of 26 December 2016. This letter re-explains our reasoning and conclusions, in the context of the gazettal date of 4 June 1993.

In our opinion:

- The Land and Environment Court has **not** ruled that the current location of Iron Gates Drive (in the deviated area) is unlawful. What was ruled to be unlawful was the process of the construction of those sections of the road.
- The Court did not set aside the notification the declaration of the deviated area as a public road, published in the NSW Government Gazette on 4 June 1993. That is, the legal status of the land as a public road remained intact.
- There are no provisions of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**) which require a consent authority to assess the impacts of development on land against a different baseline, merely because the form of the land was unlawfully changed in the past.
- The Council has now, as roads authority, been responsible for the upkeep of the road for at least 16 years. Accordingly, any current deficiencies in the road are unlikely to have anything to do with the circumstances of its unlawful construction. Any present day deficiencies in the road will simply form part of the normal merit assessment of any relevant development application (or Part 5 assessment) and should be dealt with accordingly (for example, by way of a condition requiring that an identified deficiency be dealt with).

## Background

We understand and assume the relevant facts are as per our letter of advice dated 26 December 2016, taking into account that the gazettal date of the deviated road was 4 June 1993.

Please tell us if any of the above facts are not correct, as it may change our advice.

## Detailed advice

### 1. *Wilson v Iron Gates Pty Ltd*

- 1.1 The Land and Environment Court has not ruled that the current location of Iron Gates Drive (in the deviated area) is unlawful
- 1.2 What was ruled to be unlawful was the **process** of the **construction** of those sections of the road.
- 1.3 This is clear from the following statements made in the *Wilson v Iron Gates Pty Ltd* (Unreported, Land and Environment, Stein J, 2 December 1996, Proceedings 40172 of 1996) (**the substantive judgment**) at pages 13-18:

In my opinion, the evidence demonstrates that the road **has been constructed (and continues to be constructed)** in a location different from that approved by the consent. ...

In my view, the road, in so far as it is being built outside Lot 1 in DP 47879, **is presently being constructed in breach of the Act** since no consent has been given to its construction in that location. ...

[I]t is appropriate to make the following declarations: ...

- that **construction of the access road, and its use**, on any parts of Lots 1, 2 and 3 DP 823583, in so far as any such construction is outside of Lot 1 DP 47879, is unlawful ...
- that the **carrying out of construction works** on any parts of Lots 1, 2 and 3 DP 823583 as fall outside of Lot 1 DP 47879 is in breach of Development Consent No. 110/88 (bold added).

- 1.4 The sealed orders that were made three days after the substantive judgement relevantly say the following:

**Works** of clearing formation and **construction** of an access road, on those parts of Lots 1, 2 and 3 in DP 823583, as lie outside of the boundaries of Lot 1 in DP 47879, and the use thereof as an access road, are unlawful. ...

**The carrying out of works** of clearing, formation and construction of an access road on any part of Lots 1, 2 and 3 in DP 823583 as lie outside of the boundaries of Lot 1 DP 47879 and the use thereof as an access road are in breach of the Development Consent ...

The **First Respondent** [being Iron Gates Pty Ltd] be restrained from using as an access road to and from Portions 276 and 277 ... any part of Lots 1, 2 and 3 DP 823583 in so far as any such use is outside of the boundaries of Lot 1 DP 47879 without obtaining prior approval in accordance with the Environmental Planning and Assessment Act, 1979 (bold added).

- 1.5 It should be noted that nothing in the judgment or the orders says that the road itself is unlawful, merely that its **construction and 'use'** are unlawful.
- 1.6 The Court **did not** set aside the notification the declaration of the deviated area as a public road, published in the NSW Government Gazette on 4 June 1993. That is, the legal status of the land as a public road remained intact. No orders were made against the Council. No orders were made against members of the public.
- 1.7 As result, sections 5 and 6 of the *Roads Act 1993* — which confer rights of access and passage on members of the public and adjoining landowners — continued to apply to the road, including the deviated area. The **only** exception was in relation to Iron Gates Pty Ltd — whose rights under section 6 of the *Roads Act 1993* were effectively overridden by



the Court order. This aspect of the matter is of academic interest only as **Iron Gates Pty Ltd no longer exists.**

## 2. ***Wilson v Iron Gates Pty Ltd and Richmond River Shire Council***

- 2.1 The status of the Iron Gates Road as a lawfully gazetted public road was acknowledged in *Wilson v Iron Gates Pty Ltd and Richmond River Shire Council* (Unreported, Land and Environment, Lloyd J, 4 March 1998, Proceedings 40172 of 1996) (**the remediation judgement**).. This judgment said the following:

[19] ... If the Court were to insist on the road following the approved route then it would have a greater impact than if it were to allow the road to remain in its present location. ...

[20] ... It seems to me, however, that greater harm would be caused to the environment by now insisting that the road follow the approved route and remediating the area occupied by those parts of the road which lie outside the approved route. ...

[23] ... In the present case the road is largely completed. The applicant only seeks the remediation of those parts of the road which lie outside the approved route. A consequence of the orders sought by the applicant would be that those sections of the road which lie within the approved route would remain. This would lead to the absurd consequence that there would remain three lengths of road, each a few hundred metres long, unconnected to each other and leading nowhere. This absurd result should, in my view, be avoided. Although there is no consent for a subdivision of the Iron Gates Estate, that land remains zoned for residential purposes. There is, as far as I am aware, no proposal to change that zoning. It is thus possible that at some time **in the future a development application may be made** to develop the Iron Gates Estate for residential purposes. **The subject road is the access road to that land. The subject road would thus appear to have some potential utility.** ...

[25] ... A final consideration is the fact the final route of the road is now a public road under the *Roads Act* 1993. Although the rights conferred on the public under that Act are subject to such restrictions as are imposed by or under any other Act or law, **the fact that the construction of parts of the subject road are unlawful as being contrary to the *Environmental Planning and Assessment Act* is not sufficient, in the circumstances of this case, to deny the public's right to now pass along the public road** (bold added).

- 2.2 It is clear that the Court anticipated that the gazetted public road would be put to use for the purposes of accessing the 'Iron Gates Estate'.


## 3. **No EP&A Act restriction on the utilisation of unlawful works**

- 3.1 The formation of the road itself is either a work that has changed the nature of the land and/or involves the installation of fixtures that have become part of the land. Either way, what was unlawful was the **manner** in which the land was changed and any fixtures were installed.
- 3.2 There are no provisions of the EP&A Act which require a consent authority to assess the impacts of development on land against a different baseline, merely because the form of the land was unlawfully changed in the past.
- 3.3 Any attempt to imply such a provision into the EP&A Act would lead to absurd results. This is because consent authorities and present-day landowners are generally ignorant of the nature and lawfulness of historical works on any given parcel of land when development applications are lodged and assessed. It would be entirely impracticable for a consent authority (or proponent) to be under a duty to establish a notional baseline, that reflected the form of the land absent all unlawful works.
- 3.4 Our view on this point is consistent with the established body of case law.
- 3.5 In *Hooper v Lucas* (1990) 71 LGERA 27 it was common ground that a building permit for the erection of decking and fencing approved the erection of building works upon and over a building which was **in part**:
- (a) unauthorised; and

- (b) erected in contravention of the provisions of the then *Local Government Act 1919* (under a building control regime that now forms part of the EP&A Act).
- 3.6 The Court said that it was open to the council to approve a building application for the erection of a new building despite the fact that that the works incorporated a building that had been previously unlawfully erected. (This type of 'building application' is the equivalent of a modern day development application.)
- 3.7 The Court explicitly rejected an argument that the Council could not entertain an application to alter or add to an unauthorised structure. In saying this the Court accepted that the council had no power to receive and consider a building application (now a development application) merely to grant a building permit (now a development consent) to **retrospectively** authorise a building that had been already erected.
- 3.8 This decision has been applied by the Land and Environment Court in the modern legislative context: *Rancast Pty Ltd v Leichhardt Council* (1995) 89 LGERA 139, 143-144; *Dennis Foster Insurance Brokers Pty Ltd v Sydney City Council* [1999] NSWLEC 53 at [26]-[27]; *Silverwater Estate Pty Ltd v Auburn Council* [2001] NSWLEC 60 at [74]; *Mirzikinian v Mosman Municipal Council* [2004] NSWLEC 288 at [21].
- 3.9 However, if a consent authority cannot be satisfied that a work — in its present state — is safe and suitable for use it may refuse a development application that relies on that work (*Dennis Foster Insurance Brokers* at [26]-[27]). The absence of the normal statutory approvals for a pre-existing work may legitimately cause the consent authority to be concerned in the safety and reliability of the work. In **that** sense, the fact that work has been carried out without approval **may** be a relevant matter in development assessment.
- 3.10 **However**, there is no suggestion in either the substantive judgment or the remediation judgment that the Iron Gates Drive has been constructed anything other than in a manner that makes it suitable for use by the public.
- 3.11 It is not presently clear precisely when the Council became the roads authority. However, it occurred prior to May 2003. We say this because the public road was given the name Iron Gates Drive by the Council via a notice published in the NSW Government Gazette on 2 May 2003.
- 3.12 The Council has now, as roads authority, been responsible for the upkeep of the road for at least 16 years. Accordingly, any current deficiencies in the road are unlikely to have anything to do with the circumstances of its unlawful construction. Any present day deficiencies in the road will simply form part of the normal merit assessment of any relevant development application (or Part 5 assessment) and should be dealt with accordingly (for example, by way of a condition requiring that an identified deficiency be dealt with).

Please do not hesitate to contact me on (02) 8035 7858 if you would like to discuss this advice.

Yours sincerely




**Aaron Gadiel**  
**Partner**

Accredited Specialist —Planning and Environment Law



14 July 2021

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**Privileged and confidential**

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**Attention:** Graeme Ingles

Dear Graeme

**Amendment of DA2015/0096 — Proposed Residential Subdivision at Iron Gates, Evans Head**

You have informed us that you propose to vary the above development application as follows:

- You will request that the development application be treated as a concept development application under section 4.22(3) of the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**).
- The variation will include a new drawing that sets out concept proposals for two stages of development.
- The development application will continue to include detailed proposals (based on existing documentation with a new proposed plan of subdivision).
- The detailed proposals will comprise the first stage of the development (as per section 4.22(2) and section 4.22(4)(b) of the EP&A Act). That is, development consent will be sought for:
  - the concept proposals for the whole site (including the first and second stages); and
  - the carrying out of the first stage of the development (so there is no need for further consent for that first stage).
- The first stage of the development (**stage 1**) is as follows:
  - completion of all subdivision work for the stage 1 and future stage 2 lots, including but not limited to:
    - clearing and earthworks;
    - roadworks and drainage;
    - sewer and water supply (including service connections to the stage 1 lots and future stage 2 lots); and
    - electricity and communications (including connections to the stage 1 lots and future stage 2 lots);
  - embellishment of the proposed public reserves adjacent to the Evans River foreshore;
  - creation of:
    - 135 residential lots (comprising lots 1 to 135);
    - four public reserve lots (comprising lots 139 to 142);

- one sewer pump station lot (comprising lot 144);
- one drainage reserve lot (comprising lot 143);
- three super lots (comprising lots 145, 146 and 147);
- a residue lot (comprising lot 138);
- two rainforest lots (comprising lots 137 and 136); and
- upgrading of Iron Gates Drive.
- The second stage of the development (**stage 2**) is the subdivision of certain super lots created in stage 1 (being lots 145, 146 and 147) to create 40 residential lots. No subdivision work is included for stage 2 as all necessary civil works will be provided in stage 1.

We understand that you will also be withdrawing the master plan that you have provided to the Minister for Planning and Public Spaces (**the Minister**) under clauses 20-21 of *State Environmental Planning Policy No 71—Coastal Protection (SEPP 71)*. You will instead be seeking to include in your variation a 'Concept proposals outline' that will be closely based on the master plan most recently given to the Minister.

You require our opinion as to the answers to the following questions:

- **Question 1:** Can the subject development application be determined by the grant of development consent once the master plan is withdrawn?
- **Question 2:** Can the development application be varied as proposed under clause 55(1) of the *Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation)*?

Our opinion is set out below.

### Summary advice

In our opinion:

- The requirement for a 'master plan' is now (as a matter of law), a requirement for a development control plan that deals with the matters as set out in clause 20(2) of SEPP 71.
- The requirement for a development control plan under clause 18(1) of SEPP 71 (as modified by the transitional provisions) may be satisfied by the grant of a development consent for concept proposals.
- The subject development application can be determined by the grant of development consent — even when the master plan is withdrawn — provided that the application is varied as you propose.
- In the circumstances of this application, the overall essence of the development remains as a residential subdivision within a generally consistent development area as already proposed in the development application.
- It would be lawful for the consent authority to agree to allow the variation under clause 55(1) of the Regulation.
- The development application can be varied as proposed under clause 55(1) of the EP&A Regulation.

### Background

We understand and assume the relevant facts to be as follows:

- In October 2014, you lodged development application 2015/0096 (**the subject development application**) with Richmond Valley Council (**the Council**).
- The application proposes a residential subdivision, the construction of subdivision infrastructure, Evans River foreshore embellishment and road upgrades.



- On or about the same time, you requested that the Department of Planning waive the requirement for a master plan under clause 18(2) of SEPP 71. The Department declined to waive the requirement for a master plan.
- Subsequently, you submitted a further draft master plan dated July 2015 to the Department of Planning and Environment.
- In October 2019, you submitted a revised draft master plan to the Department of Planning, Industry and Environment (**the Department**).
- In July 2020, the Council agreed to amend the subject development application to include, among other things, a revised plan of proposed subdivision (dated 23 March 2020). This plan reflected the evolution of the draft master plan.
- You intend to withdraw the draft master plan.

### Detailed advice

#### 1. Can the subject development application be determined by the grant of development consent once the master plan is withdrawn?

1.1 SEPP 71 continues to apply in relation to the subject development application despite its repeal due to clause 21(1) of the *State Environmental Planning Policy (Coastal Management) 2018* (**the Coastal Management SEPP**).

1.2 Clause 18(1) of SEPP 71 relevantly says:

(1) A consent authority must not grant consent for:

- (a) subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location, or
- (b) subdivision of land within a residential zone that is not identified as a sensitive coastal location into:
  - (i) more than 25 lots ....

unless:

- (d) the Minister has adopted a master plan for the land ...

### **The transitional provisions — overview**

1.3 Clause 95 of schedule 1 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (**the EP&A Transitional Regulation**) is relevantly as follows:

#### **95 Master plans under existing instruments**

- (1) This clause applies to any provision of an environmental planning instrument that is in force on the commencement of this clause and that **requires, before the grant of development consent, a master plan** (within the meaning of clause 92A of the *Environmental Planning and Assessment Regulation 2000* as in force before its amendment by the 2005 Amending Act) for the land concerned.
- (2) While that provision continues in force, **it is to be construed as requiring a development control plan under section 74D** (as inserted by the 2005 Amending Act) with respect to the matters required to be included in the master plan, and in accordance with the procedures provided for making the master plan, by the environmental planning instrument (bold added) ...

1.4 This provision was formerly clause 95 of schedule 6 of the EP&A Act. It was transferred into the EP&A Transitional Regulation. The transfer does not affect the operation or meaning of the provision. This means that the provision is to be interpreted as if it had

not been so transferred (section 30A(2) of the *Interpretation Act 1987*; clause 5 of the EP&A Transitional Regulation).

- 1.5 The above clause 95 commenced on 1 August 2005 (Government Gazette No 96 of 29 July 2005, 4031).

- 1.6 Clause 289(7) of the EP&A Regulation extends the application of clause 95:

**Master plans under epis made before 31 December 2005** A reference in clause 95(2) of Schedule 6 to the Act to a provision of an environmental planning instrument that requires, before the grant of development consent, a master plan for the land concerned extends to a provision of that kind in an environmental planning instrument that is made before 31 December 2005.

- 1.7 In short, clause 95 applies to relevant provisions of an environmental planning instrument that was made before 31 December 2005.

- 1.8 SEPP 71 was made on 1 November 2002. The provisions of SEPP 71 set out in section 1 of this advice were in force both:

- (a) on 1 August 2005; and
- (b) during the period before 31 December 2005.

***The transitional provisions — clause 95(1)***

- 1.9 Clause 95(1) says that clause 95 applies to an 'environmental planning instrument'. SEPP 71 is such an instrument.

- 1.10 It applies if a provision in the instrument requires a 'master plan' **within the meaning of clause 92A of the EP&A Regulation** before its amendment by the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005* in 2005.

- 1.11 Prior to this amendment, clause 92A relevantly said the following:

**92A Preliminary planning: sections 79C (1) (a) (iv) and 80 (11) of the Act**

- (1) This clause applies to land if an environmental planning instrument made before or after the commencement of this clause provides, or **has the effect of providing, that consent is not to be granted to a development application relating to the land unless: ...**
  - (d) **there is a master plan for the land.**
- (2) Pursuant to section 80 (11) of the Act, a development application relating to land to which this clause applies must not be determined by the consent authority granting consent (unconditionally or subject to conditions) unless: ...
  - (d) there is a master plan for the land that has been available for inspection by the public since it was made or adopted ...
- (4) For the purposes of section 79C (1) (a) of the Act, the provisions of any master plan for land to which this clause applies are prescribed as matters to be taken into consideration by the consent authority in determining a development application in respect of that land.
- (5) In this clause: ...

**master plan** means a plan, whether it is referred to as a master plan, a development plan, a precinct plan or otherwise (but not an environmental planning instrument, a development control plan or a contributions plan):

- (a) that makes provisions for or with respect to the development of land, and
- (b) that has been made or adopted by the Minister or a public authority (some bold added).



- 1.12 The master plan required under clause 18(1) of SEPP 71 was a master plan to which clause 92A applied, **prior to its amendment**. This means that clause 95(1) of the EP&A Transitional Regulation applies to the SEPP 71 requirement (and therefore the whole of clause 95 applies to the master plan regime under SEPP 71).

***The transitional provisions — clause 95(2)***

- 1.13 Clause 95(2) affects the interpretation of clause 18(1) of SEPP 71.
- 1.14 It requires the clause to be ‘construed’ (interpreted) as requiring a **development control plan** under (what was once known as) section 74D of the EP&A Act:
- (a) with respect to the matters required to be included in the master plan; and
  - (b) in accordance with the procedures provided for making the master plan, under SEPP 71.
- 1.15 This means that — as matter of legal form — the ‘master plan’ that was sought by you, if adopted, would have been made as a ‘development control plan’.
- 1.16 The reference to ‘section 74D’ in clause 95(2) is a reference to the former section 74D of the EP&A Act. This provision remains in force and is now known as section 3.44. It relevantly says:

**3.44 Development control plans required or authorised by environmental planning instruments (cf previous s74D)**

- (1) An environmental planning instrument **may require or permit a development control plan to be prepared before any particular development or kind of development may be carried out** (and make provision with respect to the preparation and content of any such plan).
  - (2) Any such development control plan may outline the development of all the land to which it applies.
  - (3) Any such development control plan may be prepared (and submitted to the relevant planning authority) by the owners of the land to which it applies or by such percentage of those owners as the environmental planning instrument concerned allows. A person authorised by those owners may act on their behalf for the purposes of this subsection.
  - (4) The relevant planning authority may make a development control plan submitted to it under this section, including with such changes as it thinks fit (some bold added) ...
- 1.17 The effect of clause 95(2) is that section 3.44(1) is now the statutory provision authorising the requirement for a ‘master plan’ imposed under clause 18(1) of SEPP 71. The requirement for a ‘master plan’ is now (as a matter of law), a requirement for a **development control plan** that deals with the matters as set out in clause 20(2) of SEPP 71. This provision is as follows:

A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:

- (a) design principles drawn from an analysis of the site and its context,
- (b) desired future locality character,
- (c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,
- (d) the scale of any development and its integration with the existing landscape,
- (e) phasing of development,
- (f) public access to and along the coastal foreshore,
- (g) pedestrian, cycle and road access and circulation networks,

- (h) subdivision pattern,
- (i) infrastructure provision,
- (j) building envelopes and built form controls,
- (k) heritage conservation,
- (l) remediation of the site,
- (m) provision of public facilities and services,
- (n) provision of open space, its function and landscaping,
- (o) conservation of water quality and use,
- (p) conservation of animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,
- (q) conservation of 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.

***Concept development application as an alternative to a development control plan***

1.18 Section 4.23 of the EP&A Act is relevantly as follows:

**4.23 Concept development applications as alternative to DCP required by environmental planning instruments ...**

- (2)... [I]f an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, **that obligation may be satisfied by the making and approval of a concept development application in respect of that land. ...**
- (3) Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations (some bold added).

1.19 This means that the requirement for a development control plan under clause 18(1) of SEPP 71 (as modified by the transitional provisions) **may be satisfied by the grant of a development consent for concept proposals**: *SJ Connelly CPP Pty Ltd v Byron Bay Council* [2010] NSWLEC 1182 at [35] and [41].

***In short***

1.20 The subject development application can be determined by the grant of development — even when the draft master plan is withdrawn — provided that the application is varied as you propose.

**2. Can the development application be varied as proposed under clause 55(1) of the EP&A Regulation?**

2.1 Clause 55(1)-(2) of the EP&A Regulation is as follows:

**55 What is the procedure for amending a development application? (cf clause 48A of EP&A Regulation 1994)**

- (1) A development application **may be amended or varied by the applicant** (but only with the agreement of the consent authority) at any time before the application is determined, by lodging the amendment or variation on the NSW planning portal.
- (2) If an amendment or variation results in a change to the proposed development, the application to amend or vary the development application must include particulars sufficient to indicate the nature of the changed development (some bold added) ...

- 2.2 The changes you propose involve:
- (a) a new phasing of the development;
  - (b) an amended plan of subdivision; and
  - (c) the inclusion in the application for concept proposals that largely reflects the substance of what the application is already seeking.
- 2.3 You can rely on the decision of the Land and Environment Court in *Radray Constructions Pty Ltd v Hornsby Shire Council* [2006] NSWLEC 155. This decision adopts the description of the power to amend a development application given in *Ebsworth v Sutherland Shire Council* [2005] NSWLEC 603. The power is 'beneficial and facultative'.
- 2.4 In *Radray*, the Court said that the test for granting permission to amend is not to be regarded as so narrow as the power to modify a development consent that is contained in section 4.55 of the EP&A Act. There is no 'substantially the same' test. The Court said that an amended application will involve a changed development, but one which in essence remains the same (at [17]).
- 2.5 In a later decision, known as *Ambly Holdings Pty Limited v City of Sydney* [2016] NSWLEC 38 the Court said that clause 55(1) empowered the making of both 'amendments' and/or 'variations' to formalise the changed development (at [8]-[9]).
- 2.6 An 'amendment' constitutes tinkering with or adjustment of a development proposal by moving walls around and changing layouts and other things of that nature, being an amendment to that which is originally proposed (at [10]).
- 2.7 A 'variation', on the other hand, encompasses the possibility of more than a mere change in design, but a change in the nature of the development, provided its overall essence is capable of being regarded as the same (at [11]).
- 2.8 In the circumstances of this application, the overall essence of the development remains as a residential subdivision within a generally consistent development area as already proposed in the development application.
- 2.9 It would be lawful for the consent authority to agree to allow the proposed variation under clause 55(1) of the Regulation.
- 2.10 We also note that, if the application is appealed to the Land and Environment Court, the Court would have this power in lieu of the local council. The Court would be likely to agree to the variation, in the circumstances.
- 2.11 In short, the development application can be varied as proposed under clause 55(1) of the EP&A Regulation.

Please do not hesitate to contact me on (02) 8035 7858 if you have any queries regarding this advice.

Yours sincerely




**Aaron Gadiel**  
**Partner**

Accredited Specialist—Planning and Environment Law



23 November 2021

**Mills Oakley**  
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**Privileged and confidential**

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**Attention:** Graeme Ingles

Dear Graeme

**Advice re DA2015/0096, Iron Gates Drive, Evans Head — issues raised by the NSW Aboriginal Land Council and Mr Peter Ashley**

You have asked us to respond to the relevant **legal** issues raised by the following correspondence to the Richmond Valley Council (**the Council**):

- Robert Kelly, the NSW Aboriginal Land Council, dated 27 September 2021 (**the NSWALC submission**); and
- Peter Ashley, dated 24 October 2021 (**the Ashley submission**).

We understand that the purpose of us providing a response is to enable you, in turn, to respond to the Council. This advice does not deal with any **merit** issues concerning the development application (other than to the extent that they touch on legal issues).

**Summary advice**

In our opinion:

- The NSWALC submission does not raise any matter that concerns the legal competence of the development application.
- Additionally, in any event, the NSW Aboriginal Land Council does not actually identify any adverse impacts of the development on its land. This means that the NSWALC submission does not raise any particular issue that is capable of being assessed, on a merit basis, as part of the ordinary evaluation of the development application.
- In general terms the Ashley submission:
  - exhorts the Council and the consent authority to act outside of the law, for an improper purpose;
  - wrongly perceives notice of a court appeal to be an act of 'coercion';
  - misunderstands the statutory purpose of the concept proposal regime in the current circumstances;
  - appears to groundlessly call into question the integrity of the Council's officers; and
  - includes criticisms as to motives, etc that are irrelevant to the assessment of the merits of the development application.

- The consent authority is legally precluded from imposing any requirements for the design of the layout of subdivision that is not authorised by the controls of the DCP.
- If the controls relating to subdivision layout in section G.3 of the DCP are satisfied the consent authority cannot seek to impose the new requirements on any such layout suggested by the Government Architect of NSW.

Please tell us if any of the above facts are not correct, as it may change our advice.

## Detailed advice

### 1. The NSW Aboriginal Land Council submission

- 1.1 The NSWALC submission references the land identified by the Council in its letter to the NSW Aboriginal Land Council (**NSWALC**) on 20 September 2021. This land is:

"Iron Gates" 240 Iron Gates Drive, Evans Head, comprising:

- Lots 276 & 277 DP755624 and Lot 163 DP831052,
- Crown land located between Lots 163 & 276, and along the southern Evans River foreshore of Lots 276 & 277, and
- Iron Gates Drive.

- 1.2 This description of the land is similar to the description of the land that is the subject of the proposed concept proposals in the *Concept Proposal Outline — Proposed Subdivision* (July 2021) prepared by DAC Planning Pty Ltd. That document says (on page 9):

The subject site is described Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lot 163 DP 831052 and Lot 276 DP 755724 and Iron Gates Drive, Evans Head NSW.

- 1.3 The NSWALC submission says the following:

NSWALC advises that the area referred to in the correspondence **adjoins** lands vested in an Aboriginal Land Council as the result of the determination of an Aboriginal Land Claim (ALC) under the *Aboriginal Land Rights Act* 1983 [NSW] (ALR Act) (bold added).

- 1.4 We note that this paragraph does not suggest that the land that is the subject of the development application **includes** land that is vested in an Aboriginal land council. It merely says that **neighbouring** land is vested in a land council.

### **Lot 544 and Lot 545**

- 1.5 The NSWALC submission also says the following:

In accordance with S.42.B of the ALR Act, it is not lawful for an acquiring authority to acquire an interest on lands vested as a result of an ALC. Of particular concern is the inclusion within the notification of proposed upgrade works to Iron Gates Drive, though any impact on the physical condition of land council owned land at Lots 544 & 545 DP 48550 is not permitted without the 'consent' of the NSWALC, and may require a 'land dealing' under the ALR Act.

- 1.6 Lot 544 DP 48550 (**Lot 544**) does not include any part of the land that is the subject of the development application.

- 1.7 The land that is the subject of the development application is the land shown in plan BRJD6396.100-55 (sheets 1-2), revision 1, 19 July 2021 (**the concept proposal plan**) that sits within appendix 1 of the *Concept Proposal Outline — Proposed Subdivision*.

- 1.8 An extract from sheet 1 of the concept plan proposal appears below, showing the relationship between Lot 544 and the land that is the subject of the concept proposals:



- 1.9 It can be seen from the above that the development is not within Lot 544. The development includes the land within the public road reserve of Iron Gates Drive. However, the road reserve is not part of Lot 544. The relationship between the boundaries of Lot 544 and the road reserve is illustrated in the image extracted from the NSW Government's SixMaps website below:





- 1.10 Lot 545 DP 48550 (**Lot 545**) does not include any part of the land that is the subject of the development application.

- 1.11 An extract from sheet 1 of the concept plan proposal appears below, showing the relationship between Lot 545 and the land that is the subject of the concept proposals:



- 1.12 It can be seen from the above that the development is not within Lot 545. The development includes the land within the public road reserve of Iron Gates Drive. However, the road reserve is nowhere near Lot 545.

#### **Lot 408, Lot 547 and Lot 7016**

- 1.13 The NSWALC submission also says the following:

Further, I wish to advise of the existence of undetermined ALCs at:

- Lot 408 DP 755624-ALC 50090;
- Lot 547 DP 48550-ALC 50093; and
- \* Lot 7016 DP 1112989-ALC 50094.

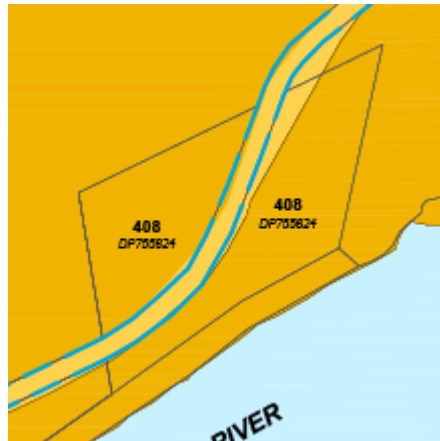
Upon the lodgement of an ALC; an Aboriginal Land Council acquires an 'interest' in the land (*New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act and the Western Lands Act* (1988) 14 NSWLR 685). Aboriginal Land Councils have a statutory entitlement to have their claims determined by the Minister, based on the status of the land as at the registration date of the ALC. In this instance, if the claimed land is not impacted by any of the statutory criteria set out in s.36 of the *Aboriginal Land Rights Act 1983* (NSW) (ALRA), the claimed land will be determined to be 'claimable Crown lands' by the Minister, and the Minister will be required to transfer the claimed land to the relevant Local Aboriginal Land Council (LALC) to become a LALC asset.

It is the legal position of NSWALC that land that is the subject of an undetermined land claim cannot be acquired under the *Land Acquisition (Just Terms Compensation) Act 1991*, and that the ALCs must be finally determined prior to the issuance of a Proposed Acquisition Notice (PAN) under that Act.

NSWALC preference is for claims to be determined by the Minister, prior to any dealings with the parcel being entertained. Council may seek to have the determination of ALCs 50090,

50093 & 50094 expedited by the Crown Lands Minister by contacting the manager of the NSW Department of Planning, Industry and Environment - Aboriginal Land Claim Assessment Team (ALCAT) at the contact details listed on the DPIE website, or alternatively **if these lots are proposed to be impacted** contact the NSWALC Land Rights Unit via email at [lru@alc.orR.au](mailto:lru@alc.orR.au) to seek further information about how to proceed with any proposed impact upon the claimed land.

- 1.14 The NSWALC does not assert that three lots (over which it has lodged a land claim) are impacted. It makes an assertion as to what should happen **if** those lots are impacted.
- 1.15 An extract from sheet 1 of the concept plan proposal appears below, showing the relationship between Lot 408 DP 755624 (**Lot 408**) and the land that is the subject of the concept proposals:



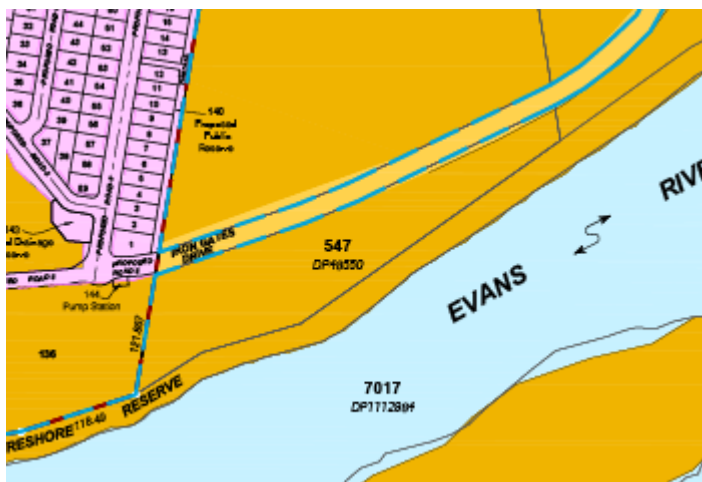
- 1.16 The only part of the concept development that is in the vicinity of Lot 408 is the part that is within the Iron Gates Drive.



- 1.17 Lot 408 does not include any part of the road reserve for Iron Gates Drive. The relationship between the boundaries of Lot 408 and the road reserve is illustrated in the image extracted from the NSW Government's SixMaps website below:



- 1.18 An extract from sheet 1 of the concept plan proposal appears below, showing the relationship between Lot 547 DP48550 (Lot 547) and the land that is the subject of the concept proposals:



- 1.19 The site boundary shows that the substantive development is located entirely west of Lot 547. The part of the development within the Iron Gates Drive road reserve is the only part of the development in the immediate vicinity of Lot 547.

- 1.20 Lot 547 does not include any part of the road reserve for Iron Gates Drive. The relationship between the boundaries of Lot 547 and the road reserve is illustrated in the image extracted from the NSW Government's SixMaps website below:



- 1.21 An extract from sheet 1 of the concept plan proposal appears below, showing the relationship between Lot 7016 DP 1112989 (**Lot 7016**) and the land that is the subject of the concept proposals:



- 1.22 The only part of the concept development that is in the vicinity of Lot 7016 is the part that is within the Iron Gates Drive.



- 1.23 Lot 7016 does not include any part of the road reserve for Iron Gates Drive. The relationship between the boundaries of Lot 7016 and the road reserve is illustrated in the image extracted from the NSW Government's SixMaps website below:



#### **Landowner consent**

- 1.24 The NSWALC submission seems to suggest that if there is any 'impact' on land that it owns (or has an interest in) its consent (or some form of land dealing) is required.
- 1.25 Clause 49(1) of the *Environmental Planning and Assessment Regulation 2000* (**the EP&A Regulation**) says:
- A development application may be made—
- (a) by the owner of the land **to which the development application relates**, or
- (b) by any other person, with the consent of the owner of that land (bold added).
- 1.26 The owner whose consent to the making of the development application is required is the owner of the land on which the development, the subject of the development application **is to be carried out** (*North Sydney Council v Ligon 302 Pty Ltd* (1996) 185 CLR 470 at 476–477; *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 at [89]).
- 1.27 Where there are merely impacts on adjoining land, that development application does not 'relate' to that adjoining land and landowner consent under clause 49(1) of the EP&A Regulation is not required (cf *Farah v Warringah Council* [2006] NSWLEC 191 at [39]).
- 1.28 If the NSWALC wishes to assert that there is some impact over any of the land in which it asserts an interest, this is a matter for **merit** assessment (*Farah* at [40]).
- 1.29 In short, we consider that the NSWALC submission does not raise any matter that concerns the legal competence of the development application.
- 1.30 Additionally, in any event, the NSWALC does not actually identify any adverse impacts of the development on its land. This means that the NSWALC submission does not raise any particular issue that is capable of being assessed, on a merit basis, as part of the ordinary evaluation of the development application.



## 2. The Peter Ashley submission

- 2.1 The Ashley submission is divided into parts. This letter references the parts in the submission.

### **Part 1**

- 2.2 Part 1 is titled 'The system - an expose'.
- 2.3 The letter makes a series of allegations about past unlawful conduct. It is not necessary to address the accuracy or otherwise of these allegations.
- 2.4 Past unlawful use is not in itself, grounds for the refusal of development consent for the prospective use of the land (*Jonah Pty Limited v Pittwater Council* [2006] NSWLEC 99 at [35]).
- 2.5 There is no 'fit and proper person' test when considering a development application under the *Environmental Planning and Assessment Act 1979 (the EP&A Act)*: cf *TL & TL Tradings Pty Ltd v Parramatta City Council* [2016] NSWLEC 150 at [112].
- 2.6 The obligation of the Council and the consent authority is to apply the law. Part 1 of the Ashley submission exhorts the Council and the consent authority to act outside of the law, for an improper purpose.

### **Part 2**

- 2.7 The Ashley submission says that:
- The reason for the master plan withdrawal by the developer was in direct response to the imminent refusal of the master plan by DPIE
- 2.8 This is incorrect. The Department of Planning, Industry and Environment did not have the power to refuse the master plan application. This power was vested in the Minister for Planning and Public Spaces. We understand that no relevant delegation had been made to a departmental officer. The Minister did not make any determination as to the master plan (as far as we are aware).

### **Part 3**

- 2.9 Part 3 is titled 'The NRPP - victims of coercion'.
- 2.10 The 'coercion' that is alleged is the advice that Goldcoral gave the Northern Regional Planning Panel that it would be appealing the development application to the Land and Environment Court on its merits.
- 2.11 There is no conceivable way in which notice to a public authority of an intent to exercise a statutory right to bring a matter before a court can be regarded as 'coercion'. Thankfully the court system is a bedrock of our justice system. The merits review jurisdiction of the Land and Environment Court plays a fundamental role in ensuring that the planning system works with rigour and integrity.
- 2.12 There is no value in canvassing the reasons why the Northern Regional Planning Panel (as the consent authority) agreed to allow an amendment /variation to the development application. This decision has been made and cannot be re-visited.
- 2.13 We note that the panel, quite properly, did not consider itself bound by the advice it had received by both the Council and the Department. The panel correctly understood that its obligation was to make its own decision on the matter.

### **Part 4**

- 2.14 Part 4 is titled 'Concept plan – or not?'.
- 2.15 The Ashley submission seems to be arguing that there has been no change to the legal

form of the application merely because the substance of the amended/varied application is similar to the previous version of the application.

- 2.16 This misses the point.
- 2.17 The statutory scheme allows the requirement for a 'master plan' (a development control plan) to be set aside if the form of the application is a development application for concept proposals.
- 2.18 This is now the form of the application.
- 2.19 This merely allows the application to be assessed on its merits, free of what would otherwise be a technical restriction. The statutory scheme expressly envisages and permits this flexibility. The statutory scheme allows this flexibility because it accepts there will be situations where a 'master plan' (development control plan) is not made/approved. The intention of the scheme is that a developer should be able to remedy this deficiency by making a development application for concept proposals (which may include, as the subject development application does, a request for the approval of detailed stage 1 works).

#### **Part 5**

- 2.20 Part 5 of the Ashley submission appears to groundlessly call into question the integrity of the Council's officers. There is nothing we can say about the adverse statements, other than to observe that such allegations should not be lightly made.
- 2.21 The costs that the Council has incurred in fulfilling its statutory functions are legally irrelevant to the determination of the development application on its merits.
- 2.22 If the consent authority were to take such costs into consideration it would breed litigation and only further costs for the Council.

#### **Part 6**

- 2.23 Part 6 of the Ashley submission generally deals with matters of merit consideration.
- 2.24 We do not comment on the merit matters, other than in relation to section 4.15(3A) of the EP&A Act.
- 2.25 Section 4.15(3A) says:

**Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—**is not to require more onerous standards with respect to that aspect of the development** (some bold added) ...

- 2.26 The site is presently subject to the *Richmond Valley Development Control Plan 2021*. However, clause 7 of this document relevantly says that:

This DCP shall only apply to development applications lodged after its commencement. ... All development control plans repealed by this DCP shall continue to apply for the purposes of assessing development applications made, but not determined, at the time this DCP commenced. ...

- 2.27 This means that the terms of the former *Richmond Valley Development Control Plan 2015* must be considered. Clause 8 of this document also relevantly says that:

This DCP shall only apply to development applications lodged after its commencement. ... All development control plans repealed by this DCP shall continue to apply for the purposes of assessing development applications made, but not determined, at the time this DCP commenced. ...

- 2.28 This means that the applicable development control plan provisions are those set out in the former *Richmond Valley Development Control Plan 2012 (the DCP)*. The DCP was generally in force at the time of the lodgement of the development application. It remains in force for this particular development application by reason of clause 7 of the *Richmond Valley Development Control Plan 2021* and clause 8 of the former *Richmond Valley Development Control Plan 2015*.
- 2.29 Section G.3 of the DCP is titled 'Design standards/controls'. A series of controls (identified as (1)-(11)) are then set out under these objectives.
- 2.30 As result of these provisions, we consider that the reliance that the Ashley submission makes on the views of the Government Architect of NSW is misplaced. The Government Architect considers the design of the layout of the subdivision, but does not do so in the context of the controls in section G.3 the DCP.
- 2.31 Under section 4.15(3A)(a) of the EP&A Act, we consider that **the consent authority is legally precluded from imposing any requirements for the design of the layout of subdivision that is not authorised by the controls of the DCP (where those controls are satisfied for the relevant aspect of the development):** cf *Dickinson Property Group Pty Ltd v Wollondilly Shire Council* [2019] NSWLEC 1220 at [48]; *Albert v Kiama Municipal Council* [2018] NSWLEC 1178 at [39]; *PSEC Project Services Pty Ltd v Kiama Municipal Council* [2018] NSWLEC 1501 at [74]; *Bonnefin v Central Coast Council* [2021] NSWLEC 1321 at [23]; *Mars City Pty Ltd v Burwood Council* [2020] NSWLEC 1585 at [163]; *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 at [118]; *Leice Pty Ltd v City of Canada Bay Council* [2021] NSWLEC 1627 at [95]; *Hillcrest Rose Bay Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1662 at [80].
- 2.32 The Land and Environment Court has **expressly** addressed whether a consent authority can impose a further design standard when:
- (a) the DCP already imposed design controls; and
  - (b) a proposed development is compliant with those controls.
- 2.33 In *41 Robey Pty Ltd v Randwick City Council* [2020] NSWLEC 1541 the Court said (at [35]):
- The Council has included a section for boarding houses in DCP 2013. The objective for 'building design' under section C4, to "ensure boarding rooms and communal spaces are appropriately sized, located and equipped with suitable facilities" ... **No contentions were raised by the Council concerning the proposal's non-compliance with any of the controls under section C4 of DCP 2013.** Section 4.15(3A) of the EPA Act provides that the consent authority is not to require a more onerous standard with respect to that aspect of the development for which the provisions of a DCP set standards if the application complies with those standards. On that basis, **the Council cannot raise an issue that the width of the boarding rooms results in rooms with poor amenity and so contravenes the objective for 'building design' ... without also citing a 'building design' control that is contravened by the proposal.** ... A finding that the width of the boarding rooms contravened the objective for 'building design' under section C4 of DCP 2013, yet did not contravene any of the controls for 'building design', would be to require a more onerous standard with respect to that aspect of the development addressed by the standard and would therefore constitute an error under s 4.15(3A)(a) of the EPA Act (bold added).
- 2.34 Similar logic applies here. If the controls relating to subdivision layout in section G.3 of the DCP are satisfied the consent authority cannot seek to impose the new design requirements on such layouts as suggested by the Government Architect of NSW.

## Parts 7-10

- 2.35 Part 7 seems to relate to the decision by the Northern Region Planning Panel to allow the amendment/variation of the development application. That decision has been made so there is no value in further canvassing it.



2.36 The balance of Parts 7-10 appears to be largely comprised of criticisms as to motives, etc that are irrelevant to the assessment of the merit of the development application.

Please do not hesitate to contact me on (02) 8035 7858 if you have any queries regarding this advice.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Aaron Gadiel", is positioned above the printed name.

**Aaron Gadiel**  
**Partner**

Accredited Specialist—Planning and Environment Law



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Council's Reference: DA2015/0096

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29 May 2019

Mr M Brothers  
Moray & Agnew Lawyers  
PO Box 1801  
**NEWCASTLE NSW 2300**

Dear Mark

### **Peer Review of Legal Opinions - DA2015/0096 Iron Gates Development, Evans Head**

Council wishes to engage your firm to undertake a peer review of legal opinions received for an Integrated Development Application (DA2015/0096) involving a 178 lot subdivision of land at the "Iron Gates" via Evans Head.

The opinions were prepared by Mills Oakley and supplied by the owner Goldcoral Pty Ltd. They were in response to questions asked by Council regarding Land and Environment Court judgements & orders applying to the "Iron Gates" property and the Iron Gates Drive access road. In turn, Council is seeking a peer review of the opinions to enable it to progress assessment of the application, and to assist the Northern Joint Regional Planning Panel when it comes time for it to determine the application.

The legal opinions to be reviewed are attached to this letter, being dated-

1. 16 October 2016;
2. 23 October 2016;
3. 26 December 2016; and
4. 5 March 2019.

### **Background** **"Iron Gates"**

The "Iron Gates" is a property to the west of Evans Head and comprises Lots 163 & 164 DP831052 and Lots 276 & 277 DP755624 in the Parish of Riley. The land is currently zoned RU1 Primary Production, R1 General Residential, E2 Environmental Conservation & E3 Environmental Management under the *Richmond Valley Local Environmental Plan 2012* (see figure 1).

### **Previous Development Consents**

The Iron Gates has had 2 previous development consents for residential subdivision-

- The first, being DA111/1988 for a 610 lot subdivision that was appealed to the LEC and judged to have lapsed prior to commencement (*TREES v Iron Gates Developments P/L* [1991]).

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- The second, being DA194/1992 for 110 lot subdivision (being Stage 1 of a potentially larger estate). This application was also subject to a LEC appeal (Oshlack v Iron Gates P/L & RRSC [1997]) where the judgement found, amongst other things, breaches of development consent and ordered the remediation of the site.

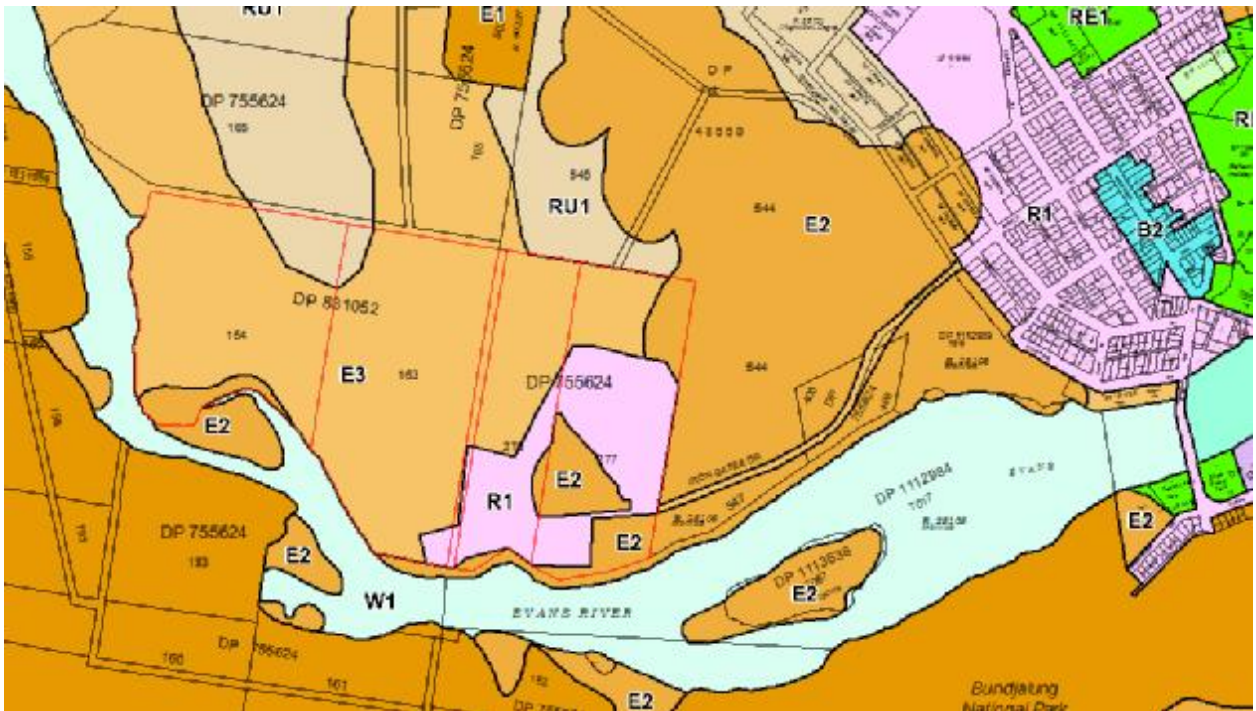


Figure 1 – Extract from Richmond Valley LEP 2012 Land Zone Map for the “Iron Gates” and Evans Head

An access road connecting the development to Evans Head was granted development consent in DA110/1988. This was Designated Development due to the road crossing through a SEPP14 Coastal Wetland. This application was appealed in the LEC (Wilson v Iron Gates P/L & RRSC [1996]) where it was judged that sections of the road were constructed outside the approved road alignment, including a section within the boundary of a SEPP14 Coastal Wetland.

### **New Development Application - DA2015/0096**

Council received an Integrated Development Application (DA2015/0096) on 27 October 2014 for a 186 lot subdivision of the “Iron Gates”, consisting of Lots 163 DP831052, and Lots 276 & 277 DP755624.

The amended proposal (see below and figure 2) will also include sections of Crown land, and Iron Gates Drive, in the description of the land. Owner’s consent of the Crown and Council will be required for these lands.

### ***Amendment of the Development Application***

A number of amendments have been made to the application since it first lodged. The more recent attempt to amend the application was lodged on 10 September 2018 to make minor changes to the layout of the estate, and include upgrade works on Iron Gates Drive. Council advised it would accept the amendment so long as a comprehensive review was first done of the application and all the support documentation was resubmitted as a consolidated and revised application. The aim for consolidating the application was to eliminate confusion from a complex and fragmented application as a result of years of variations and updates.

The amended application was resubmitted on 17 January 2019 along with reports and studies to be relied upon for assessment of the application. Council’s thorough review of



this documentation found a number of issues with the application. These were reported to the applicant on 18 February 2019 for correction prior to accepting the amendment. The Applicant is currently working on the amended application and is likely to be resubmitting it in coming weeks.



Figure 2 – Proposed subdivision layout DA2015/0096

### **Regionally Significant Development**

The development proposal is considered to be *Regionally Significant Development*, under clause 8(1)(b)(ii) of *State Environmental Planning Policy (State and Regional Development) 2011*, as it involves subdivision of a sensitive coastal location into more than 100 lots. Determination of the application will be made by the Northern Joint Regional Planning Panel.

### **Master Plan**

*State Environmental Planning Policy No 71 - Coastal Protection* requires a Master Plan to be approved by the Minister prior to granting consent for a residential subdivision of land in a sensitive coastal location, or containing more than 25 lots.

A Master Plan application has been with the Department of Planning & Environment since 2016 and is on hold pending authorisation from the NSW Office of Environment and Heritage, regarding agreement on clearing offsets, and NSW Rural Fire Service, regarding Planning for Bushfire Protection and acceptance of alternate solutions.

## **LEC Judgements and Orders**

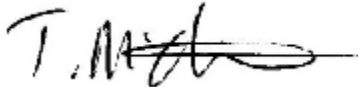
The "Iron Gates" property has been the subject Land & Environment Court judgements. These include the following-

- Wilson v Iron Gates Pty Ltd & Richmond River Shire Council [LEC 40172 of 1996]
  - 2 December 1996 – Stein J finds the access road (Iron Gates Drive) has been constructed in a location different from that approved by development consent. A number of declarations regarding the road are made.
  - 5 December 1996 - Declarations and orders are made by the Court concerning works for, and use of parts of the access road.
- Oshlack v Iron Gates Pty Ltd & Richmond River Shire Council [LEC 40152 of 1996]
  - 6 March 1997 - Stein J declared Iron Gates Pty Ltd had carried out earthworks and clearing of vegetation upon the land in breach of s 76(2) of the Environmental Planning & Assessment Act 1979; breached certain conditions of development consent; and had caused damage to the habitat of a threatened species in breach of s 118D of the National Parks and Wildlife Act 1974.
  - 4 July 1997 – Pearlman J issues orders with regard to the Stein J declaration.

Follow the Wilson and Oshlack appeals, Iron Gates Pty Ltd went into receivership and none of the remediation orders were completed. The land is now owned by Goldcoral Pty Ltd with Mr Graeme Ingles as the sole Director. It should be noted that Mr Ingles was also the sole Director of Iron Gates Pty Ltd.

Attached for your information are copies of the Mills Oakley opinions. Please contact me should you need further information to assist with the peer review.

Yours sincerely,



Tony McAteer  
**Coordinator Planning Services**

Encl.



22 July 2019

Richmond Valley Council

**BY EMAIL ONLY:** tony.mcateer@richmondvalley.nsw.gov.au

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Dear Mr McAteer

**Richmond Valley Council - Peer Review of Mills Oakley Legal Opinions for Goldcoral Pty Limited**

1. Thank you for your instructions to peer review the various advices of Mills Oakley prepared on behalf of the Goldcoral Pty Limited (**Goldcoral**). We advise as follows, and have adopted an approach of dealing with the four advices dated:

- (a) 16 October 2016;
- (b) 23 October 2016;
- (c) 26 October 2016 and
- (d) 5 March 2019

in an *en globo* manner. That is, we have identified the issues dealt with, in ascending chronological order, and we deal with them in that order making reference to where they occur in the various Mills Oakley advices.

The following issues addressed in the advices:

- (a) Can approval be given for works in the Iron Gates Drive road reserve (**the Road Reserve**) as part of Goldcoral's development application?
- (b) Does the absence of "acceptance" by Council of the existing road works comprising Iron Gates Drive have any planning implications?
- (c) Is a development application required to trim vegetation overhanging the Road Reserve pursuant to SEPP 14 (now *SEPP (Coastal Management)*)?
- (d) What is the legal status of the sections of Iron Gates Drive that were outside of Lot 1 DP47879?

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- (e) Can development consent (DA110/1988) be relied upon for proposed road works where they fall within Lot 1 DP47879 (including where they traverse *SEPP 14* (now *SEPP (Coastal Management)*) affected areas.

2. We advise as follows.

**Can approval be given for works in the Iron Gates Drive road reserve (the Road Reserve) as part of Goldcoral's development application?**

3. This issue is canvassed in the Mills Oakley advice of 16 October 2016. Their advice is to the effect that:
  - (a) A development consent may authorise works both on the principal land to which the development application applies as well as on a public road reserve necessary for the use of the principal land;
  - (b) Owners consent is required for a development application, but in the case of the Road Reserve the Council is deemed to be the owner;
  - (c) However, the Court of Appeal has held in such circumstances the advance consent of the Council is not necessary as should consent to the DA be give, Council must necessarily be consenting to the works on the Road Reserve as the owner of the Road Reserve;
  - (d) While the Northern Region Joint Planning Panel (**the Panel**) would be the consent authority granting consent in this instance, when exercising its approval functions the Panel is taken to be the Council under the relevant legislation and the principle in (c) would still apply; and
  - (e) A separate approval under the Roads Act to do the planned works in the Road Reserve will be required.
4. We have examined the legislation and authorities cited by Mills Oakley and concur with their advice.
5. In *Boral Resources (NSW) Pty Ltd v Wingecarribee Shire Council* (2003) 124 LGERA 90 [2003] NSWLEC 39 Lloyd J considered whether works were “*on the land to which the consent applies*”, within the meaning of s.99(4) (now section 8.15) of the Environmental Planning and Assessment Act (**EP&A Act**). The case involved a development consent that required certain road upgrade works to be carried out on the Council's roads prior to any works on the development site. The circumstances may likely prove to be quite analogous to what may be required in any development carried out by Goldcoral. His Honour held that:
 

*“In my opinion the answer to the question is clear. The “land to which the consent applies” is all land upon which works required by and authorised by the consent are to be carried out. The works described in condition 13(i) are works both required by and authorised by the development consent. Such works were thus to be carried out on land to which the consent applies. Although the development application did not specify such land as either the land affected by the proposal or as land specified in the application, the conditions of the consent extend to include the land described in condition 13(i). Moreover, no construction work could be carried out at the quarry site unless and until the works on the land described in condition 13(i) were carried out.”*
6. This case has since been cited on five occasions without disapproval.
7. Accordingly, the way is clear for a development application to seek approval, and for approval to be granted, for works within the relevant Road Reserve as part of the application for approval of development on the principle lands.
8. While section 145 of the *Roads Act 1993* vest ownership of a local roads within a local government area in the Council of that Local government Area, it is not necessary to have

separate Council approval in advance of approval of the development application. In *Sydney City Council v Claude Neon Ltd* (1989) 15 NSWLR 724/(1989) 67 LGRA 181 the Court of Appeal considered a case where works overhung a public road – a situation which would require an approval from the roads authority (in that case Council) under the *Roads Act* 1993. Hope J held:

*“In my opinion the principle (that is, that an approval for one purpose may impliedly be an approval for another purpose) is to be applied where a council is asked to give consent to a structure which in part projects over a public road. If the council gives development approval to that structure, it is doing two things. It is consenting as owner of the road to the making of the application, and it is also approving the application. The first consent is necessarily implicit in the second consent, and in my opinion it does not matter that the council, when giving the second consent, is not conscious that it is implicitly giving the first consent also. There is no such difference between the nature of the act of the council in giving its consent as owner and the nature of the giving by it of development consent to enable it to be said that the actions have nothing to do with each other. If the council were in a position of an ordinary private owner of land in relation to the road, the actions would be completely different. However that is not the position, and if a council considers that it should give consent to a development application it must also consider that it should give consent to the making of the application.”*

9. While a relatively old decision, it has been cited with approval on thirty two occasions without disapproval.
10. In the foreshadowed development application in this matter, the consent authority will be the Panel and not the Council. But this situation is dealt covered by s.9.7 of the EP&A Act which relevantly provides:

*“9.7 Functions of planning administrators or regional panels (cf previous s 118AB)*

*(1) During the period of appointment, the planning administrator or regional panel:*

- (a) is to exercise the functions of the council under this Act that are specified in the order of appointment, and*
- (b) is, **in the exercise of those functions, taken to be the council**, and*
- (c) is to exercise those functions to the exclusion of the council except to the extent that the order of appointment provides otherwise, and*
- (d) is, in the exercise of those functions, to give priority to particular functions to the extent that the order of appointment so provides.”*

11. The above notwithstanding, we concur that s.138 of the *Roads Act* 1993 does require a separate consent from the Council. For the same reasons as outline in 10 above as a dealt with by Commissioner Morris in *Northern Eruv v Ku-ring-gai Council* [2012] NSWLEC 1058 any *Roads Act* 1993 application can be dealt with concurrently with the principal application.

**Does the absence of “acceptance” by Council of the existing road works comprising Iron Gates Drive have any planning implications?**

12. We again concur with the Mills Oakley advice that the absence of “acceptance” by Council of the existing road works comprising Iron Gates Drive does not have any planning implications.
13. While we have not seen the email referred to in the Mills Oakley advice on 16 October 2016, it is apparent from the long history of the matter that the “absence of acceptance” of the road pavement works in the Road Reserve by Council undoubtedly relates to the road works carried out unlawfully by the former developer Iron Gates Pty Limited, and as adversely referred to the decision of Stein J in *Wilson V Iron Gates Pty Ltd and Ors Unreported*

*Judgments NSW Land And Environment Court Of New South Wales No. 40172 of 1996 2 December 1996 and 5 December 1996.*

14. What His Honour found in that matter was Iron Gates Road was being constructed in breach of the EP&A Act as no consent had been granted to its construction in the location it was being constructed. The development consent for the access road related to a different parcel of land. Later, in *Oshlack -v- Iron Gates Unreported No. 40152 of 1996 6 March 1997* His Honour declared that development works had been carried out unlawfully and he ordered that Iron Gates Pty Limited be restrained from any further clearing in respect of access roads or use of those roads without prior consent in accordance with the EP&A Act.
15. Any Court injunction or orders against Iron Gates Pty Limited in no way affects the ability of Goldcoral to carry out works or use the resultant road.
16. The fact that the road works may have been carried out without approval does not mean the works have not become the property of Council, essentially for the reasons put forward in the Mills Oakley advice, being that section 145 of the *Roads Act 1993* vest ownership of a local roads within a local government area in the Council of that Local government Area, and fixtures on land are part of the land within the road reserve.
17. Conceptually the uncertainty here has probably arisen out of the difference between what constitutes a public road in the legal sense, and how the term is thought of in the normal usage of the words. In normal day to day parlance, a road is thought of as the constructed road pavement. In law a public road may not necessarily be what an ordinary person may consider to be a road. It might be grassed, or not paved in any way. Leaving aside the issue of common law dedication of public roads which will not apply in this instance, any land, post *Roads Act 1993*, becomes a public road pursuant to s.9 of that Act. Section 9 states:
  - “9     *Public road created by registration of plan*
  - (1)   *A person may open a public road by causing a plan of subdivision or other plan that bears a statement of intention to dedicate specified land as a public road (including a temporary public road) to be registered in the office of the Registrar-General.*
  - (2)   *On registration of the plan, the land is dedicated as a public road.”*
18. While we are not briefed with the plan that has created the road reserve, it is clear a plan has been registered and accordingly Iron Gates Drive has been a “public road” in the legal sense since that registration. As such Council owns the land comprising the public road. While the pavement constructed in the Road Reserve may have been constructed without approval, or even in a defective manner, and as such may not have been “accepted by Council”, the legal status as a public road owned by Council is not affected or diminished in any way.

**Is a development application required to trim vegetation overhanging the Road Reserve pursuant to SEPP 14?**

19. This issue is dealt with in the Mills Oakley advice of 23 October 2016. Their advice is generally to the effect that:
  - (a) Whether a development application is required or not is dependent on how the trimming activity is characterised;
  - (b) A development application is only required under *SEPP 14* if it is proposed to “clear” *SEPP 14* land, with clearing being defined as the destruction and removal in any manner of native plants growing on the land;
  - (c) If trimming overhead vegetation does not involve “*the destruction and removal in any manner of native plants growing on the land*” then a development application is not required;



- (d) Nevertheless, trimming the overhanging vegetation would be “routine maintenance” under the *SEPP (Infrastructure) 2007* and if carried out on behalf of the Council and kept to the minimum extent possible to allow safe use of the road a development consent would not be required. However, the requirement that it be “carried out on behalf of the Council” necessarily means some sort of Council consent would be required. In *Citizens Airport Environment Association Inc v Maritime Services Board* (1993) 30 NSWLR 207 Cripps JA noted:

*“After reviewing a number of authorities as to the meaning of “on behalf of”, he (Stein J) concluded (in Citizens Airport Environment Association Inc v Maritime Services Board (1992) 78 LGERA 57 at 64) that the words in the definition import:*

*“... some element of control, supervision or direction on the part of the public authority in order for the work to qualify as being carried out on its behalf. The mere ownership of land, or the public authority being the incidental beneficiary of someone else's work or activity, may not be sufficient. Here there is no element of control or direction.”*

20. Since the Mills Oakley advice, *SEPP 14* has been repealed by the *SEPP (Coastal Management)*. However, this makes no difference to the advice as:
- (a) The prohibition on clearing land without consent contained in clause 7 of *SEPP 14* has an equivalent in clause 10 of *SEPP (Coastal Management)*.
- (b) While the definition of “clearing native vegetation found in clause 7(4) of the *SEPP 14* is not reproduced in *SEPP (Coastal Management)*, Clause 4 of *SEPP (Coastal Management)* incorporates the definitions in the *Standard Instrument (Local Environmental Plans) Order 2006*. The Standard Instrument in turn sets out a definition of “clearing native vegetation” and gives it the same meaning as in Part 5A of the *Local Land Services Act 2013*. In turn, s. 60C of that Act, “Meaning of ‘clearing native vegetation’” states:

*“For the purposes of this Part, clearing native vegetation means any one or more of the following:*

- (a) *cutting down, felling, uprooting, thinning or otherwise removing native vegetation,*
- (b) *killing, destroying, poisoning, ringbarking or burning native vegetation.”*

Accordingly the Mills Oakley advice remains accurate.

#### **What is the legal status of the sections of Iron Gates Drive that are outside of Lot 1 DP47879?**

21. This issue and the following issue are dealt with the Mills Oakley advice of 26 December 2016 and further clarified in a supplementary advice dated 5 March 2018.
22. The advice of Mills Oakley is that the legal status of the so called “deviation areas” where Iron Gates Drive deviated outside the then proposed road reserve is unaffected by the Land and Environment Court findings. An analysis is adopted that is similar to the writer’s approach at paragraphs 17 and 18 above, with a distinction being drawn between the process of the road sub-grade and pavement construction, and what is actually a public road in the legal sense. In our opinion that is the correct analysis.
23. The Court found that the construction of the road sub-grade pavement and use of Iron Gates Road by Iron Gates Pty Limited were unlawful. But in coming to that conclusion it did not alter the legal status of the road and in declining the relief sought (ie. that the road in the “deviation areas” be moved) it clearly contemplated future development of the type currently envisaged by Goldcoral and held:

*“[23] ... Although there is no consent for a subdivision of the Iron Gates Estate, that land remains zoned for residential purposes. There is, as far as I am aware, no proposal to change that zoning. It is thus possible that at some time in the future a development application may be made to develop the Iron Gates Estate for residential purposes. The subject road is the access road to that land. The subject road would thus appear to have some potential utility....*

*[24] ...*

*[25] ... A final consideration is **the fact the final route of the road is now a public road under the Roads Act 1993**. Although the rights conferred on the public under that Act are subject to such restrictions as are imposed by or under any other Act or law, the fact that the construction of parts of the subject road are unlawful as being contrary to the Environmental Planning and Assessment Act is not sufficient, in the circumstances of this case, to deny the public's right to now pass along the public road...”*

(our emphasis).

24. We understand that the boundaries of the proposed Road Reserve were adjusted prior to registration to ensure that the road pavement is entirely within a road reserve. We have no difficulty in accepting that Iron Gates Road as it currently exists is a public road.
25. In the 26 December 2016 advice Mills Oakley go on to deal with the issue of whether or not the road pavement is constructed to appropriate standards and what mechanism might apply to deal with the question of approval for possible remedial/upgrade works on the existing unlawful pavement. They cite a line of authority commencing with *Hooper -v- Lucas (1990) 71 LGERA 27* in support of the following propositions:
  - (a) A consent authority cannot retrospectively render lawful the road pavement;
  - (b) A consent authority can approve addition works built upon an unapproved structure;
  - (c) If a consent authority is not satisfied that works are safe and fit for purpose, it is entitled to refuse a development application that relies on the works (*Denis Foster Insurance Brokers Pty Ltd v Sydney City Council [1999] NSWLEC 53*).
26. We make no comment on the proposition in the advice that the Council must be taken to have considered the works acceptable for it to adjust the boundaries of the road reserve to include the unlawful work. The Council's level of satisfaction is a matter for the Council and no one else. Suffice to say that if the Panel in the current Goldcoral application are not satisfied that works are safe and fit for purpose, the current development application under consideration could be refused, or alternatively suitably conditioned to require remedial/upgrade works on the pavement to bring up to a standard to achieve the requisite standard of satisfaction.
27. Council subsequently queried the Mills Oakley advice of 26 December 2016 on the basis that the advice could be flawed as the actual date Iron Gates Drive became a public road was 4 June 1993 before the Court decision declaring the road pavement works unlawful (5 December 1996). This issue was addressed in a supplementary Mills Oakley advice dated 5 March 2018. This advice was to the effect that:
  - (a) The Court declared the construction of the road sub-grade pavement and use of Iron Gates Road by Iron Gates Pty Limited were unlawful – not that the location was unlawful;
  - (b) The Court did not set aside the status of Iron Gates Drive as a public road;
  - (c) The EP&A Act does not authorise the use of a different “baseline” to assess development just because something is present that is historically unlawful;

- (d) Any present day deficiencies in Iron Gates Drive can be dealt with as part of the normal merits assessment of a development application as discussed at paragraphs 25 and 26 above;

28. We are of the opinion that the supplementary advice provided by Mills Oakley is correct. The assertion of the effect of the gazettal of Iron Gates Road as a public road prior to the 5 December 1996 Court decision would only have been significant if the Court had declared or held that Iron Gates Road was not a public road. It did not do so, and in fact in the substantive decision it found the absolute opposite (see bolded citation at paragraph 23 above). The Court found that only the construction was unlawful which as we have pointed out several time above, is a distinctly separate matter.

**Can development consent (DA110/1988) be relied upon for proposed road works where they fall within Lot 1 DP47879 (including where they traverse SEPP 14 (now SEPP (Coastal Management)) affected areas?**

29. A pointed out by Mills Oakley, that development application was for the construction of an access road, which is now clearly a public road. Once Iron Gates Road acquired public road status, the question becomes irrelevant, other than for the issue of the adequacy of the pavement, which as noted in answer to the proceedings question can be dealt with as part of the approval process for the current application.

We trust the above meets your requirements. If there are further issues you consider need exploration, or if you have any enquiries, please do not hesitate to contact the writer.

Yours faithfully  
MORAY & AGNEW





## **Attachment No. 9**

**Copy of correspondence calculation of credits for direct and indirect environment impacts**

# INGLES

# COPY

WITHOUT PREJUDICE

29<sup>th</sup> March 2018

Suite 1104, Level One  
Southport Central Tower One  
56 Scarborough Street  
Southport Qld 4215  
PO Box 3441  
Australia Fair Qld 4215  
Phone: 07 5571 4900  
International Phone: + 61 7 5571 4900  
ingles@inglesgroup.com.au

Dimitri Young  
Senior Team Leader Planning, North East Region  
Regional Operations  
Office of Environment and Heritage  
Via email – [Dimitri.young@environment.nsw.gov.au](mailto:Dimitri.young@environment.nsw.gov.au)  
Cc – [Krister.waern@environment.nsw.gov.au](mailto:Krister.waern@environment.nsw.gov.au)

Dear Dimitri,

Further to our telephone discussions today, we provide the following offer to settle all remaining issues raised by the OEH in relation the proposed Iron Gates Development.

The table below indicates the current calculated credits for direct and Indirect impacts of the proposed development, utilising the BBAM as requested by OEH. The table also contains Goldcoral Pty Ltd's proposed method for acquitting these credits.

PCT	Direct impact (ha)	Indirect impact (ha)	Credits	Proposal
NR152	7.53	-	243	1. Rehabilitation of 8.83ha of littoral rainforest to a high quality (86 credits generated); and 2. Protection in perpetuity of this area under a stewardship agreement; and 3. Payment of \$274,593 into the Biodiversity Conservation Trust Fund.
NR152	-	0.38	10	Indirect impacts of the proposal will be offset through onsite mitigation measures and have also been considered in previous amendments to the development layout.
NR153	-	0.28	7	
NR161	-	0.11	5	
NR273	-	0.93	74	
TOTAL	7.53	1.70	339	

## Direct Impacts

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### Rehabilitation works

- Goldcoral Pty Ltd proposes to rehabilitate the Littoral rainforest patches and associated buffers (including site preparation, weed control and planting locally endemic species) at an estimated cost of \$80,000 in accordance with an approved Management Plan.
- Fencing will be installed (post and rail/bollards) on the periphery of the Littoral rainforest patches to reduce potential impacts to the area at an estimated cost of \$48,000.

### Protection in Perpetuity

- The rehabilitated Littoral rainforest patches (totalling 8.83ha) will be secured and managed under a stewardship agreement (under the Biodiversity Conservation Act 2016) entered into by Goldcoral Pty Ltd.
- This will include a Total Fund Deposit of \$371,538.

### Acquittal of additional offset credits

- The rehabilitation works, and stewardship agreement discussed above will acquit 86 credits.
- The remaining 157 credits (243 credits – 86 credits) will be acquitted via payment to the Biodiversity Conservation Trust Fund by Goldcoral Pty Ltd in an amount of \$274,593.

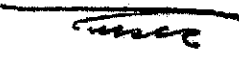
## Indirect Impacts

- The current layout (attached) has been progressively amended to provide additional buffer areas where possible.
- Specific mitigation measures will be implemented on site during and after construction to minimise indirect impacts on retained vegetation.

The above offer amounts to a total monetary contribution from Goldcoral Pty Ltd of \$774,131 to acquit offset credits. We consider that this offer is more than generous given that the Iron Gates masterplan development does not specifically require offsets under the superseded Threatened Species Conservation Act 1995 or the current Biodiversity Conservation Act 2016.

We look forward to finalising this matter at your earliest convenience.

Kind Regards,

  
Graeme Ingles  
Director  
Goldcoral Pty Ltd





**Office of  
Environment  
& Heritage**

**COPY**

Our Ref: DOC18/218021  
Your Ref: letter dated 29/03/18

Mr Graeme Ingles  
Director Goldcoral Pty Ltd  
PO Box 3441  
Australia Fair QLD 4215

Dear Mr Ingles

**Re: Draft Master Plan Iron Gates -- Proposed Biodiversity Offsets Package**

Thank you for your letter of 29 March 2018 responding to the further information requested by the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide further input and apologise for the delay in responding.

In your letter you outline your proposed Biodiversity Offsets Package to address the biodiversity impacts of the proposed development.

The OEH generally agrees with your proposed Biodiversity Offsets Package (BOP) subject to the following points:

1. The proposed BOP indicates that 243 credits are required for the direct impacts to the existing vegetation, however the previous biobanking calculations submitted by the proponent to the OEH indicated that 313 credits were required. The OEH considers that the figure of 313 credits is an accurate calculation and these credits should be used for the BOP instead of the 243 credits proposed.
2. The proposed BOP indicates that rehabilitation works will be undertaken (in accordance with an approved plan) within the nominated 8.83ha of rainforest area to be protected on site, which we understand includes the crown foreshore area. This will include rehabilitating degraded areas and undertaking weed control and fencing. The OEH generally agrees with this, however the exact area will also need to be agreed. Further, the OEH would seek for a management plan to be approved for these works, either outside of, or included in, a biodiversity stewardship agreement.
3. The proposed BOP identifies that 86 credits would be generated by the rehabilitation of the degraded parts of the 8.83ha rainforest area and as such the proposal seeks to reduce the final credit requirement for the direct impacts of the proposed development by 86 credits. The OEH would agree to this reduction if the final credit requirement for the BOP following this reduction is 227 credits of Banksia shrubland (i.e.  $313 - 86 = 227$ ).


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4. The 8.83ha rainforest area is proposed to be secured and managed under a biodiversity stewardship agreement. The OEH agrees with this approach, however the proponent would need to retire all credits generated from the biodiversity stewardship agreement site and pay the Total Fund Deposit (TFD) in full.
5. The proposed BOP identifies the potential indirect impacts of the proposed development on the adjoining retained vegetation in terms of biodiversity credits, but addresses these indirect impacts through onsite mitigation measures and previous amendments to the development layout to increase buffers. Accounting for and retiring indirect impact credits is best practice, however the OEH considers that the biodiversity conservation measures in points 1 – 4 above, other onsite mitigation measures, and the development layout changes will adequately address these indirect impacts of the development.
6. The proposal refers to costing for the TFD, and the costs for retiring credits and rehabilitation. The TFD and the cost of retiring credits will need to be determined by the Biodiversity Conservation Trust. The rehabilitation costs will either be determined through an approved management plan or incorporated into the TFD.

If the proposed Biodiversity Offsets Package for the proposed development accords with points 1 – 6 above, then we would be able to finalise the OEH response on the Draft Master Plan for the proposed development based on the outstanding biodiversity issues having been satisfactorily addressed.

If you have any further questions about this issue, Mr Krister Waern Senior Operations Officer, Regional Operations, OEH, can be contacted on (02) 6640 2503 or at [krister.waern@environment.nsw.gov.au](mailto:krister.waern@environment.nsw.gov.au).

Yours sincerely

 2 May 2018

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Region**  
**Regional Operations**

Contact officer: KRISTER WAERN  
(02) 6640 2503

cc: Mr Jon Stone, Department of Planning and Environment, PO Box 949, Tamworth NSW 2340; General Manager, Richmond Valley Council, Locked Bag 10, Casino NSW 2470



COPY

14<sup>th</sup> May 2018

Dimitri Young  
Senior Team Leader Planning, North East Region  
Regional Operations  
Locked Bag 914  
COFFS HARBOUR NSW 2450

Suite 1104, Level One  
Southport Central Tower One  
56 Scarborough Street  
Southport Qld 4215  
  
PO Box 3441  
Australia Fair Qld 4215  
Phone: 07 5571 4900  
International Phone: + 61 7 5571 4900  
Ingles@Inglesgroup.com.au

Dear Dimitri Young,

**Re: Draft Master Plan Iron Gates – Proposed Biodiversity Offsets Package**

We are responding to your letter dated 2<sup>nd</sup> May 2018, which acknowledges that the OE & H agrees with our proposed Biodiversity Offsets Package set out in our letter dated 29<sup>th</sup> March 2018 subject to the following points 1-6.

We are now responding to the 6 points set out in your letter dated 2<sup>nd</sup> May 2018.

1. Goldcoral accepts the OE & H figure of 313 credits to offset the direct impacts of the proposed development.
2. A plan showing the exact areas of the site to be protected, rehabilitated and fenced as part of the Biodiversity Offset Package are shown in the attached plan. A Rehabilitation Plan will be prepared and lodged for approval in due course.
3. Goldcoral accepts the OE & H calculation of 227 credits of Banksia shrub land that will remain after proposed rehabilitation works.
4. Goldcoral accepts that securing and managing the rehabilitation areas under a Biodiversity Stewardship Agreement will require that all credits generated need to be retired, and the Total Fund Deposit (TFD) paid in full.
5. Goldcoral agrees that the indirect impacts of the development are adequately addressed through biodiversity measures in points 1-4, other onsite mitigation measures, and the development layout changes that have occurred.
6. It is understood that the TFD and the cost of retiring credits will need to be determined by the Biodiversity Conservation Trust. It is also understood that the rehabilitation costs will either be determined through an approved management plan or incorporated in the TFD.



**COPY**

With consideration of the above, it is noted that the proposed Biodiversity Offset Package accords with points 1-6 of the OE & H letter (dated 2<sup>nd</sup> May 2018) and is therefore requested that you finalise your response on the DRAFT Master Plan for the Iron Gates development at your earliest convenience.

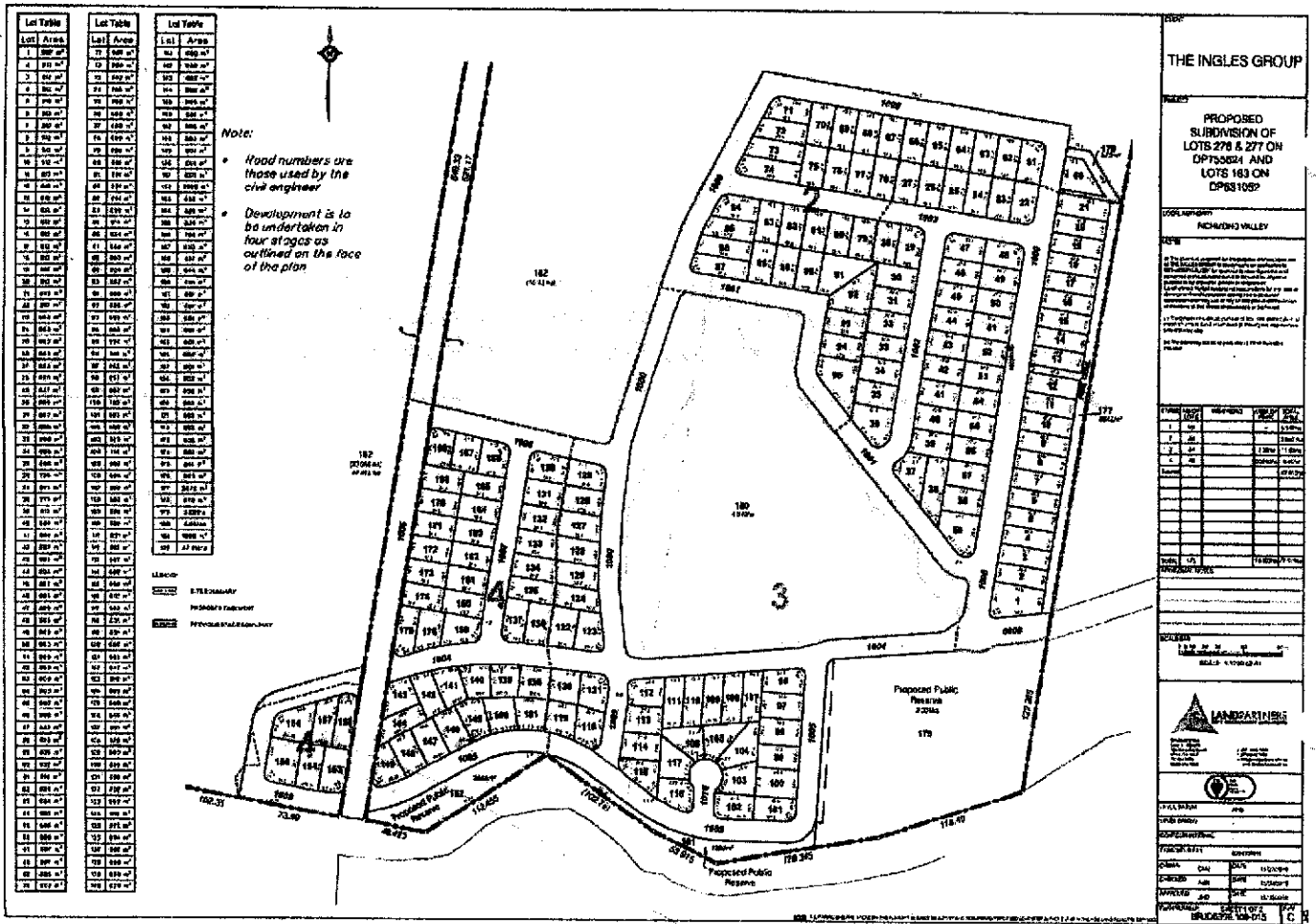
The Draft Master Plan number BRID6396.100-015 to be approved is the attached plan dated 6<sup>th</sup> April 2018 which has been amended slightly to accommodate matters raised by the OE & H.

Yours sincerely,



**Graeme Ingles**  
Sole Director  
Goldcoral Pty Ltd

COPY





**Office of  
Environment  
& Heritage**

Our Ref: DOC18/303379  
Your Ref: Iron Gates Draft Master Plan

Department of Planning and Environment  
PO Box 949  
Tamworth NSW 2340

Attention: Mr Jon Stone – Regional Planning Officer

Dear Mr Stone

**Re: Draft Master Plan Iron Gates – Biodiversity Assessment and Offsets**

The Office of Environment and Heritage (OEH) has been liaising with the applicant of the draft Master Plan for Iron Gates regarding biodiversity matters. As you are aware from recent correspondence, the OEH and the applicant have reached in-principle agreement on the proposed measures to address the biodiversity impacts of the proposal, including a biodiversity offset package.

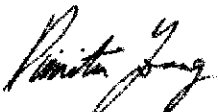
The OEH wrote to Mr Graeme Ingles of Goldcoral Pty Ltd on 2 May 2018 in response to his letter of 29 March 2018, providing suggested changes to address biodiversity impacts. Mr Ingles responded in writing to our letter on 14 May 2018 indicating that Goldcoral Pty Ltd accepted our suggested changes to the biodiversity offset package and committing to its implementation. Mr Ingles' first letter, the OEH letter, and Mr Ingles' response are attached for your information.

If the measures that Goldcoral Pty Ltd is indicating will be undertaken for the proposal in its letter of 14 May 2018 are included in the proposal and implemented, then the OEH has no further comments in relation to this proposal or the draft Master Plan.

The OEH is happy to work with the Department of Planning and Environment to ensure that the intended biodiversity measures are adequately incorporated into the proposal.

If you have any further questions about this issue, Mr Krister Waern Senior Operations Officer, Regional Operations, OEH, can be contacted on (02) 6640 2503 or at [krister.waern@environment.nsw.gov.au](mailto:krister.waern@environment.nsw.gov.au).

Yours sincerely



29 May 2018

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Region**  
**Regional Operations**

cc: Mr Graeme Ingles, Director Goldcoral Pty Ltd, PO Box 3441, Australia Fair QLD 4215





**Office of  
Environment  
& Heritage**

Our Ref: DOC19/133546  
Your Ref: Iron Gates Access Road

JWA Ecological Consultants  
Suite C, Building 21, Garden City Office Park  
2404 Logan Road  
Eight Mile Plains QLD 4113

Attention: Mr Adam McArthur

Dear Mr McArthur

**Re: Iron Gates Access Road – Amended Ecological Assessment**

Thank you for your emails dated 15 and 20 February 2019 about the proposed Iron Gates subdivision access road, seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide further input.

The OEH has reviewed Figure 7A Revised Impact on Vegetation Communities dated 12 February 2019 and the Amended Ecological Assessment dated February 2019, that were prepared following the site inspection with you, Mr Graeme Ingles and Mr Krister Waern on 12 February 2019.

Based on our review, the OEH agrees with the revised vegetation mapping and advises that this mapping and the revised credit requirements for the impacts of the proposed access road, are accurate.

The credits for the access road impacts are specified on pages 25-26 of the Amended Ecological Assessment and comprise:

- 21 Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions credits,
- eight Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions credits, and
- three Coastal Heath on Sands of the NSW North Coast Bioregion credits.

The credits should be retired as an offset prior to the removal of vegetation for the access road.

We have no further issues to raise about these matters.

- The OEH has not assessed whether the area of impact associated with the access road is enough to establish a road to the required standard. This is a matter for the Richmond Valley Council to ascertain.

If you have any further questions about this issue, I can be contacted on 6659 8272 or at [dimitri.young@environment.nsw.gov.au](mailto:dimitri.young@environment.nsw.gov.au).

Yours sincerely

*Dimitri Young* 8 March 2019

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Branch**  
**Conservation and Regional Delivery**

cc: Mr Tony McAteer – Richmond Valley Council



## Planning, Industry & Environment

Our Ref: DOC19/848690  
Your Ref: DA 2015 0096

General Manager  
Richmond Valley Council  
Locked Bag 10  
Casino NSW 2470

Attention: Mr Tony McAteer

Dear Mr Macdonald

**RE: Revised Statement of Environmental Effects DA2015/0096 – Iron Gates Development.**

Thank you for your e-mail dated 24 September 2019 about the Iron Gates development at Evans Head, seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment. I appreciate the opportunity to provide input.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

We have reviewed the Statement of Environmental Effects (SEE) and attached appendices which include our correspondence that identifies a suitable offset for the proposed development. As such, we have no issues to raise about the submitted information being exhibited as part of the proposed development.

However, we note that there is a lot of information provided and there is no single document which compiles all the environmental management and biodiversity offsets proposed in a clear summary.

Our agreement to the biodiversity offsets for the Iron Gates development is located at Attachment 7 of the Terrestrial Flora and Fauna Assessment which is Appendix 5 of the SEE. Our agreement to the biodiversity offsets for the road reserve leading into the Iron Gates development is located at Appendix 7 of the Amended Ecological Assessment which is Appendix 6 of the SEE.

We would be happy to assist in reviewing any conditions or approval documents to ensure the intent of our discussions and correspondence is appropriately articulated.

Please be advised that we will be providing our response to the request for General Terms of Approval for Aboriginal cultural heritage under separate cover, once we have received the public submission from you.

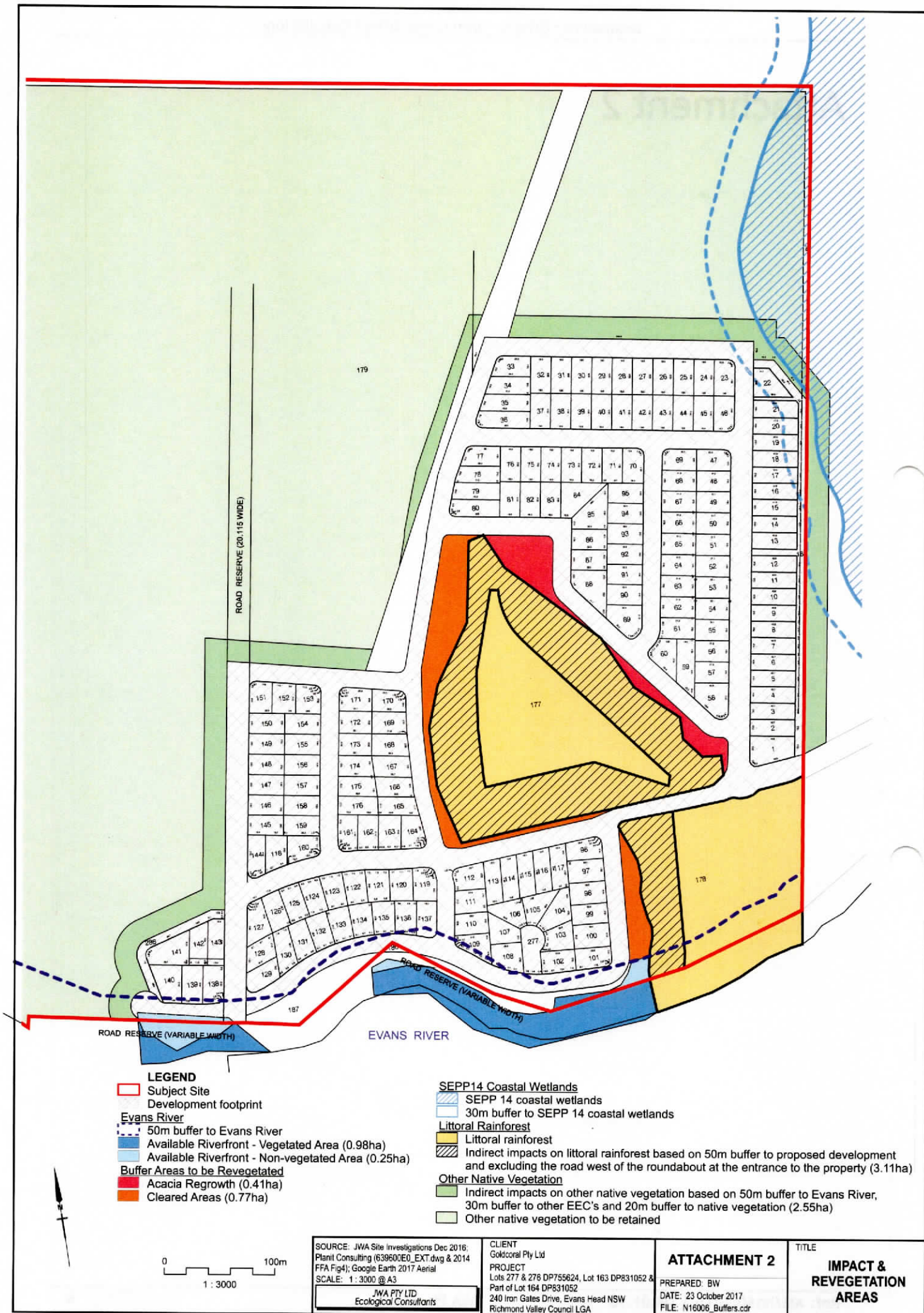


If you have any questions about this advice, please do not hesitate to contact me at dimitri.young@environment.nsw.gov.au or 6659 8272.

Yours sincerely

*Dimitri Young* 13 November 2019

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Branch**  
**Biodiversity and Conservation**



## Adam McArthur

---

**From:** Adam McArthur  
**Sent:** Friday, February 15, 2019 2:39 PM  
**To:** 'Krister Waern'  
**Cc:** 'Graeme@inglesgroup.com.au'; 'Dimitri Young'  
**Subject:** RE: Iron Gates - Access Road  
**Attachments:** N16006\_Fig7\_Impact Veg (12.02.19).pdf

Hi Krister,

I refer to our recent site inspection at the Iron Gates development, Evans Head during which we discussed biodiversity offsets required for the vegetation clearing/trimming works required along Iron Gates Drive. In this regard, please find attached revised vegetation mapping. I am also in the process of amending the Ecological Assessment report to accompany the development application to Council. I will forward this for your review in due course.

We have re-run the BAM calculations based on the results of our site inspection and the attached revised vegetation mapping. The BAM calculator assessment has been submitted and the relevant case number is as follows: 00013094/BAAS17014/19/00013095. The results are summarised in the table below. As agreed on site, we would add 1 additional credit for PCT 1064 to offset the trimming/pruning of vegetation within the SEPP 14 wetland areas.

Please don't hesitate to contact me if you have any queries.

Plant Community Type (PCT)	Threatened Ecological Community (TEC)	Area Impacted	Credits Required
1230-Swamp Mahogany swamp forest on coastal lowlands of the NSW North Coast Bioregion and northern Sydney Basin Bioregion	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	0.03 ha	1
1275- Tuckeroo – Riberry – Yellow Tulipwood littoral rainforest of the NSW North Coast Bioregion	Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions	0.24 ha	8
1064-Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	0.48 ha	19
785-Coastal heath on sands of the NSW North Coast Bioregion	Not a TEC	0.12 ha	3

Regards,



Adam McArthur  
Director / Principal Ecologist



**From:** Adam McArthur

**Sent:** Friday, December 14, 2018 10:32 AM

**To:** 'Krister Waern' <krister.waern@environment.nsw.gov.au>

**Cc:** Graeme@inglesgroup.com.au; Dimitri Young <Dimitri.Young@environment.nsw.gov.au>

**Subject:** RE: Iron Gates - Access Road

Hi Krister,

The Iron Gates entry road BAM calculator assessment has been finalised and submitted - case number: 00013094.

A plan showing the impacts of the required road widening on adjoining vegetation is attached. Impacts are as follows:

**DIRECT IMPACTS OF PROPOSED ROAD WIDENING**

<b>Vegetation communities</b>	<b>Total area onsite (ha)</b>	<b>Impact area (ha)</b>
1. Tail closed/open forest ( <i>Acacia disparrima</i> / <i>Corymbia intermedia</i> +/- <i>Melaleuca quinquenervia</i> )	2.83	0.70
2. Tail closed forest ( <i>Melaleuca quinquenervia</i> )	0.37	0.02
3. Tail shrubland/heathland ( <i>Leptospermum polygalifolium</i> )	0.86	0.12
4. Tail closed/open forest ( <i>Melaleuca quinquenervia</i> / <i>Eucalyptus robusta</i> )	0.20	0.03
5. Low closed/open mangrove forest ( <i>Avicennia marina</i> )	0.17	0.00
Existing road	0.75	0.64
Unmapped (eastern end)	0.69	0.23
<b>TOTAL</b>	<b>5.87</b>	<b>1.74</b>

Please do not hesitate to contact me if you require any further information.

Regards,



Adam McArthur

Director / Principal Ecologist



**Office of  
Environment  
& Heritage**

Our Ref: DOC19/133546  
Your Ref: Iron Gates Access Road

JWA Ecological Consultants  
Suite C, Building 21, Garden City Office Park  
2404 Logan Road  
Eight Mile Plains QLD 4113

Attention: Mr Adam McArthur

Dear Mr McArthur

**Re: Iron Gates Access Road – Amended Ecological Assessment**

Thank you for your emails dated 15 and 20 February 2019 about the proposed Iron Gates subdivision access road, seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide further input.

The OEH has reviewed Figure 7A Revised Impact on Vegetation Communities dated 12 February 2019 and the Amended Ecological Assessment dated February 2019, that were prepared following the site inspection with you, Mr Graeme Ingles and Mr Krister Waern on 12 February 2019.

Based on our review, the OEH agrees with the revised vegetation mapping and advises that this mapping and the revised credit requirements for the impacts of the proposed access road, are accurate.

The credits for the access road impacts are specified on pages 25-26 of the Amended Ecological Assessment and comprise:

- 21 Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions credits,
- eight Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions credits, and
- three Coastal Heath on Sands of the NSW North Coast Bioregion credits.

The credits should be retired as an offset prior to the removal of vegetation for the access road.

We have no further issues to raise about these matters.

- The OEH has not assessed whether the area of impact associated with the access road is enough to establish a road to the required standard. This is a matter for the Richmond Valley Council to ascertain.

If you have any further questions about this issue, I can be contacted on 6659 8272 or at [dimitri.young@environment.nsw.gov.au](mailto:dimitri.young@environment.nsw.gov.au).

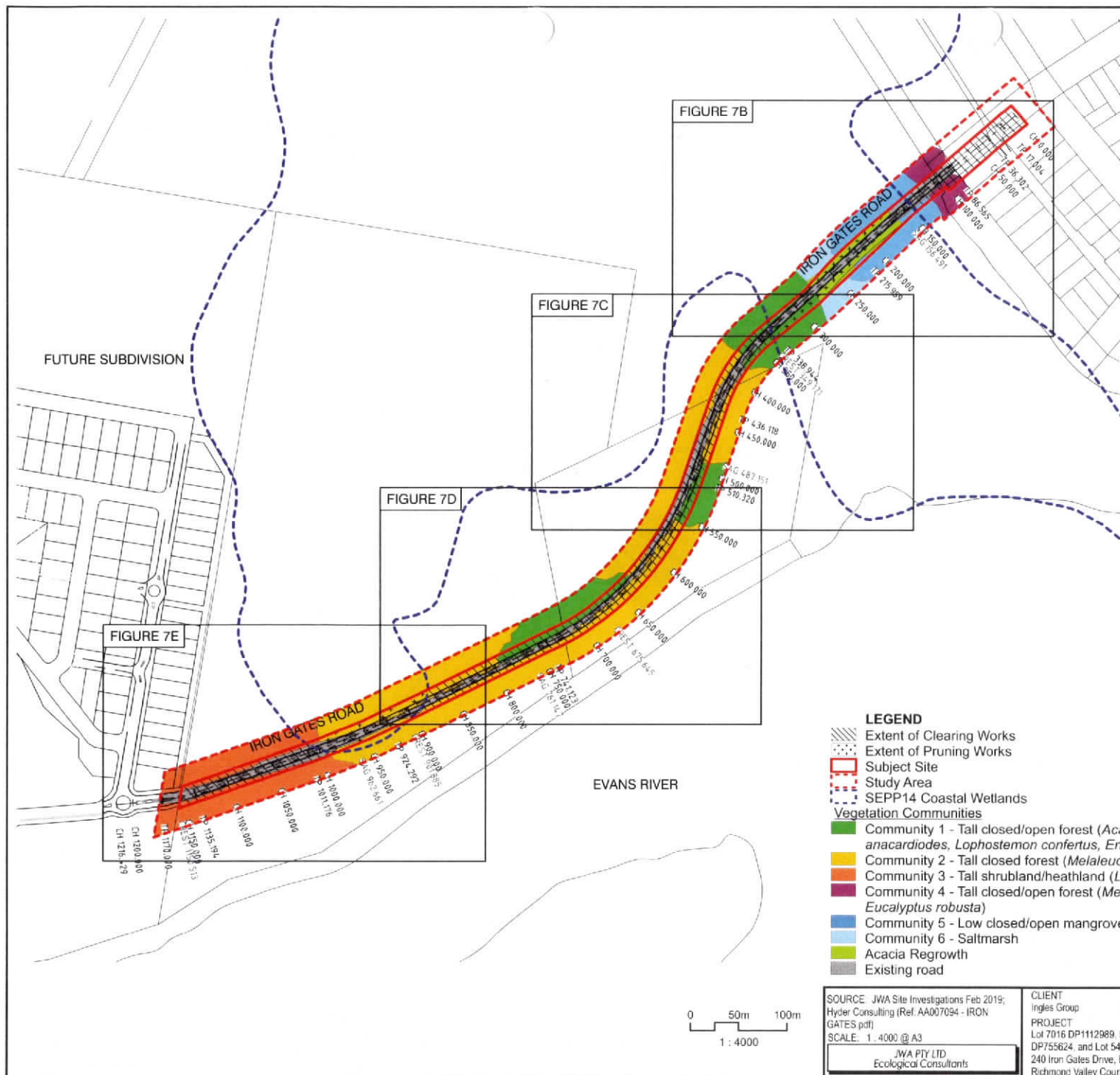
Yours sincerely

*Dimitri Young 8 March 2019*

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Branch**  
**Conservation and Regional Delivery**

cc: Mr Tony McAteer – Richmond Valley Council





**LEGEND**

- Extent of Clearing Works
- Extent of Pruning Works
- Subject Site
- Study Area
- SEPP14 Coastal Wetlands
- Vegetation Communities**
  - Community 1 - Tall closed/open forest (*Acacia dispartima* +/- *Cupaniopsis anacardioides*, *Lophostemon confertus*, *Endiandra sieberi*, *Corymbia intermedia*)
  - Community 2 - Tall closed forest (*Melaleuca quinquenervia*)
  - Community 3 - Tall shrubland/heathland (*Leptospermum polygalifolium*)
  - Community 4 - Tall closed/open forest (*Melaleuca quinquenervia* / *Eucalyptus robusta*)
  - Community 5 - Low closed/open mangrove forest (*Avicennia marina*)
  - Community 6 - Saltmarsh
  - Acacia Regrowth
  - Existing road

<b>SOURCE</b> JWA Site Investigations Feb 2019; Hyder Consulting (Ref. AA007094 - IRON GATES.pdf) <b>SCALE:</b> 1 : 4000 @ A3 <b>JWA PTY LTD</b> Ecological Consultants	<b>CLIENT</b> Ingles Group <b>PROJECT</b> Lot 7016 DP1112989, Lot 544 DP48550, Lot 408 DP755624, and Lot 547 DP48550 240 Iron Gates Drive, Evans Head NSW Richmond Valley Council LGA	<b>FIGURE 7A</b>	<b>TITLE</b> REVISED IMPACT ON VEGETATION COMMUNITIES
		<b>PREPARED:</b> BW <b>DATE:</b> 12 February 2019 <b>FILE:</b> N16006_Impact Veg.docx	

## **Attachment No. 10**

**Copy of article from the Sydney Morning Herald 9 July 2020**

# Planning laws 'inadequate' for growing fire threat

SMH 9/7/20  
Mike Foley

Planning and property laws aren't fit to manage the growing threats to property, the bushfire royal commission heard yesterday.

Housing regulations are particularly urgent given the large-scale rebuild required in the wake of the Black Summer fires, which destroyed about 3000 homes between NSW, Victoria, South Australia and Queensland.

"There is a long way to go" to make planning laws fit for purpose, according to Planning Institute of Australia member Catherine Ryland.

Ms Ryland told the Commission into National Natural Disaster Arrangements that around Australia there were "a lot of legacy com-

munities which haven't been planned with risk avoidance in mind", including houses located too close to bushfire zones, towns without adequate evacuation routes or houses too close together.

Counsel assisting the commission Andrew Tokley, QC, told commissioners in his opening address that the CSIRO and Bureau of Meteorology had already advised that climate change trends meant "the 2019-2020 bushfire season is unlikely to be a one-off event".

Ms Ryland said while advances in "high level" planning principles had been added to the policy documents of state regulators, they "haven't necessarily filtered their way into the land use planning system".

She recommended "moving that settlement footprint away from



**The Black Summer fires destroyed about 3000 homes.**

Photo: Kate Geraghty

the hazardous vegetation, moving some lots ... working with landowners to manage their building footprint within their lot".

The Bushfire Building Council chief executive Kate Cotter highlighted planning and building regulations are "silent" on the risks from house-to-house ignitions. She told the commission that houses built too close together, as

is common in modern housing estates, posed a greater risk of property loss than at the frontline of a bushfire.

"The fuel load from a structure fire within 10 metres of another structure is a much higher risk and a higher fuel load than the bushfire plane front itself," Ms Cotter said.

"If the houses are closely aligned, which is very common obvi-

ously in developments, then we have a serious risk there that is not dealt with in any framework policy strategy. It's just not dealt with, and we know that that has occurred in these bushfires."

Chief executive of climate risk consultancy Cross Dependency Initiative, Rohan Hamden, said Australia should adopt the same policy as the US, where a home loan cannot be granted unless the applicant can secure an insurance policy across "all the meaningful hazards" a house will face for the life of the mortgage.

"That would be an immediate market signal around ... why you shouldn't purchase that property unless you are able to understand its nature and [fund the] scale of the risk," Mr Hamden said.